ISSN 2464-9929, Global Politics Review 4, no. 2, October 2018: 50-71.

Maritime Dispute Settlement in the South China Sea: The Case of the Philippines – China Arbitral Awards and Implications

*Giang Nguyen Truong**

Abstract: Regardless of tremendous efforts from the involving countries, up to the present, the South China Sea (SCS) dispute between China and Philippines is regarded as the most complex and challenging maritime regional conflict in Asia. It has been two years since the date of arbitral awards for the case between Philippines and China, but the issue still raised the question of whether the award has set a good precedent for the dispute settlement mechanism under the UNCLOS 1982. And the award's impact on the dispute settlement and state relations in the region is also debated. After the award was made, many scholars criticized that the case exhibits various shortcomings of the UNCLOS 1982 and the consequences thereof deteriorates the main function of international law. This study discusses the dispute settlement mechanism of UNCLOS 1982 and its application in the case of the Philippines – China. The study is important for two specific reasons: (i) the use of negotiation among nations in the region has become a deadlock, the demand to use legal regime in international relations is increasingly supported by many scholars, and (ii) shortcomings of the UNCLOS 1982 will be discussed for future improvement. This study finds that the tenacious dispute in the South China Sea is due to two reasons. Firstly, it is the risk the inconsistent interpretation among state parties, especially the historical approach adopted by China despite the existence of UNCLOS 1982. Secondly, it is the lack in mechanism of the Convention to ensure the parties' compliance to the award, when China explicitly declared that it would unilaterally reject the arbitral awards. These two reasons are inarguably critical since it may degenerate the almighty goal of an international legal regime in maintaining the "internationality" and "unity" and become a chronic problem for all countries of the region. However, the situation after one year since the award was made has proved that the rule-of-law can be used as an effective tool to improve interstate co-operation.

Keywords: Conflict Resolution, International Law, South China Sea, Maritime Dispute, UNCLOS 1982.

Received: July 16, 2018. **Accepted:** October 13, 2018. **Published:** October 31, 2018.

Introduction

Territorial disputes have become one of the most heated issues that demand for common legal edge such as the United National Convention on the Law of the Sea (the UNCLOS) 1982 has been extremely necessary. On July 12, 2016, under provisions of the UNCLOS 1982, the arbitration tribunal of the Permanent Court of Arbitration (PCA) in The Hague issued its award for the claim by the Philippines made against China concerning the dispute between the two countries over maritime jurisdictions

* Giang Nguyen Truong holds a BSc. in International Economics from Foreign Trade University (Vietnam). He is now a Master student in International Relations at Ritsumeikan Asia-Pacific University (Japan). He is also a holder of the Asian-Development Bank Scholarship (ADB-JSP). E-mail: truong17@apu.ac.jp.

DOI: 10.5281/zenodo.1481717 GPR ID: 2464-9929_v04_i02_p050

in the SCS. This award is historically regarded by many scholars of international law and relations and is expected to shape a practice of dispute settlement in the future.

Hence, the first two sections of this study concentrate on how UNCLOS 1982 is implemented to settle maritime dispute by scrutinizing the dispute mechanism of the UNCLOS 1982 together with its relevance of application in the SCS. The next section deals with the analysis of the typical arbitral case between Philippines and China to argue its impact on the dispute settlement of nations in the region to suggest upcoming issues to this region.

The analysis of the dispute settlement of UNCLOS 1982 not only improves the awareness among states in this region for an enhancement in international relations, but also provides discussion for future development of UNCLOS 1982 as a basic legal regime in the South China Sea.

Firstly, an insightful research into the dispute settlement mechanisms of UNCLOS 1982 helps to improve the regional cooperation. In international relations, disputes serve as an inexorable part of interstate behavior[1] and it is widely accepted that, among various international disputes, territorial-related disputes are considered to be the most perplexing issues that are incredibly difficult to manage.[2] These disputes become further complicated by historical, cultural, political, military and economic status. Unfortunately, until now, efforts made from diplomatic negotiation and mutual development seem to be politically deadlocked.[3] Nonetheless, experts in international relations now realize the relevance of legal rules in the construction and operation of international problem-solving.[4] International law provides innovative and helpful mechanism of co-operation and gives means for asserting a country's interest while arriving at a common position that serves all participants[5]. Under international law, states are obligated to settle their disputes through peaceful means and in conformity with the principles of justice, so that they will not infringe on international peace, security, and justice.[6] It is also important to emphasize that ninety-seven territorial disputes have been settled through bilateral negotiations, third-party mediation, arbitration, or adjudication at the International Court of Justice since 1953[7]. At present, UNCLOS 1982, designated by the United Nations (UN), is among the most comprehensive legal frameworks that govern territorial issues in the Region thanks to a built-in dispute settlement mechanism specializing in sea-related

1 Merrills, *International Dispute Settlement* (Cambridge: Cambridge University Press, 2005), 103-105.
2 Brandon Prins, Aaron Gold and Sam Ghatak, "What's So Important About Territorial Disputes in International Relations?", accessed on 5 October 2018.
3 Nong Hong, UNCLOS and Ocean Dispute Settlement (New York: Routledge, 2012), 24-25.
4 Schoenbaum, Thomas J, *International Relations: The Path Not Taken* (Cambridge: Cambridge University Press, 2006), 17.
5 Ibid, 18.
6 "Charter of the United Nations", the United Nations, accessed on 1 October 2018, http://www.un.org/en/charter-united-nations/.
7 Wiegand, Krista E., *Enduring Territorial Disputes: Strategies of Bargaining, Coercive Diplomacy, and Settlement*, (Athens: University of Georgia Press, 2011).

issues. Therefore, it is necessary for states to be aware of how this mechanism works for a better enhancement of international relations in the Region.

Secondly, the analysis in the dispute settlement mechanism of the Convention provides useful contributions to the supplementation and improvement in the international sea legal regime. On the one hand, the UNCLOS 1982 has become a comprehensive linchpin of the international law of sea legal regime.[8] The Convention was also considered as one of the most successful of the codifications and progressive developments of international law made by the United Nations since the end of World War II.[9] Moreover, its dispute settlement mechanism, elucidated by Part XV of the Convention, which is conceptualized by the mandatory procedures, has made the Convention unique among various treaties and become one of an extremely small number of global treaties that prescribe mandatory jurisdiction for disputes arising from interpretation and application of its terms.[10] The case of the South China Sea is a typical case study for UNCLOS 1982 since it covers almost every aspect of UNCLOS 1982: maritime delimitation, historic title, territorial sovereignty, use of force, fishing, maritime scientific research, freedom of navigation, etc. On the other hand, the compulsory provisions for dispute settlement of Part XV have been heavily criticized owing to its potential fragmentation, both procedurally and substantively in essence, of international law in general.[11] From some experts' perspectives, this makes it difficult for the states in the Region to fully recognize the connection and relevance of UNCLOS and utilize its regime to settle their disputes.[12] In this sense, the assessment on essence as well as the flexibility of the dispute settlement mechanism will contribute to the proposal of further modifications and supplementations for the UNCLOS 1982 in the future.

Research question

Due to the significance of the study, the following questions to be answered are stipulated as follows:

1. What dispute settlement regime does the UNCLOS 1982 provide to settle maritime dispute in the South China Sea?
2. Through the awards made by tribunal in the Philippines – China case, is UNCLOS 1982 a successful legal regime to settle dispute in the South China Sea?

8 Romano, Cesare P.R, "Courts and Tribunal: Price, Financing, and Output", in *International Conflict Resolution*, ed. Voigt, Stefan; Albert, Max; Schmidtchen, Dieter, (Germany: JCB Mohr, 2006), 50-54.

9 Nguyen, Dong Manh, "Settlement of disputes under the 1982 United Nations Convention on the Law of the Sea The case of the South China Sea dispute", *University of Queensland Law Journal*, 25, no. 1 (2006): 145-180.

10 Klein, Natalie, Dispute Settlement in the UN Convention on the Law of the Sea, (Cambridge: Cambridge University Press, 2005), 32-36.

11 Rayfuse, Rosemary, "The Future of Compulsory Dispute Settlement Under The Law of the Sea Convention", *Victoria University of Wellington Law Review*, 36, no.4 (2005): 89-98.

12 Nong Hong, UNCLOS and Ocean Dispute Settlement (New York: Routledge, 2012), 24-25.

3. What implications the international community may learn from the case of Philippines – China arbitral awards?

Literature review

There are several articles that discuss the problems of UNCLOS, among which two different opinions have been raised. Now, this essay discusses the two arguments to provide possible answers for the question of whether UNCLOS 1982 provides peaceful dispute settlement to countries.

On the one hand, the mechanism of UNCLOS has undeniable shortcomings and limitations with the risk of fragmentation. Firstly, it is stipulated in Part XV of the UNCLOS that states generally have the duty to peacefully settle disputes with regard to the application of the convention (UNCLOS). It means the selection from negotiations or judicial settlements are at their own discretion (UNCLOS). Nevertheless, provided that settlement is not reached between the parties and no other procedures are clearly and explicitly excluded by the parties, then one party may prompt to compulsory dispute settlement. This means that there may be an insurmountable risk with the establishment of International Tribunal for the Law of the Sea (ITLOS) that harms the international unity in interpreting and applying UNCLOS.[13] Secondly, UNCLOS 1982, in general, provides the availability of compulsory procedures with binding decisions where no settlement has been reached.[14] The jurisdiction of any court or tribunal constituted under UNCLOS is stated in Article 288(1) as existing "over any dispute concerning the interpretation or application of this Convention which is submitted to it in accordance with this Part." There are thus two important threshold jurisdictional issues which rise on the subject matter. These issues are: (i) whether the dispute concerns the interpretation or application of UNCLOS; and (ii) whether the dispute falls within one of the exceptions or limitations under Section 3 of Part XV. Lastly, the lack of specific definitions within UNCLOS, such as "historic water" or the ambiguous status of "rock", "island" or military activities make it difficult to settle many disputes in a timely manner. This vagueness results in different means of interpreting the application and endangers its "internationality."

The other opinions of scholars are for the effectiveness of UNCLOS' positive role in maintaining the ocean order in the SCS. Firstly, the fear that UNCLOS, especially the tribunal would endanger the unity of general international law seems equally unjustified.[15] It is provided that the tribunal is virtually the only form in international law which has decided anything relevant concerning the protection of the marine environment, and this has ultimately protected depleted fish stocks, hindered adverse effects of land

13 Vereycken Sofie, Eduard Somers, and Klaas Willaert, *Dispute settlement under UNCLOS - Position of the International Tribunal for the Law of the Sea* (Master thesis, University of Gent, 2016), 56-57.

14 Klein, Natalie, Dispute Settlement in the UN Convention on the Law of the Sea, (Cambridge: Cambridge University Press, 2005), 46-48.

15 Vereycken Sofie, Eduard Somers, and Klaas Willaert, *Dispute settlement under UNCLOS - Position of the International Tribunal for the Law of the Sea* (Master thesis, University of Gent, 2016), 56-57.

reclamation activities on the marine environment and so on. Secondly, regarding the question of vagueness, breaking different categories of SCS disputes into scopes that the regime is applied accordingly[16] and using case law for each issue would help achieve clearer definition. Thirdly, the role of the third-party is considerably important in seeking tribunal measures such as "prompt release" or environmental protection. With these provisional yet innovative measures, prompt release requests for some vessel, crew, and uniform protection for tribunal fill the void that cannot be addressed by any other existing international court, tribunal, or complements that already exists under the jurisprudence in respect to UNCLOS.[17] In short, despite the specific shortcomings due to in theoretical limitation in "black letter", the UNCLOS does stay open for a wider and more flexible interpretation in which the role of the tribunal to extend and interpret the Convention is certainly indispensable.

The above research provides past studies as references that support the argument of the research question. However, there are issues that those studies have not addressed, especially the fact that how countries may face up against the dilemma between rule-of-law or power (political or economic) impacts in settling their dispute, and does this dilemma badly break the expectation of legal regime makers to ensure peace and fair play among nations? These issues shall be discussed in this essay.

Methodology

Pursuant to answer research questions of how effective the UNCLOS 1982 is in settling dispute in the South China Sea, the author uses two main methods in this study: qualitative approach and case study.

Qualitative approach via methodological design of documentary research

Documentary research is the use of external sources of information or documents to discuss or argue a point of view or argument in a specific academic context.[18] The process of documentary research includes work of conceptualizing, citing and evaluating documents under both qualitative and quantitative approaches.[19]

For this study, the author uses qualitative approach of documentary research to solve the research question because of two reasons. Firstly, it enables the author to label the research object from a complete examination of diverse documents that have discussed the issues.[20] The research topic deals with the heavily technical concepts in international

16 Nong Hong, UNCLOS and Ocean Dispute Settlement (New York: Routledge, 2012), 13-17.

17 Verbeek Bertjan, "Regime theory in International Relations", in *Encyclopedia of Power*, ed. Keith Dowding, (SAGE Publications, 2011), 37-40.

18 Balihar Sanghera, "Qualitative research methods: documentary research", accessed 3 October 2018,https://web.archive.org/web/20071113125309/http://uk.geocities.com/balihar_sanghera/qrmdocumentaryresearch.html.

19 Ibid.

20 Sánchez Jorge and Tafur Paola, "Fragmentation of International Legal System Established for the Governance of the Oceans", Social Sciences, 4, no. 4, (2015): 86-89.

law, international relations and political science. But for the strong and widely-accepted theoretical framework from other scholars, it is considerably difficult to accurately conceptualize and define the issue. Secondly, acquiring direct data necessary to answer the research questions would practically take an enormous amount of time and many verbal arguments from officials, policymakers and experts This is not an efficient and appropriate method of extrapolating the required data.

Case study

There are various understandings of case study methodologies. But the most original and widely-accepted term was defined by Bromley states that the case study is a "systematic inquiry into an event or a set of related events which aims to describe and explain the phenomenon of interest."[21] Case study enables the author to closely explore and understand complex issues in a particular context gathered through past studies even with little or no explicit data reported. It has been regarded as a strong method when an in-depth diagnose is demanded.[22]

In this study, the author uses case study method for two reasons regarding its ability to fit the legal research question and unavailability of data. Firstly, the case studies are one of the most reliable and important methods in legal research. It offers the scholars and other legal practitioners the chance to approach the reality of applying the black-letter in the regime to see how the courts or parties interpret and use it. Besides, in some jurisdictions, such as the Common Law system, a past case law also acts as a *stare decisis* to provide some "answer" in other future similar case. Secondly, in this study context, the case of Philippines – China is the very first case in which an arbitral award was rendered. This case paved an avenue in the application of the UNCLOS 1982 to settle the dispute in the region. The lack of practical data or non-binding precedent makes this case study invaluable in providing lessons or speculating the future situation for other countries in the region.

For this method, the author uses the FIRAC model to present the case, in which:

- F (Facts): the author describes the background and details of facts on the case to discuss the reasons for dispute, to study the two parties' claim or arguments as well as the interpretation of UNCLOS 1982 from their points of views.
- I (Issue): the author identifies what legal issue under the UNCLOS 1982 that is involved in the case to decide on this UNCLOS 1982's application to the case and to provide a logical base for the next step.
- R (Rules): the author finds out which rule or stipulations that the tribunal applied for this case. The purpose of this step is to study the interpretation of UNCLOS 1982

21 Bromley D.B., "A philosophy of science for the study of individual cases", *Counselling Psychology Quarterly,* 4, no. 4, (1990): 297-303.

22 Zaidah Z., Case Study as a Research Method. *Jurnal Kemanusiaan*, 9 (2007): 1-6.

from the tribunal's point of view.

- A (Application): the author seeks the way the tribunal made their decisions. The purpose is to study how the application of UNCLOS 1982 is applied by the tribunal.
- C (Conclusion): the author restates the tribunal's final award. In this part, the author also extends to discuss on the implementation of the award as well as the situation of compliance or non-compliance of the parties after the ward is rendered. This analysis is crucial to evaluate on the game between political power and legal regime co-operation.

At the end of the case study, the author discusses the impact and consequences to argue why this case is served as the leading case that has phenomenal influences to the region. The impact magnitude shall be made from smaller scale (country) to medium (region) and large-scale (world) within the theoretical framework that has been introduced in the previous section.

Maritime Dispute Settlement Under The Unclos 1982

Maritime dispute: overview and methods for settlement

Maritime dispute

In the first approach, in order to define the concept of maritime dispute settlement, it is vital to identify what is a maritime dispute. According to the Permanent Court of International Justice (PCIJ), a dispute is a disagreement over a point of law or face, a conflict of legal view of interests between two persons, and by the International Court of Justice (ICJ), for a dispute to come into existence, it must be shown that the claim of one party is positively opposed by the other. This definition was approved by the International Tribunal for the Law of the Sea (ITLOS).

In the field of maritime transportation, the term "maritime dispute" is frequently used. Transportation involves the "physical" movement of goods by sea, which can result in conflict and dispute between the parties in terms of the delay, damage or loss of goods. The involved parties in this case normally include individuals or legal persons that conduct trade transactions based on a mutually-agreed commitment. Maritime dispute can also be described as a conflicting claim by two or more states over the ownership or sovereignty of land in the sea.[23] This definition can be illustrated by disputes over sea boundaries or offshore islands, such as the Spratly Islands in the South China Sea, or the disputes over boundary delimitations between Peru and Chile for an area at sea in the Pacific Ocean. For the purpose of this study, the term "maritime dispute" will refer to conflict between two or more states over the ownership or sovereignty of land in the sea with relevance to

23 Fravel, M. Taylor, "The PLA and National Security Decision-making: Insights from China's Territorial and Maritime Disputes", in *The PLA's Role in National Security Policy-Making*, ed. Philips Saunder and Adrew Scobell, (Standford: Standford University Press), 2014.

interstate relations and international public law.

Maritime dispute settlement

"Dispute settlement," notwithstanding via judicial or diplomatic means, shall be conceptualized by the settlement through peaceful means provided by international law and conventions (i.e. the UNCLOS 1982). Territorial disputes exhibit some key characteristics of an ordinary dispute, even in its sense of handling and settling. It is recognizable that many people refer "dispute" or "conflict" to physical clash, or in other words, war. Actually, wars are resulted from disputes and considered as non-peaceful means of dispute resolution. Nonetheless, it is crucial to emphasize that logically, not all territorial disputes lead to wars[24] as there are other alternative dispute resolutions, among which are means provided as mechanisms under multilateral conventions. In other words, the defining characteristic of a peaceful means of settling disputes is that peaceful conflict resolution avoid the use of threat or force that are found contrary to the Charter of the United Nations.[25] For the purpose of this study, maritime dispute settlement shall refer to peaceful dispute settlement and non-peaceful dispute settlement will not be discussed.

Peaceful dispute settlement by means of the parties' own choice is provided by Article 33 of the United Nations (UN) Charter. The following section shall provide more insightful research on these settlement mechanisms. In general, maritime boundaries need to be established by agreement in accordance with international law, and disputes and differences about sovereignty will be resolved by examining which State has more activity on the disputed territory.[26]

Dispute settlement mechanisms under The United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982)

The development of the dispute settlement mechanism in the UNCLOS 1982

The previous section conceptualizes what is peaceful maritime dispute settlement under international public law. Now, the study analyses the mechanism of dispute settlement under an exemplary legal regime, i.e. the UNCLOS 1982. Before going into its mechanism, it is important to have a brief study on the legislative development of the UNCLOS 1982.

It is undeniable that the provisions for dispute settlement in the UNCLOS 1982 are a unique section of the process of codification and development of the UNCLOS 1982. The League of Nations convened in 1930 for the formulation of rules in international law and there were 48 countries identified with the question of the territorial sea and relevant issues on the contiguous zone. In regards to the settlement of disputes at the

24 Mancini, Francesco, "Uncertain Borders: Territorial Disputes in Asia", *ISPI Analysis* No. 180. (2013): 16-19.

25 Proelß Alexander, *The United Nations Convention on the Law of the Sea - A Commentary*, (Hart Publishing, 2017), 45-48.

26 Anderson David, interview.

Conference, although the topic of the delimitation of territorial sea was hardly addressed at the conference, it seemed that the preference for the adoption of a median line rule was obvious.[27]

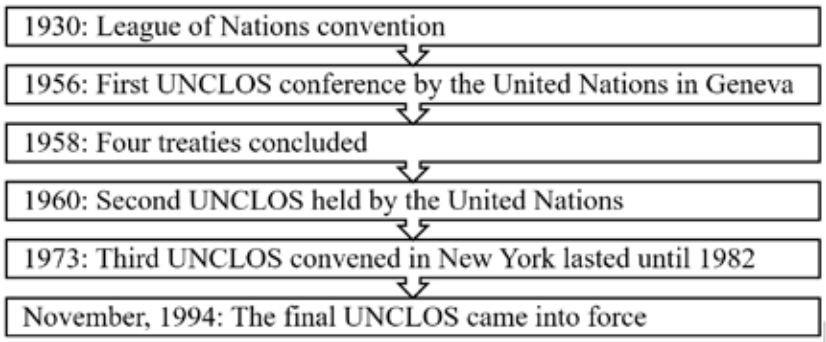

Figure 1. Chronology of the UNCLOS 1982's establishment and development

Consequently, the first UNCLOS conference for the codification of the law of the sea was held in 1956 in Geneva by the United Nations. The Geneva Conventions had tremendously contributed to maritime dispute settlements with 04 (four) treaties on the Law of the Sea and an Optional Protocol on the Settlement of Dispute were adopted in 1958. These legal instruments, at that time, became a legal framework governing the uses of the seas and oceans as well as other related issues.

However, the Law of the Sea consolidated by the Geneva Conventions demonstrated high level of uncertainties, such as the breadth of the territorial sea and definition of the continental shelf. The definition of the continental shelf had created confusion in states practice and encouraged States to take the advantage of the language of the convention to claim their continental shelf to the fullest possible extent. In 1960, the Second UNCLOS failed to solve the issues that had not been achieved at the First UNCLOS. At the suggestion of the Seabed Committee in 1970 the General Assembly adopted the Declaration of Principles governing the Deep Ocean Floor and the Resolution on the Convening of the Third Law of the Sea Conference.

The final UNCLOS was agreed upon more than 160 countries in 1994. The result was a deliberate attempt to obtain "a new and generally acceptable convention on the Law of the sea" made by the signatory states in the Third United Nations Conference on the Law of the Sea. It contained a comprehensive legal framework governing the status of the ocean and legal regime of the use of the sea and its natural resources.

The dispute settlement mechanism in the UNCLOS 1982

There are two core mechanisms for dispute settlements stated by the UNCLOS 1982 that argues which mechanism must be discussed in this essay. Generally speaking, comprised of hundreds of articles and provisions, the UNCLOS 1982 devotes its gigantic part

27 G. J. Tanja, "The Legal Determination of International Maritime Boundaries", *International and Comparative Law*, 40, no. 2 (1991): 500–501.

for maritime dispute settlement. Compared to the other branches of international law, UNCLOS 1982 comprises a full set of guidelines for dispute settlement.[28] Nevertheless, the dispute settlement mechanism in the UNCLOS is recognized as being both simple and complex,[29] because it incorporates only two simple settlement methods but diverse bodies to settle the disputes. A system of the dispute settlement vis-à-vis interpretation and application of the Convention was encompassed in Part XV of the Convention. Firstly, this requires state parties to settle their disputes by peaceful means stipulated in the Charter of the UN. Section 1 of part XV of UNCLOS sets out the fundamental principles concerning dispute settlement. Secondly, if the disputing parties fail to reach a settlement by peaceful means as they have agreed at their own discretion, they are obliged to recourse to the compulsory dispute settlement procedure under Section 2 therein.

a) Dispute settlement by peaceful means

Under Article 279 of the UNCLOS 1982, provided a dispute regarding the interpretation or application of the UNCLOS arises, parties are obliged to settle the dispute by peaceful means in line with the UN Charter. Article 279 provides that peaceful means are methods of settlement stated in Article 33(1) of the UN Charter: "negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice". This provision establishes the obligation for the disputing parties to resolve their dispute by peaceful means, and at their own option prior to the compulsory procedures (Louis, 1975). In other words, parties must attempt to settle the dispute as provided by Section 1, part XV of the UNCLOS 1982, and only under the circumstances that the settlement has not been reached by the means under Section 1, can a party bring the dispute to the court or tribunal under Section 2.

b) Compulsory settlement mechanism

As discussed above, in the case where no settlement is reached by negotiation or methods contemplated by Section 1, under Section 2, the dispute shall be brought upon the request of any of the parties to the court of tribunal. Under this scheme, this means any state parties of the Convention are subject to this compulsory mechanism under Part XV of it, and they are inevitably obliged to settle the dispute by a third party, i.e. the court or tribunal. Notwithstanding its essence as "compulsory" scheme, this mechanism allows party to a freedom of choice in "selecting one or more of these four alternative forums to settle the dispute, when signing, ratifying, or acceding to UNCLOS or at any time thereafter":

28 Nong Hong, UNCLOS and Ocean Dispute Settlement (New York: Routledge, 2012), 24-25.

29 Sohn, Louis B., "Peaceful Settlement of Disputes in Ocean Conflicts: Does UNCLOS III Point the Way?", *46 Law and Contemporary Problems*, (1983): 195-200.

1. The International Tribunal for the Law of the Sea (ITLOS);
2. The International Court of Justice (ICJ);
3. An arbitration tribunal constituted in accordance with Annex vii to UNCLOS;
4. A special arbitral tribunal constituted in accordance with Annex VIII to UNCLOS.

This compulsory mechanism was regarded a breakthrough of UNCLOS since it involved both developed and developing countries to codify a dispute settlement mechanism (Noyes, 1975). However, there have been exceptions and limitations contemplated by Section 3 of Part XV which may hinder the states' application of compulsory procedure under the Convention. Whereas Section 2 of Part XV allows parties to bring the case unilaterally to one of the aforementioned third-party procedures, Section 3 limits the types of cases or disputes that are not necessarily subject to compulsory settlement. Accordingly, there are two categories of exception: "automatic and optional".

	Automatic exception	Optional exception
Legal base	Article 297, UNCLOS 1982	Article 298, UNCLOS 1982
Disputes to be excluded	Disputes involving rights of navigation, overflying, lying submarine cable and the protection and preservation of marine environment, etc.	Certain disputes in terms of sea boundary delimitations, historic bays or titles declared not to be used with compulsory procedure by one party.

This compulsory mechanism is the most interesting but complicated point that this study will concentrate on. Firstly, it is obvious that Article 287 reflects the demand to establish a balance between: (i) the freedom of choice in choosing the procedure of settlement; and (ii) the attempt to obtain a binding award or settlement for the dispute. Secondly, the substance of compulsory dispute settlement of Part XV, UNCLOS 1982 was deemed to be flexible owing to the states' inability during the Third Convention of the UNCLOS in 1973. For example, it is regarded as an agreement on a single third-party forum to which recourse should be had when informal mechanisms failed to resolve a dispute.[30] Or, in the game of political interest, maintains that this compulsory scheme may also have a great impact on the political dynamic of the dispute.[31]

Developing countries hold the belief on the ability of binding regime to restrain other powerful countries from applying non-stop pressure in terms of politics, economics, as well as military on them. Moreover, the involvement of a third-party in maritime dispute settlement can be used as a tool to abate economic, political or military power in order to protect territorial interests and ameliorate interstate relations. Thirdly, thanks to the

30 Noyes, John E., "The International Tribunal for the Law of the Sea", *Cornell International Law Journal,* 32, No. 1 (1998): Art. 3.

31 Klein, Natalie, Dispute Settlement in the UN Convention on the Law of the Sea, (Cambridge: Cambridge University Press, 2005), 26.

binding regime, less powerful states can be treated equally before the law.[32] This was probably the main reasons why the majority of Southeast Asian countries are getting involved more in the Convention for fear of China's advantageous economic and military pressure in the SCS. Therefore, this study argues the implementation of UNCLOS 1982 by focusing on a case study where a compulsory dispute settlement mechanism is mainly used to gain a practical benefit in support of international relations in the SCS.

This paper has analyzed the dispute settlement mechanism under UNCLOS 1982 as well as affirmed the importance of its compulsory procedure on the political practice among nations. The next section examines a case study for the dispute situation in the SCS and the relevant application of the UNCLOS 1982.

Case Study: The Philippines – China Arbitral Award

Case analysis

Now the essay analyses the case of the Philippines – China dispute whose award was rendered on 12, July, 2016 by the arbitration tribunal constituted in accordance with Annex vii of the UNCLOS (the Tribunal) to provide discussion and perspective on how this legal regime resolves the parties' dispute. In order to approach this case, the author uses the FIRAC model which is widely applied in legal study.

Facts

The Philippines initiated the arbitration proceedings on 22 January, 2013. Though China announced that it would not present and join as the other party in the proceedings, under the provision of the UNCLOS 1982, the arbitration procedure by ITLOS was carried out regardless of China's non-appearance.

Issue

In general, regardless of Philippines and China being state parties of the UNCLOS and their commitment to act in good faith, China's conducts in the SCS were going against what is stipulated by the UNCLOS, and, to some extent, the rights of the Philippines were infringed.

The Philippines claims that these issues concerning the interpretation and application procedure of the UNCLOS 1982 and that the maritime delimitation and sovereignty dispute are two separate issues that do not overlap with each other.

However, China argues that the tribunal has no jurisdiction over the dispute because the dispute's substance is about sovereignty, and the maritime disputes cannot be separated from the sovereignty disputes. And in the Declaration of Conduct 2002, China has agreed to resolve the dispute by way of negotiation instead of bringing the matter to any court

32 Adede,A. O., *The system for settlement of disputes under the United Nations convention on the law of the sea : a drafting history and a commentary*, (USA : Distributors for the U.S. and Canada, Kluwer Academic Publishers: 1989), 45.

or arbitration. Lastly, in accordance with Article 298 of the UNCLOS, China itself has declared to exclude the dispute on maritime boundary delimitation and hence, the claim by the Philippines are not separated from boundary delimitation.

Rules

From the tribunal's perspective, the origin of these disputes stems from the discrepancy in the understandings of both Philippines and China's rights provided by the UNCLOS and that no infringement intention by any of the parties against the other. In particular, for the purpose of this study, there are three main issues in regards to the disputes: (i) historic rights and the nine-dash line, and (ii) territorial sovereignty (Beckman, 2016).

This appeared to be the major claim made by the Philippines owing to China's affirmation of its historic rights over the nine-dash line.

It is important to note that, as the arbitral tribunal was initiated through the UNCLOS can only examine state disputes in regard to the interpretation or application of the Convention, any disputes arising from other issues such as defining the territorial sovereignty shall not be under the jurisprudence of the tribunal. In particular, to settle the disputes, the tribunal argued on the principles of interpretation and application in the form of the automatic substance that all state parties should clearly be governed upon their completed ratification of the Convention. Each of the above-stated issues shall be clearly solved in the below Application section.

Application

Despite its 13 years of being a party of UNCLOS, China was getting used to interpreting the Convention in light of its own historical and cultural traditions (Beckman, 2016). This means that China seemed to "miss" the goal to achieve internationality in interpretation and application of a multicultural convention, which means UNCLOS should be interpreted and applied in identical manners by all of its state parties, regardless of their historical or traditional backgrounds. In particular:

- For the historic rights and the nine-dash line: Tribunal stated that historical rights that China insisted on were automatically "eradicated" when China ratified the UNCLOS which only the EEZ of other coastal states are recognized rather than any past or historical entitlements.
- For the territorial sovereignty: The tribunal stated that China should be aware of how the UNCLOS specified for the sovereign rights to "explore and explore all of the living and non-living resources in the 200-nautical-mile exclusive economic zone (EEZ) measure from their mainland coast."

Conclusion

After 12 July 2016, it has been two years of proceedings since the final award was finally made by the Tribunal. The tribunal first held that both the Philippines and China are state parties to UNCLOS 1982, and thus they are bound to adhere to its stipulation on dispute settlement. More importantly, China's non-appearance in the procedure does not release or exempt it from the final award. The award stated three main points (Bautista and Arugay 2017) that:

1. there is "no legal basis for China to claim historic rights to resources within the sea areas falling within the 'nine-dash line.'"
2. specific sea areas in the SCS stay inside the EEX of the Philippines and
3. China has caused serious damage to the marine environment and "violated its obligation to preserve and protect fragile ecosystems and the habitat of depleted, threatened, or endangered species.

Discussion

Now this essay provides discussion based on the previous case analysis. There are three main discussions in regards to this case: (i) its impact and consequences on regional and international community; (ii) the widespread non-compliance with the Convention; and (iii) the implied function of the rules-based order of UNCLOS in support of the regime theory arguing that international law and institutions affect behavior of states.

a) Impacts on the dispute parties: non-compliance or uncertainty?

As discussed above, the award has set a precedent of clarifying the way of UNCLOS' interpretation and application of settling complicated disputes in the regions. Now, the essay discusses the impact of this case on foreign policy of China and Philippines.

At first, it is widely agreed that China's unilateral rejection of the award and regarding it as null-and-void is unexpected. As previously stated, state compliance with international law serves as an indispensable part in maintaining the goal of international law. However, according to some scholars, the word "compliance" should be taken with more careful consideration. Initially, upon the final tribunal decision, China appears to be evasive in the appearance in front of an international judicial body to fulfill its obligation to clarify its ambiguous policy and strategy in the South China Sea. This attitude from China once again affirms its perspective to settle all disputes by mutual negotiation, in exclusion of the help from any third party. Nevertheless, China's declaration to ignore the award does not necessarily mean it will never comply with it. It has been reported that China has specific actions that demonstrate partial compliance towards to decisions made by the tribunal. Scholars hence suggest that the assessment of "noncompliant" can sometimes be mistaken by the level of "uncertainty" – the state of no explicit reports that China had taken actions that plainly infringes or violates in whole or in part of the tribunal

award.[33] Moreover, it was reported by President Rodrigo Duterte of the Philippines four months after the award was made on November 2016 that China appeared to comply with the arbitration arbitral by letting fishermen from the Philippines return to the disputed Scarborough Shoal. China has committed that it would not make any claim to the shoal by forbidding Chinese fishermen to go inside the lagoon.[34] Beijing's decision as such, became a sudden but clean horizon for the Philippines, leading to a re-establishment of co-operation of fishing and trade for the two countries.[35] Therefore, from the side of disputing parties, it may take time to conclude their compliance or non-compliance to a judicial award. The lack of compliance mechanism of the UNCLOS 1982, on the one hand, may become a serious matter to protect the goal of international law;[36] on the other hand, it allows countries to move on to further negotiation or be more flexible in their foreign treatment and policy.

Stated briefly, the recent widespread non-compliance vis-à-vis various provisions of the UNCLOS becomes continuously serious as it may inhibit the integrity and "internationality" substance as this legal regime. However, it is important to emphasize that the case does not degrade the goal of international regime in terms of maintaining the power between big and small countries in promoting co-operation among them.

b) Impacts of the award on regional and international community

The first and foremost consequence is ability of the tribunal to interpret and apply the UNCLOS in settling the dispute. This has provided clarity and means of how provisions in the Convention are utilized as well as the capability to adapt these rules to future circumstances and contingencies. As Tara Davenport argues that "these interpretations of the tribunal are perceived as more impartial than the inevitably self-serving arguments that disputing states can put across."[37] Thanks to such monumental contributions to international law interpretation, this award has synergy effects not only to the region, but also on a global scale.

Firstly, countries bordering in the SCS may, to some extent, be affected by consequences made by this award. In practice, the award has been consented and supported by other ASEAN countries such as Indonesia, Malaysia, Brunei and Vietnam in regards to the equality in EEZ claim rights over the sea to 200 nautical miles from their coasts. This

33 Mirasola Chirstopher and Ku Julian, "Tracking Compliance With the South China Sea Arbitral Award", *Praxis: A Review of Policy Practice,* 2016.

34 Motago Manuel, "New Philippine ambassador says China is complying with arbitration ruling", REUTERS, accessed 3 October, 2018, https://www.reuters.com/article/us-southchinasea-philippines-china/new-philippine-ambassador-says-china-is-complying-with-arbitration-ruling-idUSKBN13316Q

35 David Welch, "Philippines v. China one year later: A surprising compliance from Beijing, The Globe and Mail", accessed 3 October 2018, https://www.theglobeandmail.com/opinion/philippines-v-china-one-year-later-a-surprising-compliance-from-beijing/article35660244/.

36 Robin Churchchill, "The Persisting Problem of Non-compliance with the Law of the Sea Convention: Disorder in the Oceans", *The International Journal of Marine and Coastal Law,* 2012, 139-146.

37 Tara Davenport, "Why China shouldn't denounce the UNCLOS", The Diplomat, access 3 October 2018, https://thediplomat.com/2016/03/why-china-shouldnt-denounce-unclos/.

means that the attempt of China to affirm its historical right in the nine-dash line will be strongly opposed. Secondly, this award also has consequences to the international community. One of the key points that the tribunal made was about the 12-nautical-mile territorial sea from the islands freedom of rights of the sea, including overflight and military activities shall be entitled to all state parties.[38] The award may also place emphasis on the practice of claiming an EEZ from other states around the world. For example, this shall be embraced particularly by the United States and its alliance in the Pacific region. Furthermore, other countries concerned with the rules-based order for the ocean will put more emphasis on the binding essence of this award and entreat China to comply with the award. Beyond the SCS sight, there are also other nations closely observing this case, because this case may raise the specter of other maritime disputes that involve contested territory making their way to compulsory procedures entailing binding decisions under UNCLOS 1982.

c) UNCLOS: "dilemma" between realistic and liberal hampers its goal

As discussed above, the UNCLOS 1982 was formed with the purpose of building a comprehensive set of norms and regulations, ruling the oceans. The Convention encourages state parties to coordinate and cooperate from a regional to global basis to set out regimes and standards or take measures for the same purpose. In other words, the UNCLOS 1982 speaks for the mutual words and understanding of countries, notwithstanding the disparity in economics or politics of many nations.[39] The case of Philippines – China is one of the leading case in the region in which the issue was brought to judicial body. When the awards were made, the lack of a clear compliance mechanism of the UNCLOS 1982 leads to heavy criticism for the Convention. Up to the present, after roughly 30 years from the date of official formation, the UNCLOS 1982 has been criticized for various shortcomings such as the characteristics of fragmentation in interpretation and application among state parties. The risk of fragmentation, under legal practitioners' perspective, exists due to the lack of a united forum for disputes arising under the Convention and no mechanism to ensure the consistency in resolving similar cases by different tribunals.[40] This deteriorates the way state parties consistently apprehend and interpret the Convention and limits the effect of cooperation to achieve mutual gains or benefits that state parties aim at upon the ratification of UNCLOS 1982. This was clearly portrayed through the case of Philippines and China as the involving parties face difficulty in maintaining a unite interpretation

38 Robert C. Beckman, "The Philippines v China Case and the South China Sea Disputes", in *Territorial Disputes in the South China Sea*, ed. Territorial Disputes in the South China Sea, (London: Palgrave Macmillan, 2015), 54-65.

39 "The United Nations Convention on the Law of the Sea (A historical perspective)", Oceans and The Law of The Sea, The United Nations, accessed 3 October, 2018, http://www.un.org/depts/los/convention_agreements/convention_historical_perspective.htm.

40 Alan E. Boyle, "Dispute Settlement and the Law of the Sea Convention: Problems of Fragmentation and Jurisdiction", International & Comparative Law Quarterly, 46, No.1, (1997): 37-54.

towards the legal regime.

Although it is agreed that UNCLOS 1982 has proved to fit and succeed in dealing with this dispute in the region, it is widely accepted that countries need to take further steps to build and supplementing the Convention. This may go in line with liberalism approach that states can lead to the further step in their co-operation and improvement of this legal regime. However, due to the effect provided by neo-realistic theory, it may be difficult to get all other countries have this united mindset as it may affect their own interests. Hence, the study suggested that the case of Philippines and China can be a paradigm since both countries can enjoy the flexibility of a "lacking" compliance mechanism in the UNCLOS 1982 and tried not to worsen their reciprocal relations by negotiating on the basis of adherence to the arbitral award.

d) Lesson learned for other countries in the region: power or the rule-of-law governs the use of the oceans?

In previous parts, the paper has argued the role of UNCLOS 1982 as international legal regime in settling dispute among countries and affirmed that the risk of non-compliance might be a matter of time and it shall not make it go against the goal of co-operation promotion of countries.

Besides some implications from the case, there are also lessons for other state parties who are suffering from pressure of big countries over issues of sovereignty. First and foremost, it is obvious that the UNCLOS will continue to challenge nations in regard to the compliance and harmonization with their national law. All states should be aware that any interests in exercising their rights provided by the Convention always require fulfilling the obligations. It is clear that issues brought by the Philippines are somehow similar to issues that other countries in the region are encountering.

In principle, most countries in the region (except Taiwan) are state parties of the Convention. Like in the case of the Philippines, they can completely recourse to the Convention to bring any disputes to the settlement body in accordance with Appendix VII of the Convention. Nevertheless, from the legal perspective, making a claim against any countries, especially countries with great influence like China, is not easy. The declaration to exclude the disputes regarding maritime delimitation can illustrate this point. Second, the tribunal shall not have jurisdiction over the disputes in regard to sovereignty, as this is not the issue which is governed by the UNCLOS 1982. This implies that any countries wishing to make claims should be extremely careful so as not to make the disputing issue fall under the exclusion declared by the other party (e.g. China in this case). In this case, the Philippines were fully aware of this issue and have proactively declared in its submission that it did not intend to claim for sovereignty or maritime delimitations in front of the arbitration, as well as it knew how to cleverly raise questions that avoid such "legal barriers" built by China. Hence, this is a good strategy that countries may

learn from the case. Lastly, it is critical to note that this is the first time the Philippines has appeared in front of an international judicial body, and the defendant was a country with great influence and advantage in all aspects. Thus, the government of the Philippines has certainly been well-prepared by careful consideration and has made meticulous estimations and speculations for all contingencies. One of the advantageous factors may be support from the U.S. not only for this claim submission but also in other fields such as military and politics on behalf of a strategic alliance in Southeast Asia.

To recapitulate, the Philippines – China case has shown that the rule-of-law in dispute settlement offered by the UNCLOS 1982 is a useful tool that any state party may take advantage of in dealing with any infringement placed by pressure from other "big" countries. In front of the international judicial body, all countries, notwithstanding its size or worldwide influence, are treated equitably with identical chances to be the "winner". Nevertheless, this is not merely the legal battle between the two parties in front of the tribunal. There will be more complicated other issues associated behind, which may imply so many further corollaries that careful consideration should be taken into account. In case other negotiation or foreign affairs treatment has come into a deadlock and cannot produce expected results, the recourse to international law for legal protection is arguably necessary.

Conclusion

Being home to the most boiling territorial issue of the region, the South China Sea, including the dispute between the Philippines and China raises, the concern of its effectiveness of the UNCLOS 1982. Upon the reward, regardless of criticism to the lack of implementation mechanism in the Convention, the study argues that the UNCLOS 1982 has been successful in settling dispute of region due to the two reasons. Firstly, the tribunal has interpreted the Convention in the way that ensures its internationality and not for any interest of any states. This supports the goal of international legal regime to maintain peace and equitability among nations. Secondly, the non-compliance of China is not certain because it takes time for the country to deliver positive step towards it. Although, initially it seemed that China might use its power in economy to retaliate the Philippines, but after one year, China seemed to adhere to the Convention. The lack of such mechanism, in this case, may provide parties the flexibility for their compliance, as well as open to further negotiation and co-operation among them. It is hence suggested that UNCLOS 1982 needs to have provisions governing the compliance of countries to improve its rule-of-law function as an international regime. Therefore, the dispute settlement mechanism offered by UNCLOS 1982 succeeds in creating an exemplary case that other countries in the region can learn from in regard to using international law as a tool to balance the power in their relations. Due to the limited case analysis, other issues may have not been addressed in the study that can be left for future research. It is

necessary to study other cases of the UNCLOS 1982 to deal with maritime issues in other regions or countries. By doing so, the UNCLOS can also again be utilized by states or be refused to settle their dispute. This is again a co-operative game that may involve strategic juncture of every nation.

BIBLIOGRAPHY

Adede, A. O. 1987. *The system for settlement of disputes under the United Nations convention on the law of the sea : a drafting history and a commentary.* USA : Distributors for the U.S. and Canada, Kluwer Academic Publishers.

Anderson, David. 2006. *Methods of Resolving Maritime Boundary Disputes* (02 14).

Balihar, Sanghera. 2007. "Qualitative research methods: documentary research." *Wayback Machine.* Accessed October 3, 2018. https://web.archive.org/web/20071113125309/http://uk.geocities.com/balihar_sanghera/qrmdocumentaryresearch.html.

Bautista, Lowell, and Aries A. Arugay. 2017. "Philippines v. China The South China Sea Arbitral Award: Implications for Policy and Practice Authors ."

Beckman, Robert. 2015. "The Philippines v China Case and the South China Sea Disputes." In *Territorial Disputes in the South China Sea*, by Billo A. Huang J., 54-65. London: Palgrave Macmillan.

Beeson, Mark. 2004. "The Rise of the 'Neocons' and the Evolution of American Foreign Policy."

Boyle, Alan E. 1997. "Dispute Settlement and the Law of the Sea Convention: Problems of Fragmentation and Jurisdiction." *International & Comparative Law Quarterly* 46 (1): 37-54.

Bromley, D. B. 1990. "A philosophy of science for the study of individual cases." *Counselling Psychology Quarterly* 3 (3): 297-303.

Churchchill, Robin. 2012. "The Persisting Problem of Non-compliance with the Law of the Sea Convention: Disorder in the Oceans." *The International Journal of Marine and Coastal Law.*

Davenport, Tara. 2016. *Why China shouldn't denounce the UNCLOS.* March 24. Accessed October 2018. https://thediplomat.com/2016/03/why-china-shouldnt-denounce-unclos/.

David, Welch. 2017. *Philippines v. China one year later: A surprising compliance from Beijing.* https://www.theglobeandmail.com/opinion/philippines-v-china-one-year-later-a-surprising-compliance-from-beijing/article35660244/.

Fravel, M. Taylor. 2014. "The PLA and National Security Decisionmaking: Insights from China's Territorial and Maritime Disputes."

Ghatak, Sam, Aaron Gold, and Brandon Prins. 2016. *What's So Important About Territorial Disputes in International Relations?* Political Violence At A Glance. September 21. Accessed October 5, 2018. https://isnblog.ethz.ch/international-relations/whats-so-important-about-territorial-disputes-in-international-relations.

Hong, Nong. 2012. *UNCLOS and Ocean Dispute Settlement.*

Keohane, Robert O. 1982. "The demand for international regimes."

Kirgis, Frederic L. 2003. "North Korea's withdrawl from the Nuclear Nonproliferation Treaty."

Klein, Natalie. 2005. *Dispute Settlement in the UN Convention on the Law of the Sea.* Cambridge: Cambridge University Press.

Krasner, Steven D. 1982. *International Regimes.*

Lamy, Steven L. 2001. "Contemporary mainstream approaches: neo-realism and neo-liberalism." In *The globalization of the world politics*, by John Baylis and Steve Smith.

Little, Richard. 2001. "International Regime." In *The Globalization of World Politics An introduction to International Relations*, by John Baylis and Steve Smith.

Mancini, Francesco. 2013. "Uncertain Borders: Territorial Disputes in Asia."

Merrills, J. G. 2005. *International Dispute Settlement.* Cambridge University Press.

2017. *Ministry of Foreign Affairs, the People's Republic of China* .

Mirasola, Chirstopher, and Julian Ku. 2016. "Tracking Compliance With the South China Sea Arbitral Award." *Praxis: A Review of Policy Practice.*

Mogato, Manuel. 2016. *New Philippine ambassador says China is complying with arbitration ruling.* Reuters. November 3. Accessed October 2018. https://www.reuters.com/article/us-southchinasea-philippines-china/new-philippine-ambassador-says-china-is-complying-with-arbitration-ruling-idUSKBN13316Q.

Nguyen, Dong Manh. 2006. "Settlement of disputes under the 1982 United Nations Convention on the Law of the Sea The case of the South China Sea dispute." *University of Queensland Law Journal* 25 (1): 145-180.

Noyes, John E. 1998. "The International Tribunal for the Law of the Sea." *Cornell International Law Journal* 32 (1): Art. 3.

Proelß, Alexander. 2017. *The United Nations Convention on the Law of the Sea - A Commentary.* Hart Publishing.

Rayfuse, Rosemary. 2005. "The Future of Compulsory Dispute Settlement Under The Law of the Sea Convention." *Victoria University of Wellington Law Review* 36 (4): 89-98.

Romano, Cesare P.R. 2006. "Courts and Tribunal: Price, Financing, and Output." In *International Conflict Resolution*, by Stefan Voigt, Max Albert and Dieter Schmidtchen, 50-54. Germany: JCB Mohr.

Sánchez, Jorge, and Paola Tafur. 2015. "Fragmentation of International Legal System Established for the Governance of the Oceans." *Social Sciences.* (Social Sciences Publishing Group) 4 (4): 86-89.

Schoenbaum, Thomas J. 2006. *International Relations: The Path Not Taken.* Cambridge University Press.

Sohn, Louis B. 1983. "Peaceful Settlement of Disputes in Ocean Conflicts: Does UNCLOS III Point the Way?" *46 Law and Contemporary Problems* 195-200.

Stoyanov, Stoyan. 2012. "Why are Regimes and Regime Theory Accepted by Realists and Liberals?"

Tanja, Gerard J. 1991. "The Legal Determination of International Maritime Boundaries." *International and Comparative Law Quarterly* 40 (2): 500-501.

United Nations. 1945. *Charter of the United Nations.* Accessed 10 1, 2018. http://www.un.org/en/charter-united-nations/.

———. 1998. *The United Nations Convention on the Law of the Sea (A historical perspective).* Accessed October 2018. http://www.un.org/depts/los/convention_agreements/convention_historical_perspective.htm.

Verbeek, Bertjan. 2011. "Regime Theory in International Relations." In *Encyclopedia of Power*, by Keith Dowding. SAGE Publications.

Vereycken Sofie, Eduard Somers, and Klaas Willaert. 2016. "Dispute settlement under UNCLOS - Position of the International Tribunal for the Law of the Sea."

Wiegand, Krista E. 2011. *Enduring Territorial Disputes: Strategies of Bargaining, Coercive Diplomacy, and Settlement.* University of Georgia Press.

Zainal, Zaidah. 2007. "Case study as a research method."