



Symposium on the South China Sea Arbitration Award

On January 22, 2013, the Republic of the Philippines initiated an arbitration under Article 287 and Annex VII of the United Nations Convention on the Law of the Sea (UNCLOS) to resolve the South China Sea dispute between itself and the People's Republic of China. On December 20 the same year, the Board of Governors of the Chinese (Taiwan) Society of International Law (CSIL) established the South China Sea Task Force, authorizing it to draft an amicus brief. On March 23, 2016, the CSIL submitted the amicus brief, containing the relevant essential facts and evidence, to the Permanent Court of Arbitration in The Hague, to expound the Taiping Island (a.k.a. Itu Aba) is an island which can sustain human habitation and economic life of its own as defined in Article 121 (1) and (3) of the UNCLOS. The amicus brief can be found at the CSIL's official website (<http://www.csil.org.tw>).

Today (July 14), two days after the tribunal rendered its award on July 12, 2016, the CSIL convened a South China Sea Arbitration Award symposium, hosted by the president of CSIL, Nigel N. T. Li. Three board members of the CSIL, the Former President Ma Ying-jeou, Professor Song Yann-huei, and Professor Wang Kuan-hsiung were invited, sitting as panelists to parse the meaning and impact of the tribunal award.

In the symposium, the president of the CSIL Nigel N. T. Li emphasized that the "Nine-Dash Line" is completely different from the "Eleven-Dash Line." The fact is that at the time when the ROC depicted the "Eleven-Dash Line" (or "U-shaped Line") in 1947, Mainland China has not yet established its regime; the People's Republic of China did not even exist, nor was the UNCLOS be made. What the Philippines challenged about in this case is the "Nine-Dash Line", which is the subject matter covered by the tribunal's award. It is apparent that this tribunal's award should not, and will not be binding on the ROC's "Eleven-Dash Line". Professor Wang Kuan-hsiung took the view that the "Eleven-Dash Line" is closely linked to ROC's claims on its territorial sovereignty. It forms a part of ROC's national law that must not be abolished rashly. Professor Song Yann-huei held that the opinions of the five distinguished members of the tribunal with regard to the interpretation and application of Article 121(3) of the UNCLOS on Taiping Island contradict both the fact and the law, which are subjective and misleading. In closing, the Former President Ma



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Ying-jeou gave the comments on the relevant issues related to this case, and was open to questions.

Through this symposium, the legal experts and scholars attending the seminar jointly express their views as follows:

1. The CSIL finds that the South China Sea islands, including Dongsha Islands, Xisha (Paracel) Islands, Zhongsha Islands and Nansha Islands, and the surrounding waters are the inherent territory and territorial sea of the ROC. The ROC government is indisputably entitled to the relevant rights under the international law. The tribunal of the South China Sea dispute between the Philippines and China has no power to address any issue regarding territorial sovereignty in accordance with the UNCLOS. Thus, the arbitral award of this case does not affect ROC's claims of sovereignty over its territory in the South China Sea.
2. Under international law, the ROC has always been entitled to the rights to the South China Sea islands and the surrounding waters. ROC being an interested party over the South China Sea dispute has never been invited to participate in any proceedings of negotiations or the arbitration, and the tribunal did not consult with it before rendering the award, the decision of the tribunal rendered on July 12, 2016, is non-binding on the ROC. ROC bears no legal obligation to accept this award. The ROC's relevant claims pertaining to the South China Sea islands and the surrounding waters are not affected by this award.
3. The finding of the tribunal that the Taiping Island, which belongs to the ROC's territory, is legally rock instead of island, is fallacious that ignores the facts and the relevant laws. The CSIL maintains its position that Taiping Island is an island as defined in Article 121 (1) of the UNCLOS, rather than a collection of rocks under Article 121 (3). The island is therefore entitled to 12-nautical-mile territorial sea and 200-nautical-mile exclusive economic zones.



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4. Regarding the South China Sea dispute, the CSIL has always advocated de-escalation of tensions and increased dialogue conducted in accordance with international law, including the Charter of the United Nations and the UNCLOS, to protect the freedoms of navigation and flight on international waters. Further, the South China Sea Peace Initiative proposed by the ROC government on May 26, 2015, is a blueprint to guide the dispute toward a peaceful resolution and deserves serious consideration. The South China Sea dispute can lead to a model of peaceful cooperation in the region if the principle of "undivided sovereignty and shared resources" is observed and a consensus of "dispute cessation, comprehensive planning, and zoning and development" is quickly reached.

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