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To the extent that these claims are based on the “nine-dashed line”—embracing some 80% of the South China Sea and described as China’s “historic waters”—the entire international community should reject them out of hand. The United Nations Convention on the Law of the Sea (UNCLOS) . . . is the only credible framework within which any kind of exclusive claims can be made.

Gareth Evans
former Foreign Minister of Australia,
Chancellor of Australian National
University, “Serenity in the South
China Sea,” Project Syndicate,
26 June 2015

Will China continue to claim it is not bound by the Tribunal for lack of jurisdiction, when the Tribunal has now found it has jurisdiction? China would more clearly be in violation of UNCLOS now than it was before, because UNCLOS Article 288(4) makes it clear that “[i]n the event of a dispute as to whether a court or tribunal has jurisdiction, the matter shall be settled by decision of that court or tribunal.”

Julian Ku
Professor of Law,
Hofstra University, New York,
“UNCLOS Tribunal Rules Against
China, Unanimously Finds It Has
Jurisdiction Over Philippines South
China Sea Claims,” Opinio Juris,
29 October 2015

[T]his is nevertheless a major step forward for the notion that it is right plus might and not just might in isolation, which will determine the future of this vital sea.

Alex Calvo
Professor of Security and Defense
Policy and International Law,
Nagoya University,
“South China Sea: International
Arbitration Moves Forward as PAC
Rules on Jurisdiction,”
Center for International Maritime Security,
6 November 2015

THE PHILIPPINES PRESENTS MERITS OF THE CASE BEFORE THE ARBITRAL TRIBUNAL

The Philippines presented before the Arbitral Tribunal the merits and other remaining issues of jurisdiction and admissibility on the case that it initiated against China regarding the West Philippine Sea / South China Sea. The hearings were held from 24 to 30 November 2015 at the Peace Palace, the headquarters of the Permanent Court of Arbitration (PCA) at The Hague, The Netherlands.

The hearings followed the 29 October 2015 release of the Arbitral Tribunal’s decision on the jurisdiction issue, in which the five judges unanimously affirmed that the Tribunal was properly constituted and that non-participation by China does not deprive it of jurisdiction over the case.

Solicitor-General Florin Hilbay, who heads the Philippine delegation, introduced the country’s case. The Philippine legal team headed by Mr. Paul Reichler explained why China’s “nine-dashed line” and claims to historic rights to waters of the South China Sea have no basis under the UN Convention on the Law of the Sea (UNCLOS). They also pointed out that the features used by China as basis to generate claims to exclusive economic zones (EEZ) and continental shelf are either rocks or low-tide elevations, which at best can only generate up to 12 nautical miles of maritime entitlements.

The delegation also presented how China’s conduct has interfered in the Philippines’ right to exercise sovereign rights and jurisdiction over its own EEZ. They also called attention to how China’s island-building and fishing activities have caused irreversible damage to the marine environment of the South China Sea.

Secretary of Foreign Affairs Albert F. del Rosario closed the Philippine presentation by stressing anew the importance of the arbitration process to the peaceful and rules-based resolution of disputes in the South China Sea.

The Tribunal has given China until 1 January 2016 to respond to any matter raised during the hearing. Afterward, the Tribunal will deliberate and issue a final decision in 2016.

“[T]he Philippines has always adhered to the rule of law, and our decision to resort to arbitration reflects our belief that it is a transparent, friendly, durable, and peaceful dispute settlement mechanism that can bring stability to the region. The Philippines remains committed to pursuing arbitration to its final conclusion, and will abide by its decisions.”

President Benigno S. Aquino III
Intervention during the 27th ASEAN Summit,
Kuala Lumpur, Malaysia, 21 November 2015



Photo: Gil Nartea
Malacañang Photo Bureau

Not only has China's ambiguity failed to achieve favorable political results, arguably fueling anxiety and increasing the "tensions and risks" in the region, but the PCA judgment highlights that this approach is similarly ineffective at sheltering it from formal resolution of the maritime claims at issue. With jurisdiction now asserted, clarification of its claims would serve both China's and the region's interests.

Ryan Santicola
Judge Advocate of the US Navy,
"The Diminishing Returns of
Ambiguity in the South China Sea,"
The Diplomat, 3 November 2015

The tribunal will almost certainly rule that China's nine-dashed line is an illegitimate basis upon which to claim maritime territory. This decision would likely be made on the grounds that historical claims have no recognized legal value. Although such a ruling would not discredit, per se, the claim put forward by Beijing, it would require China to provide an alternative legal justification and would represent a blow to Beijing's rhetorical position.

Ashley Townshend
Research Fellow, United States Studies
Centre, University of Sydney, "Possible
Wriggle Room on South China Sea
Claims," The Asia Sentinel,
14 October 2015

The use of force in the South China Sea can only delay a solution. The only way to realize one's national interest in a stable international environment is to utilize, develop, and comply with international law.

Stein Tønnesson
Research Professor, Peace Research
Institute Oslo (PRIO), "The South
China Sea: Law Trumps Power,"
Asian Survey, Vol. 55, Number 3



Photo: Permanent Court of
Arbitration Case Repository

mechanisms under UNCLOS as an option for resolving disputes in a peaceful manner."

Secretary of Foreign Affairs Albert F. del Rosario
Concluding Remarks at the Adjournment of the Hearing on the Merits,
The Hague, 30 November 2015

"We emphasised the importance for the states concerned to resolve their differences and disputes through peaceful means, in accordance with international law including 1982 United Nations Convention on the Law of the Sea."

Chairman's Statement of the 27th ASEAN
Summit, Kuala Lumpur, Malaysia,
21 November 2015



Photo: Gil Nartea, Malacañang Photo
Bureau



Photo: Robert Vinas,
Malacañang Photo Bureau

"The territorial dispute in the South China Sea is a serious conflict. I am always a bit surprised why in this case multinational courts should not be an option for a solution. We wish that the sea trade routes stay free and safe, because they are important for all."

Angela Merkel
Chancellor of Germany,
In her remarks during a visit to
Beijing, China, 29 October 2015

"[W]e believe that disputes should be settled in accordance with international law, and that international law, including the law of the sea, should be respected. It's in everybody's interests for these matters to be resolved peacefully, consensually and in accordance with the rule of law."

Australian Prime Minister Malcolm Turnbull
In his remarks during a press conference in
Manila, 8 November 2015



Photo: Joseph Vidal,
Malacañang Photo Bureau



Photo: Gil Nartea / Joseph Vidal,
Malacañang Photo Bureau

"[T]he United States supports the Philippines' decision to use arbitration under the UN Convention on the Law of the Sea to peacefully and lawfully address differences."

United States President Barack Obama,
In his remarks during the bilateral meeting with
President Benigno S. Aquino III,
17 November 2015

"Tensions in the area (South China Sea) must be defused through peaceful means, especially based on UNCLOS. We call on all parties to exercise restraint and refrain from taking actions that could undermine trust and confidence and put at risk the peace and stability of the region."

Indonesian President Joko Widodo,
Speech at the Batkin International Leaders Forum Series hosted by
Brookings Institution, Washington DC,
27 October 2015



Photo: Ryan Lim,
Malacañang Photo Bureau



Photo: Hemant Joshi,
Ministry of External Affairs India

"Minister Swaraj expressed support for the peaceful resolution of the West Philippine Sea/South China Sea dispute. Both sides reiterated the importance of the settlement of all disputes by peaceful means and of refraining from the threat or use of force, in accordance with universally principles of international law, including the 1982 UNCLOS."

Joint Statement, Third India-Philippines
Joint Commission on Bilateral Cooperation, 14 October 2015

"Reaffirm their commitment to resolve territorial and jurisdictional disputes by peaceful means, as well as to ensure maritime security and safety, and freedom of navigation in and overflight above the South China Sea, all in accordance with universally-recognized principles of international law, including the 1982 United Nations Convention on the Law of the Sea (UNCLOS)."

Joint Statement on the Strategic Partnership
between the Philippines and Vietnam, 19 November 2015



Photo: Robert Vinas
Malacañang Photo Bureau



Photo: www.dfa.gov.ph

"Japan continues to support the peaceful resolution of conflicts based on international law and has been paying close attention to the developments in the Philippines-China arbitration proceedings that have shifted to a new stage."

Japanese Foreign Minister Fumio Kishida
In his meeting with Foreign Affairs Secretary
Albert F. del Rosario, 16 November 2015

[G]reater resort to UNCLOS arbitration would clear away important issues, promote prospects for further negotiation and constitute an encouraging precedent for using impartial tribunals to settle the territorial issues as well.

Jerome A. Cohen
Professor, New York University School
of Law, "Did the Game Just Change
in the South China Sea? (And What
Should the U.S. Do About It?),"
China File, 2 June 2015

What the Philippines seems to be seeking is for China to have to clarify its claims and bring them into conformity with international law. This in itself is only the first step in untangling the South China Sea disputes and enabling the parties to settle the disputes on a more fair and equal footing. In dealing with a neighboring country that is stronger in all aspects, the arbitration is also a way to draw public attention to China's claims and actions and to create international pressure on China to reconsider its position.

Lan Nguyen
PhD Candidate, Faculty of Law,
University of Cambridge,
"South China Sea: Philippines v. China,"
The Diplomat, 27 July 2015

[A] decision by the tribunal establishing UNCLOS as the predominant authority governing the SCS disputes will benefit all parties by narrowing the areas in dispute and opening the door for joint development. Overall, not only will arbitration lead to the most efficient and favorable outcome for the Philippines, it will also lay the groundwork for future stability among all claimant states in the SCS.

Emma Kingdon
"A Case for Arbitration: The
Philippines' Solution for the South
China Sea Dispute,"
Boston College International and
Comparative Law Review,
Volume 38, Issue 1, April 2015

"[I]n addressing the relevant issues regarding the South China Sea, it is important to proceed according to the basic guidelines and principles of international law and the Convention on the International Law of the Sea of 1982. [I]f the parties have decided to take a certain issue to an international court . . . this is their right and if a ruling is delivered it will be the ruling of an international court."



Photo: www.government.ru

Russian Prime Minister Dmitry Medvedev during a press conference following the APEC Leaders' Meeting in Manila, 18 November 2015



Photo: www.gov.uk

"We want to see claims dealt with by rules-based, not power-based, solutions in Asia as elsewhere, in a way that is consistent with the long-term peace and stability of the region, with freedom of navigation and overflight, and in accordance with international law, including the law of the sea."

Philip Hammond
Secretary for Foreign and Commonwealth Affairs
of the United Kingdom in a speech at Peking University,
12 August 2015

"This is a very interesting development which we are facing . . . We (need to) keep a very close eye on this one, it's very important to play by international rules, the UNCLOS (United Nations Convention on the Law of the Sea) principle. We have to play by international rules, otherwise what kind of reference are we going to use to address all the regional problems we have?"

Hernani Coelho
Foreign Minister of Timor-Leste,
Interview with The Brunei Times, 26 June 2015



Photo: mnec.gov.tl

"Singapore as a non-claimant country does not take sides on the merits of the rival claims. We urge all parties to manage their differences calmly and peacefully in accordance with international law, including UNCLOS, with the common aim of maintaining regional peace and stability."

Singapore Prime Minister
Lee Hsien Loong. Photo:
www.pmo.gov.sg

Statement by the Ministry of Foreign Affairs,
Singapore, 28 October 2015

"The Meeting agreed on the need to maintain peace and stability in the region and to promote maritime security and safety, freedom of navigation and over-flight underlining the need to settle disputes by peaceful means, in accordance with universally recognised principles of international law, including the 1982 United Nations Convention on the Law of the Sea (UNCLOS)."



Photo: eeas.europa.eu

ASEAN-EU Senior Officials' Meeting
Brussels, Belgium, 2 July 2015

We place emphasis on two things: firstly, the observance of international law, which means both general international law and the United Nations Convention on the Law of the Sea and, in particular, the maintenance of the rights of navigation and overflight in the sea lanes of communication. That's where our national interest lies in South China Sea maritime claims.

S. Jayakumar
former Senior Minister of Singapore,
"S. Jayakumar: Quality of next-gen
leaders will be critical factor,"
The Straits Times, 16 May 2015

China's power play, combined with its refusal to arbitrate, its aversion to multilateral negotiations, and its refusal to enter into bilateral negotiations on the basis of equality, undermines regional stability and weakens important global institutions.

Peter Dutton
Professor of Strategic Studies and
Director of China Maritime Studies
Institute, US Naval War College,
"Did the Game Just Change in the
South China Sea? (And What Should
the U.S. Do About It?)"
ChinaFile, 2 June 2015



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