

## **Full text: China calls Hague Tribunal verdict ‘null and void’, says it’s not ‘binding’**

12 July 2016

Reacting to the negative ruling of the UNCLOS tribunal in The Hague on Tuesday against China in the West Philippine Sea, Beijing completely disregarded the determination terming it "null and void".

Below is the complete statement of the Ministry of Foreign Affairs of the People's Republic of China that was released on Xinhua regarding the international ruling.

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*"With regard to the award rendered on 12 July 2016 by the Arbitral Tribunal in the South China Sea arbitration established at the unilateral request of the Republic of the Philippines (hereinafter referred to as the "Arbitral Tribunal"), the Ministry of Foreign Affairs of the People's Republic of China solemnly declares that the award is null and void and has no binding force. China neither accepts nor recognizes it.*

*1. On 22 January 2013, the then government of the Republic of the Philippines unilaterally initiated arbitration on the relevant disputes in the South China Sea between China and the Philippines. On 19 February 2013, the Chinese government solemnly declared that it neither accepts nor participates in that arbitration and has since repeatedly reiterated that position. On 7 December 2014, the Chinese government released the Position Paper of the Government of the People's Republic of China on the Matter of Jurisdiction in the South China Sea Arbitration Initiated by the Republic of the Philippines, pointing out that the Philippines' initiation of arbitration breaches the agreement between the two states, violates the United Nations Convention on the Law of the Sea (UNCLOS), and goes against the general practice of international arbitration, and that the Arbitral Tribunal has no jurisdiction. On 29 October 2015, the Arbitral Tribunal rendered an award on jurisdiction and admissibility. The Chinese government immediately stated that the award is null and void and has no binding force. China's positions are clear and consistent.*

*2. The unilateral initiation of arbitration by the Philippines is out of bad faith. It aims not to resolve the relevant disputes between China and the Philippines, or to maintain peace and stability in the South China Sea, but to deny China's territorial sovereignty and maritime rights and interests in the South China Sea. The initiation of this arbitration violates international law. First, the subject-matter of the arbitration initiated by the Philippines is in essence an issue of territorial sovereignty over some islands and reefs of Nansha Qundao (the Nansha Islands), and inevitably concerns and cannot be separated from maritime delimitation between China and the Philippines. Fully aware that territorial issues are not subject to UNCLOS, and that maritime delimitation disputes have been excluded from the UNCLOS compulsory dispute settlement procedures by China's 2006 declaration, the Philippines deliberately packaged the relevant disputes as mere issues concerning the interpretation or application of UNCLOS. Second, the Philippines' unilateral initiation of arbitration infringes upon China's right as a state party to UNCLOS to choose on its own will the procedures and means for dispute settlement. As early as in 2006, pursuant to Article 298 of UNCLOS, China excluded from the compulsory dispute settlement procedures of UNCLOS*

*disputes concerning, among others, maritime delimitation, historic bays or titles, military and law enforcement activities. Third, the Philippines' unilateral initiation of arbitration violates the bilateral agreement reached between China and the Philippines, and repeatedly reaffirmed over the years, to resolve relevant disputes in the South China Sea through negotiations. Fourth, the Philippines' unilateral initiation of arbitration violates the commitment made by China and ASEAN Member States, including the Philippines, in the 2002 Declaration on the Conduct of Parties in the South China Sea (DOC) to resolve the relevant disputes through negotiations by states directly concerned. By unilaterally initiating the arbitration, the Philippines violates UNCLOS and its provisions on the application of dispute settlement procedures, the principle of "pacta sunt servanda" and other rules and principles of international law.*

*3. The Arbitral Tribunal disregards the fact that the essence of the subject-matter of the arbitration initiated by the Philippines is issues of territorial sovereignty and maritime delimitation, erroneously interprets the common choice of means of dispute settlement already made jointly by China and the Philippines, erroneously construes the legal effect of the relevant commitment in the DOC, deliberately circumvents the optional exceptions declaration made by China under Article 298 of UNCLOS, selectively takes relevant islands and reefs out of the macro-geographical framework of Nanhai Zhudao (the South China Sea Islands), subjectively and speculatively interprets and applies UNCLOS, and obviously errs in ascertaining fact and applying the law. The conduct of the Arbitral Tribunal and its awards seriously contravene the general practice of international arbitration, completely deviate from the object and purpose of UNCLOS to promote peaceful settlement of disputes, substantially impair the integrity and authority of UNCLOS, gravely infringe upon China's legitimate rights as a sovereign state and state party to UNCLOS, and are unjust and unlawful.*

*4. 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.*

*5. The Chinese government reiterates that, regarding territorial issues and maritime delimitation disputes, China does not accept any means of third party dispute settlement or any solution imposed on China. The Chinese government will continue to abide by international law and basic norms governing international relations as enshrined in the Charter of the United Nations, including the principles of respecting state sovereignty and territorial integrity and peaceful settlement of disputes, and continue to work with states directly concerned to resolve the relevant disputes in the South China Sea through negotiations and consultations on the basis of respecting historical facts and in accordance with international law, so as to maintain peace and stability in the South China Sea."*

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