

**THE SOUTH CHINA SEA ARBITRATION:
THE PHILIPPINES VERSUS CHINA (I)**

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Executive Summary

1. The South China Sea issue came to a boil in the 1990s, albeit largely under control. It was not until 2009 that tensions escalated, with China's nine-dash line claim heavily criticised.
2. Intermittent skirmishes such as Scarborough Shoal stand-off in April 2012 also catalysed the tension. The Philippines initiated the arbitration in January 2013 and the arbitral award was issued on 12 July 2016.
3. Among the findings, two points attracted intensive public attention: China's claim of historic right over natural resources in the waters within the nine-dash line and the definition of islands/rocks.
4. The international jurist community is divided on this award. The award attracted rife criticisms on whether the tribunal had wrongly determined on the existence of "disputes" and the tribunal's jurisdiction and procedural integrity.
5. A close reading of the award reveals that the rigid approach of the tribunal on the historic right issue and the island/rock definition could be an area of contention.
6. The historic right of passage helps ensure navigation freedom guaranteed in the Convention in various territorial sea blocs of land features in the South China Sea. Coastal countries have different regulations limiting the passage of foreign military vessels in these blocs.
7. The tribunals' narrow definition of islands/rocks might dampen the efficacy of the "effective control" concept in contemporary international law.
8. One reason for the tribunal to make these revolutionary findings is that the tribunal is specifically established to deal with maritime affairs in the Law of the Sea Convention. This kind of special tribunal has dedicated itself to norm-advancement.

9. The tribunal is reaffirming that the contemporary law of the sea regime is to give weightage to coastal countries' interests.