

# [***Philippines vs. China: The South China Sea Ruling Beijing Calls Invalid***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6B9V-K3W1-JBR6-9001-00000-00&context=1516831)

Newsweek.com

February 12, 2024 Monday 2:55 PM EST

Copyright © 2024 Newsweek Inc. All Rights Reserved



**Length:** 820 words

**Byline:** Micah McCartney

**Highlight:** After eight years, the Philippines' turf war with China is still defined by the 2016 ruling from the Permanent Court of Arbitration.

**Body**

For more than a decade, China's expansion into the South China Sea has pitted it against the territorial claims of several neighbors.

Only the Philippines has put up a meaningful, lasting resistance. Though it lacks economic or martial means to push back, Manila continues to press its case based on the time it took Beijing to court.

After it lost [*Scarborough Shoal*](https://www.newsweek.com/china-philippines-scarborough-shoal-1839648?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships)—a traditional fishing grounds—to China following a long and confusing standoff, the Philippines in January 2013 lodged arbitral proceedings at the Hague-based Permanent Court of Arbitration. The ruling largely favored the [*Philippines*](https://www.newsweek.com/topic/philippines?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) and formed the basis for its positions on contentious headline-making South China Sea features like [*Second Thomas Shoal*](https://www.newsweek.com/us-ally-philippines-mission-china-claimed-second-thomas-shoal-1866321?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships).

"China has repeatedly stated that 'it will neither accept nor participate in the arbitration unilaterally initiated by the Philippines,'" the court stated, though this did not disqualify it from potentially being handed the arbitral award. Beijing maintains to this day the tribunal's decision is not only invalid but illegal, citing unsubstantiated "historical rights."

In July 2015, the five-judge panel said it could accept the case and consider seven of the 15 grievances the Philippines had submitted. In its nearly 500-page ruling, the court came down heavily in the Philippines' favor.

The arbitral award rejected the historical rights that China claimed within its "nine-dashed line" as having any legal basis.

The China-claimed features were rocks or low-tide reefs and thus ineligible for 200-nautical-mile exclusive economic zones (EEZ) of their own.

The court concluded that the 1982 [*United Nations*](https://www.newsweek.com/topic/united-nations?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) Convention on the Law of the Sea (UNCLOS), which both countries—unlike the United States—are signatories to, "superseded any historic rights or other sovereign rights or jurisdiction in excess of the limits imposed therein."

China was found to have dealt severe harm to the coral reef environment through land reclamation and the impact of fishing activities on endangered species. It had also infringed upon the Philippines' sovereign rights by disrupting the country's oil exploration within its own EEZ.

*Newsweek* reached out to the Chinese Foreign Ministry for comment.

"At this point, may I suggest that instead of viewing this decision as a victory of one party over another, the best way to look at this judgment is that it is a victory for all, former Philippines President Benigno Aquino, whose administration filed the case, said of award.

"I say this because the clarity rendered now establishes better conditions that enable countries to engage each other, bearing in mind their duties and rights within a context that espouses equality and amity."

Several years later, Aquino's successor, Rodrigo Duterte, who was inaugurated just two weeks before the decision, dismissed the award as inconsequential.

"That paper, in reality among nations, is just paper. It's nothing... I will tell you to give it to me, and I will tell you it's just paper. I'll throw it into the wastebasket," he said during a weekly address on the COVID-19 pandemic situation in the country.

Shortly before he took office, current Philippines head of state Ferdinand Marcos Jr. pledged to uphold the ruling: "It is not a claim. It is already a right, and that is what the arbitral ruling can do to help us."

Notably, Chinese spokespeople have cited the 2002 Declaration on the Conduct of Parties in the [*South China Sea*](https://www.newsweek.com/topic/south-china-sea?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) as providing guidelines the Philippines should return to.

However, in its first operative clause, that document, signed in Phnom Penh, Cambodia, by China and the 10 member states of the Association of Southeast Asian Nations, reaffirms signatories' collective commitment to the UNCLOS.

"Two particular lessons can be drawn from the unfolding tensions between the Philippines and China in the disputed maritime territory, Don McLain Gill, Manila-based geopolitical analyst and lecturer at De La Salle University's Department of International Studies, told *Newsweek*.

"First, power remains the primary driving force in international ***politics***. If a powerful state chooses to ignore international law, it often can get away with it, while also tarnishing its [international law] credibility in the long term.

"Second, while power has a clear advantage, less powerful states can still leverage instruments of international law. However, its success will be based on how consistent the state's adherence and position will be towards international law. At a time when China continues to disregard international law, the Philippines must be consistent in upholding UNCLOS and the 2016 ruling."

Gill said that when the Duterte administration downplayed the Philippines' legal recourse, China took advantage. Since the Marcos administration has crafted a more consistent approach rooted in UNCLOS and the 2016 ruling, there remains potential to slowly increase the cost for [*China*](https://www.newsweek.com/topic/china?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) and its expansionist aims.

[*Link to Image*](https://d.newsweek.com/en/full/2346825/chinese-coast-guard-blocks-philippine-supply-boat.jpg)

**Graphic**

Chinese Coast Guard Blocks Philippine Supply Boat

China

Chinese Coast Guard vessel, left, blocks the ML Kalayaan chartered supply boat, right, during a mission to deliver provisions at Second Thomas Shoal in the South China Sea on November 10, 2023. Second Thomas Shoal is one of the most hotly contested features that an arbitral court in 2016 ruled are within the Philippines exclusive economic zone—a ruling China has disputed ever since.

**Load-Date:** February 12, 2024

**End of Document**