

The Hague ruling

The Permanent Court of Arbitration at The Hague yesterday ruled in favour of the Philippines in its case against Beijing's claims in the South China Sea. Here are the tribunal's key findings

1 China's 'nine-dash line'

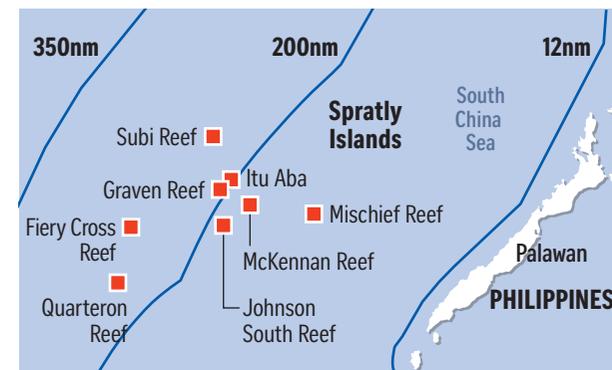
What is it about:

- The line, first drawn in 1947, marks the boundaries of China's claims over the South China Sea.
- It covers two-thirds of the 3.5 million sq km sea. China's claims overlap with waters that the Philippines considers part of its exclusive economic zone (EEZ).
- The line also overlaps with territories claimed by Vietnam, Malaysia, Brunei and Taiwan.

The ruling:

- The tribunal said China has no legal basis to claim historical rights to resources within the nine-dash line.
- It said that although Chinese navigators and fishermen, as well as those of other states, had "historically made use of the *islands* in the South China Sea, there was no evidence that China had historically exercised exclusive control over the *waters* or their resources".
- The tribunal added that historical navigation and fishing by China in the South China Sea represented "the exercise of high seas freedoms, rather than a historic right".

2 Status of South China Sea features



What is it about:

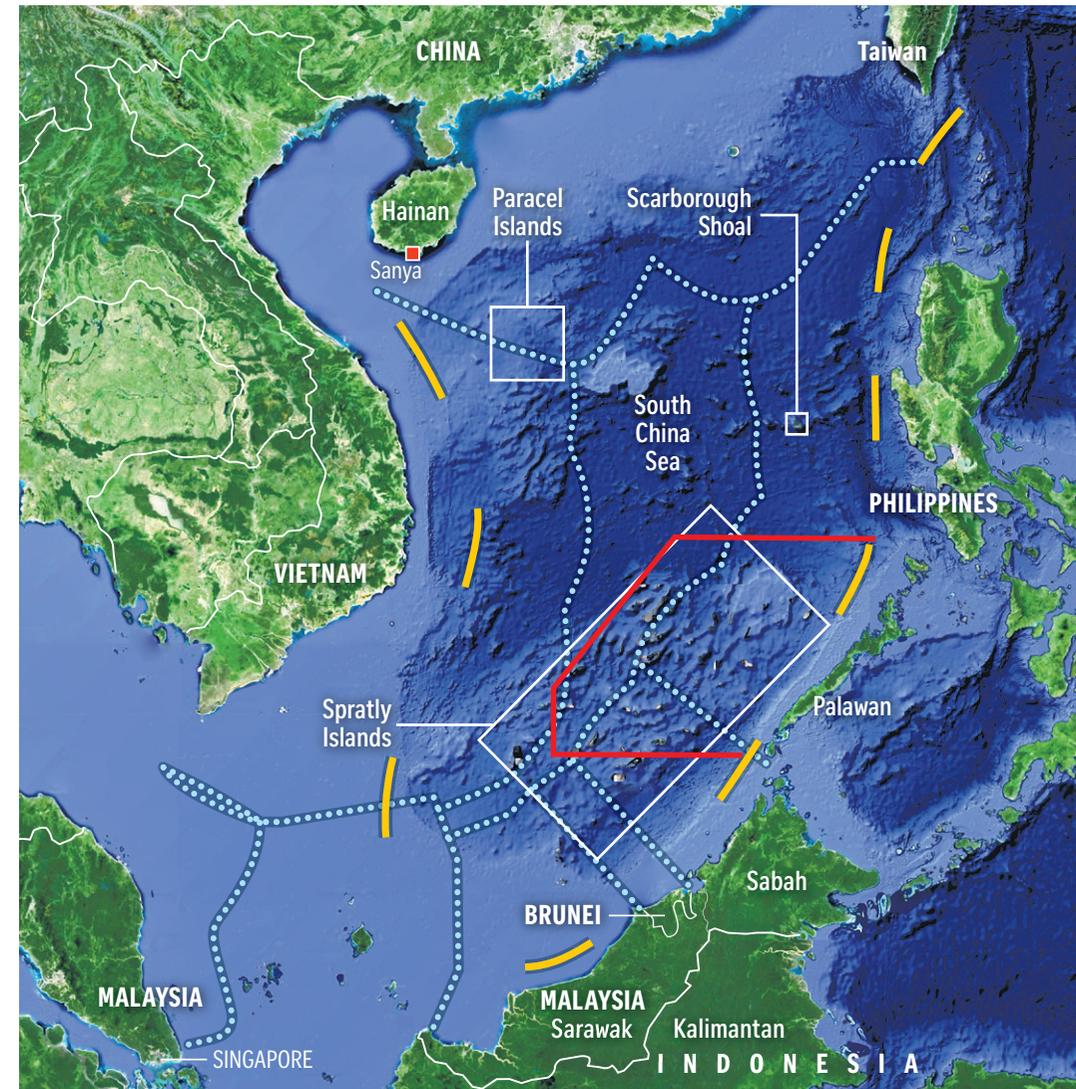
- The Philippines wanted the tribunal to rule on the status of China-occupied reefs in the Spratlys. This turned on whether the features are islands, rocks or low-tide elevations.
- Under the UN Convention on the Law of the Sea (Unclos), only "a naturally formed area of land above water at high tide" that can support human or economic life on its own can be considered an island. Such islands are entitled to a 200-nautical-mile exclusive economic zone (EEZ).
- Features that cannot sustain human habitation are classified as rocks and entitled to only a 12-nautical-mile territorial sea.
- Low-tide elevations are features submerged at high tide. They are not entitled to any maritime zone.

The ruling:

- The tribunal said none of the features in the Spratlys are islands. In fact, those that are visible at high tide, including Itu Aba, the biggest natural land mass there, are legally "rocks".
- It noted that many of the reefs have been heavily modified by land reclamation and construction. Under Unclos, features must be classified based on their "natural condition".
- It added that the current presence of official personnel on many of the features is dependent on "outside support and not reflective of the capacity of the features".
- It added that Unclos does not provide for a group of islands like the Spratlys to generate maritime zones collectively as a unit.
- Looking back at history, it noted that the Spratlys were historically used by small groups of fishermen from China as well as other states, and that several Japanese fishing and guano mining enterprises were attempted in the past. Such transient use does not constitute inhabitation by a stable community, it said.

LEGEND

- China's 'nine-dash line'
- Exclusive economic zone (EEZ)
- Philippines' claim



3 Lawfulness of Chinese actions

What is it about: The lawfulness of various Chinese actions in the South China Sea came under scrutiny. These included issues related to fishing and petroleum exploration and the building of artificial islands.

The ruling:

- The tribunal found that certain areas of the sea are within the EEZ of the Philippines. In the light of this, it found that China had violated the Philippines' sovereign rights in its EEZ by interfering with Philippine fishing and petroleum exploration, constructing artificial islands and failing to prevent Chinese fishermen from fishing in the zone.
- The tribunal said that fishermen from the Philippines – like those from China and other countries – had traditional fishing rights at Scarborough Shoal and that China had interfered with these rights in restricting access.
- It further held that Chinese law enforcement vessels (below) had unlawfully created a serious risk of collision when they physically obstructed Philippine vessels in 2012.



4 Harm to marine environment

What is it about: Manila had argued that China had violated its Unclos obligations to protect and preserve the marine environment.



The ruling:

- The tribunal agreed. It found that China's recent large-scale land reclamation and construction of artificial islands on seven features in the Spratlys caused "severe harm" to the coral reef environment, violating Unclos.
- It said the Chinese authorities were aware that Chinese fishermen have harvested endangered sea turtles, coral and giant clams (above) on a substantial scale using methods that inflict severe damage on the coral reef environment. But they failed to stop such activities.

ABOUT THE TRIBUNAL

- The tribunal was set up by the Permanent Court of Arbitration, an intergovernmental organisation established in 1899.
- The PCA has 121 member states, including the Philippines and China. It is allowed to arbitrate on certain matters of international law, including the United Nations Convention on the Law of the Sea (Unclos).
- The convention is ratified by both China and the Philippines.
- The five-member tribunal hearing this case is composed of top maritime affairs experts, with the Philippines appointing one member.
- China waived its right to choose one arbitrator and boycotted all proceedings.



The members of the Arbitral Tribunal in the Philippines versus China case: (from left) judges Jean-Pierre Cot, Stanislaw Pawlak, Thomas A. Mensah (president) and Rüdiger Wolfrum, and Professor Alfred H.A. Soons.

Sources: AFP, CENTRE FOR INTERNATIONAL LAW (NUS), COUNCIL ON FOREIGN AFFAIRS, THE CENTRE FOR STRATEGIC AND INTERNATIONAL STUDIES
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