



*Image Attribite: Guided-missile destroyer U.S.S. Halsey and the guided-missile cruiser U.S.S. Antietam participate in a maneuvering exercise in the South China Sea on October 23, 2014. Source: U.S. Pacific Fleet's flickr photostream, used under a creative commons license.*

## ***OPINION | China's South China Sea Conundrum - No Easier Pass***

***The South China Sea Arbitral Tribunal is a hard hit to China's Great Power Ambitions.***

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On July 12, The Hague- based Permanent Court of Arbitration (PCA) finally hit the hammer on the verdict of the landmark case of **South China Sea arbitration**. This case was unilaterally initiated by the Republic of the Philippines on January 22, 2013, on its relevant disputes in the South China Sea with the People's Republic of China. At the very outset, this case brought China at crossroads to its international reput given Philippines' allegations against its assertive and unlawful claims. The final hit came from the Court, which strictly and categorically ruled its judgment against China and in favor of Philippines. This landmark arbitral tribunal, therefore, has set a new momentum in China's South China Sea Conundrum- wherein the dispute is likely to get more complicated and much difficult to resolve than before.

The arbitral tribunal addressed Philippines case against China mainly on three grounds:

- *The validity of China's "nine-dash line"*
- *China's claims to sovereignty based on "historic rights"*



- *China's maritime entitlements in the South China Sea*

In a 501-page award, the international Arbitral Tribunal decided in favor of Philippines by **rejecting** China's claims to the South China Sea based on the "nine-dash line" map and specified that it has "no legal basis" and also pointed that Beijing's "historic rights" do not comply to the UNCLOS and that, there is "no evidence that China had historically exercised exclusive control over the waters or their resources."

*The Court said: "Although Chinese navigators and fishermen, as well as those of other states, had historically made use of the islands in the South China Sea, there was no evidence that China had historically exercised exclusive control over the waters or their resources." It concluded that "there was no legal basis for China to claim historic rights to resources within the sea areas falling within the 'nine-dash line'."*

Further, posited that whatever rights and claims China made were nullified once it acceded to the United Nations Convention on the Law of the Seas (UNCLOS), as **Arbitral Tribunal** Award stated:

*"China's claims to historic rights, or other sovereign rights or jurisdiction, with respect to the maritime areas of the South China Sea encompassed by the relevant part of the 'nine-dash line' are contrary to the Convention and without lawful effect to the extent that they exceed the geographic and substantive limits of China's maritime entitlements under the Convention. The Tribunal concludes that the Convention superseded any historic rights or other sovereign rights or jurisdiction in excess of the limits imposed therein" (p. 117).*

With this case, the tribunal greatly reduced the scope of maritime entitlements that states can claim in the South China Sea, as it concluded that the UNCLOS "defines the scope of maritime entitlements in the South China Sea, which may not extend beyond the limits imposed therein" (p. 116). In specific to the China-Philippines case, the court **ruled** that: a specific portion of the South China Sea claimed by both China and the Philippines belongs to the Philippines alone and that none of the small land features claimed by China is sufficiently large to justify maritime "exclusive economic zones" for any nation. It further called Chinese land reclamation activities and large-scale fishing in the disputed areas as illegal and its interference with the Philippines' fishing and oil exploration of the region as unlawful.

In its prompt reciprocation to the PCA's judgment, Beijing rejected the Tribunal ruling by **calling** it "a piece of paper that is destined to come to naught". While Speaking at a meeting with European leaders, President Xi Jinping with a defiant attitude, reinstated China's claim to sovereignty over the South China Sea **"since ancient times"**.

Adopting Xi's defiant tone, **China's Foreign Ministry** declared the award as "null and void and has no binding force. China neither accepts nor recognizes it." Also, specified that: "China's territorial sovereignty and maritime rights and interests in the South China Sea shall under no circumstances be affected by those awards. China opposes and will never accept any claim or action based on those awards." Furthermore, "China does not accept any means of third party dispute settlement or any solution imposed on China."

Given the clash of interest between China and the International Tribunal, the implications of the verdict are both symbolic as well as significant for China.

First, symbolically it has affected China's much aspired international status. The case being a litmus test to China's international reputation has hit China's inflated ego given its loss of face to a smaller power like the Philippines. Adding to the reputation cost, the case has also severed Beijing's responsible actor' image, as the court ruled Beijing's activities as "illegal", "unlawful" and specified that it caused "severe harm to the coral reef environment" by building artificial islands.

Secondly, the court's rejection of Beijing's "historic rights" and "nine-dash line" has automatically given other claimants in the dispute, such as Brunei, Indonesia, Malaysia, Taiwan and Vietnam, a significant leverage to equally assert and protect their sovereignty and maritime rights in the South China Sea.

Thirdly, China's unilateral behavior in the South China Sea will increase and Beijing will get more strong and assertive if not weak. The dispute is further complicated and the tensions will escalate to dangerous levels. In this fall-out, the much anticipated Chinese Air Defence Identification Zone (ADIZ) on the South China Sea can become a reality.

Fourthly, the impact of this tribunal will affect China's other waterfront in the East China Sea, where the on-going tensions over Diaoyu/Senkaku islands and maritime rights with Japan will get exacerbated.

Fifthly, with such a judgment, China's unilateral militarized activism in both South China Sea and East China Sea will get unequivocally counter-challenged by the other claimants. Thereby, leaving no room for a peaceful settlement of the disputes.

Thereby, the Tribunal has ratcheted China's conundrum in the South China Sea as well as the East China Sea. The tectonic shifts at both the fronts will get intensified with China's behavior and that of others, and thus, significantly impedes the resolution process of the disputes.

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