

## OPINION

Jul 11 2016 at 12:00 AM

Updated Jul 11 2016 at 12:00 AM

### Australian Financial Review

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## Why the South China Sea arbitration case matters for the Philippines



Photo: Chinese missile frigate Yuncheng launches an anti-ship missile during a military exercise in the waters in the South China Sea. **AP**

As we wait for the ruling of the Permanent Court of Arbitration on the proceedings initiated by the Philippines against China in 2013, we would like to bring attention to the importance of this arbitration case, not only for the parties involved, but also for the international community.

Despite its non-appearance, China is and remains a party to the arbitration and is bound under international law by any decision rendered by the tribunal.

What is at stake for the international community is the rule of law.

On October 29, 2015, the Arbitral Tribunal issued a unanimous Award of Jurisdiction and Admissibility. All Chinese arguments on jurisdiction and admissibility as contained in the position paper issued by China on December 7, 2014, and other communications were properly considered by the Arbitral Tribunal. China was given every opportunity to participate at every stage of the proceedings.



The tribunal held that China's decision not to participate in these hearings does not deprive the tribunal of jurisdiction and that the Philippines' decision to commence arbitration unilaterally was not an abuse of the dispute settlement procedures of the United Nations Convention on the Law of the Sea (UNCLOS).

The Philippines has consistently stated that the arbitration case is not about territorial sovereignty or maritime boundary delimitations. Rather, the case is about the clarification of maritime entitlements of the parties involved which is under the jurisdiction of the tribunal.

Compliance with the ruling of the Arbitral Tribunal, a tribunal properly constituted under UNCLOS, would demonstrate to the world that the rule of law can effectively serve as a basis for resolving disputes and reducing tensions.

The core of the issue remains China's so-called nine-dash line claim. This is a claim so expansive and excessive that it is not a surprise that many countries have called on China to clarify its claims in adherence to international law.

These calls were ignored and instead we find one country unilaterally asserting its claim by changing the facts on the ground. The examples are numerous, from massive island-building and construction on disputed features, to challenges to freedom of overflight and navigation, and harassment of Filipino fishermen, among others.

The consequences are undeniable – massive damage to the South China Sea's maritime ecosystem, a huge loss of income for many fishermen unable to utilise resources within their country's own exclusive economic zone, and other developments which have increased tensions in the region. The evidence has been reported worldwide by independent and reliable sources who believe it is important to draw the world's attention to the reality on the ground.

Our decision to pursue arbitration was a result of independent foreign policy based on our national interests. It was not based on the interference of other countries. The Philippines has a legitimate interest in the South China Sea issue with more than 80 per cent of our Exclusive Economic Zone (EEZ) at stake. We are motivated by one simple thing – our desire to clarify maritime entitlements, specifically our fishing rights, rights to resources and rights to enforce our laws within our EEZ, based on international law.

We believe countries around the world have legitimate interests in the South China Sea as a crucial shipping route and lifeline of international trade. For the international community, the arbitration case will help ensure peace, security, stability and freedom of navigation and overflight in the South China Sea.

Many countries have expressed their support for the Philippines' advocacy for the rule of law and for the ruling of the Arbitral Tribunal to serve as a guide in moving forward towards a rules-based regime in the South China Sea. Statements of support from countries all over the world are both meaningful and important.

The public discourse on the arbitration case cannot be prevented or silenced. At the end of the day, reason will prevail above all else.

It is reasonable for the international community to expect China, with its growing stature, to be a responsible member of the community of nations and to play by the rules it has helped establish.

Leadership comes with responsibility – a responsibility to your neighbours and to the international community. When the countries speak out about actions that raise tensions, we expect leaders to listen, engage and take these concerns seriously. When countries seek the application of international law, we expect leaders to welcome such peaceful means of resolving disputes and to allow international law to be the great equaliser among states, big and small.

The Philippines is ready to accept the ruling.

We put our faith in UNCLOS and in the Arbitral Tribunal which has been fair, transparent and objective in the proceedings. We are ready to accept the ruling as an affirmation of the UN convention and hope that all members of the international community will do the same.

China has historically been a close partner and important neighbour of the Philippines. Our friendship with China is rooted in deep people-to-people ties which continue to exponentially grow to this day. We will always continue to reach out to them with a friendly hand in our effort improve our bilateral relations. We believe this is possible without sacrificing our advocacy for the rule of law to prevail in the South China Sea.

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