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Strengthening Taiwan–Philippines Ties: Forging a Fisheries Cooperation in Shared Waters under the WCPFC Framework

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Abstract: Studies have shown the abundance of fisheries resources in the waters of the northern part of the Philippines bordering southern Taiwan. However, discrepancies in legal frameworks, enforcement mechanisms, and cultural practices, as well as maritime boundary issues, contribute to complexities in collaboration. This paper thus aims to provide an understanding into the intricacies and challenges faced by both countries in managing their shared fishing resources. By analyzing the relevant international laws and instruments on fisheries cooperation, the paper shows what coastal states and entities fishing in the high seas could do to manage and conserve fishery resources in disputed areas. Existing fisheries agreements in the region such as the Taiwan–Japan Fisheries Cooperation provide a template of the kind of cooperation that can be concluded within the overlapping waters of both nations. Results of the analysis show how important it is for both nations to acknowledge the significance of fisheries cooperation in the overlapping waters. By recognizing the mutual benefits of sustainable resource management through peaceful dialogue, establishing a fisheries cooperation under the legal framework of the WCPFC is the logical solution. The findings contribute to understanding the complexities of cross-border fisheries cooperation and provide valuable insights for policymakers and stakeholders in the region.



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1. Introduction

The Philippines is a Southeast Asian archipelagic state made up of 7641 islands, covering an area of more than 300,000 square kilometers. [1]. As an archipelagic country, the Philippines sits in a very vital and strategic location in terms of maritime trade and marine resources. In the Philippines and its surrounding seas and oceans, there are rich fishing grounds, which constitute a critical component of the Philippine economic and national security. In 2019, the Philippines GDP from fisheries represented 1.19% of the total, and its export of fisheries products was valued at USD 796,967,660.00 [2].

Taiwan, including its archipelagos of Penghu, Kinmen, and Matsu, as well as numerous additional islets, is located in the West Pacific between Japan and the Philippines, with a total area of approximately 36,197 square kilometers. [3]. Taiwan is one of the major fish and seafood exporters in the world. In 2019, Taiwan exported fish and fish products valued at USD 1,872,023,880. [4]. Both nations are among the top tuna in the world; thus, tuna fishing industries are vital to both nations' national economies.

Among the top tuna exports for the Philippines and Taiwan are the skipjack tuna (*Katsuwonus pelamis*) and yellowfin tuna (*Thunnus albacares*), which are abundant in the waters between Taiwan and the Philippines. The said waters are also known as breeding grounds for various tuna species, including the Pacific bluefin tuna (*Thunnus orientalis*). The waters between southern Taiwan and the northern Philippines also serve as migratory

paths for tuna species. Poaching and other illegal fishing activities occur in these waters. Over the years, foreign fishing vessels such as Chinese, Vietnamese, and Taiwanese have been apprehended for poaching in the waters off Batanes, prompting local authorities to strengthen actions against illegal, unregulated, and unreported (IUU) fishing [5–8]. With such high-value fish species subsisting in these waters, it is thus important for both countries to seek to conserve and protect these waters from further overfishing and illegal fishing activities.

The lack of formal diplomatic relations between the Philippines and Taiwan adds difficulty for both parties to come into any form of agreement or cooperation on fisheries. Various issues such as sovereignty, sovereign rights, and the adherence to the “One-China Policy” have been the stumbling blocks for both parties to reach a meaningful collaboration. As maritime nations with significant fishing industries, the Philippines and Taiwan should cooperate to effectively manage and conserve fishery resources. Moreover, collaborative efforts in managing shared fishery resources can help prevent conflicts and disputes over fishing territories. By working together, both nations can establish a framework for dialogue, cooperation, and mutual understanding, promoting peace and stability in the region. Taiwan and the Philippines also share environmental issues such as habitat degradation due to IUU fishing and marine environmental pollution such as marine litter, among others. Both nations can solve these challenges, develop enforcement systems, and prevent IUU fishing by cooperating on fisheries.

Recent developments in international fisheries law have provided Taiwan with enough legal impetus to pursue membership in various international and regional bodies for fish conservation, especially tuna. This paper is therefore aimed at looking for ways for both parties to solve their various issues, in order to cooperate on the subject of fisheries in the waters bordering the Philippines and Taiwan under the international legal framework. This study adopts the analysis of various international agreements such as the United Nations Fish Stocks Agreement (UNFSA) and the Western Central Pacific Fisheries Convention (WCPFC) as bases in cooperation for the management and conservation of fisheries resources in the high seas. The international legal personality accorded to fishing entities in various international instruments may be the key to unlocking the impasse and allowing the Philippines and Taiwan to agree on fisheries cooperation, management, and conservation, without being hampered by critical issues such as sovereignty claims. Also, this study will look at existing fisheries agreements that can provide insights into how and what the Philippines and Taiwan can do if they discuss fisheries cooperation in the future. A successful fisheries cooperation utilizing the international legal personality of the Fishing Entities will encourage not only Taiwan but other member states of the WCPFC to cooperate more on the management and conservation of fisheries resources, even in disputed waters.

This paper is divided into five sections. The first section introduces the importance of the waters between Taiwan and the Philippines for their fisheries production and the causes as to why it is difficult for the Philippines and Taiwan to enter into a fisheries agreement. The second section looks into the fisheries production in the North Philippine Sea/Philippine Rise Area, as well as the fisheries production of Taiwan. The relevance of such a section will show the value of its contribution to the annual fisheries production and consequently to the GDP of both nations. This section also shows the importance of the waters between the Philippines and Taiwan, as well as why it is vital for fisheries resource preservation and conservation. The third section discusses the issues preventing the Philippines and Taiwan in having open discussions on fisheries collaboration. It also examines the various international legal bases for cooperation in fisheries management, such as the United Nations Fish Stocks Agreement (UNFSA) and the Western Central Pacific Fisheries Convention (WCPFC), which may aid the two nations in seeking common ground for cooperation. These international agreements have provisions relating to the new legal norm in international fisheries law, as well as the legal status of fishing entities. Taiwan has already availed of this status, and it may be the key for unlocking the uncertainty in

the relationship between the two nations. The fourth section reviews the existing fisheries agreements such as the Taiwan–Japan Fisheries Agreement. It will likewise discuss the possibility of having a fisheries cooperation between Taiwan and the Philippines, with Taiwan using its status as a “fishing entity” to enable a more complete and legally binding agreement with the Philippines. Finally, the fifth section is the conclusion, which discusses the recommended solutions to reduce the conflict and espouse productive cooperation between the Philippines and Taiwan.

2. Fisheries Captures in the Waters between the Philippines and Taiwan

2.1. Fisheries Captures in Northern Philippines

The Philippines relies greatly on its surrounding maritime zones, not only for the transportation of goods but also for food sustenance, such that the fisheries industry in the Philippines has a great impact and contribution to its economy, placing it among the top fish-producing countries in the world. In 2018, the Philippines produced a total of 4.35 million metric tons (MT) of fish, crustaceans, mollusks, and aquatic plants, ranking the country eighth in the world. [9]. The fishing industry contributed greatly to the national economy of the Philippines, equivalent to about 1.52% of the gross domestic product (GDP) [9].

The Philippine fishing industry has also performed well in foreign trade. In 2020, it put up a net surplus of USD 412.53 million [9]. However, in terms of volume, the Philippine fisheries export decreased by 1.04% from its 2019 figures as compared to its 2020 records [9]. Based on statistics, the top export commodity of the Philippines was tuna and other tuna products, with a collective volume of 134,412 MT valued at USD 481 million [9]. A large majority of tuna products being exported were composed of canned tuna. Overall, the volume of exported tuna increased by 12%, while its value increased by 0.6% [9]. In 2020, fisheries production in the Philippines reached 4,400,373.01 metric tons [10].

In managing and administering its fisheries resources and activities, the Philippines has divided its surrounding waters and seas into 12 fisheries management areas (FMAs), as shown in Figure 1 [11]. The FMAs are color-coded to show their respective areas of coverage or regions comprising the FMAs, while the land features are depicted in white colors. FMA 1 is shown in light purple color; FMA 2 is shown in dark purple color; FMA 3 is shown in dark grey color; FMA 4 is in blue-grey color; FMA 5 is in red-orange color; FMA 6 is in orange color; FMA 7 is in light yellow color; FMA 8 is in blue color; FMA 9 is in yellow-green color; FMA 10 is in violet color; FMA 11 is in light green color; and FMA 12 is shown in red color.

Of particular importance in this paper are the two fisheries management areas nearest to Taiwan, which are fisheries management area 1 (FMA 1) and fisheries management area 6 (FMA 6). FMA 1, located in the northeastern part of the Philippines, including the Philippine Rise, has a total area of 505,345 square kilometers or 50,534,500 hectares, while FMA 6, located in the northwestern part of the country facing the South China Sea, has a total area of 293,930 square kilometers or 29,393,000 hectares [9]. FMA 1 is composed of five regions in the northeastern part of the Philippines, namely, region 2, a portion of region 3, a portion of region 4A, and region 5, including the Philippine Rise [12]. It is rich in fisheries resources, and the top commercial fishing products are skipjack tuna, island mackerel, and mackerel scad, to name a few [12]. In terms of both commercial and municipal fishing production, FMA 1 produced a total of 264,022.5 metric tons in 2020 [12]. On the other hand, FMA 6 is composed of region 1, a portion of region 3, a portion of region 4A, and the national capital region (NCR) [13]. As for commercial and municipal fishing production in 2020, FMA 6 generated a total of 212,757.72 metric tons [10]. Total commercial and municipal fishing production in both FMAs has reached a total of 476,780.22 metric tons (MTs), or equivalent to 10.8% of the total fish production of the Philippines, as shown in Table 1 below.

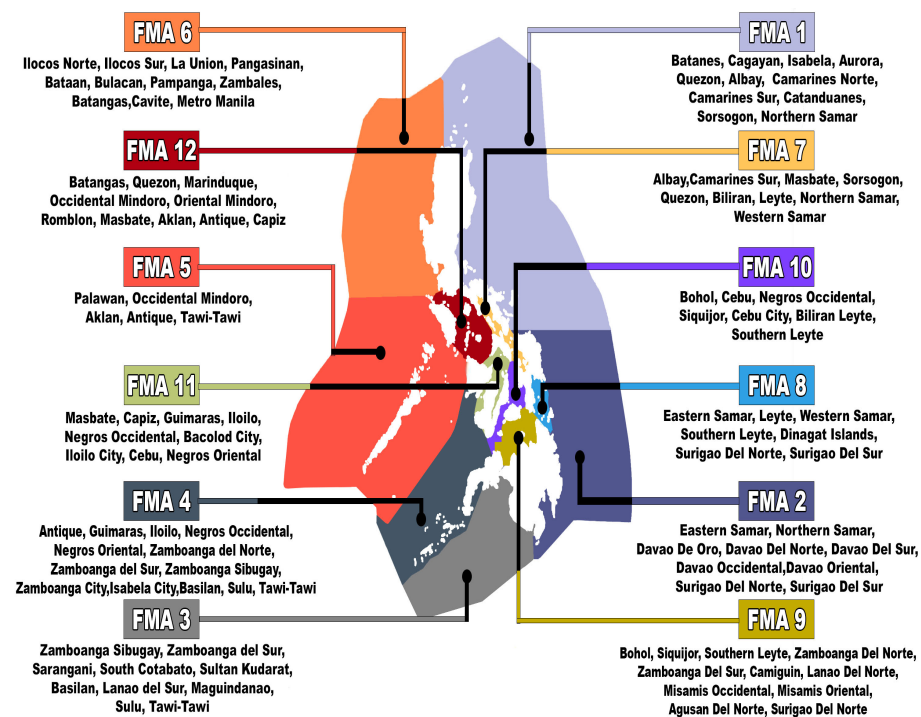


Figure 1. The fisheries management areas of the Philippines.

Table 1. Fisheries captures in the northern Philippines.

Fisheries Management Area (FMA)	Fish Production (MT)
FMA 1	264,022.50
FMA 6	212,757.72
Northern Philippines (FMA 1 and FMA 6)	476,780.22
Philippines	4,400,373.01
The percentage of the northern Philippines	10.8%

Sourced from [10].

2.2. Fisheries Captures of Southern Taiwan

As mentioned earlier, Taiwan is among the top fish-producing and -exporting countries in the world. In 2021, Taiwan produced and captured a total of 976,000 MT of fish [14]. For purposes of this study, the focus is on the fish captures from the four areas in southern Taiwan, namely, Chiayi County, Tainan City, Kaoshiung City, and Pingtung County. These areas were chosen as they are near the overlapping waters of southern Taiwan and northern Philippines. From these four areas, they produced and captured a total of 458,810 MT of fish, accounting for 46.9% of the total catch, as shown in Table 2 below [14].

Table 2. Fisheries captures in southern Taiwan (2021).

Counties and Cities in Southern Taiwan	Fish Captures (MT)
Chiayi County	55,759
Tainan City	79,210
Kaoshiung City	263,261
Pingtung County	59,780
Southern Taiwan (2 counties, 2 cities)	458,010
Taiwan	976,000
The percentage of southern Taiwan	46.9%

Sourced from [14].

2.3. Prevalence of Tuna Species in the Waters between Southern Taiwan and Northern Philippines

The waters between Taiwan and the northern part of the Philippines constitute a very important area for fisheries management as well as the conservation of marine living resources. In a study regarding the density of tuna larvae in Philippine waters, it was found that the highest density of tuna larvae was observed in the Batanes and Polillo waters. [15]. The Batanes and Polillo waters are those nearest to southern Taiwan.

These findings corroborate previous research on the frequency of tuna and tuna-like species in Philippine and Taiwanese waters. A study on the predominance of tuna and tuna-like larvae in Philippine waters was undertaken in 1951, and it found that December, January, and February are the months of considerable spawning activity for tuna and tuna-like species in general [16]. Previous studies related to occurrence of Pacific bluefin tuna in the same waters also confirm that these waters are breeding and spawning areas in such tuna species. For example, as Figure 2, the studies of [15–18] indicate the occurrence of tuna and tuna-like larvae (red dots) as well as the Pacific bluefin tuna larvae (grey color) and breeding location in the Batanes and Polillo waters (yellow circle).

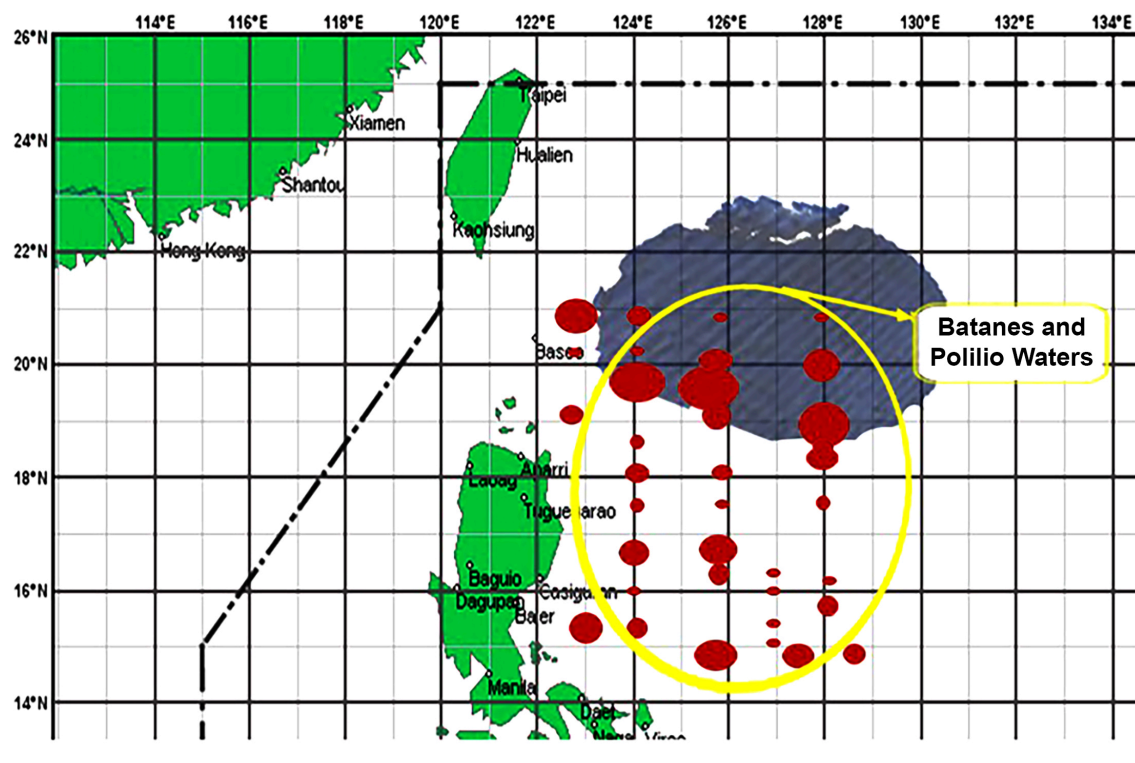


Figure 2. The breeding locations of tuna, tuna-like larvae and Pacific bluefin tuna larvae in the Philippine and Taiwanese waters.

Also, the Taiwan Fisheries Research Institute (FRI), working together with Stanford University, recorded the migration movements of breeding Pacific bluefin tunas using satellite tagging [19]. Researchers accomplished experimentation on three Pacific bluefin tunas with weights of 200 kg, 300 kg, and 180 kg, correspondingly, in the waters east of Taiwan in May 2021, in order to know the spawning migration characteristics and ecological habits of the species [19]. The data gathered from the tags demonstrated that the spawning tunas migrated from Taiwan to waters east of Japan, crossing a combined distance of 3000 km [19]. This study of the Taiwan FRI coincides with the study conducted through DNA analysis, confirming the occurrence of Pacific Bluefin tuna in Philippine waters and the study on the breeding movements of such species from Philippine waters going up to Taiwan.

According to [20], surveys on larvae performed in the western Pacific Ocean as early as the 1950s emphasize the limited spatial extent of spawning in Pacific bluefin tuna. Adult Pacific bluefin tuna reproduce in an isolated area located between Japan and the Philippines in the northwestern part of the Pacific Ocean, including the Sea of Japan [20]. The waters between the Philippines and Taiwan are thus critical for the protection, management, and long-term viability of Pacific bluefin tuna populations, as well as other fishing resources.

3. The Maritime Dispute between the Philippines and Taiwan: How to Resolve This?

3.1. The Philippines–Taiwan Relations

Currently, the Philippines and Taiwan do not have formal diplomatic ties. This is because the Philippines' foreign policy toward the Republic of China shifted with the adoption of the "One China Policy" in 1975. It is a diplomatic statute adopted to manage Philippine relations with China and Taiwan, and its major objective is to emphasize that the Philippines will only recognize one sovereign state known as "China", referring to the People's Republic of China [21]. Given the "One China Policy", the Philippines distanced itself from cooperating with Taiwan on matters of defense, diplomacy, and policy, but maintained people-to-people exchanges on matters such as commerce, travel, education, way of life, and technology, which are managed by a non-governmental office called the Manila Economic and Cultural Office (MECO), through its offices in Taipei and Kaohsiung. Conversely, the Taiwan equivalent in the Philippines is the Taipei Economic and Cultural Office, based in Makati City [21].

Furthermore, existing maritime claims in the sea areas between the Philippines and Taiwan have also hampered any efforts in fisheries cooperation in the disputed areas. In 2013, a maritime incident occurred at Balintang Channel near the Batanes group of islands north of the Philippines, involving Philippine maritime law enforcement personnel onboard a government patrol vessel, as well as a Taiwanese fishing vessel, which caused the death of a Taiwanese fisherman [22]. Figure 3 shows the overlapping claims of the Philippines (depicted by the thick blue lines) and of Taiwan (depicted by the white lines) and the location of the encounter between the Philippine law enforcement vessel and the Taiwanese fishing vessel (depicted by the yellow lines with arrows and pink dots) [23]. Due to these overlapping maritime claims, encounters between law enforcement operatives and fishermen from both countries are bound to happen.

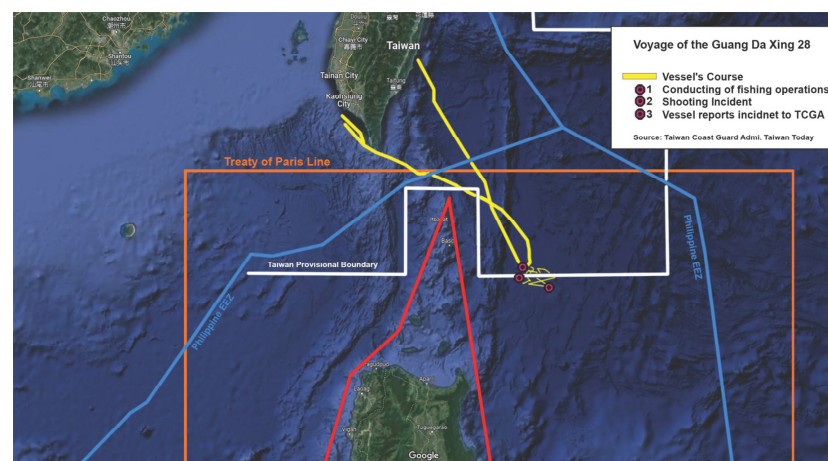


Figure 3. The overlapping EEZ claims of the Philippines and Taiwan and the location of the Balintang Channel incident.

Comparing Figures 2 and 3 shows that the Philippines and Taiwan overlapping maritime claims in the waters between the northern Philippines and southern Taiwan cover and include the areas where high-value fisheries species are abundant, such as the Pacific bluefin tuna. These are vital fishing areas, not only for Filipino fishermen but also for Taiwanese fishermen, who also fish traditionally in these waters. Hence, conflicts between

the Philippines and Taiwan unfortunately occur, such as the abovementioned Balintang Channel incident. To resolve such conflicts, a fisheries agreement is necessary in order to have a rule-based approach to dealing with the management of the access by fishermen from both sides, so as to establish a joint effort towards fisheries management, as well as to conserve and preserve the fisheries resources in these waters.

3.2. *The International Law on Fisheries Cooperation*

3.2.1. The UNFSA

The United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, otherwise known as the UNFSA, clarifies the principles for fish stock conservation and management, and it establishes the precautionary approach as the guiding principle of fish stock management, based on the best available scientific evidence [24]. This International Agreement expounds on the fundamental principle that cooperation among states is required to ensure the conservation of fisheries resources and uphold the aim of its optimum utilization both within and beyond the exclusive economic zone [24]. Under article 7, paragraph 5 of the above-mentioned agreement, it is stated that until well-suited preservation and management measures are agreed upon, the states concerned in such negotiations shall, in a spirit of understanding and cooperation, “exert all efforts to enter into provisional arrangements of a practical nature to ensure fisheries resource management in the areas in and outside the exclusive economic zone”. Based on this particular provision, the Philippines and Taiwan can already discuss the viability of having a fisheries conservation and management agreement, particularly on tuna and tuna-like species, in the waters between the Philippines and Taiwan. Furthermore, such agreement can promote regional peace and stability by showing to other countries that cooperation can occur, even in disputed areas.

The Philippines has signed and acceded to the mentioned Convention in 2014, while Taiwan has not. However, Taiwan is already a member of various regional fisheries management organizations (RFMOs) as a “fishing entity”. It is significant that this international agreement was the first agreement that used the term “fishing entities”, which is very vital for Taiwan. Article 1, paragraph 3 of the UNFSA states that this agreement applies similarly to other “fishing entities” whose vessels fish on the high seas [24]. While Taiwan is not a party to the UNFSA, it has nonetheless allowed itself to be referred to as such in the RFMOs it participates as a member, under the auspices of the UNFSA. Taiwan has joined and collaborated in the work of five RFMOs, namely, The Commission for the Conservation of Southern Bluefin Tuna (CCSBT), the Inter-American Tropical Tuna Commission (IATTC), the Western and Central Pacific Fisheries Commission (WCPFC), the International Commission for the Conservation of Atlantic Tunas (ICCAT), and the Indian Ocean Tuna Commission (IOTC). With the cooperation of Taiwan, Taiwanese-flagged fishing vessels have been allowed by these RFMOs to fish in their convention areas [25]. Therefore, it should not prevent member states of the UNFSA, such as the Philippines, from entering into provisional arrangements with Taiwan on tuna conservation in the waters over which both nations claim their EEZs.

3.2.2. WCPFC and Its Commission

The Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPF Convention) came into force on 19 June 2004. The convention likewise established the Western and Central Pacific Fisheries Commission. Negotiations for the convention commenced in 1994 and concluded six years after. A series of preparatory conferences occurred in the interim period between the winding up of the agreement and its entry into force, which put down the basis to start the works of the commission [26]. The WCPF Convention derives much of its provisions from the UN Fish Stocks Agreement (UNFSA) while also considering the unique political, socio-economic, geographical, and environmental characteristics of the western

and central Pacific Ocean (WCPO) region [26]. The convention has provided a structure for fishing entities to participate in the commission, reflecting the unique geopolitical conditions of the Western and Central Pacific region. This structure has placed fishing entities to be legally bound by the convention provisions, acknowledge the participation of territories and possessions in the commission work, recognize the special needs of developing countries, and collaborate with other RFMOs where their respective areas of competence and jurisdiction overlap with that of the WCPFC [26].

Taiwan came to be a member of the commission as a “fishing entity”, as defined under the UNFSA and later on adopted in the WCPFC. Taiwan signed the arrangement in 2000, while it complied with the documentary requirements and agreed to be bound by the provisions of the WCPFC in 2004 [26]. There were initially skeptical views coming from Taiwanese officials and international law scholars on the term and idea of “fishing entity” [27]. After detailed discussions on the issue, Taiwan was determined to accept the concept of “fishing entity” to be used about Taiwan, on the grounds of practicality and cooperation with international fisheries, and thereafter pursued the contracting party status and was designated as “Chinese Taipei” during the conferences of the MHLG [27]. On the other hand, the Philippines signed to become a member state of the WCPFC in 2000 and ratified the same in 2005 [26].

Article 3 of the convention defined the geographical area where its competence applies. The convention coverage area encompasses over 20% of the Earth’s surface. Although the western limit theoretically stretches to the East Asian continent, the convention area, it is thought, does not encompass the South China Sea [26]. Given the extent of the area of competence and application of the convention, the waters northeast of the Philippines and southeast of Taiwan, particularly the overlapping areas of the EEZs claimed by both nations, are in the area of application of the WCPFC.

Part IV, article 23, paragraph 5 specifically states that each commission member shall, to the greatest extent possible, take measures to ensure that its nationals and fishing vessels owned or controlled by its nationals fishing in the convention area comply with the terms of this convention [26]. Furthermore, under the same provision, members of the commission may engage in agreements with the states whose flags these boats fly to enable such enforcement [26]. Given the above, being both members of the WCPFC, the Philippines, as a member state, and Taiwan, as a recognized “fishing entity”, both nations can discuss the possibility of having a fisheries conservation and management cooperation in the sea area between the northern Philippines and southern Taiwan, which will ensure compliance of both nations to the provisions of the WCPFC.

3.2.3. The International Legal Personality of “Fishing Entities”

The term “fishing entities” was first used in the UNFSA, particularly in article 1, paragraph 3 of the agreement. The agreement allowed for the application of its provisions to fishing entities whose fishing vessels fish on the high seas. Article 17, paragraph 3 of the agreement mentions the obligation of member states and participants of a sub-regional or regional fisheries management organization to call fishing entities that deploy their fishing vessels in the area to collaborate in the implementation of conservation and management measures [24]. It further added that such fishing entities participating in the fishery shall be given benefits or advantages, proportionate to their obligation to adhere to conservation and management measures in respect of the stocks [24].

By having such provisions, it is believed that fishing entities can be accorded a more or less similar status as the member states once these fishing entities are invited and accepted as members of sub-regional or regional fisheries management organizations. Through being fishing entities, they are allowed to enjoy the benefits of being members of the organization while at the same time imposing upon them obligations in the same vein as those the member states possess, namely, the responsibility to commit to the conservation and management procedures imposed by the organization.

International personality, under international law, is defined as “an entity which is qualified of having international rights and duties, and the ability to exercise such rights by bringing international claims”. It means that an entity must be a subject of international law for that entity to be able to take part in the international arena. Thus, it must possess an international legal personality. Based on the definition, can a fishing entity be considered an international legal personality? It is stated that there are two methods for clarifying this question. One must first refer to the constitution, charter, treaty, or other document that created the entity. This will determine what is the nature of personality that was accorded to the entity. The second approach is that legal personality can also be established by looking at the treaties participated in by the entity and drawing conclusions as to the kind of personality that was recognized to the entity by the other treaty parties [28].

It is concluded that the international legal status of fishing entities can be drawn from a series of binding and non-binding fisheries agreements and instruments that came after the 1982 United Nations Law of the Sea Convention. Thus, it is resolved that the fishing entity is now a new subject of international law. The legal bases for this conclusion are the UNFSA and the subsequent instruments that were later enacted to carry out the provisions of the U.N. Fish Stocks Agreement [28]. On the other hand, it was determined that “fishing entities” are a subject of international law, particularly in international fisheries law. As a subject of international law, a fishing entity should now be recognized as an entity that possesses self-sufficiency to conduct its external fisheries relations and all affairs as stipulated in relevant international law [29].

With the above considerations, Taiwan can take advantage of the international legal status accorded to “fishing entities”. By allowing itself to be considered as a fishing entity, Taiwan can then directly discuss a fisheries agreement with the Philippines with no strong objections from other countries on how to proceed with its external fisheries relations under appropriate international fisheries laws. The fishing entities as defined by article 1(3) of the UNFSA, and reiterated in articles 9 and 39 of the WCPFC, were created to make possible the inclusion of Taiwan, to place it within the ambit of the legal context of an international fisheries authority.

Having gained such status, Taiwan now participates in the discussions and decision-making of these regional fisheries management organizations and at the same time enjoys the rights and responsibilities as that of the member states in the management, conservation, and governance in the respective sea areas under the jurisdictions of these RFMOs. Taiwan’s participation in at least five RFMOs already confirms the practice and recognition of the term fishing entities in international fisheries law. This all the more bolsters the viability of Taiwan’s status as a fishing entity in dealing with other states in the formulation of fisheries agreements for the conservation and management of marine resources, particularly bluefin tuna in disputed areas.

4. Fisheries Agreements as Models for the Philippines and Taiwan

4.1. The Taiwan–Japan Fisheries Agreement

The Taiwanese government announced the East China Sea Peace Initiative in August 2012, aimed at promoting regional peace and stability, economic prosperity, and the way to chart a viable path toward peaceful coexistence and mutual prosperity [30]. The initiative strives to encourage all parties involved to (1) avoid hostile behavior; (2) defer issues and be open to dialogue; (3) respect international law and resolve problems amicably; (4) seek concord and agreement on an East China Sea code of conduct; and (5) establish a cooperative mechanism for exploring, evaluating, and exploiting resources in the East China Sea [30]. As a result of this initiative, efforts were made to discuss with Japan a fishery agreement in their overlapping maritime claimed areas.

Fishing disputes between the two countries frequently arise when Taiwanese fishing boats enter the territorial Sea of Japan or the waters around the Diaoyutai or Senkaku Islands. Customarily, these Taiwanese fishing vessels were given warnings, removed or banned from the waters, fined, or detained, or the Japanese official vessels intentionally

damaged their fishing gear [31]. The persistence of both parties to defend their respective territorial claims have resulted in the failure of the initial attempts of Taiwan and Japan to agree. As a reaction to the continuing fishing disputes, Taiwan and Japan have resolved to temporarily set aside the territorial dispute over the Diaoyutai or Senkaku Islands, being committed to concentrating on the dialogue for the resolution of fisheries matters in the fourth negotiation meeting and onwards [31]. Finally, on 10 April 2013, Taiwan and Japan reached a preliminary agreement and signed the Fisheries Agreement [31]. The two sides agreed to allow an additional 4530 square kilometers to Taiwanese and Japanese fishing operations, as well as to establish a joint fishing commission to deal with related concerns in the region, with officials meeting at least annually [32].

The Taiwan–Japan Fisheries Agreement is unique in its own right. It provides the basis for being able to find a common ground for cooperation without necessarily touching on sensitive issues such as territorial or boundary disputes. The Taiwan–Japan Fisheries Agreement provides for specific areas, shown in Figure 4, wherein fishing vessels from both countries may fish without interference from their counterpart law enforcement agencies [33]. There is a zone as defined by the agreement, which comprises the waters where the laws of both parties are not applicable, and also the “special cooperation zone”. In these areas, Japan and Taiwan previously asserted the use of the “median line” or “TEL”. Through the agreement, the portions of the waters as approved by both parties are now delineated by geographical coordinates [31].

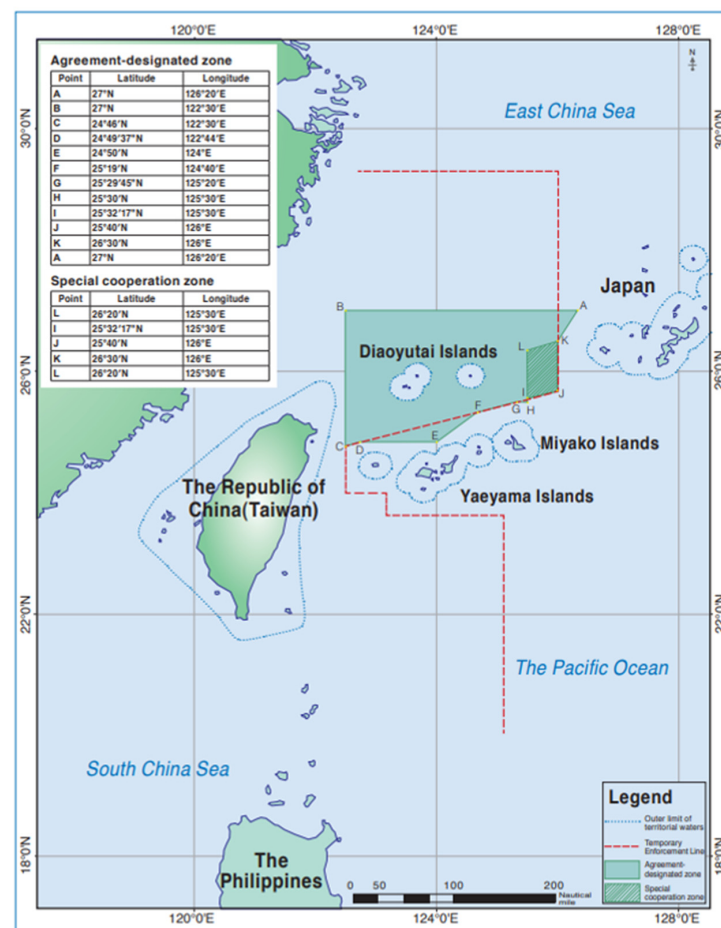


Figure 4. The boundaries of the agreed special cooperation zone between Taiwan and Japan.

Under the agreement, the two parties also established the Taiwan–Japan Fishery Committee. This consultative process has generated bilateral cooperation on a variety of mutually beneficial issues, transforming the committee into an indispensable communication tool [34]. The committee is composed of two representatives from the quasi-official

administrative bodies of both parties, the Taipei Economic and Cultural Relations Office (TECRO) and the Interchange Association (IA), and also includes representatives from their respective coast guard and foreign affairs agencies and the local fishing associations [35]. Furthermore, the agreement closely followed the provisions of UNCLOS relating to cooperation in the EEZ, the High Seas, and Enclosed or Semi-Enclosed Seas. The novelty of this agreement may likewise be carried in the discussions for a fisheries agreement between the Philippines and Taiwan.

Although Taiwan and Japan signed the agreement through their quasi-official representatives such as the TECRO from Taiwan and the IA from Japan, it can be seen from the agreement that both nations have stipulations that are more or less similar to that of the WCPFC, such as compliance with conservation measures and the close monitoring of fishing vessels in real time. Taiwan and Japan are both members of the WCPFC. China, which is also a member of the WCPFC, did not oppose the agreement but has voiced its concern over the same [36].

4.2. The Fisheries Agreement between the Government of Seychelles and the Taiwan Deep Sea Tuna Longline Boatowners and Exporters Association

Another example that the Philippines and Taiwan can also look into is the fisheries agreement between Seychelles and the Taiwan Deep Sea Tuna Longline Boatowners and Exporters Association. This agreement shows that an agreement is possible between a sovereign government and a private fishing association. This kind of agreement is also allowed under the provisions of the UNFSA and the Indian Ocean Tuna Commission (IOTC). The agreement relates to various fields of cooperation between Seychelles and the association, such as in the fields of economic, technical, and scientific cooperation in the fisheries sector; the requirements for the grant of the right of entry to Seychelles fishing zones to the association fishing vessels; ensuring compliance with the stipulations of the agreement, as well as measures to manage fishing activities, to effectively sustain and conserve fish stocks, and to prevent and report illegal, unreported, and unregulated fishing through active cooperation on management, control, and surveillance measures in Seychelles fishing zones; developing partnerships between and among operators to build up economic activities in the Seychelles fisheries sector; and other associated activities, for the mutual interest of both parties [37].

The agreement was signed by the parties in 2022, took effect on 1 January 2023, and will be in force for the next three years [38]. In this agreement, the government of Seychelles will allow the association deep-sea tuna longline fleets to operate in the area provided that they comply with the conditions outlined in the agreement such as fishing only the allowable catch surplus, obeying the national and regional scientific assessments, and implementing conservation and management measures imposed by the appropriate Seychelles authorities and RFMOs [37]. The agreement also establishes a joint committee composed of representatives from both parties, which will conduct monitoring of the performance, understand and evaluate the agreement's efficacy, and offer the required liaison for areas of mutual interest relating to fisheries including statistical analysis of catch data; serve as a venue for the peaceful resolution of interpretation or implementation conflicts; and execute any other role that the parties mutually agree upon. The committee will also convene at least once a year, either in Seychelles or in Taiwan, and will be presided over by the party hosting the meeting [37].

Looking at this agreement, the Philippines can discuss with the Government of Seychelles, as well as seek its expertise, in order to help the Philippines to set regulations and conditions with Taiwan, in order to allow its fishing fleets to fish in the undisputed waters of the Philippines, subject to the compliance with the rules and regulations for fish management and conservation under the WCPFC. The Philippines can emulate the provisions of the agreement between Seychelles and the Taiwan Deep Sea Tuna Longline Boatowners and Exporters Association, on exchanges of knowledge regarding fishing methods and equipment methods of preservation, commercial processing of fishing products,

and marketing and bring the same into the proposed fisheries agreement between the Philippines and Taiwan.

4.3. The Proposed Fisheries Agreement for the Philippines and Taiwan

Taiwan and the Philippines can discuss a tuna conservation and management agreement, taking advantage of Taiwan's participation as a fishing entity under the legal framework of the WCPFC. This status as a fishing entity has already gained international legal personality, as evidenced by its usage in both binding and non-binding international agreements or instruments. As mentioned earlier, under article 23, paragraph 5 of the WCPFC, Taiwan and the Philippines can agree on creating a cooperation area in the overlapping EEZs between Taiwan and the Philippines, where fishermen from both parties can fish under the joint regulation of Taiwan and the Philippines, as shown in Figure 5. The white lines illustrate the claimed EEZ of Taiwan, while the blue lines show the claimed EEZ of the Philippines. As can be seen from the figure, both the claimed EEZs overlap with each other. It is proposed that the Philippines and Taiwan can agree on a specific area within the overlapping claims of the two nations, as depicted by the yellow lines.

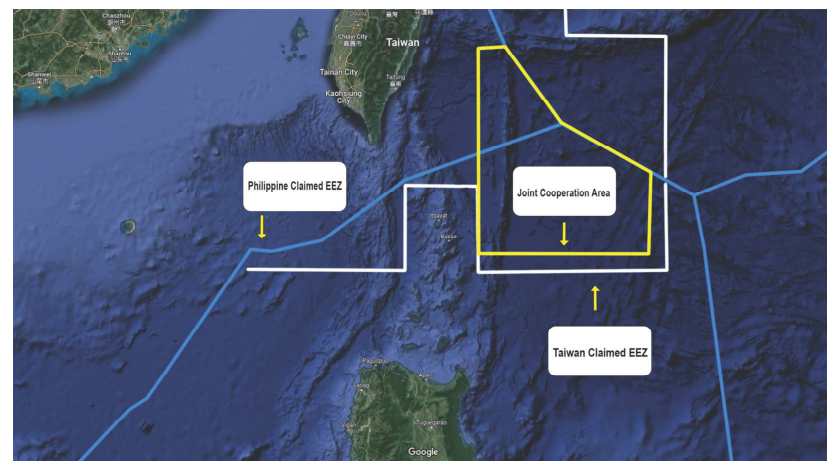


Figure 5. The proposed cooperation area between the Philippines and Taiwan overlapping EEZ, including labels.

The creation of a cooperation area will ensure the proper enforcement of fisheries management regulations that will be crafted by both parties. The Philippines and Taiwan can make use of the provisions of parts IV on the Obligations of the Members of the Commission; V on the Duties of the Flag State; and VI of the WCPFC, on Compliance and Enforcement, in crafting common tuna fisheries management and conservation regulations that will be made applicable in the proposed cooperation area. The cooperation area that will be established will also be measured to determine its size, and its location identified by longitudes and latitudes, through discussions and negotiations between the two parties, by taking into consideration the wealth of research in the area conducted by marine scientists, which will provide the negotiators with the necessary data to choose the best area to protect and conserve the tuna species as well as the tuna and tuna-like larvae that abound in these waters.

Taiwan and the Philippines can also create a joint fisheries management committee to oversee fishing activities and the conservation and sustainable exploitation of living marine resources in the cooperation area. The joint fisheries management committee will make the regulations and review and amend them to be attuned to the future developments in both fisheries technology and in international fisheries law. Both parties can also agree to establish a catch limitation in the cooperation area to ensure proper management and conservation of the fisheries species such as the Pacific bluefin tuna, which is abundant in these waters.

The Philippines can also seek to include provisions in the agreement based on part VIII, article 30 of the WCPFC, on economic, technical, and scientific cooperation aimed at further developing economic activities in the Philippine fisheries sector and related activities to help advance and modernize the Philippine fisheries sector. Cooperation on knowledge exchanges about fishing techniques, gear, and preservation techniques can be included, as well as on commercial fish product processing and marketing. Finally, the proposed agreement should also include dispute settlement mechanisms to resolve any issues from the interpretation of the provisions of the agreement. Under part IX, article 31 of the WCPFC, it provides for the application of settlement of disputes and extends the same to the members of the commission and even to the non-parties of the agreement. This provision can also be incorporated into the proposed fisheries agreement for the Philippines and Taiwan.

Looking at the two examples of fisheries agreements that Taiwan and the Philippines can emulate, it would seem that the Taiwan–Japan agreement is the more feasible way of resolving fisheries disputes. Like Japan, the Philippines manages its affairs with Taiwan through a non-official entity. It may be easier to do since this kind of agreement takes the form of a private agreement between two non-official entities of the two countries. However, the disadvantage is that acts performed under this kind of arrangement cannot be attributed as an act of a state. There can be no state responsibility in cases of agreement violations and thus it weakens the agreement. The principle of “Pacta Sunt Servanda” makes sure that states comply with treaties and other international obligations with utmost good faith.

On the other hand, the Seychelles–Taiwan Deep Sea Tuna Longline Boatowners and Exporters Association agreement, which was crafted with the applicability of the provisions of the UNFSA and the relevant RFMO, the IOTC, which is more or less similar to the WCPFC, shows that there can be an agreement between a member state of the UNFSA and a non-party to the agreement. The drawback, however, is that, even though Taiwan adheres to the regulations of the IOTC of its own volition, there exists no linkage between IOTC and Taiwan. It follows that the above agreement does not fully incorporate UNFSA and IOTC regulations. On this aspect, it can be said that such agreement is lacking.

Thus, a fisheries agreement under the legal framework of the WCPFC is more appropriate between the Philippines and Taiwan, given that such an agreement can be discussed and negotiated by the two nations as members of the above-mentioned commission. Compliance and enforcement of the proposed agreement will be ensured given that it will be an official agreement between the Philippines and Taiwan, and both governments will implement it. The agreement will have a legally binding effect, contrary to what would happen if it would be done only through their respective non-official representatives. Any violation of the agreement can be attributed to the member state, in the case of the Philippines, and as a fishing entity, in the case of Taiwan. Therefore, both parties can avail themselves of the dispute settlement mechanisms under the WCPFC. Also, the area that will be covered under the proposed agreement is within the area of competence of the WCPFC. Hence, it is logical to craft the agreement following the principles as laid out in the WCPFC. There will be a chance that China, as a member of the WCPFC, will expectedly voice its concern over the agreement, but just like in the earlier agreement between Taiwan and Japan, it can be expected that China will not oppose this proposed agreement as it only relates to tuna management and conservation and will not put into discussion any territorial claim.

5. Conclusions

In conclusion, the waters between the northern Philippines and southern Taiwan serve as valuable fishing grounds, supporting the traditional livelihoods of Filipino and Taiwanese fishermen. The abundance of target fish species and the relevance of the area as breeding ground for various tuna species such as the skipjack (*Katsuwonus pelamis*), yellowfin (*Thunnus albacares*), albacore (*Thunnus alalunga*), bigeye (*Thunnus obesus*), and the highly valued Pacific bluefin tuna (*Thunnus orientalis*), underscoring the importance and

urgency of coordinated fisheries management and conservation efforts in these disputed waters. However, the lack of a fisheries agreement between the two nations has led to the continued depletion of marine resources due to illegal, unreported, and unregulated fishing, further straining their delicate relations.

This study highlights the practicability and benefits of adopting the “fishing entity” concept as a means to establish fisheries agreements in these shared waters. Such agreements are encouraged and supported by international legal frameworks such as the UNFSA and WCPFC. With Taiwan adopting the status of a fishing entity and the Philippines recognizing such, both parties can approach fisheries cooperation on more equal terms and negotiate effectively. Taiwan, as a fishing entity, can contribute to the conservation and management of straddling and migratory fish stocks in the region and also assist the Philippines on knowledge exchanges about modern fishing techniques and gear that can be used, as well as fish product processing and marketing, enhancing the Philippine fisheries captures and production. Additionally, the existing dispute settlement mechanism in the WCPFC can help rectify any misunderstanding that may arise during the agreement implementation.

It is therefore crucial for the Philippines and Taiwan to forge a fisheries cooperation agreement under the framework of the WCPFC, not only to prevent conflicts such as the Balintang Channel incident, but also to jointly manage, conserve, protect, and preserve the marine resources in the disputed waters for their mutual benefit. Such cooperation will likewise foster peace and stability in the region. Moreover, the proposed fishing entity model can serve as a potential resolution for other disputed waters involving Taiwan. In the light of these findings, the proposed fisheries cooperation model utilizing Taiwan’s status as a fishing entity can be further explored and applied to address disputes in the South China Sea and other contested areas. Continued study in this area holds promise for future endeavors in promoting sustainable fisheries practices, cooperation, and regional peace and stability.

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Abbreviations

CCSBT	Commission for the Conservation of Southern Bluefin Tuna
EEZ	exclusive economic zone
FMA	fisheries management area
IA	interchange association
IATTC	Inter-American Tropical Tuna Commission
IOTC	Indian Ocean Tuna Commission
MECO	Manila Economic and Cultural Office
MHLC	Multi-Lateral High-Level Conference on Fisheries
RFMO	regional fisheries management organization
TECO	Taipei Economic and Cultural Office
TECRO	Taipei Economic and Cultural Relations Office
UNCLOS	United Nations Convention on The Law of The Sea
UNFSA	United Nations Fish Stocks Agreement
WCPFC	Western Central Pacific Fisheries Convention

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