

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

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Executive Summary

1. China had responded with a compound of measures to the tribunal award of the South China Sea issue. It had avoided direct confrontation, but reaffirmed its sovereignty and historic rights. China extended again its goodwill to negotiate with the Philippines via bilateral talks.
2. China's island reclamation and construction has continued. It claims that they are generally for peaceful usage.
3. US responses were not as strong as what was expected. It has yet to initiate another round of patrolling by military vessels under the name of navigation freedom.
4. Whether it would continue to adopt diplomatic tactics, and mobilise Association of Southeast Asian Nations (ASEAN) claimants and the international community to press China for compliance of the award remains to be seen.
5. However, the United States has gradually toned down its criticisms of China's position. In the week of 25 July 2016, the United States shifted significantly to support further talks between China and claimant ASEAN countries, without insisting that the award should play a role.
6. The international community remains cautious, while their positions split, in their responses to the award. It indicates that political influences remain overwhelming in certain scenarios of international affairs, including maritime management and the South China Sea.
7. The Philippines had responded with restraints, for fear of further dampening relations with China. The Duterte government is weighing all possible choices to settle the dispute, including negotiations.

8. ASEAN and China issued a joint statement after the ASEAN foreign ministers meeting on 25 July 2016, which shed new light on the emergence of a new status quo in the South China Sea.
9. ASEAN claimants had continued with their island reclamations and constructions even during the arbitration (January 2013 – July 2016), with Vietnam as an example, resulting in significant changes to the land features.
10. China can draw valuable lessons from the ruling. It may need to reconsider its attitudes towards the international adjudication system. The arbitration also provides China with new opportunities to realign its originally rather passive posture in the South China Sea.
11. China may also want to reconsider/refine its historic argument approach, by making it more inclusive, as a basis for future management. This will be helpful in creating an amicable atmosphere for future negotiations.
12. 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.
13. The tribunals' narrow definition of islands/rocks might dampen the efficacy of the "effective control" concept in contemporary international law.