



The situations in the South China Sea in five years after the award of the Arbitral Tribunal under Annex VII of the UNCLOS 1982

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Abstract. The paper presents an overview of the main contents of the Court's Judgment on 07 December 2016 arbitration established under Annex VII of UNCLOS in 1982 on the lawsuit between the Philippines and China. The paper also analyzes the activities of countries on the South China Sea from July 12th, 2016 until the present, including China, Vietnam, ASEAN, EU, the United States and other allies in the South China Sea.

To cite this article

[Dien, N., B. (2021). The situations in the South China Sea in five years after the award of the Arbitral Tribunal under Annex VII of the UNCLOS 1982. *The Journal of Middle East and North Africa Sciences*, 7(08), 15-25]. (P-ISSN 2412-9763) - (e-ISSN 2412-8937). www.jomenas.org. 3

Keywords: South China Sea Arbitration, the award of the Arbitral Tribunal under the Annex VII, Activities of countries, Philippines, Vietnam

1. Overview on the award of the Arbitral Tribunal under the Annex VII of the UNCLOS 1982:

On January 22nd, 2013, the Republic of Philippines officially submitted the Notification and Statement of Claim against the Republic of China to the Arbitral Tribunal under Annex VII of the UNCLOS 1982 (hereinafter the Arbitral Tribunal) in accordance with Articles 286, 287 and Article 1, Annex VII of the UNCLOS 1982. The Philippines sought an Award that: (1) declares that the Parties's respective rights and obligations in regard to the waters, seabed and maritime features of the South China Sea are governed by the UNCLOS 1982, and that China's claims based on its "nine-dashed line" are inconsistent with the Convention and therefore invalid; (2) determines whether, under Article 121 of the UNCLOS 1982, certain of the maritime features claimed by both China and the Philippines are islands, low tide elevations or submerged banks, and whether they are capable of generating entitlement to maritime zones greater than 12 nautical miles" (The Republic of Philippines, 2013). At the same time, the Philippines also emphasized that it nether intended to demand the Arbitral Tribunal to settle down the territorial sovereignty dispute over disputed islands between the Philippines and China, nor ask for the maritime delimitation between the two countries from the Arbitral Tribunal (The Republic of Philippines, 2013).

Although China has declared not to participate in the international arbitration procedures that was unilaterally initiated by the Philippines under the provisions of Article 9, Annex VII of the UNCLOS 1982,

this action cannot be deemed as a barrier for the Arbitral Tribunal to conduct the trial of this case. On October 29th, 2015, the Arbitral Tribunal issued a ruling on jurisdiction, confirming that the Arbitral Tribunal obtained the authority to resolve this case. Later on July 12th, 2016, the Arbitral Tribunal issued its decisions in terms of content, from which the Arbitral Tribunal examined and decided the following fundamental issues: (Dien & Kim Thoa, 2016; Cuong & Dien, 2018)

First of all, the legitimacy of the "nine-dashed line" and the claim of Chinese historical rights in the South China Sea"

The Arbitral Tribunal concluded that there was no legal basis for China's claim historical rights to the resources in the seaside of "nine-dashed line". This conclusion was based on the following observations: (1) Law of the Sea Convention fairly comprehensive provisions on the rights to the seas but no clear regulations on the protection of rights related to pre-existing resources of the Convention, because in the case of coastal countries cannot fully exploited fish stocks allow, The Convention gives other States one limited right to fishing in the exclusive economic zone without any right to oil or gas or mineral resources; (2) Claims historical rights of China for resources that do not fit the detailed allocation of the waters under UNCLOS; (3) Before the Law of the Sea Convention, the South China Sea waters outside the territorial waters are legally part of international waters, where ships of any country can cross and freely fish. Historically, beachgoers and fishermen



from China and from other countries have made use of the islands in the South China Sea. China's reciprocal and historical fishing in the waters of the South China Sea has shown freedom on the high seas, instead of a historical right, and there was no evidence to suggest that in the past, China had alone performed the control of the waters in the South China Sea or prevented other countries from exploiting their resources (The Permanent Court of Arbitration, 2016a,b).

Second of all, the legal status of the structure (entity) in the South China Sea and the geographic entitled waters that China claims as provided for by the Convention

The UNCLOS 1982 classifies the geographic structure based on their natural condition. Floating structures at high tide will create the least right over the 12 nautical mile territorial waters, while structures that sink at high tides will not create such right. Therefore, the Arbitration Tribunal first assessed whether some of China's claimed grounds have emerged at high tide, then, assessed whether or not any of the structures claimed by China can produce waters beyond 12 nautical miles.

According to the UNCLOS 1982 (Article 121), the island creates an exclusive economic zone of 200 nautical miles and the continental shelf, but the "rocks which cannot sustain human habitation and economic life of their own shall have no exclusive economic zone and the continental shelf" (United Nations, 1982). This regulation depends on the objectivity of the structures when they are in a natural state in order to sustain a stable population or economic activity without relying on external resources or just the mining nature. China's claims have been dramatically altered by the buildup, construction and presence of civil servants on structures that rely on external support and do not reflect the ability of structures. With the acknowledgement that historical evidence is more meaningful and the fact that the Spratlys were historically used by some small groups of fishermen for some guanno exploration or fishing activities of Japan, the Arbitral Tribunal held that such short-term use was not a settlement of stable community and that economic activity in history was merely mining activity (The Permanent Court of Arbitration, 2016a,b).

Since then, the Arbitral Tribunal had concluded in terms of legality that *all floating structure in Changsha (including, for example, Aba, Thi Tu, West York Island, Spratly, Gemini East, Southwest Cay) are "rocks" and does not create an exclusive economic zone or continental shelf*. Law of the Sea Convention does not provide for such a group of islands in the Spratly Islands to have the waters as a single entity. On the basis of the conclusion that there was no structure which China claims were capable of creating an exclusive economic zone and continental shelf under Article 121 of the UNCLOS 1982 (artificial island entities may not be required as natural islands such as Article 121, which do not have territorial

waters, EEZs or continental shelves, but only "safety zones" of 500m), Arbitral Tribunal did not need to give out any demarcation of the sea and was still able to declare that certain disputed waters in the exclusive economic zone of the Philippines not overlapping with any maritime rights that China may have (The Permanent Court of Arbitration, 2016a,b).

Third of all, the impact of China's activities on the South China Sea

China had violated the Philippine sovereign rights in its exclusive economic zone by (a) interfering in Philippine oil exploration in the Co Rong reef (Koh Rong); (b) prohibiting Philippine vessels fishing in the Philippine EEZ; (c) protecting and not preventing Chinese fishermen from fishing in the Philippines's exclusive economic zone in Vanh Khan (Mischief Reef) and Co May (Second Thomas Shoal), and (d) constructing installments and artificial islands in Vanh Khan without the consent of the Philippines (The Permanent Court of Arbitration, 2016a,b).

Regarding traditional fishing rights at Scarborough Shoal, fishermen from the Philippines, China and other countries fishing in Scarborough Shoal have had *long and traditional fishing rights in the area*. Due to the Scarborough Shoal's above water at high tide, this structure's surrounding has the territorial waters, does not form exclusive economic zone and the fishing rights traditions were not prohibited under the Convention on the Law of the Sea.

Despite unresolved emphasis on sovereignty over Scarborough Shoal, the Arbitral Tribunal determined that China had violated obligations to respect the rights of traditional fishing Filipino fishermen and obligations under the Convention on the Prevention of Collisions at Sea 1972 and Article 94 of the UNCLOS 1982 relating to maritime safety when attempting to interfere with ships Philippines approaching or entering the Scarborough Shoal in May 2012. However, the Arbitral Tribunal also had a similar conclusion for the traditional fishing rights of Chinese fishermen if the Philippines's action prevents the fishing of Chinese citizens in Scarborough Shoal (The Permanent Court of Arbitration, 2016a,b).

Declaring on the impact on the marine environment by the recent activities of China accretion and construction on 07 artificial structures on the Spratly Islands, the Arbitral Tribunal stated that China has seriously harmed the environment of coral reefs and violated obligations of conservation and protecting ecosystems and vulnerable habitats of species which were declining, threatened and destroyed. The Chinese authorities had been aware of the Chinese fishermen were catching rare sea turtles, corals and giant clams widespread in the South China Sea (through measures that caused serious damage to the environment the reefs) and did not fulfill the obligation carefully under the UNCLOS



1982 to prevent and terminate these operation (The Permanent Court of Arbitration, 2016a,b).

Fourth of all, China's activities since the arbitral tribunal began to consider the case has exacerbated the dispute between the parties.

Although, the lack of authority examines the impact of the confrontation between Philippine navy ships and naval vessels, China's defenses at the Second Thomas Shoal Ground because of the dispute involving off-shore military operations compulsory dispute settlement, The Arbitral Tribunal has reviewed China's recent large-scale land reclamation and construction of artificial islands at 07 structures in the Spratlys since the start of arbitration and concluded that China has violated its obligations to curb exacerbated and prolonged disputes between the parties pending the trial process. China has (a) built a large artificial island in the Mischief Reef, a submerged structure within the Philippine EEZ; (b) causes long-term, irreversible damage to the coral reef ecosystem and (c) Long-term destruction of the evidence of the natural condition of these structures (The Permanent Court of Arbitration, 2016a,b).

Fifth of all, behavior of the parties in the future

Both the Philippines and China have repeatedly acknowledged the UNCLOS 1982 and the general obligation of good faith in determining and adjusting their own behaviors. The core of dispute in this case was neither in the intentions of China nor the Philippines's in terms of infringing legal rights of the other party, but it was due to the different understandings of basic rights in the South China Sea waters, under the UNCLOS 1982. According to basic principles of international law and on the basis of Article 11, Annex VII provides that *"the award ... shall be complied with by the parties to the dispute"*. The Arbitral Tribunal saw no need to make a public statement about this problem (The Permanent Court of Arbitration, 2016a,b).

2. Activities of countries on the South China Sea from July 12th, 2016 until the present:

2.1. Activities of China

For China, the sea and islands in general can be considered as the "ladders of power" that help this country rise to the position of an international superpower. The South China Sea and its features within in particular are vital, a "golden fishbowl", a "the way of life" (Dien, 2015), is the "axis of the two oceans", is the "coin of life at sea". Therefore, in order to maintain claims over seas and islands, China has defied the provision that the Arbitral Tribunal's award provided as *"final ... and shall be complied with by the parties to the dispute"* (United Nations, 1982). China also conducted a series of activities in all fields to clearly demonstrate the stance of "not participating in, not accepting and not

implementing" the award of the Arbitral Tribunal, specifically as follows:

1.4. Fourth of all, China's activities since the arbitral tribunal began to consider the case has exacerbated the dispute between the parties.

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First of all, improving in research and refuting the Arbitral Tribunal's ruling

In 2018, the Chinese Society of International Law compiled a nearly 550-page work in both Chinese and English with the title "The South China Sea Arbitration Awards: A Critical Study", published at the University of Oxford, in that set forth arguments and counter-evidence against the award of the Arbitral Tribunal in terms of jurisdiction, proceedings, subject matter and the provided evidence, in particular matters relating to historical rights, the current status of the Nansha and Dongsha islands, as well as China's activities in the South China Sea. Then, on the basis of these arguments, the Nanhai Institute of China under the chairmanship of Shicun Wu also published in the *Asian Yearbook of International Law*, volume 24 (2018) with an article titled "A legal critique of the Award of the Arbitral Tribunal in the Matter of the South China Sea Arbitration". Besides, in many different ways, China also encouraged many domestic and foreign scholars to compile and publish works opposing the Arbitral Tribunal's ruling, such as: Shicun Wu, Keyuan Zou, Luo Jia, Bing Bing Ja, Tan Boya, Bai Yu, Chang Hong, Chris Whomersley, Sreenivasa Rao Pemmaraju, Stefan Talmon, etc.

Second of all, stepping up with propaganda campaigns to create a scientific cover for maritime claims and promote China's "nine-dashed line" claim; at the same time inciting the spirit both within China and the global forums to prepare for a war

In the past time, China had promoted all domestic and international propaganda channels; expanded



information types (from books, publications, maps, internet to economic products, radio and television stations; Internet, including websites and social networks such as Sina, Weibo, Weixin, Twitter, Facebook, etc; international seminars, travel fairs, sports events, exhibitions, contests, entertainment channels such as movies, online games; academic facilities such as research institutes, museums; etc) to popularize and widely spread the unreasonable “nine-dashed line” claim to the whole world, penetrating to all classes of people, at all ages. China’s propaganda work is carried out methodically under the direct leadership of the Standing Committee of the Politburo of China. The content of China’s propaganda is mainly fallacious and counter-propaganda arguments which aimed at legitimizing under the guise of science for its unreasonable and illegal claims and actions in the South China Sea; “polishing” the image of China; using the term “nationalism” to incite the national spirit; “blaming” Vietnam, the United States and other countries for “stealing” China’s sea and islands; complicating the South China Sea dispute; making an effort to create a status of “already finished”; justifying and covering up China’s assertive and aggressive acts, and reassure the international community that China does not affect freedom of navigation; etc.

Third of all, actively using various methods to spread its impact on information and knowledge about the South China Sea on the international scale.

In the past, If China focused on altering information and knowledge about the South China Sea at home, since the advent of the Arbitral Tribunal’s ruling on July 12, 2016, China has made efforts to open up the South China Sea and expanded its activities internationally through: Improving the construction and upgrade of research centers specialized in the South China Sea; strengthening cooperations with well-known international publishers (typically the Oxford (USA), Science (USA), Springer Nature (Germany), Elsevier (Netherlands) and MDPI (Switzerland), etc; implementing policies to support research projects; deploying cooperating programs with guest researchers; establishing research collaboration relationships with research partners Institutes, centers or universities of many countries around the world, especially the United States and countries of the European Union (EU); building think-tanks and Confucius Institutes directly run by Chinese people in other countries; etc.

Fourth of all, actively promulgating and amending policy and legal documents in order to reform the state management apparatus; reinforcing China’s maritime and island claims and facilitate the deployment of China’s maritime expansion activities.

From July 2016 to the present, China has issued a series of policy documents and laws on sea and islands. In

particular, China has placed China’s maritime law enforcement forces under the unified and direct management of the Central Military Commission. Moreover, the Law on National Defense, supplemented and amended, effective from January 1, 2021 and the Law on China Coast Guard effective from February 1, 2021, grants the People’s Liberation Army of China with the right to conduct activities both abroad and within China in order to protect national interests; consolidation of Xi Jinping’s power as head of the Central Military Commission. In addition, China also: promulgated a Code of Regulations to standardize the symbols and drawings on aircraft to allow these Chinese fighters to “be detected by both the naked eye and the radar”(date on March 23, 2020); established the Xisha and Nansha districts in Sansha city of Hainan province (April 18, 2020) (Xinhua News Agency, 2020); unilaterally announced the “standard designation” for 25 islands, rocks and 55 submerged geographical features in the South China Sea, as well as announced the longitude and latitude of the islands, rocks and features (19 April 2020); etc.

Fifth of all, increasing unruly aggressive activities in the South China Sea, East China Sea and Yellow Sea, seriously infringing on the sovereignty, sovereign rights and jurisdiction of Vietnam and other countries.

After the ruling of the Arbitral Tribunal on 12/07/2016, China proved to be quite soft in implementing the actual claims in order to strengthen its forces and wait for the opportunity to deliver a surprise attack that other international communities may not be prepared. The beginning of that campaign was China’s blatant deployment of the Haiyang Dizi 8 (HD-8) to the waters near the Vanguard Bank in Vietnam’s exclusive economic zone and continental shelf to explore for oil and gas (from 03/07/2019), together with escort of coast guard ships, equipped with helicopters and artillery; blatantly asserted that the Vanguard Bank belongs to China in the South China Sea and demanded Vietnam to withdraw from this area (September 19, 2019).

From the late 2019 until the present, in the context that the whole world has been struggling to battle the COVID-19 pandemic, China had pushed forward with pre-set up programs, both on the field and on the administrative procedures, such as:

In the field, China has: i) continued to transform the underwater features into islands, turning the structures occupied by China in the South China Sea into military outposts with modern equipment and weapons; ii) deployed anti-ship cruise missile systems, surface-to-air missiles and radar jammers on illegal artificial islands; deployed ships and aircrafts to conduct a series of aggressive activities throughout the waters from the East China Sea to the southernmost tip of the South China Sea such as the area north of the Indonesian island of Natuna; iii) allowed fishing/coastal ships to regularly and

continuously monitor commercial vessels of other countries; *iv*) increased its presence on the man-made features it had occupied in the South China Sea through: increasing the number of fighter jets to the islands that China has taken over (July 15, 2020); at the same time sending 02 groups of aircraft carriers (Shandong ships, Liaoning ships) into the South China Sea (April 2021); etc; *v*) flaunted their military might to force the South China Sea coastal countries to give up their legal rights which were under the protection of the UNCLOS 1982 by allowing many Chinese coast guard ships and fishing vessels to intrude into countries' Exclusive Economic Zone (EEZs), such as the Natuna waters of Indonesia from December 19-24, 2019; Taiwan (March 16, 2020); deploying many Chinese fishing vessels (maritime militia) to anchor in Vietnam's EEZ; using more than 200 maritime militia ships disguised as fishing vessels to encircle Ba Dau Da (Whitson Reef) in the Spratly archipelago of Vietnam in March 2021; *vi*) intensified the use of maritime militia in coercive operations to achieve China's political goals without combat; allowing ships to chase, ram and sink fishing boats, attack and arrest fishermen of Vietnam and other countries (June 2, 2020; June 28, 2020); *vii*) stepped up the exercises of live-fire, anti-submarine, torpedo and missile launch in the South China Sea (including the Taiwan Strait), East China Sea, and Yellow Sea. In less than 5 months from the beginning of 2021 alone, the Chinese military has conducted about 17 exercises in the South China Sea, nearly as many exercises as the previous year (in 2020, the Chinese military conducted about 20 exercises in the South China Sea) (Huong Giang, 2021).

In terms of science and technology, China has stepped up the establishment of research facilities on the features that this country had illegally occupied from Vietnam in the South China Sea, typically: the Center for Integrated Research on Islands and Reef on Mischief Reef (in 2018); two research stations at Fiery Cross Reef and Subi Reef in the Spratly Islands (2020). This country also regularly "hunts" for equipment and technology from Western countries to build a network to monitor the South China Sea for military purposes. In addition, China is also actively researching, developing and using unmanned equipment in the seas, such as robotics, unmanned diving equipment; launching 09 high-resolution remote sensing satellites over the Yellow Sea into orbit, with the goal of tracking, collecting information and data on regional resources, controlling disasters, natural disasters and other tasks (Andrew Jones, 2020). China also increased its scientific research activities in the South China Sea in practice through: deploying a manned deep-sea exploration submersible named "Deep Warrior" on March 11, 2020; dispatching marine geological exploration and survey ships in the South China Sea, such as: Hai Duong Geological 8 ship, Gia Canh marine scientific

research vessel, Experimental vessel 1; Mining platform "Deep Sea No. 1"; etc.

In terms of economy, China promoted economic cooperation with Japan, Australia, India and other countries in the region, improved behavior in the Belt and Road strategy (BRI) in the Indian Ocean region- Pacific Ocean to eliminate China's "debt trap". China also performed deep intervention and marine economic activities, especially to Vietnam's fishing and oil and gas exploitation (such as the HD981 case, the Blue Whale field, the Red Ca Rong field, the Ken field case on Block 114) and to other countries (typically with Indonesia (Natuna shoal), with Malaysia (West Capella area) China announced that it will strictly enforce the annual summer fishing ban in the disputed waters, including waters that were claimed by Vietnam. Most dangerously, China has linked sovereignty disputes in the South China Sea with medical and economic aid to countries that are struggling with the COVID-19 pandemic.

In terms of military operations, China had focused on strengthening its military capabilities, in order to achieve the ambition of "The Chinese Dream"; China's defense budget was constantly increasing: from 2015 to 2019 each year increased by over 7 percent, in 2019 it increased by 7.5 percent, in 2020, despite a sharp slowdown in economic growth, defense spending still increased by 6.6 percent and by 6.8 percent in 2021. In which, a large part of the defense budget was used to develop the navy forces, such as building aircraft carriers, submarines, and warships of all kinds. With its consolidated military strength, China had increased military pressure with Taiwan, by regularly holding large-scale military exercises in the East China and South China Seas. In addition, China regularly causes clashes on the border with India. Furthermore, China had aggressively deployed militarization of the South China Sea, from reclamation and expansion of structures in the South China Sea, turning them into military plantations to increasing the activities of warships (including aircraft carriers, destroyers, missile ships, submarines, etc), building a nuclear power plant and stepping up military exercises in the South China Sea; increased military training and combat readiness to enhance capabilities to accomplish "duties and missions"; visited Sanya base (Hainan), put the Chinese Navy at the same time 3 most modern battleships into service forces, which are considered "important weapons of the nation", including the Type 094A Long March strategic nuclear submarine 18 (No. 421), the ten-thousand-ton Type 055 destroyer Dalian (No. 105) and the Type 075 Hainan Helicopter Amphibious Assault Ship (No. 31). These moves show that China was getting ready for a war in the South China Sea.

In terms of politics and diplomacy: China had had flexibility in using foreign policies such as "pragmatic diplomacy", "wolf warrior diplomacy", "virus



diplomacy”. On the one hand, China had carried out bilateral activities in solving the South China Sea issue, in order to avoid internationalizing the South China Sea issue, on the other hand, China had not seriously implemented the Agreement on the South China Sea issue with basic principles guiding the settlement of maritime issues between Vietnam and China. On July 13, 2020, right on the 4th anniversary of the Arbitral Tribunal’s rejection of China’s claims in the South China Sea, the Chinese Embassy in the Philippines affirmed: “China does not recognize or participate in the trial. and the so-called court rulings. The South China Sea trial and the so-called rulings it made are illegal and voidable”, “China firmly opposes and will never accept the claims of the South China Sea. book or act upon the judgment just mentioned” (Duy Linh, 2020).

China’s recent actions in the Taiwan Strait, East China Sea, and South China Sea represent a continuation of this flexible and opportunistic approach to leverage its advantages and seek opportunities to assert its own interests. interests of this nation, promoting opportunism.

2.2. *Activities of countries and international organizations related to the South China Sea*

2.2.1. *Vietnam and other regional countries has been embracing their strong stances on the South China Sea issue*

For Vietnam: In response to the claims and actions of China and other countries in the South China Sea region since July 12, 2016 until now, Vietnam has officially submitted many Notes to the United Nations, typically picture is Note 22/HC-2020 dated 30/03/2020, Notes 24/HC-2020 and 25/HC-2020 dated April 10, 2020 (The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations, 2020); etc. At the same time, Vietnam has also continuously made moves to respond to China’s acts through official statements from the Ministry of Foreign Affairs and reaffirmed that Vietnam enjoys full rights in the waters of the South China Sea, which were established on the basis of the UNCLOS 1982. Any maritime claim that is contrary to the UNCLOS 1982 regulations, infringing upon Vietnam’s sovereignty, sovereign rights and jurisdiction over the seas can be considered null and void. There were several instance such as the protest of more than 200 Chinese ships anchored at Batou Reef in the territorial waters of Sinh Cundong Island (March 2021); the Chinese Coast Guard’s declaration to guarantee the enforcement of the fishing ban in the South China Sea becoming effective from May 1, 2021 in the sea area including parts of the Gulf of Tonkin and Paracel archipelago of Vietnam (April 29, 2021); etc.

For the Philippines: At first, in order to maintain a balance in relations with China and the United States, ensure the long-term overall interests and stability of the

security and sovereignty of the Philippines, this country has refrained from taking advantage of the award and even set aside the award to negotiate for joint exploration and exploitation of resources with China. However, from the beginning of 2020 until now, the Philippines has taken steps to show a stronger attitude towards China, with typically events such as: expressing deep concern about incident when the fishing boat of Vietnamese fishermen were rammed and sunk by China in the South China Sea (April 8, 2020); sending a note to protest the establishment of “Xisha district” and “Nansha district” (April 22, 2020); asserting that the award of the Arbitral Tribunal was not negotiable, compromised or changeable; condemning China’s actions in the Philippines’ EEZ (July 12, 2020); bringing the South China Sea ruling to the United Nations, rejecting China’s unreasonable “nine-dashed line” claim (September 23, 2020); protesting the presence of Chinese maritime militia ships at Batou Reef in the Spratly Islands (March 2021); announcing the continuation of exercises in the South China Sea and accusing the Chinese Coast Guard of closely following, preventing, taking dangerous and challenging actions against the Philippines coast guard ship (May 3, 2021); sending a diplomatic notice to protest the prolonged deployment, permanent presence and illegal activities of Chinese fishing vessels and maritime forces near Thitu Island (May 29, 2021); etc. According to data published by the Philippines Department of Foreign Affairs, from the time when the Philippines President Duterte took office in 2016 to April 26, 2021, the Philippines sent 78 Notes against China (Anh Thu, 2021; Department of Foreign Affairs, 2021). The Philippines also made adjustments in its relations with the United States and China, in the direction of maintaining its alliance with the United States, and stopping or slowing down the process of adjusting relations with China in a more friendly direction.

For Malaysia: After the decision of the Arbitral Tribunal was issued on 12/07/2016, Malaysia’s policy in general remained quite consistent with the position under the administrations of previous leaders with only minor adjustments when considering changes in the geopolitical environment (Ian Storey, 2020). In December 2019, Malaysia applied to the United Nations Commission on the Limits of the Continental Shelf (CLCS) to recognize the remainder of the Malaysian continental shelf beyond 200 nautical miles in the northern part of the South China Sea (The Permanent Mission of Malaysia to the United Nations, 2019). Besides expressing agreement with the Arbitral Tribunal’s ruling, Malaysia had publicly criticized China and directly challenged China’s moves in the South China Sea. Typically, on June 2, 2021, Malaysia condemned 16 Chinese aircraft flying over the waters off Sarawak for violating its airspace and seriously threatening Malaysia’s national sovereignty in the South China Sea.



For Indonesia: Since the Arbitral Tribunal's ruling, Indonesia has repeatedly expressed a tough stance towards China, with typically events such as: sending a note protesting the Chinese fishing vessel's entry into Indonesia's EEZ in the North Natuna Sea; at the same time strengthening patrolling activities in this area (January 2020); asserting that there are no overlapping claims with China in the South China Sea, so there was "no reason to negotiate" (June 18, 2020); carrying out combat exercises on the beach on Singkep island in the Riau archipelago in the South China Sea (July 22, 2020); sending a note protesting the Chinese Coast Guard's intrusion into the exclusive economic zone off the Natuna Islands (September 14, 2020); strengthening coordination between the Indonesian Maritime Security Agency and the Indonesian government, Ministry of Foreign Affairs, Law and Human Rights to try to expel Chinese ships from Indonesian waters; carrying out Operation Containment 2020, sending the ship KN Nipah 321 to patrol in the West Sea to ensure law enforcement at sea (from September 4, 2020); asserting that China's "nine-dashed line" map used for its sovereignty claims in the South China Sea lacks a legal basis and seriously violates the UNCLOS 1982 (October 22, 2020); strengthening joint exercises with other countries (for example, with Japan in March 2021; with the United States in June 2021); etc.

For Singapore: In recent decades, including in 2020, Singapore's security cooperation with the United States has increased. Singapore's armed forces regularly train with (and at) the United States, and Singapore also provided logistical support to the US forces in the Western Pacific as well as deploying coast guard ships and P-8 maritime surveillance aircraft operated by the United States. Although Singapore maintained a policy of neutrality, the United States viewed it as a partner acting as an ally.

2.2.2. *The ASEAN and EU have been increasing their roles in the South China Sea*

For the ASEAN: Since its establishment until now, the ASEAN has played a significant role in managing disputes and promoting cooperation in the South China Sea region. The ASEAN has been taking the role as the main organization in the region and has many member countries directly involving in the disputes in the South China Sea. The hallmark of transformation in the regional role ASEAN is the ASEAN Chairmanship Statement 2020 on the results of the 36th ASEAN Summit on June 26, 2020, considering the South China Sea as an important issue related to the regional safety and security. In particular, during the plenary session of the 37th ASEAN Summit held in early November 2020, the ASEAN consistently affirmed its position in upholding the rule of law, strengthening dialogue, building confidence, self-restraint, bearing no action to complicate

the peaceful settlement of disputes and differences on the basis of international law and of the UNCLOS 1982.

For the EU: The EU always affirms the importance of international law and shows its interest in the latest developments in the South China Sea situations through statements and speeches of high-ranking representatives of the EU foreign affairs of this organization. Typical events can be named are: making the statement on "accepting the award of the Arbitral Tribunal" (July 15, 2016); emphasizing the importance of "maintaining peace, stability, security, safety, freedom of navigation and overflight, and respect for the rule of law" in the South China Sea, and "calling on all parties to exercise restraint and not use or threaten to use force, settle disputes by peaceful means, on the basis of international law" and hoping that ASEAN and China soon reach an "Code of Conduct in the South China Sea that is effective, substantive and in accordance with international law" (February 11, 2020); condemning China's unilateral actions that have led to the increased tensions and deterioration of the maritime security environment (April 27, 2020); issuing the "EU Strategy on Cooperation in the Indo-Pacific" (Council of the European Union, 2021), which emphasizes the objectives of (i) contributing to the region's stability, security, prosperity and sustainable development; (ii) promoting democratic values, human rights and international law; (iii) demonstrating the role of the EU as an important partner to the region and a factor of global influence. The strategy also called for a significant European naval presence in the region (April 16, 2021) (Giulio Pudliese, 2021).

2.2.3. *The United States and other allies paid more attention to the South China Sea issue*

From 2019 to 2020, the United States had promoted freedom of navigation operations, increased its presence in the South China Sea and Indo-Pacific region, conducted patrols through the Taiwan Strait, deployed warships to approach some illegal artificial islands, carried out legal diplomatic activities, supported maritime security and assisted ASEAN countries in the process of negotiating a Code of Conduct in the South China Sea with China, with a goal of implementing consistent US policy in the South China Sea and increasing strategic competition with China in this waters. In 2020 alone, the United States had conducted 39 training exercises with allies and partners in the region (while during the Trump presidency, the US only conducted 28 FONOPs, 7 times more than the Obama administration) (Chau, 2021). In addition, the United States had also issued a series of documents related to China. More specifically, only from the beginning of January 2019 to the end of August 2020, nearly 370 bills related to China had been submitted, the most typical of which is the bill HR7982 – Promoting US hegemony through blocking China's actions of expansionism, which strongly rejected China's

sovereignty claims in the Asia-Pacific region, including the Paracels and Spratlys. Especially, on June 1, 2020, the United States sent a letter to the United Nations to reject China's unreasonable claims (The Permanent Representative of the United States of America to the United Nations, 2020). This reinforced the forecast that the United States would further promote the activities of the QUAD (also known as the "Quarter of Diamonds", consisting of the United States, Japan, India, and Australia) in order to contain China's increasingly dominant influence and actions in the Indo-Pacific region.

Other allies of the United States, especially the members of the QUAD, also have notable signals. In addition to stepping up joint military exercises, enhancing the show of power at sea, the members of the Quartet also: submitted a note to the United Nations opposing China's claims in the South China Sea (for example: United States (June 1, 2020), Australia (July 23, 2020), Japan (January 19, 2021)); strengthened the signing and renewal of agreements on information sharing, allowed access to each other's databases, shared the provision of manpower to facilitate fighting together, typically: the sharing agreement military intelligence sharing (G-SOMIA) (US-Japan, US-Australia, US-India, Japan-India), Acquisition and Mutual Service Agreement (ACSA) (bilaterally signed by the United States-Japan, the United States-Australia, Japan-Australia). In particular, Japan, a member of the Quartet, also expanded its cooperation with the Five Eyes intelligence alliance (including the United States, Britain, Canada, Australia, and New Zealand); strengthened cooperation to improve maritime capacity for regional countries, especially with Vietnam, the Philippines and Indonesia. The main areas include: Defense concessional credit, military training in both hardware and software, maintenance and repair of weapons (India); support to provide equipment such as patrol boats, coast guard and law enforcement ships (Japan, USA); support scholarships to train human resources in the field of the law of the sea, officers (Australia, India); naval visits, exercises, cooperation against piracy, terrorism, rescue and oil spill handling (India, Japan, Australia); bilateral maritime strategic dialogues (India, Australia, Japan), blue sea economy and coastal management (India, Japan, Australia); port infrastructure development (India) (Chau, 2021).

Moreover, the 2021 Summit is the first meeting of the Quartet with the highest level of attendance, the first time the QUAD issued a Joint Statement directly addressing the South China Sea issue, the UNCLOS 1982, maritime security, etc. This conference marked an important transformation of the QUAD in institutionalization: All members called the group the QUAD; The involvement of government leaders/heads of state; The existence of a joint statement; The joint military cooperation (joint exercise in Malabar); A clearer working agenda when discussing specific issues of

security, economy, Covid-19 pandemic prevention; and the possibility of annual summit meetings in the future.

Apart from the QUAD, the Group of leading industrialized countries in the world (G7) also had a transformation when expressing concern about the South China Sea, specifically: On June 13, 2021, the leaders of the G7 agreed to issue a joint statement, which mentioned the South China Sea and East China Sea issues; stressed on the importance of a free and open Indo-Pacific region that abides by the rule of law; expressed deep concern about the situation in the East and South China Seas, and firmly opposed any unilateral efforts to change the status quo and increase tensions (The Viet, 2021).

2.2.4. The EU 3 (E3) officially opposed to China's claims on the South China Sea

On September 16, 2020, the E3 (including the United Kingdom and Northern Ireland, the Republic of France and the Federal Republic of Germany) jointly submitted the Notes No. 162/20, the BF No.2020-0343647 and Note No. 324/2020 to the Secretary-General of the United Nations, which objected to China's Notes and Official Letters from Note CML/14/2019 dated December 12, 2019 to Note No. CML/56/2020 dated 07 August 2020, with main contents such as: i) affirming that UNCLOS 1982 is "the legal framework for all activities at sea and ocean"; and the right of innocent passage, freedom of navigation and overflight as stated in the UNCLOS 1982 must be respected, especially in the South China Sea; ii) opposing China's "baseline" and "historic rights" claims in the South China Sea; iii) calling for "Disputes over maritime claims in the South China Sea to be brought up and resolved peacefully, in accordance with the principles of the UNCLOS 1982 as well as the means and procedures for dispute settlement have been introduced in the UNCLOS 1982" (The Permanent Mission of France, the United Kingdom and Germany to the United Nations, 2020).

In addition to officially rejecting China's claims in the South China Sea, the E3 also performed many deep intervening activities in this area, typically: Participating in regional conferences; Enhancing tripartite dialogue with QUAD members (France-India-Australia, Indo-France-Japan); Exercising, dispatching patrol boats in the South China Sea (February 2021); Issuing a Joint Statement opposing China's claims and actions in the South China Sea and August 2019 and September 2020; Carrying out bilateral and multilateral exercises with QUAD members; Promulgating policies on Asia and the Pacific (for example: Germany's policy of "Indo-Pazifik-Leitlinien" (Indo-Pacific-Standard) on September 3, 2020; General review of security, defense, development and diplomacy policy with the title "Britain in the age of maritime competition"; etc.



2.2.5. Battle of Diplomatic note on the South China Sea

It was observable that the South China Sea is once again becoming the focus of discussion not only in Southeast Asia but also for powers outside the region. An area of the South China Sea that was heating up and becoming increasingly complicated showed no sign of cooling down. This started with Malaysia's diplomatic note to submit an extended continental shelf. In particular, the battle of diplomatic notes, for the first time, attracted outsider powers, namely the United States and Australia, with the first official documents submitted to the United Nations.

The event that started the battle of diplomatic notes at the end of 2019 and the first half of 2020 was Malaysia's submission to the Commission on the Limits of the Continental Shelf a report on the boundary of the extended continental shelf in the northern area of the South China Sea on 12 December 2019 (The Permanent Mission of Malaysia to the United Nations, 2019)

Following that, China immediately issued a note CML/14/2019 objecting to Malaysia's report, and this country also reiterated its claim to the South China Sea area (The Permanent Mission of the People's Republic of China to the United Nations, 2019). China's claim was later reiterated in a series of notes and public letters such as: Note CML 42/2020 dated April 17, 2020 protesting Notes 22/HC-2020, 24/HC-2020 and 25/HC-2020 of Vietnam, which affirmed its sovereignty over the Xisha and Nansha archipelagoes and adjacent waters, declared sovereign rights and jurisdiction over the relevant waters as well as the seabed, together with the subsoil of the seabed; The letter dated June 9, 2020 dated June 10, 2020 refutes the letter of the US State Department regarding the issue of sovereignty, maritime rights and interests of China in the South China Sea; Note CML 48/2020 dated June 18, 2020 opposing note 148/POL-703/VI/20 dated June 12, 2020 of Indonesia, which reiterates that the sovereignty as well as maritime rights and interests of China in the South China Sea has been established for a long time in the past; Note CML/56/2020 dated 07/08/2020 protesting Malaysia's note; Note CML/63/3030 dated September 18, 20 protesting Note BF No.2020-0343647, No. 324/2020 and Note No. 162/20 of the Permanent Representatives of the UK, France and Germany; Note No. CML/1/2021 dated January 28, 2021 against Japan's Note SC/21/002 (The Permanent Mission of the People's Republic of China to the United Nations 2020, 2021).

Therefore, after all China's defiant moves, a series of notes were issued later, refuting the arguments of this country. The list of participating countries can include: Philippines (Note No. 000191-2020 and Note No. 000192-2020 dated March 6, 2020) (The Permanent Mission of the Republic of the Philippines to the United Nations, 2020); Vietnam (Note 22/HC-2020 dated March 30, 2020) (The Permanent Mission of the Socialist

Republic of Viet Nam to the United Nations, 2020), Indonesia (Note 126/POL-703/V/20 dated May 26, 2020) (The Permanent Mission of the Republic of Indonesia to the United Nations, 2020); United States (Official Letter A/74/874 S/2020/843 dated June 1, 2020) (The Permanent Representative of the United States of America to the United Nations, 2020); Australia (Note No. 20/026 dated July 23, 2020) (The Permanent Mission of the Commonwealth of Australia to the United Nations, 2020); Malaysia (Note No. 26/20 dated July 29, 2020) (The Permanent Mission of Malaysia to the United Nations, 2020); United Kingdom of Great Britain and Northern Ireland, France and Germany (Note BF No.2020-0343647, No. 324/2020 and Note No. 162/20 dated September 16, 2020) (The Permanent Mission of France, the United Kingdom and Germany to the United Nations, 2020); Japan (Note SC/21/002 dated January 19, 2021) (The Permanent Mission of Japan to the United Nations,2020).

Aside from the protesting notes against China, the countries also submitted the note objecting to the Report on the boundary of the extended continental shelf of Malaysia (typically the Note 24/HC-2020 dated April 10, 2020 of Vietnam; the Note No. 0928-2020 dated October 9, 2020 of the Philippines.

As such, countries have been paying more and more attention in the South China Sea issues, including not only those with related interests, but also those are outside of the region. This will affect the future tendency of dispute settlement of the South China Sea.

3. Conclusion

It can be seen that the situation in the South China Sea from July 12, 2016 until now, specifically from the end of 2019-2020, has had developed in a more complicated way, as China has continuously taken actions that were contrary to the international law. ASEAN countries tend to be tougher in their policies towards the South China Sea, especially to be not afraid when confronting China to protect their country's legitimate rights and interests. This has showed their change of solidarity in foreign policy toward the current and expected situations in the South China Sea. At the same time, the powers outside the region have had intentions to stick together and make more steps in the South China Sea issue. Meanwhile, in order to compete for influence and balance of mutual interests, external powers such as the United States and Australia, for the first time, issued a note expressing their countries's views on the South China Sea issue. The battle of diplomatic notes at the end of 2019 and 2020 as well as the complicated developments in reality of the dispute has indicated that the South China Sea dispute in the coming time will continue to twist and turn in a very intricate way. Likewise, the actions and movements of the parties in the South China Sea can be considered as the basis for



reporting the change of development trends of the South China Sea dispute in the future.

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Received June 26, 2021; reviewed July 07, 2021; accepted July 12, 2021; published online August 01, 2021