

Statement on the Arbitral Tribunal's Award on the Philippines v China South China Sea Case

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The Japan Institute of International Affairs

On July 12, the Arbitral Tribunal issued an Award on the arbitration case brought by the Philippines concerning its South China Sea dispute with China. In response to China's repeated and coercive unilateral challenges to the status quo, the Philippines resorted to judicial means in accordance with the obligatory dispute resolution procedures stipulated in Annex VII of the United Nations Convention on the Law of the Sea (UNCLOS).

Nearly all of the Philippines' 15 submissions were ruled in favor of the Philippines, China's claims of historical rights in the South China Sea based on the "Nine-dash Line" were completely rejected, and legal problems stemming from the construction of artificial islands in the Spratly Islands were noted. Despite the significant number of political elements involved in these issues, the Tribunal arrived at its conclusions on legal grounds, and this ruling is a welcome one from the perspectives of freedom of the seas and the rule of law.

This arbitration process was designed to resolve disputes concerning interpretations and applications of the UNCLOS, not to handle disputes over sovereignty. Given the restrictions on, and exceptions to, its jurisdictional authority set out in the UNCLOS, the Arbitral Tribunal, in addressing the complexities of the South China Sea dispute, was limited to identifying those assertions made by China deemed unacceptable under international law. The parties to the dispute cannot be compelled to accept the arbitration ruling, either.

However, the dispute resolution provisions are an essential component of the UNCLOS, and refusal to accept these constitutes a serious challenge to the entire maritime legal order that sets out states' maritime rights and obligations. This arbitration ruling should be taken seriously not only by the parties in this case but by all states in order to maintain a good order at sea based on law rather than might. China has insisted that the arbitration process is invalid and has continued to refuse to appear before the arbitral tribunal. As the tribunal's decisions are final and legally binding under the UNCLOS, however, it is expected that both China and the Philippines abide by this arbitration ruling.