

Submission	Decision	Post-Arbitration Behavior	Compliance
1. China's maritime entitlements in the SCS may not extend beyond those expressly permitted by UNCLOS	"[T]he Convention superseded any historic rights, or other sovereign rights or jurisdiction, in excess of the limits imposed therein." PCA Award ¶ 1203(B)(2)	"China has territorial sovereignty and maritime rights and interests in the South China Sea, including, inter alia: i. China has sovereignty over Nanhai Zhudao, consisting of Dongsha Qundao, Xisha Qundao, Zhongsha Qundao and Nansha Qundao; ii. China has internal waters, territorial sea and contiguous zone, based on Nanhai Zhudao; iii. China has exclusive economic zone and continental shelf, based on Nanhai Zhudao; iv. China has historic rights in the South China Sea." CN Gov't statement	<i>Uncertain (depends on whether the 'historic rights' are w/n the territorial sea (allowed) or EEZ (not allowed). CN hasn't clarified</i>

<p>2. China’s claims to sovereign rights jurisdiction and to historic rights within the “nine-dash line” are contrary to UNCLOS and without lawful effect.</p>	<p>“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-dash-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.” ¶ 1203(B)(2)</p>	<p>“Based on the practice of the Chinese people and the Chinese government in the long course of history and the position consistently upheld by successive Chinese governments, and pursuant to China's national law and under international law, including the 1958 <i>Declaration of the Government of the People's Republic of China on China's Territorial Sea</i>, the 1992 <i>Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone</i>, the 1996 <i>Decision of the Standing Committee of the National People's Congress of the People's Republic of China on the Ratification of the United Nations Convention on the Law of the Sea</i>, the 1998 <i>Law of the People's Republic of China on the Exclusive Economic Zone and the Continental Shelf</i>, and the 1982 <i>United Nations Convention on the Law of the Sea</i>, China has, based on Nanhai Zhudao, internal waters, territorial sea, contiguous zone, exclusive economic zone and continental shelf. In addition, China has historic rights in the South China Sea.” CN White Paper</p>	<p><i>Uncertain (same reasons as above)</i></p>
--	---	--	---

<p>3. Scarborough Shoal generates no entitlement to an exclusive economic zone or continental shelf.</p>	<p>“[N]one of the high-tide features in the Spratly Islands, in their natural condition, are capable of sustaining human habitation or economic life of their own within the meaning of Article 121(3) of the Convention.” ¶ 1203(B)(7)(a)</p>	<p>CN hasn’t taken a position on the UNCLOS characterization of the reef, and therefore has not asserted that Scarborough should be afforded an EEZ or CS.</p>	<p><i>Uncertain</i></p>
<p>4. Mischief Reef, Second Thomas Shoal and Subi Reef are LTEs that do not generate a TS, EEZ or continental shelf, and are not features that are capable of appropriation by occupation or otherwise.</p>	<p>“Subi Reef, Gaven Reef (South), Hughes Reef, Mischief Reef, and Second Thomas Shoal, are low-tide elevations, within the meaning of Article 13 of the Convention.” ¶ 1203(B)(3)(c)</p>	<p>CN hasn’t taken a position on the UNCLOS characterization of any of these features.</p>	<p><i>Uncertain</i></p>
<p>5. Mischief Reef and Second Thomas Shoal are part of the Philippines’ EEZ and CS.</p>	<p>“[A]s low-tide elevations, Mischief Reef and Second Thomas Shoal do not generate entitlements to a territorial sea, exclusive economic zone, or continental shelf and are not features that are capable of appropriation.” ¶ 1203(b)(4)</p> <p>“Mischief Reef and Second Thomas Shoal are within the exclusive economic zone and continental shelf of the Philippines.” § 1203(B)(7)</p>	<p>CN continues to occupy Mischief Reef & use it for military & civilian purposes.</p>	<p><i>Non-compliant (CN occupation of PHL territory continues).</i></p>

<p>6. Gaven Reef and McKennan Reef (including Hughes Reef) are LTEs that do not generate entitlement to a TS, EEZ, or CS, but their low-water line may be used to determine the baseline for Namyt and Sin Cowe, respectively.</p>	<p>“Gaven Reef (South) lies within 12 nautical miles of the high-tide features of Gaven Reef (North) and Namyt Island.” ¶ 1203(B)(3)(e)</p> <p>“Hughes Reef lies within 12 nautical miles of the high-tide features of McKennan Reef and Sin Cowe Island.” ¶ 1203(B)(3)(f)</p>	<p>CN continues to sustain artificial islands at Gaven Reef & Hughes Reef. Tribunal didn’t take a position on territorial claims, so these LTEs would be w/n territorial sea of the high-tide features and therefore would be subject to claimant State’s use.</p>	<p><i>Uncertain</i></p>
<p>7. Johnson Reef, Cuarteron Reef and Fiery Cross Reef generate no entitlement to an EEZ or CS.</p>	<p>“[N]one of the high-tide features in the Spratly Islands, in their natural condition, are capable of sustaining human habitation or economic life of their own within the meaning of Article 121(3) of the Convention.” ¶ 1203(B)(7)(a)</p>	<p>As above, CN has not taken a position on whether these features should be afforded an EEZ or CS. However, it does continue to maintain artificial islands on Johnson Reef & Fiery Cross Reef.</p>	<p><i>Uncertain</i></p>

<p>8. China has unlawfully interfered with the enjoyment and exercise of the sovereign rights of the Philippines with respect to the living and non-living resources of its EEZ and CS.</p>	<p>“China has, through the operation of its maritime surveillance vessels in relation to M/V Veritas Voyager on 1 and 2 March 2011 breached its obligations under Article 77 of the Convention with respect to the Philippines’ sovereign rights over the non-living resources of its continental shelf in the area of Reed Bank.” ¶ 1203(B)(8)</p> <p>“China has, by promulgating its 2012 moratorium on fishing in the South China Sea, without exception for areas of the South China Sea falling within the exclusive economic zone of the Philippines and without limiting the moratorium to Chinese flagged vessels, breached its obligations under Article 56 of the Convention with respect to the Philippines’ sovereign rights over the living resources of its exclusive economic zone.” ¶ 1203(B)(9)</p>	<p>Evidence that moratorium on fishing continued after the arbitral ruling (CN media).</p>	<p><i>Non-compliant on one ground stated by the tribunal.</i></p>
---	--	--	---

31-Oct-16

<p>9. China has unlawfully failed to prevent its nationals and vessels from exploiting the living resources in the EEZ of the Philippines.</p>	<p>“China has breached its obligations under Article 58(3) of the Convention” with respect to fishing by Chinese vessels at Mischief Reef and Second Thomas Shoal (May 2013). ¶ 1203(B)(10)</p>	<p>No specific reports of CN fishermen near Mischief Reef/2d Thomas Shoal, but since Mischief Reef is controlled by CN it seems unlikely that there are no CN fishermen in the area.</p> <p><i>See also</i> Supreme People’s Court decision that CN can prosecute anyone illegally fishing in its claimed waters, unclear if CN believes that includes waters around Mischief.</p>	<p><i>Uncertain</i></p>
--	---	--	-------------------------

<p>10. China has unlawfully prevented Philippine fishermen from pursuing their livelihoods by interfering with traditional fishing activities at Scarborough Shoal.</p>	<p>“Scarborough Shoal has been a traditional fishing ground for fishermen of many nationalities and DECLARES that China has, through the operation of its official vessels at Scarborough Shoal from May 2012 onwards, unlawfully prevented fishermen from the Philippines from engaging in traditional fishing at Scarborough Shoal.” ¶ 1203(B)(11)</p>	<p><i>Update:</i> (Oct. 28, 2016) Chinese Coast Guard does not block Philippine fishermen from accessing traditional fishing grounds in and around Scarborough Shoal.</p> <p><i>Prior Analysis:</i> Evidence of increased Chinese State vessel presence at Scarborough Shoal (beyond what was deemed to be prohibited by tribunal).</p> <p>Recent report of Coast Guard vessels driving Philippine fishermen away from Scarborough Shoal.</p> <p>But also signs that the two sides may be moving toward a deal whereby fishermen from both sides would be able to access these traditional fishing grounds.</p>	<p><i>Compliant</i></p>
---	--	--	-------------------------

31-Oct-16

<p>11. China has violated its obligations under UNCLOS to protect and preserve the marine environment at Scarborough Shoal, Second Thomas Shoal, Cuarteron Reef, Fiery Cross Reef, Gaven Reef, Johnson Reef, Hughes Reef and Subi Reef.</p>	<p>“China has breached its obligations under Articles 192 and 194(5) of the convention” with respect to the protection and preservation of the marine environment due to [a] harvesting of endangered species on a significant scale [b] harvesting of giant clams in a manner that is severely destructive of the coral reef ecosystem, and [c] that “China was aware of, tolerated, protected, and failed to prevent the aforementioned harmful activities.” ¶ 1203(B)(12)</p>	<p>No additional reports since ruling about whether these practices have continued.</p>	<p><i>Uncertain</i></p>
---	--	---	-------------------------

<p>12. China’s occupation of and construction activities on Mischief Reef: (a) violate the UNCLOS provisions concerning artificial islands, installations and structures; (b) violate China’s duties to protect and preserve the marine environment under UNCLOS; and (c) constitute unlawful acts of attempted appropriation in violation of UNCLOS.</p>	<p>“China has breached Article 60 and 80 of the convention with respect to the Philippines’ sovereign rights in its exclusive economic zone and continental shelf” due to “China’s construction of artificial islands, installations, and structures at Mischief Reef.” ¶ 1203(B)(14)(c)</p> <p>“[W]ith respect to the protection and preservation of the marine environment . . . China has breached its obligations under Articles 123, 192, 194(1), 194(5), 197, and 206 of the Convention” because (a) “China’s land reclamation and construction of artificial islands has caused severe, irreparable harm to the coral reef ecosystem;” (b) “China hasn’t cooperated or coordinated with the other States bordering the SCS concerning the protection and preservation of the marine environment concerning such activities;” and (c) “China has failed to communicate an assessment of the potential effects of such activities on the marine environment, within the meaning of Article 206.” ¶ 1203(B)(12)</p>	<p>Satellite evidence of continued construction on Mischief Reef as well as landing of civilian aircraft from the Reef since the arbitral ruling (this source, from late July).</p> <p>No reports of CN coordinating with other States in its further island construction/operation.</p>	<p><i>Non-compliant</i></p>
---	---	--	-----------------------------

<p>13. China has breached its obligations under UNCLOS by operating its law enforcement vessels in a dangerous manner causing serious risk of collision to Philippine vessels navigating near Scarborough Shoal.</p>	<p>“[W]ith respect to the operation of Chinese law enforcement vessels in the vicinity of Scarborough Shoal . . . China has breached its obligations under Article 94 of the Convention” because (a) operations on 28 April 2012 and 26 May 2012 “created a serious risk of collision and danger to Philippine ships and personnel;” and (b) operations on those days “violated rules 2,6,7,8,15, and 16 of the Convention on the International Regulations for Preventing Collisions at Sea, 1972.” ¶ 1203(B)(15)</p>	<p>The Philippine Coast Guard reports that, on September 6th, Chinese Coast Guard vessels chased Philippine fishermen away from Scarborough Shoal. There are insufficient details to determine whether this action “created a serious risk of collision and danger to Philippine ships and personnel.”</p>	<p><i>Uncertain</i></p>
--	--	---	-------------------------

<p>14. Since the commencement of this arbitration in January 2013, China has unlawfully aggravated and extended the dispute by, among other things: (a) interfering with the Philippines’ rights of navigation in the waters at, and adjacent to, Second Thomas Shoal; (b) preventing the rotation and resupply of Philippine personnel stationed at Second Thomas Shoal; (c) endangering the health and well-being of Philippine personnel stationed at Second Thomas Shoal; and (d) conducting dredging, artificial island-building and construction activities at Mischief Reef, Cuarteron Reef, Fiery Cross Reef, Gaven Reef, Johnson Reef, Hughes Reef and Subi Reef.</p>	<p>“[T]he Tribunal finds that it lacks jurisdiction to consider the Philippines’ Submissions No. 14(a) to (c).” ¶ 1162</p> <p>“China has breached its obligations pursuant to Article 279, 296, and 300 of the Convention, as well as pursuant to general to general international law, to abstain from any measure capable of exercising a prejudicial effect in regard to the execution of the decisions to be given and in general, not to allow any steps of any kind to be taken which might aggravate or extend the dispute during such time as dispute resolution proceedings were ongoing” ¶ 1203(B)(16)</p> <p>China “aggravated the Parties’ dispute concerning their respective rights and entitlements in the area of Mischief Reef” ¶ 1203(B)(16)(d)</p> <p>China “aggravated the Parties’ dispute concerning the protection and preservation of the marine environment at Mischief Reef” ¶ 1203(B)(16)(e)</p>		<p><i>Not Applicable- has to do with behavior during course of the arbitration and its effect on the tribunal’s jurisdiction.</i></p>
--	---	--	---

<p>15. China shall respect the rights and freedoms of the Philippines under UNCLOS, shall comply with its duties under UNCLOS, including those relevant to the protection and preservation of the marine environment in the SCS, and shall exercise its rights and freedoms in the SCS with due regard to those of the Philippines under UNCLOS.</p>	<p>“The Tribunal considers it beyond dispute that both Parties are obliged to comply with the Convention, including its provisions regarding the resolution of disputes, and to respect the rights and freedoms of other States under the Convention. Neither Party contests this, and the Tribunal is therefore not persuaded that it is necessary or appropriate for it to make any further declaration.” ¶ 1201</p>	<p>“The Chinese government will continue to abide by international law and basic norms governing international relations as enshrined in the Charter of the United Nations, including the principles of respecting state sovereignty and territorial integrity and peaceful settlement of disputes, and continue to work with states directly concerned to resolve the relevant disputes in the South China Sea through negotiations and consultations on the basis of respecting historical facts and in accordance with international law, so as to maintain peace and stability in the South China Sea.” CN Foreign Ministry Statement</p>	<p><i>Compliant</i></p>
--	--	---	-------------------------