

China's Dilemma in the South China Sea and the Arbitration Tribunal – Implications on China's Regional Strategy in Southeast Asia

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Abstract

The release of the Permanent Court of Arbitration (PCA) Tribunal's Award on Manila's case against China on 12 July 2016 was at first puzzling for Beijing in the context of the forthcoming 25th anniversary of China-ASEAN dialogue relationship. The verdict has been seen as a challenge to China's self-claimed good neighbourliness policy of “qin, cheng, hui, rong” (“amity, sincerity, mutual benefit and inclusiveness”) whereas China has found both its coercive and economic power by no means appealing to its next-door neighbours. However it is worth noting that China has initially managed to get out of the dilemma and gradually facilitated the game change in its favour in the past few months.

The paper argues that China is inevitably trapped in its own dilemmas both at home and abroad should China continue to adopt ambiguity in the South China Sea dispute. Tactics will no longer work and vicious cycles of tensions remain in China's relations with Southeast Asian nations unless Beijing's leaders pledge to harmonizing differences with other ASEAN claimants over the existing problems. In other words a visionary ideational approach to China-ASEAN strategic partnership will be essential for Beijing to turn its security dilemmas into a far-reaching strategy, enabling China to secure major support for its global ascendancy in the foreseeable future.

Keywords: *South China Sea, Tribunal's Award, China's regional strategy, China-ASEAN strategic partnership*

1. Introduction

As President Xi addresses the Central Working Meeting on Neighbourhood Diplomacy in October 2013, he attached priority to improving relationship with regional countries, which was crystallized in the four attributes namely

amity, sincerity, mutual benefit, and inclusiveness (亲诚慧容: “qin, cheng, hui, rong”). It is noteworthy that this work forum focusing on the specialized topic of China’s periphery diplomacy followed a number of important Poliburo study sessions aimed at refining China’s diplomatic strategy, notably the study session on overall diplomacy in January 2013 and another study session on maritime strategy in July 2013 (Health, 2013). Southeast Asia was also the first destination for President Xi to launch his vision of a shared destiny community where both advantages and disadvantages exist for China in advancing the idea of regional cooperation based on ancient heritage and future-oriented outlook.

The paper attempts to examine China’s management of the dilemma following the verdict on the South China Sea disputes for the sake of China’s security needs and development interests. It serves as a reminder for China not to undermine the hard-won amity and friendship over the territorial disputes, but aimed at building up its relations with the ASEAN counterparts in Southeast Asia and safeguarding a stable international environment along its periphery instead. The paper argues that China will find itself engulfed in vicious cycles of dilemma caused by the deepened mistrust within Southeast Asia unless a new mindset and creative practice to existing problems between China and other claimants is adopted by Beijing leaders in enlisting support for managing the South China Sea disputes peacefully, ensuring China’s rise is not coercive and at the expense of the rest of the region.

The paper is structured into three main parts. Firstly, the paper attempts to locate the South China Sea in China’s foreign policy during Xi Jinping’s era. Second, the paper summarizes the Permanent Court of Arbitration’s award and discusses China’s changing responses to the Arbitration Tribunal in the past several months. Third, the paper envisions a better future for China-ASEAN strategic partnership should a new approach be adopted and integrated in China’s grand strategy to address the South China Sea’s territorial and maritime disputes with ASEAN claimants and project its influence in Southeast Asia, instead of tactical responses.

2. The South China Sea in China’s Foreign Policy during Xi’s Era

2.1. Main directions in Chinese foreign policy since the 18th Chinese Communist Party (CCP) Congress

China’s policy has largely been shaped by its strategic goals, especially the two centennial goals to achieve a well-off society set by 2021 and global ascendancy by 2049 respectively. The Chinese Communist Party (CCP) leaders believe that China should take advantage of strategic opportunities in the early 21st century to achieve historic goals, turning China into a global

superpower under the CCP's leadership. Those strategic objectives have been articulated in the CCP documents, namely: (i) to create more favourable conditions for ensuring an international security environment characterized with unpredictability and uncertainty, deepening economic ties with Asia to extend the "period of major strategic opportunity" and smoothing China's "peaceful rise/development" with Chinese characteristics of "no hegemony, no expansion, and win-win cooperation strategy"; (ii) to accelerate the modernization of national defence and armed forces to respond to China's core national security needs and its development interests, addressing both traditional and non-traditional security threats, and to play an active role in international political and security fields commensurate with China's international standing; (iii) to create a beneficial environment for "realizing the mighty resurgence of the Chinese people, the complete unification of the country", the "complete rise of China" and "a defender of a Harmonious Asia Pacific" in the long term (2020-2050) (Health, 2013).

With regard to the existing problems between China and other countries, the CCP Report stated that: "China is committed to peaceful settlement of international disputes and hotspot issues ... and opposes the wanton use of force or threat to use it", learning from history that "the law of the jungle will not lead to the coexistence of human society and that the arbitrary use of force cannot make the world a better place". To this end, China called for "making joint efforts to uphold international fairness and justice", and proposed that "a country should accommodate the legitimate concerns of others when pursuing its own interests". It is widely recognized in international politics that all nation-states, be it big or small, rich or poor, have all the rights "to be firm in resolve to uphold its sovereignty, security and development interests" and "will never yield to any outside pressure" against her interests. In other words, "China will unswervingly follow the path of peaceful development and firmly pursue an independent foreign policy of peace"; China pledged to "continue to promote friendship and partnership with her neighbours, consolidate friendly relations and deepen mutually beneficial cooperation with them, and ensure that China's development will bring more benefits to her neighbours."¹ In that light, it was expected that the period over the next ten years through 2021 should offer more promising conditions to achieve mid-term objectives, appropriately solving territorial disputes with neighbouring countries (Health, 2013).

As Xi came to power in March 2013, the confusing, "harmonious" line in foreign policy under Hu Jintao was replaced with a tougher, more deterministic policy in dealing with other countries. As Xi concentrated his power at home, he also wanted to assert and exercise his authority overseas. At the Workshop on the Periphery Diplomacy in October 2013, President Xi discussed strategic objectives, which may be grouped into three broad categories.

Firstly, Xi discussed objectives that pointed to the creation of a stable and beneficial environment to enable China's rise. Xi called for "comprehensively developing relations with countries on the periphery; consolidating good neighbourly relations; deepening mutually beneficial cooperation; and maintaining and using well the important period of strategic opportunity for our country's development" (Swaine, 2015).

Secondly, Xi emphasized the consolidation of control over China's core interests. The Chinese government repeatedly claimed the so-called "undisputable sovereignty rights" over the disputed land features and waters, asserting that "China will adhere to the path of peaceful development but in no way will the country abandon on its legitimate rights and interests, nor will it give up its core national interests."² It is essential to note that Xi appealed to "safeguarding the nation's sovereignty, security, and developmental interests", while being ambiguous and controversial in definition of "core interests".

Thirdly Xi provided guidance on strengthening China's leadership role in Asia. Xi outlined objectives to "make the political relations between China and countries on the periphery even better, the economic links with our country even more solid, the security cooperation even deeper, and the people-to-people ties even closer."³

2.2. The South China Sea Disputes in China's Foreign Policy

The security hotspot involving China's stake in the South China Sea was a challenging test for Beijing leaders given the three major drivers of the disputes, namely domestic politics, strategic calculations, and legal aspect. The South China Sea disputes involve the People's Republic of China (hereafter China), Republic of China (hereafter Taiwan) and four ASEAN claimants (Brunei, Malaysia, the Philippines and Vietnam) on the two archipelagoes in the South China Sea, namely the bilateral disputes over the Paracels between China and Vietnam (known as Xisha by China and Taiwan, and Hoang Sa by Vietnam), and the multilateral disputes over the Spratlys (known as Nansha by China and Taiwan, and Truong Sa by Vietnam) between China, Taiwan, and the four ASEAN claimants. The Chinese on both sides of the Taiwan Strait have been arguing that those land features and waters around them have rightly belonged to China since the Han Dynasty (206 BC to 220 AD) (Severino, 2010: 38). The tensions and stand-offs historically, economically and strategically between China and other claimants in the South China Sea have long been complicated and potentially explosive in the foreseeable future as China pursues a sea-oriented strategy southward.

Domination of the South China Sea remains a priority in China's overall strategic objective. Straddling one of the most geo-strategic chokepoints in the Pacific Ocean with worldwide trade and navigation routes and also high

estimates in oil, gas, and fish reserves, the South China Sea has been viewed as the way-out for China on the southern flank. Especially, according to Admiral Liu Huaqing, the commander of the People's Liberation Army Navy (PLAN) in the 1980s, "whoever controls the Spratlys will reap huge economic and military benefits" (Liu, 2004: 538). Control of the islands is key to the assertion of maritime rights, the security of sea lanes of communication, and regional naval power projection (Fravel 2008: 267). The disputed territories in the region are the historical legacies of decades, and the regional states have taken initial steps in working out a *status quo* pending eventual solutions to those disputes.⁴

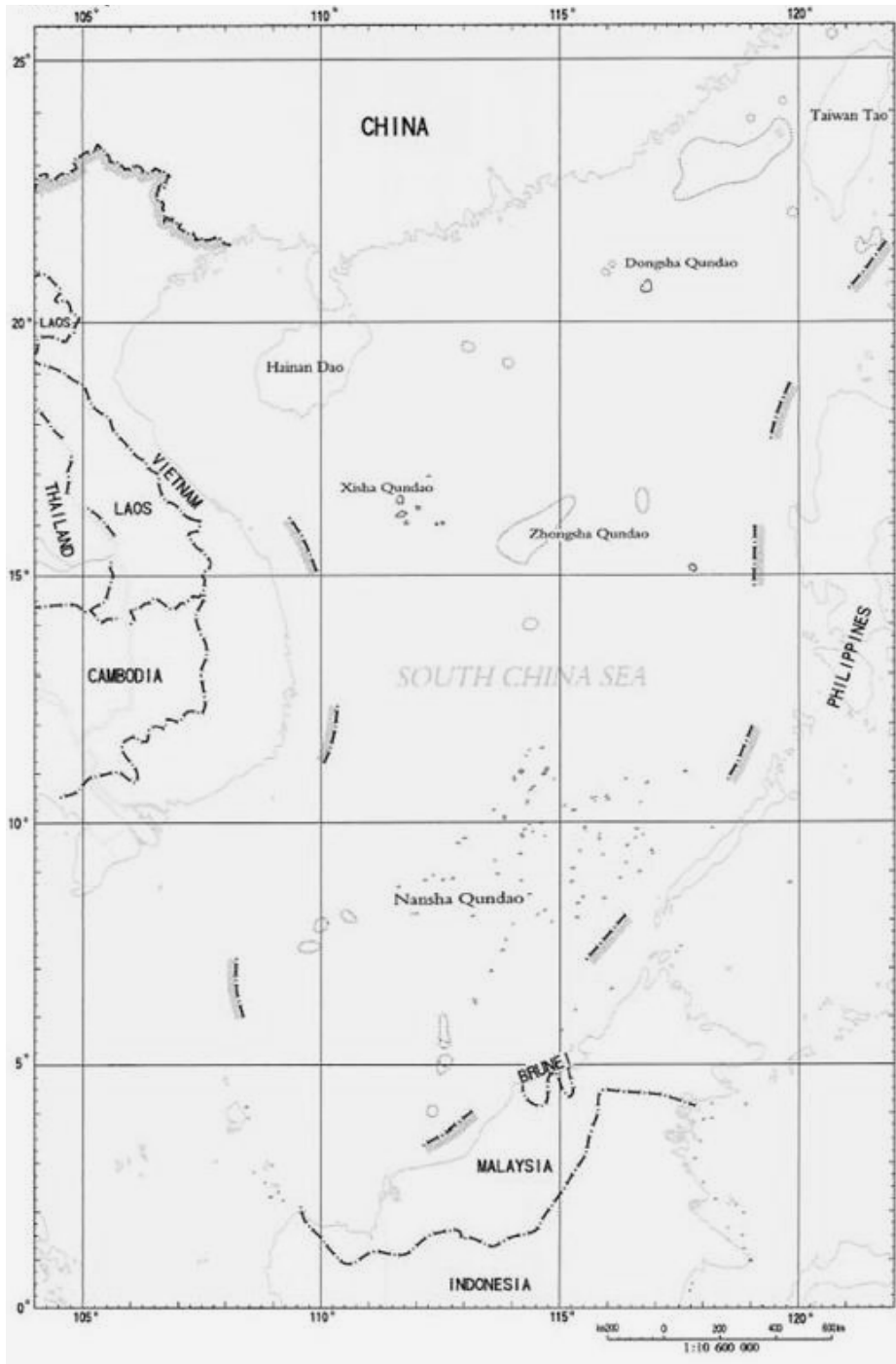
The maritime territorial disputes are the showcase of cooperation and management of conflicting interests and crisis escalations in China's relations with other claimants and the rest of the world. China's maritime claims were the source of problems involving the contested islands and surrounding waters within the ambiguous, poorly-defined nine-dashed line claims. The nine-dashed line (originally known as eleven-dashed line) was drawn out on a map published in 1948 under Chiang Kaishek's Nationalist government.⁵ China has never officially declared the line as their claims to the disputed islands, nor provided any legal documents to support the line till recently. In May 2009 the Chinese Government asserted its claims, for the first time, with the map of nine-dashed line attached in the two Notes Verbales to the UN Secretary General in response to the submission of other ASEAN claimants to the Commission on the Limits of the Continental Shelf. Beijing claimed that China has indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof (see Map 1).⁶

China has frequently turned down the possibility of settling the disputes through multilateral negotiations or legal mechanisms within the ASEAN Regional Forum (ARF) or other regional arrangements.

The issue of the South China Sea involves a number of States, and is compounded by complex historical background and sensitive political factors ... China always maintains that the parties shall seek proper ways and means of settlement through consultations and negotiations on the basis of respect for historical facts and international law. Pending final settlement, all parties concerned should engage in dialogue and cooperation to preserve peace and stability in the South China Sea, enhance mutual trust, clear up doubts, and create conditions for the eventual resolution of the issue.⁷

China was inclined to using unilateral actions to assert its claims, both in military and paramilitary actions as empirically evidenced in the past few decades.⁸ Chinese leaders have skillfully referred to the 1982 United Nations Convention on the Law of the Sea (UNCLOS) and other legal justifications in efforts to give more credit to the nine-dashed lines and

Map 1 China's Dash-line Map from Note Verbales of 2009



Chinese sovereignty in those contested islands and waters. In February 1992, China's National People's Congress passed a territorial law that practically transformed the South China Sea as China's internal waters and allowed the People's Liberation Army Navy (PLAN) to evict all foreign vessels in the waters (Buszynski, 2003). Indeed "the fact that China's claims predate the Law on the Sea Convention does not provide a basis under the Convention or international law for derogating from the Convention ... neither China nor any other states could sustain a claim to historic waters or historic rights in areas distant from its shores" (Baumert and Melchior, 2014: 22). The merits of all the claims must be based on legal proceedings should they be unable to be solved by political means, given that "none of the claimants in the disputes of the Paracels and the Spratlys has clear-cut legal cases" (McDevitt, 2014: vii). The advent of the UNCLOS, both as treaty law and as reflecting customary international law, requires states to conform their maritime claims to its provisions, to "settle ... all issues relating to the law of the sea, and establish a legal order that promotes stability and peaceful uses of the seas" as stated in the Convention's Preamble (Baumert and Melchior, 2014).

China's ambiguity over the controversial line, the unpredictability of China's policy and behaviour constitute the big challenges to regional stability, creating tensions across the region. China has not clarified its maritime claims in a manner consistent with international law, either indicating Chinese sovereignty over the islands within the line, or the national boundary line separating China and its neighbouring states, or the dashed line as "historic claims" over the maritime space (Baumert and Melchior, 2014). The disputed "nine-dashed-line" claims invoked by the Chinese government, to consider nearly the entire body of waters in the South China Sea as part of Chinese territory since historical times, are difficult to sustain under the current rules of international law given that the so-called "irrefutable proof" was remarkably weak and ambiguous. China's claims were in fact questionable given conflicting evidence over the nature of scope of the nine-dashed line in China's laws, declarations, official acts, and official statements. China has been tempted to misinterpretation of historical evidence, legal documents and treaties, especially the 1982 UNCLOS to support its ambiguous claims, while paying no respect to the different interpretations put forward by other claimants. China's tacit endorsement of the claims as a critical component in China's maritime strategy, and subsequent problems resulting from China's advance into the South China Sea had undoubtedly portrayed China as an imminent threat to regional stability, demonstrating what Luttwak (2012) fashioned as China's "big power autism". China's size is intimidating and the ambiguity of China's intentions evokes fear (Jakobson, 2014: 12). Based on the vague controversial "nine-dashed line" claims, China has pursued a remarkably inconsistent policy and

unpredictable behaviour in the South China Sea disputes for decades. As noted by Fravel (2008: 267), China generally preferred delayed cooperation to address the disputes concerning the sovereignty of the offshore islands ... China has never entered into talks with other claimants, nor has it indicated a willingness to drop its claims.

Against the fact that the importance of legal factors has largely been dismissed in Asia, it is essential of note that power rivalry and nationalism have driven China and ASEAN claimants into a deteriorating relationship and rising tensions. Since 2009, Beijing's leaders have taken bold steps in asserting its sovereignty and "historic rights" over the two archipelagoes and the surrounding waters regardless of the contending claims by other states. It is worth noting that China's assertiveness put all states on high alert, propelling other claimants and stakeholders to adopt a new measure in slowing down China's advance. Pressure on the Philippines over the 2012 stand-off over the Scarborough Shoal was ironically facilitating Manila in lodging a lawsuit against Beijing in January 2013. The backfire of Haiyang Shiyou (HYSY) 981 in mid-2014 was another blow to China's overconfidence and unilateralism in placing the oilrig within the waters claimed by Vietnam without taking others' concerns as well as international law in its thorough consideration. China's mishandling of the South China Sea disputes was eventually culminated in the Tribunal Award on the case initiated by Philippines.

3. China's Response to the Dilemma Following the Arbitration Tribunal on the South China Sea Disputes

The Tribunal Award was in essence a strong reminder and warning to Beijing of the negative consequences should a major power fail to strike a consensus with other claimant states. Manila's option for legal action has been prioritized and initiated in January 2013 since the diplomatic resources were exhausted following China-Philippines stand-offs over Scarborough Shoal in 2012. Manila sent 19 diplomatic notes to the Chinese side without any responses. The legal verdict will be utilized by the Philippines in responding effectively and legitimately to any pressures, if any, from Beijing during future bilateral negotiations over the disputed seas.

Beijing was at first caught in the dilemma following the Arbitration Tribunal, which was apparently China's very first shame in the international arena because it rejected China's nine-dashed line claims to the disputed seas and features. It was a landslide victory for the Philippines as they won almost all the 15 submissions raised in the case. The 501 page-long Tribunal's Award was summarized into remarkably unprecedented decisions in favour of Manila.

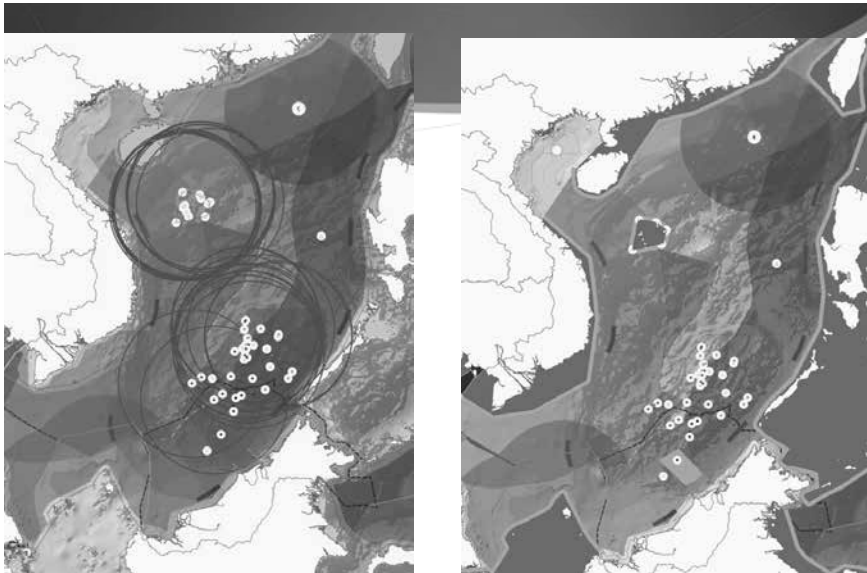
On the nine-dashed line, the Tribunal concluded that, as between the Philippines and China, China's claims to historic rights, or other sovereign

rights or jurisdiction, with respect to the maritime areas of the South China Sea encompassed by the relevant part of the “nine-dashed line” are contrary to the Convention and without lawful effect to the extent that they exceed the geographic and substantive limits of China’s maritime entitlements under the Convention. The Tribunal concludes that the Convention superseded any historic rights or other sovereign rights or jurisdiction in excess of the limits imposed therein.

On the regime of islands, The Tribunal concluded that none of the high-tide features in the Spratly Islands is capable of sustaining human habitation or an economic life of their own, the effect of Article 121 (3) is that such features shall have no exclusive economic zone (EEZ) or continental shelf.

The Tribunal finds that China breached Article 77 and Article 56 of the Convention with respect to the Philippines’ sovereign rights over the living and non-living resources of its EEZs and continental shelf. China has in the course of the proceedings aggravated and extended the disputes between China and the Philippines through its dredging and artificial island-building on low-tide elevations located at the EEZs of the Philippines. China breached its obligations to protect and preserve the marine environment by commencing large-scale island-building and construction activities.⁹

Map 2 South China Sea Disputes Before and After the PCA Tribunal Award



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The Tribunal only rejected two points (or 1.5 points) of the Philippines' questions, as the Tribunal ruled that Gaven and Kennan are rocks, not low-tide elevations, and China and the Philippines have disputes around the Second Thomas Shoal relating to military activities, therefore the Tribunal does not have jurisdiction (exception Article 298). Manila's "effective loss" of the Scarborough Shoal was compensated by the Tribunal's conclusions that fishermen from China, Vietnam, Taiwan and the Philippines have traditional fishing rights in the Scarborough Shoal. As scholars noted, the Award was too much in favour of Manila that it cast doubts on whether the Award can be utilized by the Philippines in practice.

Initially China seemed to over-react to the Tribunal's Award without considering well the negative consequences. A massive propaganda campaign by the Chinese government from the highest ranking leaders to social media has ironically invited growing attention from Chinese and the international community to the PCA ruling award and questions of China's self-claimed legitimacy in the disputes which was barely mentioned prior to 12 July 2016. China had no better choice other than leading a loose and fragmented non-Asian rally of more than 70 countries, mostly geographically located in Africa and land-locked countries, and 230 political groups in over 90 countries to support the so-called "China's position and claims" in the South China Sea.

China's *White Book* issued on 13 July, within a day of the Tribunal's Award release, elaborated Beijing's main position on China–Philippines maritime disputes, namely: (i) Nanhai Zhudao is China's inherent territories in the South China Sea and China has irrefutable sovereignty; (ii) disputes arise because of the Philippines' infringement of China's territories; (iii) the Philippines fail to abide by previous agreements and consensus made with China toward the management of the disputes; (iv) the Philippines has been driven by outsiders to instil troubles in the region; (v) China adheres to settling through negotiation the relevant disputes in the South China Sea.¹⁰ Foreign Minister Wang Yi asserted that China will not be affected by the award of the Arbitration Tribunal because the South China Sea arbitration is completely a political farce staged under legal pretext. China's position of non-acceptance, non-participation and non-compliance is aimed at upholding international rule of law and rules of the region. China's territorial sovereignty and maritime rights and interests in the South China Sea are based on solid historical and legal ground.¹¹

China's political and propaganda system launched a series of misplaced attacks on the Tribunal Award and the judges of the PCA themselves. Vice Foreign Minister Liu Zhenmin declared the arbitration tribunal award as waste paper without legal validity and non-binding effect, and that non-Asian judges (4 from Europe and 1 from Africa) are unqualified culturally, historically and geopolitically to issue a verdict on Asian affairs between China and its

neighbour(s).¹² They even went further in accusing the judges of receiving bribery to rule in favour of the Philippines. China's ill-grounded accusations of Japanese Judge Shunji Yanai's behind-the-scene's role in manipulating the game in the South China Sea were against the fact that even Japan itself was adversely affected by the Tribunal Award rulings on the status of features, that may incur big costs of losing a few million km² at sea within the EEZs and continental shelf claimed by Tokyo.

In its attempts not to recognize or respect any legal actions by other claimants, China offered confusing interpretations of UNCLOS 1982, especially the Convention's Part XV on settlement of the disputes, e.g. Article 280 on settlement of disputes by peaceful means chosen by the parties, Article 281 on procedure where no settlement has been reached by the parties, and Article 283 on obligation to exchange views. Indeed, as a signatory to the UNCLOS 1982, China should respect Article 288 stating that the Tribunal as one out of four options on legal solutions is established under Annex VII of the UNCLOS 1982 and the Tribunal's Award on Jurisdiction released on 29 October 2015. Pursuant to Article 11 of Annex VII to the Convention, "the award shall be final and without appeal, unless the parties to the dispute have agreed in advance to an appellate procedure. It shall be complied with by the parties to the dispute."¹³ It is worth noting that the Tribunal reaffirmed that all of China's objections have been fully addressed and decided in the Tribunal's Award on Jurisdiction, and that the Tribunal's power is pursuant to Article 288(4) to decide any dispute concerning the scope of its own jurisdiction.¹⁴

Following the release of the Tribunal's Award, President Xi Jinping and other Chinese high-ranking officials immediately stated that the Tribunal's Award is illegal and invalid, having no binding effect on China.¹⁵ On 14 July 2016, Chinese Foreign Ministry spokesperson Lu Kang echoed Beijing's insistence that arbitration unilaterally filed by the Philippines was a violation of international law, and warned that China would adopt a tougher approach to the so-called "provocative moves" in the South China Sea. Chinese Vice Foreign Minister Liu Zhenmin even warned about a future air-defense identification zone (ADIZ) in the South China Sea as a tit-for-tat for the Tribunal Award.

We have set up an ADIZ in the East China Sea. And whether we will set up another one in the South China will depend on the degree of threat we are facing. If our security is threatened we will do so, but our decision will be based on a host of factors and overall considerations.¹⁶

According to Shen Jinke, a military spokesman for the People's Liberation Army (PLA) Air Force, the combat air patrol conducted by the Air Force in the South China Sea recently will become a "regular" practice in the future to defend national sovereignty, security and maritime interests, safeguard regional peace and stability, and to cope with various threat and challenges.¹⁷

Paradoxically, the international pressure on China to respect the international arbitration Tribunal ruling over the South China Sea cast an adverse impact on Beijing's image and legitimacy both at home and abroad. Having influential relations with several Southeast Asian countries, China was faced with growing criticism of dividing ASEAN and "buying" some ASEAN least-developed members to get the Joint Communiqué of the 49th ASEAN Foreign Ministers' Meeting released on 24 July 2016 without any references to the Tribunal's Award.¹⁸ As Beijing leaders realized that their way of handling this new dilemma in the South China Sea has been quite costly and even more counterproductive, they sought to divert the domestic pressure and international attention by adopting a new low-profile approach. As new Filipino President Rodrigo Duterte offered to talk with the Chinese side on the South China Sea right after the Tribunal's Award, Beijing leaders spared no efforts in obtaining a deal with Manila to get things back to normal in their planned scenario. Chinese Foreign Ministry spokesperson Lu Kang said China and the Philippines reached consensus during President Duterte's state visit to China between 18-21 October 2016, and both agreed to focus on cooperation, put aside their differences and bring the South China Sea back to the correct track of bilateral negotiation and consultation.¹⁹ Huge economic deals worth US\$13.5 billion signed during Duterte's China trip was well justified for the two sides' agreement reached five years ago in 2011, prior to the Scarborough Shoal Incident and the Tribunal Award, on bilateral dialogue and consultation in seeking a proper settlement of the South China Sea issue.²⁰ The South China Sea arbitration case took a "back seat" during the so-called "milestone" visit to China without being mentioned in the China-Philippines Joint Statement on 21 October 2016.²¹ China has basically managed to get out of the dilemma following the Arbitration case and gradually facilitated the game change in its favour in the past few months.

4. Implications on Regional Security Environment and China's Strategy towards Southeast Asia

The South China Sea disputes as regional issues may evolve into world ones given their far-reaching geo-strategic and geo-political, economic, commercial, and environmental implications. The complicated nature of the security hotspot in the South China Sea has called for much more inclusive and multi-dimensional approaches beyond diplomatic hassles, tensions and para-conflicts on the spot and in the regional landscape. Unfortunately, competitive views of self-claimed sovereignty and jurisdiction as well as misperceptions and rivalries over interests associated with those islands and surrounding waters have effectively denied such constructive approaches the chance to step into the controversial and endless debates.

Understanding of Chinese strategic preferences and its patterns of behaviour in zero-sum conflicts such as territorial disputes can help illuminate the trajectory of China's rise as a great power (Fravel 2008: 3). With regard to the territorial disputes in the South China Sea, Beijing has long adopted a double-standard policy. On the one hand, Beijing expressed its dissatisfaction with the existing rule of law set by the US and other powerful nations in the international system, evoking the "victim mentality" to discredit Western injustices in Chinese mainland territories and in their traditional sphere of influence in the colonial past. On the other hand, Beijing, representing 'virtue' and "morality", resorted to the rule of "the might makes right" whenever they are in an opportune position to grasp any islands or features in the contested seas, justifying their inclination to use force in the name of standing up to bring back lost territories to the Great China or the Imperial Middle Kingdom (*zhongguo* – 中国). Beijing's delaying strategy coupled with sporadic and timely escalation to violence had effectively paved the way for China's presence on the disputed rocks and islets in the South China Sea occupied by other claimants.

Having asserted that China cannot abide by the existing laws and rules set by the West, China's leaders have remarkably demonstrated their long-lost pride in being the Great Power in its own sphere of influence in the imperial past, and their desire to set up a new order on their own with the new rules that help Beijing to achieve maximum interests. There is no evidence showing that China's national interests may be compromised by international laws and norms, while other smaller claimants have increasingly been in favour of applying the UNCLOS to the dispute settlements. In this sense, Tonnesson (2011: 56) has urged Beijing's leaders to adopt legal means to resolve the disputes, contending that "the prospect for resolution to happen on the basis of international law increase rather than diminish with the growth of Chinese power and influence".

As China is a signatory to the 1982 UNCLOS, China is bound by commitment and responsibility in providing clarification of the nine-dashed line and Chinese interpretation of the Convention on continental shelf and EEZs. In other words only restraints from ambiguity, respect for freedom of navigation within the EEZs, and a proactive and constructive role in negotiation over maritime delimitation would reduce the tensions and increase confidence-building measures (CBMs) effectively (Tonnesson, 2011: 51). The question is whether the law will be misinterpreted by the Chinese government, or whether the law will be bent to accommodate supreme power at the expense of other smaller claimants? Also whether unilateral behaviour disrupting the *status quo* in the contested seas can be legitimized by China's dominant power? It would be always fairly easy to create tensions and to cause mistrust but extremely hard to win back mutual trust and confidence.

However it would be quite costly in terms of China's ideational power and strategic credibility. As empirically shown throughout the 1990s and until now, neither trust nor limited capability can prevent China from taking assertive behaviour in addressing the security hotspot related to China and other neighbouring claimants. The Chinese leaders always show their people and the world that China would never bend down or compromise under force or threat of force, and as a responsible major power, Chinese behaviour is supposed to represent goodwill and love for peace and harmony. In this sense Chinese leaders must pursue a grand strategy characterized by Confucian harmonious ideational leadership commensurate with China's traditional civilization and its re-ascendancy in the contemporary era. As Tonnesson (2011: 56) pointedly remarked,

No navy, regardless how strong it is, can conquer, fortify and defend the sea or the seabed.... If China's navy even ten times stronger than today, it would still not be able to defend illegally the established oil rigs in South China Sea. It is preferable for state to combine both hard power (naval power) with profound knowledge of existing international law and skillfully flexible diplomacy.

It is noteworthy that the time-biding strategy was soon subject to adjustments as Chinese leaders believed that it was the right time for a rising China to settle accounts with those who humiliated the Son of Heaven (*Tianzi*) and to reclaim the so-called "lost territories" during the past Century of Humiliation. The re-appraisal of Deng's "*tao guang yang hui*" and the transparent assertiveness since 2008-2009 was an initial attempt to eventually unleash the long-awaited ambitions associated with Beijing's hegemonic leadership to rule All-under-Heaven at the expense of the other states. It would be quite difficult for China to manipulate regional affairs, and to follow its dream with the realpolitik-driven strategy at the expense of the others in the US-dominated system. In other words, any unilateral attempts to misinterpret the international norms and rules, including the UNCLOS, to conduct paramilitary activities in the contested seas, or to delay regional efforts toward a more binding code of conduct (COC) to replace a loosely and ineffective DOC in the pursuit of self-interests would run against the prevailing trend of peace and development. Regrettably Chinese unilateral and irrespective actions in the disputed seas with ASEAN claimants have only further undermined region-wide trust and confidence in Beijing's real motives, catalyzing the claimants into the vicious cycles of spiral arms-races and weapon proliferation.

The verdict has been seen a challenge to China's self-claimed good neighbourliness policy of "qin, cheng, hui, rong" whereas China has found both its coercive and economic power by no means appealing to its next-door neighbours. Xi noted that the "strategic objective" of diplomatic ties

to the periphery is intended to “serve and support” the CCP set objective of achieving “national rejuvenation” by mid-century which requires developing “comprehensive relations” with regional powers and “consolidating friendly relations” (Health, 2013: 6). China is inevitably trapped in its own dilemmas both at home and abroad should China continue to adopt ambiguity in the South China Sea dispute. Should Beijing leaders attempt to stir up nationalism and exercise unilateralism in the disputes, China would anticipate another dilemma in the near future. Therefore, a long-term Chinese response to the PCA Ruling will depend most importantly on what Chinese think and do, rather than on “what others do” in the future as concluded by some experts (Swaine, 2016).

Tactics will no longer work and vicious cycles of tensions remain in China's relations with Southeast Asian nations unless Beijing's leaders pledge to harmonize differences with other ASEAN claimants over the existing problems. In other words, a visionary ideational approach to China-ASEAN strategic partnership will be essential for Beijing to turn its security dilemmas into a far-reaching strategy, enabling China to secure major support for its global ascendancy in the foreseeable future. It is imperative that: (i) China should keep calm and restrain from positioning itself as a coercive superpower, and respect the interests of all parties; (ii) China should identify problems and develop problem-solving approaches, i.e. working towards a new management mechanism and a legitimate norm-based maritime order in Asia (Morton, 2016); (iii) China should seek truths from facts and adopt both visionary and pragmatic mindsets, nurturing the we-feelings so that all countries do their best and finding ways to work in harmony. By doing so, China can always be full of vigour and serve as the driving force for enduring peace and development.

5. Conclusion

Since China became ASEAN's Dialogue partner in 1991, significant developments have been witnessed in ASEAN-China relations in the past decades. In the past 25 years, China-ASEAN relations have been transformed from bilateral ties characterized with confrontational mentality during the Cold War to a successful pattern of cooperation. China would sooner or later become the most influential superpower in the region, but ASEAN's neutrality and centrality should be respected as a critical condition for China's ascendancy to global power status.

The good relations are primarily the safe relations for all insiders of the game. It would definitely take a longer time and bigger efforts for China and ASEAN to rebuild the strategic trust in the aftermath of crisis and tensions. Instead of blaming ASEAN on their so-called “multilateral hedging policy”

with other major powers, China needs to understand other small countries' worries and concerns. Both sides should acknowledge the existing differences, adopting a flexible approach and self-restraints to minimize stand-off and tension and effectively overcome challenges and obstacles to the substantial development of bilateral relations, contributing to strengthening mutual trust of the China-ASEAN strategic partnership. Only through the creative practices of all responsible stakeholders, can China and ASEAN open up a bright future for building a regional community of shared destinies primarily in Southeast Asia, and the region at large.

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Notes

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- 1. Full text of Hu Jintao's Report at 18th Party Congress, assessed on 14 August 2016 at <http://news.xinhuanet.com/english/special/18cpnc/2012-11/17/c_131981259_12.htm>.
- 2. <http://news.xinhuanet.com/english/china/2013-07/31/c_132591246.htm>.
- 3. <http://news.xinhuanet.com/english/china/2013-10/26/c_125601680.htm>.
- 4. The fact that China denied many of the so-called "Qing territorial losses" under signed treaties as illegitimate and unequal had led to territorial disputes with all of its neighbours, most of which have been settled by now (Nathan and Scobell, 2012: 21).
- 5. In an attempt to define and declare the extent of Chinese sovereignty around the Paracels and the Spratlys, the Geography Department in the Ministry of Foreign Affairs (Republic of China) published for the first time "The Location Map of the South China Sea Islands" in which an eleven-dotted line was drawn around the Paratas Islands (Dongsha), the Paracel Islands (Xisha), the Macclesfield Bank (Zhongsha), and the Spratly Islands in the South China Sea, and the southernmost line was about the 4^o northern latitude. Since 1953, two dots were removed from the map published by the PRC following Chinese Premier Zhou Enlai's approval (Li and Li, 2003).

6. Permanent Mission of the People's Republic of China (PRC), Notes Verbales CML/17/2009 and CML/18/2009, 7 May 2009, available from the UN Division for Ocean Affairs and the Law of the Sea (DOALOS) (Baumert and Melchior, 2014).
7. The PRC Government's Position Paper on Matters of Jurisdiction in the South China Sea Arbitration initiated by the Republic of Philippines, available at the website of Ministry of Foreign Affairs of the PRC (7 December 2014), <http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1217147.shtml>.
8. Vietnam, the Philippines, Malaysia, Indonesia, and Brunei have maritime zones that extend from their mainland shores into the South China Sea. Assuming for the sake of argument that China have sovereignty over all the disputed islands in the South China Sea, maritime zones generated by South China Sea islands would overlap with those generated by the opposing coastlines of the aforementioned states. In other words, the maritime boundaries delimiting overlapping zones would need to be negotiated amongst parties concerned in accordance with international law (Baumert and Melchior, 2014).
9. <<http://www.pcacases.com/pcadocs/PH-CN%20-%2020160712%20-%20Award.pdf>>.
10. <http://www.gov.cn/xinwen/2016-07/13/content_5090828.htm>, also the press conference featuring the White paper on China's South China Sea position <<http://english.cctv.com/2016/07/13/VIDE2ZsrzCJ1OACyDWClzOUw160713.shtml>>.
11. <<http://english.cctv.com/2016/07/13/ARTIIXwkMqMc3Bq25XpDUvBk160713.shtml>>.
12. <<http://www.scio.gov.cn/32618/Document/1483804/1483804.htm>>.
13. <http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf>.
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16. <<http://english.cctv.com/2016/07/13/VIDE7eEo1I9p114W67N5AID9160713.shtml>>.
17. <http://english.chinamil.com.cn/news-channels/china-military-news/2016-07/19/content_7161691.htm>.
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21. <http://news.xinhuanet.com/english/china/2016-10/21/c_135771815.htm>.

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