ANALYSIS OF PERMANENT COURT OF ARBITRATION'S VERDICT ON THE SOUTH CHINA SEA

POOJA BHATT

INTRODUCTION

Fashioning issues of mutual interest, fostering cooperation, and bringing about a peaceful resolution of conflicts between the Westphalian states are the main drivers of international regimes as they exist today. The nature of these regimes is shaped by the issues they deal with, such as economic relations, socio-cultural cooperation, strategic partnerships, and so on. The liberal world order provides an opportunity to the states to join these regimes wilfully and according to their respective national interests, with other like-minded states. However, the issue of 'participation' of the states in these regimes forms an interesting topic of study. These regimes arise out of the need to formulate a rules-based international order. Membership of these international regimes is voluntary, but once the states become members, they are obliged to adhere to the charter of responsibilities of the respective regime. In fact, these charters form the very basis of the regimes. However, it has been increasingly noticed that the member states do not abide by the rules set out by these regimes and even disregard any strictures given out against them for not adhering to the charter. Additionally, the execution of arbitration remains a difficult step to achieve by most of the international regimes.

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Not only China, but other neighbouring countries such as Vietnam, Indonesia and Philippines also have competing claims in the region. The NDL does not conform to the maritime laws and, hence, cannot be considered as a maritime boundary of China. China, on the other hand, has made historical claims dating back 2,000 years to bolster its claim to the region.

The purpose of this paper is to examine one of the recent judgements by the Permanent Court of Arbitration (PCA) delivered in July 2016 on the South China Sea issue. As the verdict will celebrate its first anniversary this year, the area remains one of the most controversial maritime boundaries in the contemporary geostrategic realm,with the ambiguous claims over the Nine Dash Line (NDL) of the South China Sea. Also known as the ten dash and eleven dash line, it refers to the demarcation line used by the Governments of the People's Republic of China (PRC) and Republic of China (ROC) to claim the waters, islands and resources within the region, based on their 'historical rights'. The growing narrative on the NDL and South China Sea highlights China's 'aggressive posture'. The recent judgement by the Permanent Court of Arbitration was against the Chinese claim and in favour of the Philippines with respect to claims in the NDL region. Not only China, but other neighbouring countries such as Vietnam, Indonesia and Philippines also have competing claims in the region. The NDL does not conform to the maritime laws and, hence, cannot be considered as a maritime boundary of China. China, on the other hand, has made historical claims dating back 2,000 years to bolster its claim to the region.

The territorial claims, the military installations, and the Chinese overt conduct in the nine dash line have security implications. A shift in the security dynamics has been witnessed among the countries in the region and also by major powers like the US in the South China Sea. As the South China Sea is an important Sea Line of Communication (SLOC), countries such as the US, Australia, Japan and India, and the Association of Southeast Asian Nations (ASEAN) countries are stressing upon freedom of navigation and the open seas policy.

BACKGROUND

On July 12, 2016, the Permanent Court of Arbitration unanimously declared that there was no evidence that China had historically exercised exclusive control over the waters or resources of the South China Sea, hence, there was "no legal basis for China to claim historic rights" over, the NDL in the South China Sea. China did not become a party to the case since its inception in 2014 and the judgment went in favour of the Philippines—the other party in the dispute. The judgement immediately came in for debate amongst academics, practitioners and policy-makers from various fields to examine its implications on the sovereignty issues in the South China Sea. Besides the technical aspects of the maritime sovereignty claims by China in the NDL region, the judgement has other geostrategic, economic and security implications for decades to come.

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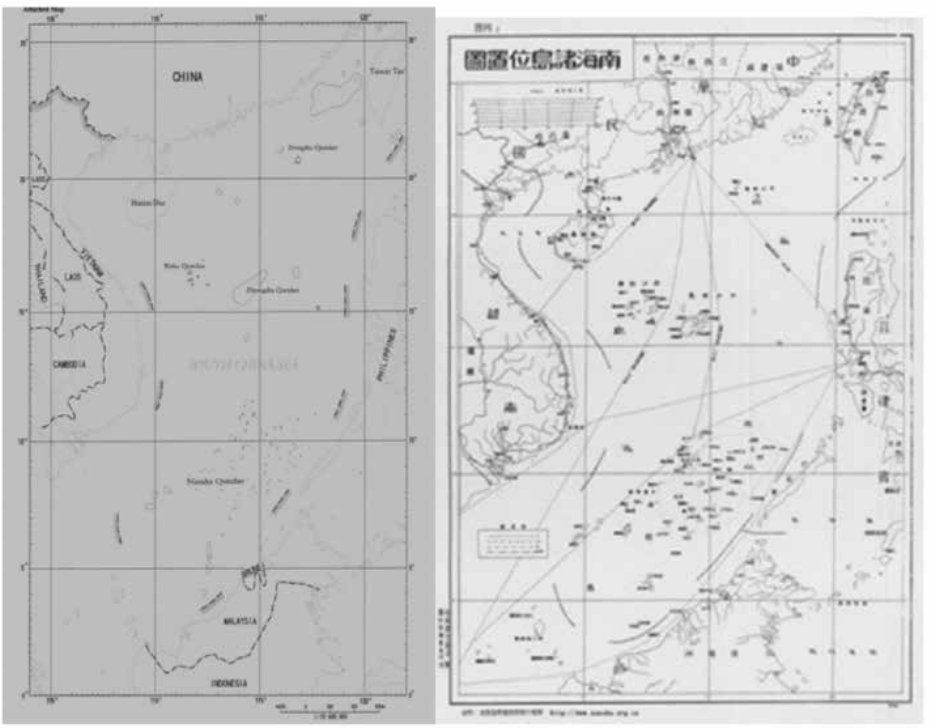
On May 7, 2009, the Chinese government forwarded two Notes Verbale[1] to the UN secretary general, requesting that they be further circulated to all member states of the United Nations Convention on the Law of the Sea (UNCLOS) as well as the member states of the UN. The notes contained China's statement of its indisputable sovereignty over the islands of the South China Sea and the adjacent waters. It also established its rights and jurisdiction over the relevant waters, seabed and subsoil thereof. Notably, the notes were a response to the joint submission by Malaysia and Vietnam on May 6, 2009, to the Commission on the Limits of the Continental Shelf (concerning the outer limits of the continental shelf beyond 200 nautical miles). The Chinese government requested the commission not to consider the requests made by the two countries and provided the map of the South

1. United Nations (May 2009), "Note Verbale No. CML/18/2009". URL: http://www.un.org/depts/los/clcs_new/submissions_files/vnm37_09/chn_2009re_vnm.pdf;

China Sea with nine dashes in a U shape wherein it claimed its undisputed sovereignty.

> "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 attached map). The above position is consistently held by the Chinese government, and is widely known by the international community."



Map 1 (left): Map Attached with Note Verbale sent by China to the UN on May 7, 2009
Source: United States Department of State, Bureau of Environmental and Scientific Affairs, "Limits in the Seas, No. 143, China: Maritime Claims in the South China Sea". Published 2016-12-05. Page 2.

Map 2 (right): Original Map Produced by the Kuomintang Government in 1947, Showing Eleven Dashes.
Source:: United States Department of State, Bureau of Environmental and Scientific Affairs, "Limits in the Seas, No. 143, China: Maritime Claims in the South China Sea". Published 2016-12-05. Page 3.

Through the map attached to the Notes Verbale, China exhibited its sovereignty claim over the U shaped 'Nine Dash Line'. Separate academic studies place the date of establishment of the NDL in 1946-47. The government of the People's Republic of China removed two dashes inside the Gulf of Tonkin as the area was delimited between Vietnam and China in 2004.

Philippines vs. China (PCA case number 2013–19), also known as the South China Sea Arbitration, was an arbitration case brought by the Republic of the Philippines against the PRC under Annex VII to the UNCLOS concerning certain issues in the South China Sea, including the legality of China's "nine-dotted line" claim[2].

UNCLOS[3] AND MARITIME DISPUTES

China claims that these dashes have "historic origins" and that they predate UNCLOS that was established in 1982. UNCLOS is an international agreement that defines the rights and responsibilities of the member nations with respect to their use of the world's oceans, establishes guidelines for businesses, the environment, and the management of the marine natural resources. It replaced the following four treaties:

- Convention on the Territorial Sea and Contiguous Zone, entry into force: September 10, 1964.
- Convention on the Continental Shelf, entry into force: June 10, 1964.
- Convention on the High Seas, entry into force: September 30, 1962.
- Convention on Fishing and Conservation of Living Resources of the High Seas, entry into force: March 20, 1966.

UNCLOS introduced a number of provisions. The most significant issues covered were setting limits, navigation, archipelagic status and transit regimes, Exclusive Economic Zones (EEZs), continental shelf

2. "Arbitration between the Republic of the Philippines and the People's Republic of China", Permanent Court of Arbitration, October 15, 2015. Retrieved on February 13, 2017.
3. United Nations Convention on the Laws of the Sea.Accessed online. URL: http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf.

jurisdiction, deep seabed mining, the exploitation regime, protection of the marine environment, scientific research, and settlement of disputes .The convention set the limit of various areas, measured from a carefully defined baseline.

It was opened for signature on December 10, 1982, and entered into force on November 16, 1994, and has been ratified by 168 states, which include 167 states (164 member states of the UN plus the UN observer state Palestine, as well as the Cook Islands, Niue and the European Union) .

UNCLOS is widely accredited and recognised as the "Constitution for the Oceans[4]" by the states, and plays a vital role in conducting inter-state relations in the oceans. At the same time, UNCLOS is also a treaty under international law and provides the governing aspects of the ocean affairs. Article 38 of the Statute of the International Court of Justice provides four sources of international law:

- International conventions, whether general or particular, establishing rules expressly recognised by the contesting states.
- International custom, as evidence of a general practice accepted as law;
- The general principles of law recognised by civilised nations.
- Subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

The convention also creates an innovative legal regime for controlling mineral resource exploitation in deep seabed areas beyond national jurisdiction through an International Seabed Authority and the common heritage of mankind principle. The Charter of the United Nations requires all members of the organisation to settle their international disputes by peaceful means in such a manner that international peace and security are not endangered. UNCLOS builds on this commitment by providing a compulsory and binding framework for the peaceful settlement of all related disputes.

4. Tommy K.B. Koh (1982), "A Constitution for the Oceans". Accessed online on June 19, 2017. URL: http://www.un.org/depts/los/convention_agreements/texts/koh_english.pdf

Where, however, no settlement between the disputing parties has been reached, Article 286 of the convention instructs that the dispute be submitted at the request of any party to the dispute to a court or tribunal having jurisdiction in this regard. Article 287 of the convention defines those courts or tribunals as:

- The International Tribunal for the Law of the Sea or ITLOS (established in accordance with Annex VI of the Convention) including the Seabed Disputes Chamber.
- The International Court of Justice.
- An arbitral tribunal constituted in accordance with Annex VII of the convention.
- A special arbitral tribunal constituted in accordance with Annex VIII for one or more of the categories of disputes specified therein.

In practice, all UNCLOS related matters go either to ITLOS or the arbitral tribunal under Annex VII. ITLOS comprises a permanent body of 21 judges, whereas the latter is composed of five judges whose membership and rules of procedure are prescribed at length. No further consent is required from any nation that has ratified the convention and has a relevant claim brought against it.

It is under Annex VII of the convention that an ad hoc arbitration tribunal was established on June 21, 2013[5]. In January 2013, the Philippines formally initiated arbitration proceedings against China's territorial claim on the "Nine Dash Line", which it said is "unlawful" according to UNCLOS. The line, first inscribed on a Chinese map in 1947, had "no legal basis" for maritime claims, deemed the Permanent Court of Arbitration in The Hague. In July 2016, the PCA tribunal judged that there was no evidence that China had "historically exercised exclusive control" over the waters or resources within the NDL. The legalities of the claims for the

5. Permanent Court of Arbitration Press Release, "The South China Sea Arbitration", published on July 12, 2016. Accessed online on June 19, 2017. URL: https://pca-cpa.org/wp-content/uploads/sites/175/2016/07/PH-CN-20160712-Press-Release-No-11-English.pdf

Within the larger ambit of China's maritime and territorial sovereignty claims within the NDL region, there are several disputes amongst the neighbouring countries of the region. The disputes involve both maritime boundaries and islands.

The NDL area—claimed by the Republic of China and later by the People's Republic of China—covers most of the South China Sea and overlaps the EEZ claims of Brunei, Indonesia, Malaysia, the Philippines, Taiwan, and Vietnam.

NDL also focus on the concept of *terra nullius*[6], which forms the basis of China's territorial claims on the island features in the South China Sea. The same concept has been used to further its maritime claims to form the controversial NDL, as we see today.

SPECIFIC BILATERAL/ TRILATERAL DISPUTES WITHIN THE NINE DASH LINE

Within the larger ambit of China's maritime and territorial sovereignty claims within the NDL region, there are several disputes amongst the neighbouring countries of the region. The disputes involve both maritime boundaries and islands.

- The NDL area—claimed by the Republic of China and later by the People's Republic of China—covers most of the South China Sea and overlaps the EEZ claims of Brunei, Indonesia, Malaysia, the Philippines, Taiwan, and Vietnam.
- The maritime boundary along the Vietnamese coast involving the PRC, Taiwan, and Vietnam.
- The maritime boundary north of Borneo involving China, Malaysia, the Philippines, and Taiwan.
- Islands, reefs, banks and shoals in the South China Sea, including the Paracel Islands, Pratas Islands, Macclesfield Bank, Scarborough Shoal

6. A Latin expression derived from Roman law that means "land that is unoccupied or uninhabited for legal purposes". Used in international law to describe territory which has never been subject to the sovereignty of any state, or over which any prior sovereign has expressly or implicitly relinquished sovereignty. Sovereignty over territory which is *terra nullius* may be acquired through occupation

and Spratly Islands between China, Taiwan, and Vietnam, and parts of the area also contested by Malaysia and the Philippines.
- The maritime boundary in the waters north of the Natuna Islands contested by China, Indonesia and Taiwan
- The maritime boundary off the coast of Palawan and Luzon involving China, the Philippines, and Taiwan.
- The maritime boundary, land territory, and the islands of Sabah, including Ambalat, involving Indonesia, Malaysia, and the Philippines.
- The maritime boundary and islands in the Luzon Strait claimed by China, the Philippines, and Taiwan.

The PCA verdict in favour of the Philippines will bring these disputes to the fore. These disputes involve the issue of maritime delimitation as well as sovereignty over the islands. It can't be definately stated that these countries will use the arbitration method in the event of the failure of Beijing's bilateral rapprochement to produce optimal results. However, it provides a platform for intervention by the recognised international entity under international law to counter China's unilateral actions, for maintaining peace and stability in the region.

CHINESE POSITION ON THE PCA AD HOC TRIBUNAL

The PRC started negotiations over the UNCLOS in 1973 and finally signed and ratified it in 1996. It was the first multilateral negotiation that it signed and ratified since it joined the United Nations in 1971. According to Chinese scholars, the three basic reasons for joining UNCLOS in those years were: first, anti-hegemonic stand against the US and USSR; second, to return the favour of Third World countries that had helped in the establishment of the PRC government's membership in the UN; and, lastly, to protect its national interest[7]. China has been an UNCLOS member-state since 1996.

7. Zheng Wang (2016), "China and UNCLOS: An Inconvenient History", *The Diplomat*, published on 11 july 2016. Accessed online on June 19, 2017. URL:http://thediplomat.com/2016/07/china-and-unclos-an-inconvenient-history/

Article 288 of the UNCLOS provides: "In the event of a dispute as to whether a court or tribunal has jurisdiction, the matter shall be settled by a decision of that court or tribunal." The Philippines had unilaterally initiated arbitration proceedings to the Hague-based PCA against China over the South China Sea disputes in 2013. Accordingly, the tribunal convened a hearing on jurisdiction and admissibility in July 2015 and rendered an Award on Jurisdiction and Admissibility on October 29, 2015, deciding some issues of jurisdiction and deferring others for further consideration[8]. The PCA ruled in 2015 that it has jurisdiction over the case, taking up seven of the 15 submissions put up by Manila.

The website of the Permanent Court of Arbitration (PCA)[9] explicitly mentions its status and functions as given below:

> It is an intergovernmental organization established by the 1899 Hague Convention on the Pacific Settlement of International Disputes. The PCA has 121 Member States. Headquartered at the Peace Palace in The Hague, the Netherlands, the PCA facilitates arbitration, conciliation, fact-finding, and other dispute resolution proceedings among various combinations of States, State entities, intergovernmental organizations, and private parties. The PCA's International Bureau is currently administering 8 interstate disputes, 73 investor-State arbitrations, and 34 cases arising under contracts involving a State or other public entity. The PCA has administered 12 cases initiated by States under Annex VII to the United Nations Convention on the Law of the Sea.

China repeatedly refused to participate in the arbitration case initiated by the Philippines to resolve the maritime dispute in the South China Sea (SCS). It strongly argued that the arbitral tribunal had no "jurisdiction" and that

8. Xinhua News (2016), "Interview: PCA Tribunal Verdict Unfair, not Legally Binding for China: U.S. Professor", published on October 6, 2016. Accessed online on June 19, 2017, URL: https://www.pcacases.com/web/sendAttach/1801
9. PCA Press Release (2016), "The South China Sea Arbitration (The Republic of The Philippines V. The People's Republic of China). Accessed online on June 19, 2017. URL: https://www.pcacases.com/web/sendAttach/1801

arbitration was counter-productive to peaceful negotiations. China explained its stand by arguing that the ICJ is a "totally different institution from the Permanent Court of Arbitration (PCA) under whose secretariat assistance an arbitral tribunal has issued an award on the South China Sea dispute[10]."

Beijing further stated that the arbitral tribunal is neither related to the ICJ nor "backed up by the United Nations." Both the ICJ and the arbitral tribunal are based in The Hague. The ICJ is a totally distinct institution and has no involvement in the SCS case. "China premised that the PCA "arbitration is not part of the international judicial system. Its arbitration may have some judicial validity but it is far from the adjudication of the ICJ in terms of sanctity and solemnity. Therefore, the PCA is not the best mechanism to settle disputes between states."[11] Interestingly, Article 288[12] of the convention provides: "In the event of a dispute as to whether a court or tribunal has jurisdiction, the matter shall be settled by a decision of that court or tribunal."

In its Position Paper[13], China advanced the following arguments:

- The essence of the subject-matter of the arbitration is the territorial sovereignty over several maritime features in the South China Sea, which is beyond the scope of the convention and does not concern the interpretation or application of the convention;
- China and the Philippines have agreed, through bilateral instruments and the Declaration on the Conduct of Parties in the South China Sea, to settle their relevant disputes through negotiations. By unilaterally initiating the present arbitration, the Philippines has breached its obligation under international law;

10. Ibid.
11. Xinhuanet (2016), "Backgrounder: International Court of Justice Totally Distinct from Permanent Court of Arbitration". Accessed online on June 18, 2017. URL: http://news.xinhuanet.com/english/2016-07/15/c_135515304.htm
12. United Nations Convention on the Law of the Seas, "UNCLOS Settlement of Disputes".Accessed online on June 18, 2017. URLhttp://www.un.org/depts/los/convention_agreements/texts/unclos/part15.htm
13. PCA Case No.2013-19 An Arbitral Tribunal Constituted Under Annex VII to the 1982 United Nations Convention on The Law of The Sea- between -The Republic of The Philippines - and -The People's Republic of China, published on October 29, 2015. Accessed online on June 18, 2017. URL: https://www.pcacases.com/web/sendAttach/1506

- Even assuming, *arguendo*[14], that the subject matter of the arbitration was concerned with the interpretation or application of the convention, that subject matter would constitute an integral part of maritime delimitation between the two countries, thus, falling within the scope of the declaration filed by China in 2006, in accordance with the convention, which excludes, *inter alia*, disputes concerning maritime delimitation from compulsory arbitration and other compulsory dispute settlement procedures.

The precise text of the award or decision identified the PCA, the deciding body, as "an arbitral tribunal constituted under Annex vii to the 1982 United Nations Convention on the Law of the Sea". In other words, it did not claim to be the "International Court of Justice." If a UNCLOS member-state, like the Philippines, has not expressed any preference for any of these four tribunals, the default means of settling disputes is Item 3 (ad hoc arbitration). More accurately, therefore, the adjudicating body of this dispute is "ad hoc"or temporary because it was constituted only for this particular dispute. Despite its temporary nature, the tribunal's proceedings and "awards"or decisions, when issued according to the provisions of UNCLOS, are nonetheless binding on UNCLOS signatories like the Philippines and China.

On issues concerning territorial sovereignty and maritime delimitation, China argued that it would not accept recourse to any third party settlement, or any means of dispute settlement that is imposed on it.

THE COMPOSITION OF THE AD HOC TRIBUNAL

The ad hoc tribunal, constituted on June 21, 2013, was composed of five members. Judge Rudiger Wolfrum, a German, was chosen by the Philippines. A second member was to be named by China. Since China opted not to participate, the president of ITLOS—pursuant to the provisions of UNCLOS—appointed Judge Stanislaw Pawlak, a Pole. Subsequently, the president of ITLOS named three more—Judge Jean-Pierre Cot, a Frenchman, Prof. Alfred H. A. Soons, a Dutchman, and Judge Thomas A. Mensah of Ghana, as the presiding arbitrator.

14. Latin term for "assuming for the sake of argument".

After it was constituted, the ad hoc tribunal issued Administrative Directive No. 1 appointing the PCA as its "Registry,"the rough equivalent of the Office of the Clerk of Court. On July 15, 2013, the secretary general of the PCA advised the tribunal and the parties that Ms Judith Levine, PCA senior legal counsel, would serve as "registrar,"the rough equivalent of the clerk of court. The PCA has acted as "Registry"in 11 out of 12 arbitration cases filed under Annex VII of UNCLOS. The PCA is not a "court."As the "Registry,"it provides administrative services to the parties and the arbitrators. Precisely, it transmits oral and written communications from the parties to the arbitral tribunal and vice versa, and among the parties; maintains an archive of official documents; arranges the arbitrators'fees; holds the arbitration funds, and pays expenses and similar functions. The tribunal played an important role in the landmark verdict on the contentious claims by China in the South China Sea. The verdict came out in favour of the Philippines, which was also the complainant party in the verdict.

Several satellite images available online show progression in island reclamation by China and installation of military infrastructure on all the seven islands that are claimed by it. The three noticeable islands are Fiery Cross, Mischief Reef, and Subi Reef (also known as the Big Three) that have full-fledged runways, hangars and even installation of Surface-to-Air Missiles (SAMs) on them.

CONCLUSION

China has rejected the PCA verdict of July 2016 on the grounds that it lacks jurisdiction over the matter. Moreover, Beijing has been trying to strengthen its hold on the South China Sea, with specific focus on the Spratly (Nansha) group of islands. The islands are one of the other three groups of islands in the contested NDL; the other two being the Paracel (Xisha) Islands and Scarborough Shoal (HuangYan Islands). The Spratly group of islands is located approximately 400 nautical miles from the

coastal baseline of China and well exceeds the EEZ of 200 nautical miles defined under UNCLOS 1982. The Spratly group of islands lies well within the EEZ of the other claimant, i.e. the Philippines, which is barely 130 nautical miles from the islands. Several satellite images available online show progression in island reclamation by China and installation of military infrastructure on all the seven islands that are claimed by it. The three noticeable islands are Fiery Cross, Mischief Reef, and Subi Reef (also known as the Big Three) that have full-fledged runways, hangars and even installation of Surface-to-Air Missiles (SAMs) on them. There have been similar developments on Gaven Reef, Hughes Reef, Johnson Reef and Cuarteron Reef since 2015. This rapid development is creating an unstable situation, with the neighbouring countries such as Vietnam, Philippines, Taiwan and Malaysia in the South China Sea having also reclaimed islands and built runways on them. These developments are militarising the region and are also having an adverse effect on the health of the coral reefs in the region due to the harmful and destructive process of island reclamation.

However, under UNCLOS, the Permanent Court of Arbitration forms the rightful body for adjudicating on the issue of the South China Sea dispute. Beijing hopes for a bilateral rapprochement with its neighbouring countries to solve the issue[15]; it has done so in the case of the Philippines that has responded favourably. In fact, as recently as on March 8, 2017, China formulated the draft for the Code of Conduct (COC) in the South China Sea along with the Association of Southeast Asian Nations (ASEAN) countries[16]. The COC had been stuck for 15 years in the form of a Declaration on the Conduct (DOC) of the parties in the South China Sea. This might give shape to a regional multilateral organisation pushed by China's bilateral relations with each of these ASEAN countries. This, however, means sidelining of the bigger multilateral organisation– UNCLOS. Nevertheless, as the COC is yet to see the light of day, one can only speculate about the principles and

15. n. 8.
16. Reuters, "China says First Draft of South China Sea Code of Conduct Ready". Published on March 8, 2017. Accessed online. URL: http://www.reuters.com/article/us-china-parliament-southchinasea-idUSKBN16F0JR

objectives of this COC-based South China Sea regime and the technicalities of its execution. The details of the documents are yet to be made available in the public domain; but the framework of the COC is said to be ready and undergoing further negotiations with all the parties. However, the contentious issues of territorial disputes or maritime delimitation issues are expected to be kept out of the purview of the final draft of the COC. Therefore, it remains to be seen which regional/international entity or regime will be responsible in the case of future maritime and territorial disputes in the region.

The PCA ad hoc tribunal presented its verdict on the following issues:

- No legal basis for China to claim historic rights to resources within the sea areas falling within the 'nine-dash line'.
- "[R]ocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf".
- China had violated the Philippines'sovereign rights in its exclusive economic zone by (a) interfering with the Philippines fishing and petroleum exploration; (b) constructing artificial islands; and (c) failing to prevent Chinese fishermen from fishing in the zone.
- The effect on the marine environment and the coral reef ecosystem due to China's recent large-scale land reclamation and construction of artificial islands at seven features in the Spratly Islands.
- The tribunal found that it lacked jurisdiction to consider the implications of a stand-off between the Philippine Marines and Chinese naval and law enforcement vessels at the Second Thomas Shoal, holding that this dispute involved military activities and was, therefore, excluded from a compulsory settlement[17].

From the above mentioned points, it is evident that the PCA ad hoc tribunal took a careful approach while considering the Philippines case against China. It refrained from any issue related to territorial sovereignty and maritime delimitation beyond the jurisdiction provided by UNCLOS and thereby the four ad hoc tribunals under Article 287, as explained earlier in the paper.

17. n. 13.

In the 20th century, the PRC government led several expeditions in the waters of the South China Sea where the explorers located and named several islands in the region. These discoveries later transformed into territorial claims. The same has been done by the Governments of Philippines, Vietnam, etc.

This brings another issue under question: the precedence of domestic interests over international law. Most of the multilateral international regimes came into existence in the mid and late 20th century, whereas the formation of states started taking shape since the 16th century Treaty of Westphalia. Dynasties and empires preceded both by centuries all over the world. China was one such empire that had its trade and cultural interactions for centuries. When the PRC came into existence in 1949, it too signed and ratified several multilateral treaties. The ratification of a treaty makes it binding on the signatories to conform to the rules and guidelines of the treaty. Additionally, international law takes precedence over the domestic laws of the country. Drawing both the clauses together, it seems appropriate for China to abide by the delimitation of the maritime boundaries as defined by UNCLOS. Beijing's argument for not accepting the PCA verdict shows it in poor light and places it on a shaky foundation to defend itself. As a signatory of UNCLOS, a state is expected to abide by all the clauses as prescribed in the regime.

Beijing has been a member of UNCLOS since 1996. At the same time, it reinforces its claims over the South China Sea since the 5th century B.C. when the ruling dynasties carried out their trade with the rest of the world. In the 20th century, the PRC government led several expeditions in the waters of the South China Sea where the explorers located and named several islands in the region. These discoveries later transformed into territorial claims. The same has been done by the Governments of Philippines, Vietnam, etc. The sheer number of islands in the South China Sea and multiplicity of local names made the task more complicated for scholars and practitioners to determine the territorial rights in the region.

China's stand towards the PCA tribunal verdict provides us an opportunity to understand its attitude towards multilateral organisations and, more precisely, international tribunals as its foreign policy tools. In this increasingly interconnected world, China cannot afford to remain isolated from the rest of the world. It has two options: either merge with the existing world order, or create a new one that suits its domestic as well as global interests. Nonetheless, the international multilateral institutional framework is a phenomenon that is here to stay. How China will treat and shape the international regimes by participating as a member and accepting their rulings forms an important subject of continuous study. The analysis of the 2016 PCA verdict on the South China Sea, therefore, provides an important landmark judgment for further study and analysis of the international regimes from the vantage points of the member states.