

MARCH 2016

It is hoped that when the arbitral tribunal makes its final award, both parties to the dispute, as well as the other states with sovereignty and maritime claims in the South China Sea, will take the award fully into account and bring their maritime claims and conduct into conformity with UNCLOS and the award of the tribunal.

Prof. Robert Beckman
Director of the Centre for International Law, National University of Singapore,
“A reply to China’s stance to stance on non-participation in South China Sea arbitration,” Straits Times,
8 March 2016

The decision of the arbitration tribunal is expected to provide authoritative answers to some of the difficult questions concerning the law of the sea in the South China Sea. These include the status of features and their entitlement to maritime zones, and whether China’s assertion of historic rights within the nine-dash line is consistent with its obligations under UNCLOS.

If accepted and complied with in good faith by all relevant parties, the award of the arbitration tribunal will promote peace, cooperation and joint development, and facilitate fruitful discussions among the parties towards the final resolution of the disputes.

Hao Duy Phan
Senior Fellow, Centre for International Law, National University of Singapore,
“A ruling on South China Sea dispute is no cause for gloom,”
Straits Times,
30 January 2016

PHILIPPINES URGES CHINA TO RESPECT INTERNATIONAL LAW AS RULES-BASED APPROACH CONTINUES TO GAIN SUPPORT

As the Philippines awaits the decision of the Arbitral Tribunal regarding the case filed on the South China Sea issue—expected in April or May 2016—more countries and world leaders have expressed their support for the rules-based and peaceful approach that the Philippines has pursued.

China, on the other hand, remains steadfast in its position that the initiation of arbitration without its consent is a violation of international and bilateral rules and norms. The Arbitral Tribunal, however, already ruled with regard to jurisdiction and admissibility of claims that unilateral submission for dispute settlement under Annex VII of the United Nations Convention on the Law of the Sea is a legitimate act and not an abuse of the process.

The Philippines and many members of the international community continue to call on China to abide by international law and respect the upcoming decision by the Arbitral Tribunal on the merits of the case. The Philippines emphasizes that China, as a member of the international community, should respect the ruling toward the promotion of an international rules-based regime in addressing maritime issues. It cautioned that if China continues to ignore the calls to comply with international law, it may be considering itself as above the law.

“[L]ike all nations, we need to defend our rights. That is why we have accessed the channels available to us to try and resolve the issue in a manner that is both legal and peaceful, in the belief that in law, everybody is equal. My nation has resolved to accept whatever decision the Arbitral Tribunal makes, and we are hopeful that our neighbor—who has constantly reiterated their respect for international law—will in time do the same.”

President Benigno S. Aquino III
Intervention during the Los Angeles World Affairs Council (LAWAC), Los Angeles, California, USA, 16 February 2016



Photo: Marcelino Pascua,
Malacañang Photo Bureau

First and foremost, the tribunal will promote the rule of law in the ocean and UNCLOS compliance by its parties. For the region and the claimant states, the award will enhance regional stability. It will stipulate the rights and obligations of the littoral states of the SCS.

Damos Dumoli Agusman
Professor of International Law,
University of Indonesia and
Haryo Budi Nugroho
Foreign Service Officer,
Republic of Indonesia,

“The South China Sea Arbitration:
Why Does It Matter?” Jakarta Post,
5 December 2015

[T]he case already has important implications for the use of international courts to manage and resolve international conflicts. International law has become a weapon of the weak. Countries that cannot afford or have no chance of winning military conflicts have increasingly turned to courts to resolve territorial, economic, and human rights claims.

Dr. Jill Goldenziel
Research Fellow,
Belfer Center for Science and
International Affairs,
Harvard Kennedy School,

“International Law is the Real Threat to
China’s South China Sea Claims,”
The Diplomat,
3 November 2015

It would be advisable for China to be better prepared to fight the legal battle in the South China Sea disputes instead of its current attitude of trying to avoid legal contestations altogether.

Li Mingjiang
Associate Professor,
S. Rajaratnam School of International
Studies, Nanyang Technological
University, Singapore,
“Possible Consequences of the
Philippines’ South China Sea
Arbitration Case,”
17 December 2015

“We the Heads of State/Government of the Member States of ASEAN and the United States of America take this opportunity to reaffirm the key principles that will guide our cooperation going forward: shared commitment to maintain peace, security and stability in the region, ensuring maritime security and safety, including the rights of freedom of navigation and overflight and other lawful uses of the seas, and unimpeded lawful maritime commerce as described in the 1982 UN Convention on the Law of the Sea (UNCLOS) as well as non-militarization and self-restraint in the conduct of activities.”

Joint Statement of the US-ASEAN Special Leaders’ Summit:
Sunnylands Declaration, 16 February 2016



Photo: Gil Nartea,
Malacañang Photo Bureau



Photo: pmindia.gov.in

“The two Prime Ministers underscored the importance of international law including the United Nations Convention on the Law of the Sea (UNCLOS) and peaceful resolution of disputes without use or threat of use of force; freedom of navigation and overflight and unimpeded lawful commerce in international waters.”

Joint Statement on India and Japan Vision 2025:
Special Strategic and Global Partnership Working Together for Peace and
Prosperity of the Indo-Pacific Region and the World, 12 December 2015

“[We] urged parties concerned not to take any unilateral actions that will complicate and expand the disputes in the South China Sea, to settle all disputes by peaceful means on the basis of the principles of international law and, particularly, the United Nations Convention on the Law of the Sea (UNCLOS), to strictly implement the 2002 Declaration on the Conduct of Parties in the South China Sea (DOC), and to conclude the Code of Conduct in the South China Sea (COC) expeditiously.”



Photo: Embassy of SR Viet
Nam in Japan

Joint Vision Statement on Japan-Vietnam Relations
Tokyo, Japan, 15 September 2015



Photo: Gil Nartea,
Malacañang Photo Bureau

“The United States and ASEAN are reaffirming our strong commitment to a regional order where international rules and norms—and the rights of all nations, large and small—are upheld. We discussed how any disputes between claimants in the region must be resolved peacefully, through legal means, such as the upcoming arbitration ruling under the U.N. Convention of the Law of the Seas, which the parties are obligated to respect and abide by.”

United States President Barack Obama,
in his remarks during the US-ASEAN Press
Conference, Sunnylands, California,
16 February 2016



Photos: www.aph.gov.au,
www.beehive.govt.nz

"[T]he Prime Ministers emphasised the need for restraint and respect for international norms and rules of behaviour in resolving territorial disputes. They encouraged a peaceful resolution to all disputes in accordance with international law, including the UN Convention on the Law of the Sea (UNCLOS)."

Joint Statement by Prime Minister Malcolm Turnbull of Australia and Prime Minister John Key of New Zealand during the Australia-New Zealand Leaders' Meeting in Sydney, 19 February 2016



"Singapore supports the peaceful resolution of disputes in the South China Sea with full respect for legal and diplomatic processes, as well as the right of freedom of navigation and over-flight under international law, including the 1982 United Nations Convention on the Law of the Sea (UNCLOS)."

Singaporean Foreign Minister Dr. Vivian Balakrishnan during his meeting with Chinese Foreign Minister Wang Yi in Beijing, 29 February-1 March 2016

Photo: www.parliament.gov.sg

"Australia respects the right of parties to negotiate or indeed, arbitrate. In the case of the Philippines' arbitration, they are seeking a ruling on whether reclaimed islands generate maritime zones. They are seeking a clarification of international law. They are not seeking a determination on the merits of the respective maritime claims. So I reiterate, Australia does not take sides on the competing claims."

Australian Foreign Minister Julie Bishop during the Joint Media Conference with Foreign Minister Wang Yi Beijing, China, 17 February 2016



Photo: Mark Alvarez,
foreignminister.gov.au

"The Ministers reaffirmed the importance of peaceful settlement of maritime disputes in the South China Sea in accordance with universally recognised principles of international law, including the United Nations Convention on the Law of the Sea (UNCLOS). They called on all parties to refrain from activities that increase tension and to pursue urgently the settlement of the maritime disputes peacefully in accordance with international law and supported the exercise of freedom of navigation and overflight."



Photo: mofa.go.jp

Minister of Foreign Affairs Fumio Kishida and Minister of Defence Gen Nakatani of Japan, and Secretary of State for Foreign and Commonwealth Affairs Philip Hammond and Secretary of State for Defence Michael Fallon of the United Kingdom, during the 2nd Japan-United Kingdom Foreign and Defence Ministerial Meeting in Tokyo, 8 January 2016

The South China Sea arbitration case is the first time a state party has directly asked an international tribunal to decide on this problem. The decision of the PCA on the case will not only potentially help reduce the complexity of the current disputes and perhaps consequently dampen regional tensions, it also contributes to the development of international law. Given this, it would be a mistake to underestimate the legal importance of this case.

Truong Minh-Vu and Trang Pham
University of Social Sciences and Humanities, Ho Chi Minh City, "Who Will 'Win' in the Philippines' South China Sea Case Against China?" The Diplomat, 28 August 2015

The US position is that international law should be respected and therefore, the Philippine strategy of resolution through arbitration using UNCLOS is appropriate and commended.

Krista E. Wiegand
Associate Professor, Department of Political Science, University of Tennessee-Knoxville, "Fishing, Shipping Lanes, Oil & Gas: Is Peaceful Resolution of the South China Sea Dispute Possible?" The Howard H. Baker Jr. Center for Public Policy, August 2015

We need to be ready to be very loud and vocal, in harmony together, standing behind the Philippines and the rest of the ASEAN claimants to say that this is international law, this is incredibly important, it is binding on all parties.

Amy Searight
US Deputy Assistant Secretary of Defence for South and Southeast Asia during a seminar at the Center for Strategic and International Studies, Washington, D.C., 17 February 2016



"We recognise the tribunal and we will recognise the decision of the tribunal."

British Secretary for Foreign and Commonwealth Affairs Philip Hammond during his meeting with Secretary of Foreign Affairs Albert F. del Rosario, 7 January 2016

Photo: www.dfa.gov.ph

"The EU is committed to maintaining a legal order for the seas and oceans based upon the principles of international law, as reflected notably in the United Nations Convention on the Law of the Sea (UNCLOS). This includes the maintenance of maritime safety, security, and cooperation, freedom of navigation and overflight."



Council of the European Union

Declaration by the High Representative on behalf of the EU on Recent Developments in the South China Sea, 11 March 2016

Italian President Supports Peaceful Resolution of Disputes in SCS



Photo: Malacañang Photo Bureau

During the meeting between Philippine President Benigno S. Aquino III and Italian President Sergio Mattarella in Rome, Italy, on 3 December 2015, the Italian leader expressed his country's support for the upholding of the freedom of navigation in the South China Sea and acknowledged the path that the Philippines has taken for the peaceful resolution of the dispute.

Switzerland Favors Rules-Based Resolution in Sea Disputes

In the recently held 7th Political Consultations between the Philippines and Switzerland in Berne on 3 March 2016, Switzerland welcomed the Philippines' updates concerning the South China Sea, particularly the Philippines' initiation of an open and inclusive arbitration process that seeks to clarify maritime entitlements in the area. Switzerland also stressed that there should be peaceful and rules-based resolution in accordance with the international law, including the UN Charter and UNCLOS.



Photo: www.bernepe.dfa.gov.ph

Singapore, US Emphasize Need for Stability in SCS



Photo: singapore.usembassy.gov

During the 4th United States-Singapore Strategic Partnership Dialogue on 22 January 2016, Singapore and the United States reaffirmed the importance of maintaining regional peace and stability and upholding the freedom of navigation in and overflight over the South China Sea through peaceful resolution in accordance with international law, including the 1982 United Nations Convention on the Law of the Sea.

A joint Western, a joint world opinion, matters also for Beijing. If we unanimously support that international law as formulated by the international tribunal in the Hague . . . needs to be upheld, that's a very strong message and will be very difficult to ignore.

Klaus Botzet
Political Section of the EU Delegation
in Washington, D.C.,
Second Conference of CSIS's EU-US
Dialog for the Asia-Pacific Region
(EUDAP) Initiative,
17 February 2016

If the court decides China's claims are not legal, then the Philippines, ASEAN, and countries across the world who believe that rule of law should govern the seas will need to carefully and constructively encourage Beijing to recognize and embrace this core tenet of international governance and security.

Ernest Bower
Senior Adviser and Sumitro Chair
for Southeast Asia Studies, Center for
Strategic and International Studies and
Conor Cronin
Research Associate, CSIS Southeast
Asia Studies, "Time Is of the Essence
in South China Sea Arbitration Case,"
Asia Maritime Transparency Initiative,
13 January 2016



FOREIGN SERVICE INSTITUTE

Department of Foreign Affairs
2330 Roxas Blvd., Pasay City 1300
Philippines
Tel. No. +632 834 3509
Fax No. +632 831 5983
fsphilippines@fsi.gov.ph
www.fsi.gov.ph

The statements in this brochure do not necessarily reflect the official position of the Foreign Service Institute.

Unless otherwise indicated, photos are from Philippine government websites.

For questions or comments, send an email to Mr. Louie Dane C. Merced at lcmerced@fsi.gov.ph