

# Criticising the Indonesia-China Maritime Cooperation Agreement: A Geospatial and Legal Perspective

*I Made Andi Arsana<sup>1</sup>*

One of the outcomes of President Prabowo Subianto's visit to the People's Republic of China was the signing of several agreements. According to the Joint Statement between President Prabowo Subianto and Xi Jinping on November 9, 2024, one of these agreements pertains to maritime cooperation.<sup>2</sup> Point 9 of the Joint Statement states that both countries have reached a "common understanding on joint development in areas of overlapping claims."

This statement has sparked diverse reactions. The Indonesian academic community, in particular, has raised questions and even expressed opposition to the agreement. In this article, I aim to clarify the issue through a geospatial and legal lens, specifically within the framework of international law of the sea.

## Fundamental Principles of Maritime Zones and Boundaries

1. Two countries can agree on joint development in certain maritime spaces only if both legally have rights to those areas.
2. Entitlements over maritime zones are governed by the United Nations Convention on the Law of the Sea (UNCLOS) 1982.<sup>3</sup> The Convention defines a country's entitlement to Territorial Sea (12 nautical miles), Contiguous Zone (24 nautical miles), Exclusive Economic Zone (EEZ, 200 nautical miles), and Continental Shelf (which may extend beyond 200 nautical miles). This framework is illustrated in Figure 1 below:

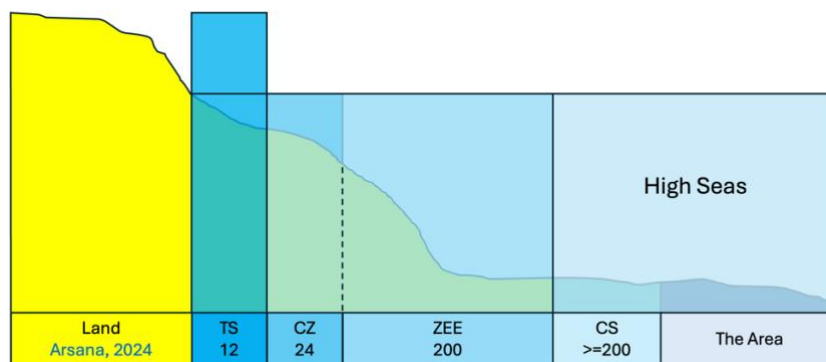


Figure 1 Maritime Zones Based on UNCLOS 1982

<sup>1</sup> The most update version of this article is available at <http://ugm.id/InaTiongkok>

<sup>2</sup> Please refer to the full text of the Joint Statement here

[https://english.www.gov.cn/news/202411/10/content\\_WS67301550c6d0868f4e8ecca9.html](https://english.www.gov.cn/news/202411/10/content_WS67301550c6d0868f4e8ecca9.html)

<sup>3</sup> This UNCLOS 1982 document was negotiated over nine years from 1973 to 1982, which is why it is referred to as UNCLOS 1982. Currently, UNCLOS 1982 is regarded as the most comprehensive international convention, often referred to as "The Constitution of the Oceans." This was stated by Tommy Koh, the President of the United Nations Conference on the Law of the Sea III, which led to the creation of UNCLOS 1982. The history of UNCLOS 1982 can be traced in

[https://www.un.org/depts/los/convention\\_agreements/convention\\_historical\\_perspective.htm](https://www.un.org/depts/los/convention_agreements/convention_historical_perspective.htm)

3. When two countries are geographically close to each other, overlapping maritime zones may occur. For example, if the distance between two countries is less than 2 x 12 nautical miles, their territorial seas will overlap. If the distance is less than 2 x 200 nautical miles, their EEZs and continental shelves will overlap.
4. In cases of overlapping maritime zones, the two countries must establish mutually agreed maritime boundaries. This process is known as maritime boundary delimitation. If territorial seas overlap, the delimitation is conducted under Article 15 of UNCLOS. If EEZs overlap, boundary delimitation is carried out under Article 74. If continental shelves overlap, the delimitation is guided by Article 83. An illustration of maritime boundary delimitation involving three states (A, B, and C) is shown in Figure 2. By understanding these fundamental principles, we can critically assess the implications of the Indonesia-China agreement on joint development. Further analysis will explore whether the agreement aligns with these legal and geospatial frameworks.

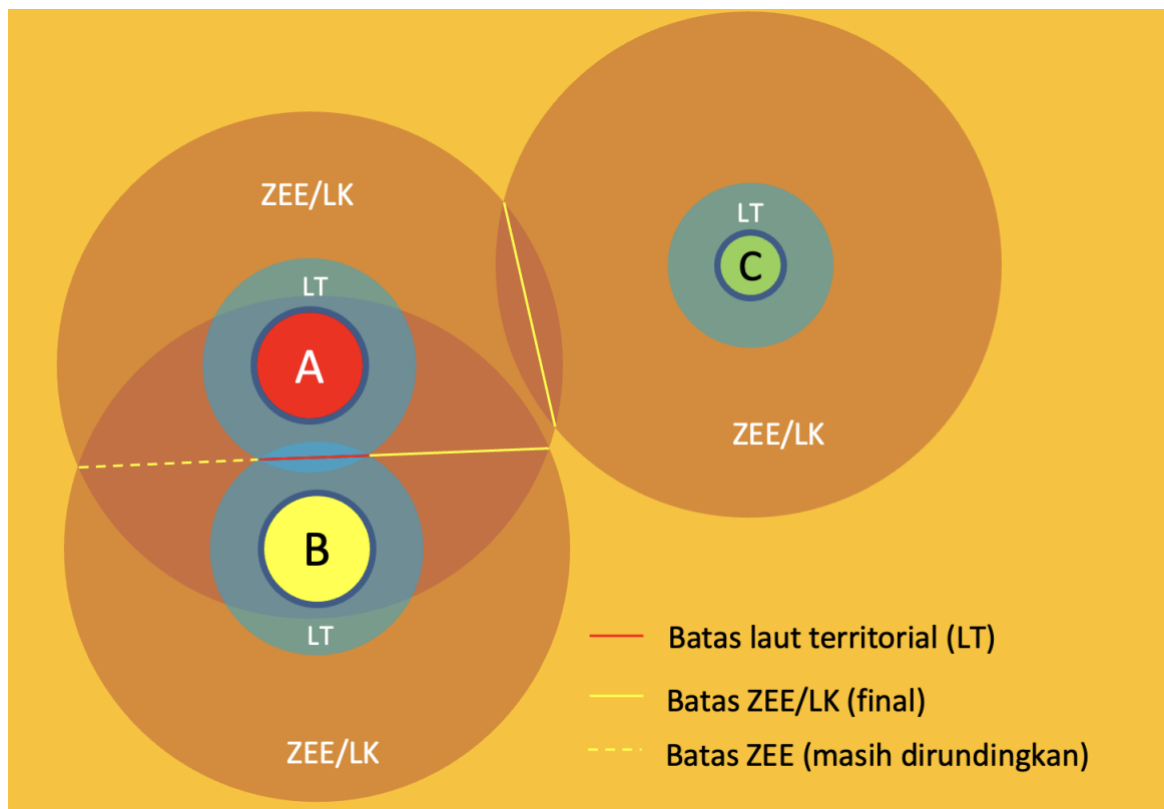


Figure 2 Maritime Boundaries Required in Cases of Overlapping Zones

### Joint Development in Overlapping Maritime Areas

5. Articles 74 and 83 of UNCLOS stipulate that if two countries fail to establish maritime boundaries for their Exclusive Economic Zone (EEZ) or Continental Shelf (CS), they must pursue provisional arrangements. One such arrangement is joint development. This mechanism allows both nations to temporarily exploit resources in overlapping maritime

areas while negotiations for permanent boundary delimitation continue. An illustration is shown in Figure 3.

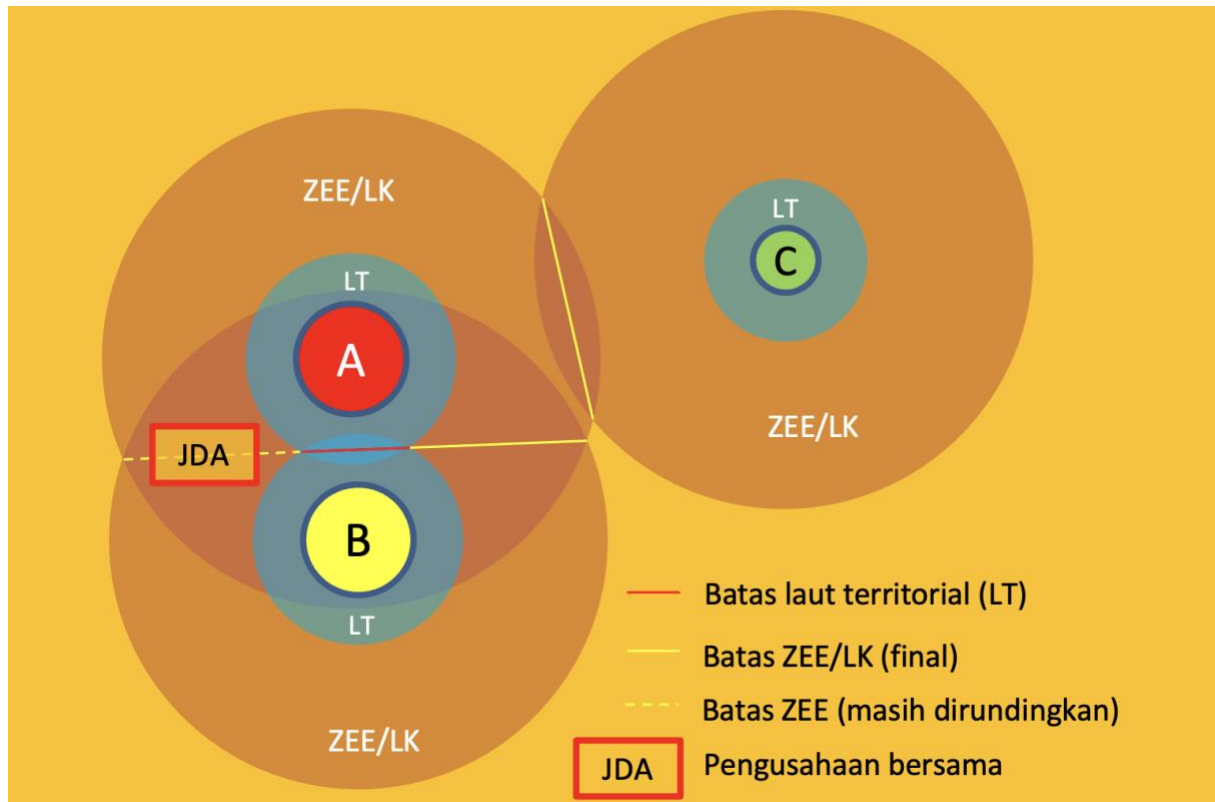


Figure 3 Joint Development in Overlapping Maritime Areas Without Delimited Boundaries

6. Joint development serves as a pragmatic solution enabling both parties to benefit from resources in overlapping areas despite the absence of established boundaries. Ideally, once conditions allow, these countries can proceed with maritime boundary delimitation to formalize permanent boundaries.

### China's Nine Dash Line

7. The potential for joint development between Indonesia and China raises an essential question: *Is there any overlapping maritime area between Indonesia and China?* Based on the UNCLOS 1982 provisions and considering the geographic positions and significant distance between the two countries, it is evident that no maritime zones overlap. This is visually represented in Figure 4.



Figure 4 Geographic Positions of Indonesia and China in the South China Sea (SCS)

8. Since there are no overlapping maritime areas between Indonesia and China, there is no need for boundary delimitation or provisional arrangements such as joint development.
9. However, the **Joint Statement** issued by President Prabowo Subianto and President Xi Jinping on November 9, 2024, mentioned "overlapping claims" and expressed a desire for "joint development." While the statement does not explicitly specify the details, it likely refers to China's unilateral claims in the South China Sea (SCS).
10. China's claims, represented by the *nine dash line*, encompass almost the entirety of the SCS, as depicted in a map created in 1947. This claim is not recognized under UNCLOS 1982, as shown in Figure 5. China's *nine dash line* does not adhere to UNCLOS' legal framework, which bases maritime zones on geographical distances. Despite being a party to UNCLOS, China continues to assert its claims, citing "historical fishing grounds" as justification.

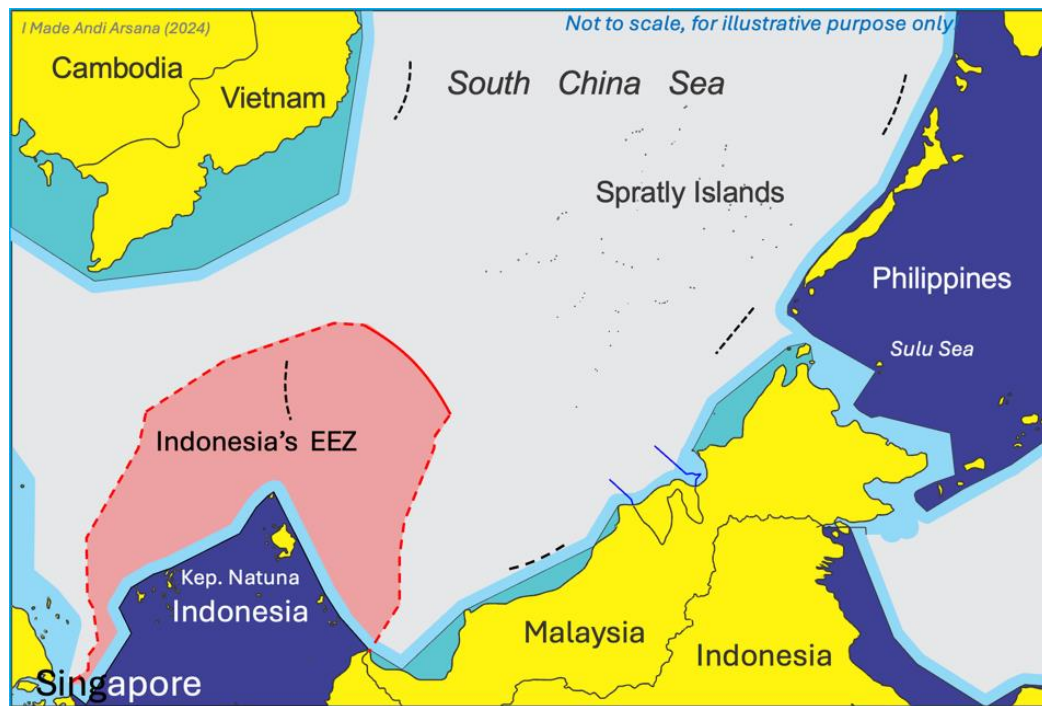


Figure 5 Indonesia's EEZ Rights Versus China's Nine Dash Line Claims

11. Ideally speaking, China should have revised its old maritime claim of the nine dash line so the claim become consistent with relevant provisions in UNCLOS. The Philippines has demonstrated such a good example by giving up its original maritime claims (based on the Treaty of Paris) and revised it in such a way in compliance with UNCLOS.
12. Unfortunately, China has yet to do the revision regarding its maritime claims. In fact, instead of giving up the nine dash claim, China added one more segment so it now becomes ten dash line. As an early adopted/ratifier of UNCLOS, it is unfortunate to China's maritime claims are not in accordance with the convention. The reason behind it is historical and China has always considered the maritime areas it claimed as its "traditional fishing ground".

13. This unilateral claim has led to overlapping areas with Indonesia's UNCLOS-based EEZ, particularly north of the Natuna Islands (see Figure 6). It is this area of overlap that the Joint Statement likely refers to as "overlapping claims."

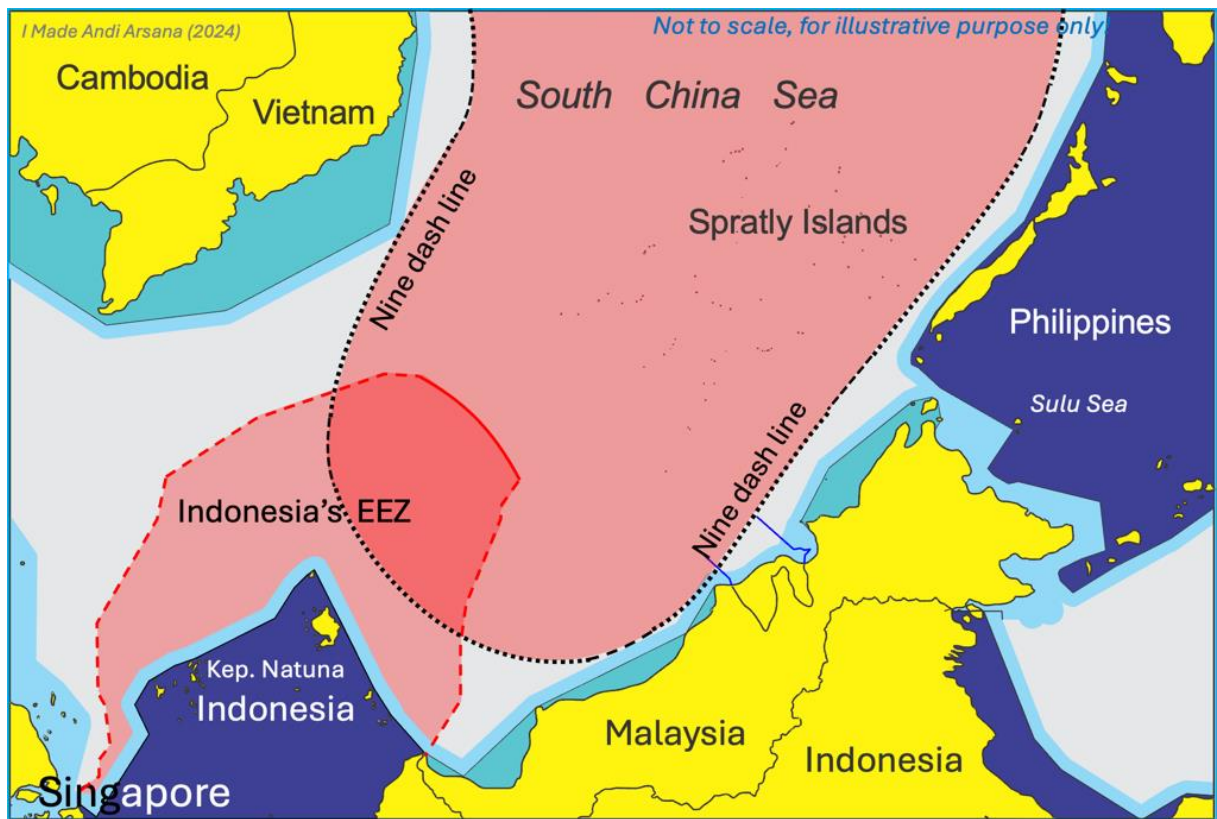


Figure 6 Overlap Between Indonesia's EEZ and China's Nine Dash Line in the SCS

14. Since its independence, Indonesia has consistently rejected China's *nine dash line*. The claim lacks a basis under UNCLOS 1982, which both countries have ratified. Indonesia's position aligns with many other states in the region, as China's claims excessively encroach on their internationally recognized maritime zones.
15. Notably, the Philippines challenged China's claims before the Permanent Court of Arbitration (PCA) in 2013. The 2016 PCA ruling declared that China's *nine dash line* had no legal basis. Despite this, China rejected the ruling and has maintained, if not escalated, its assertive activities in the region.
16. The November 9, 2024, Joint Statement, with its acknowledgment of "overlapping claims," may be interpreted as Indonesia recognizing China's *nine dash line*. If true, this marks a significant departure from Indonesia's long-standing position regarding the SCS.
17. Indonesia recognising the nine dash line could imply that Indonesia now views China as its 11<sup>th</sup> maritime neighbour, alongside other states India, Thailand, Malaysia, Singapura, Vietnam, Filipina, Palau, Papua New Guinea, Australia, and Timor Leste.

## Clarification by Indonesia's Ministry of Foreign Affairs

18. On November 11, 2024, Indonesia's Ministry of Foreign Affairs issued a press release clarifying that the Joint Statement does not signify recognition of China's *nine dash line*. The statement reaffirmed that the claim has no legal basis under UNCLOS 1982.
19. This clarification, however, raises further questions. By acknowledging overlapping claims with China, Indonesia implicitly recognizes China's *nine dash line*, as overlapping claims cannot exist without such acknowledgment.
20. Officially speaking, the Indonesian Ministry of Foreign Affairs will undoubtedly refer to its November 11 press release as Indonesia's official position.
21. The conflicting narratives between the Joint Statement and the Ministry's clarification, however, highlight inconsistencies in Indonesia's official position.

## Implications and Mitigation

22. Indonesia's implicit recognition of the *nine dash line* could strain relations with other countries in the region, including Vietnam, Malaysia, and the Philippines. These nations have also rejected China's claims under UNCLOS since the claims have significantly overlapped with their maritime entitlement as show in Figure 7.

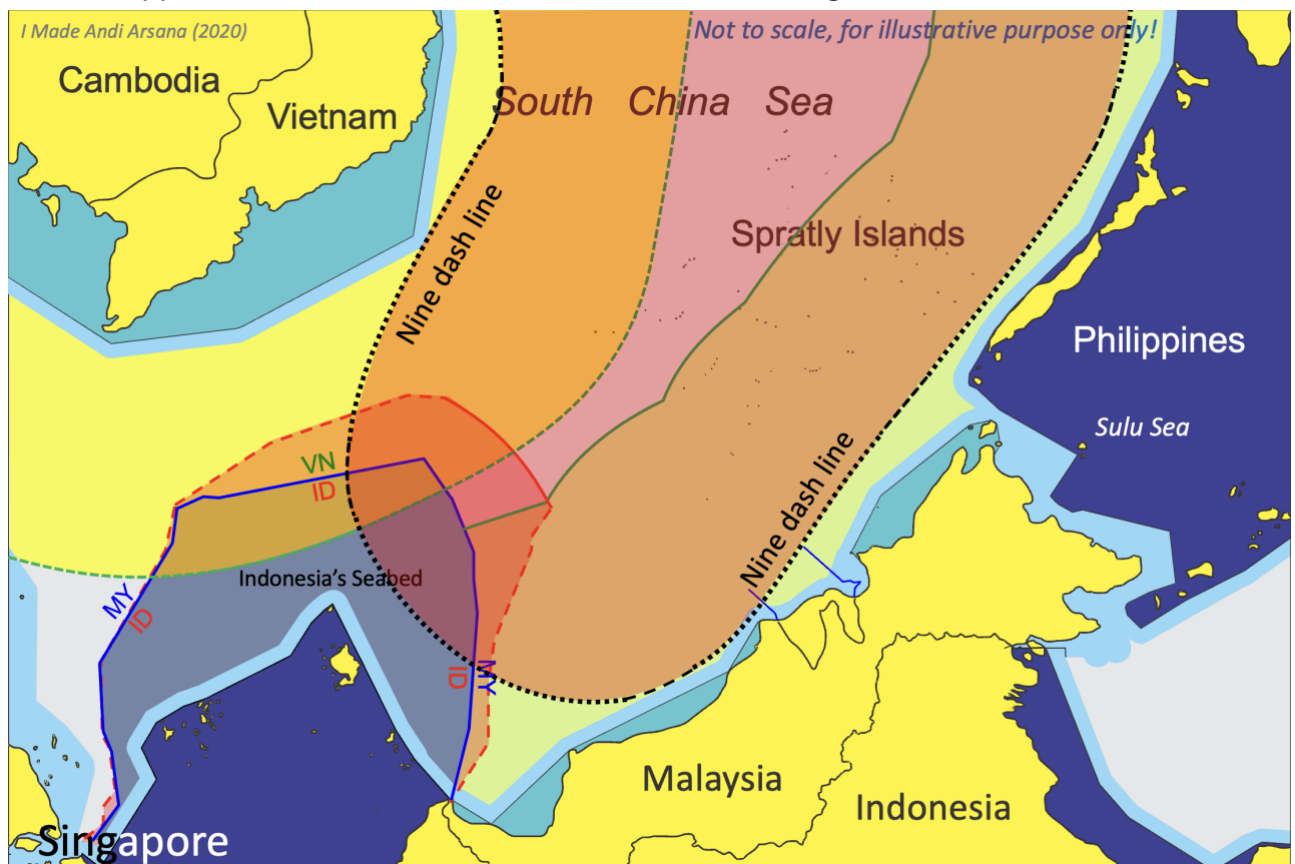


Figure 7 Overlap Between China's Nine Dash Line and maritime entitlement of others' in the region

23. Over the decades, Indonesia has positioned itself as a neutral "non-claimant state", which means that Indonesia does not claim any disputed land territory (islands, rocks, LTE, etc). This has given Indonesia a good position as a mediator in the SCS, fostering initiatives like the "Managing Potential Conflict in the South China Sea" workshop series.
24. This newfound acknowledgment may erode Indonesia's reputation as a regional leader and mediator, undermining its diplomatic standing in ASEAN and beyond.
25. While the Joint Statement includes protective clauses emphasizing "mutual respect, equality, mutual benefit, flexibility, pragmatism, and consensus-building" and "pursuant to their respective prevailing laws and regulations," these safeguards do not negate the implications of acknowledging overlapping claims with China.

### **Final Remarks**

26. The Joint Statement of November 9, 2024, represents a pivotal moment in Indonesia's approach to the South China Sea disputes. This shift could be interpreted as a departure from Indonesia's adherence to UNCLOS 1982, a framework it has championed for decades.
27. This article reflects the personal views of I Made Andi Arsana. Feedback and responses can be sent to the author via email ([madeandi@ugm.ac.id](mailto:madeandi@ugm.ac.id)).

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### **About the Author**

**I Made Andi Arsana, Ph.D.**, is a lecturer and researcher at the Department of Geodetic Engineering, specializing in international maritime boundary delimitation. Currently the Head of the Master's Program in Geomatics Engineering at Universitas Gadjah Mada, he has conducted research at the United Nations Division for Ocean Affairs and the Law of the Sea (DOALOS) and actively participates in various academic forums worldwide. Further information can be found at <http://madeandi.ugm.ac.id>.