

CSS | ISSUE BRIEF

EVOLUTION OF FILIPINO POLICY VIS-A-VIS CHINA

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INTRODUCTION

On the 20th of July, 2016 the arbitral panel convened to pass the final award in the *Philippines vs. China* dispute that affirmed most of Philippines' submissions (PCA, 2016). The arbitral tribunal was established pursuant to Annex VII of the United Nations Convention on the Law of the Sea (*hereinafter* UNCLOS). China did not wish to participate in the proceedings as they contested the jurisdiction of the tribunal (PCA, 2014). Numerous questions have been raised regarding the tribunal's jurisdiction and the legitimacy the allegations that China's declared. This piece will not address legal issues, but will discuss the changes in the Philippine foreign policy, following the award. It asserts that former President Benigno Aquino III attempted to harness this regional organisation in order to maintain a balance of power in the South China Sea (*hereinafter* SCS) in response to China's maritime development. On the contrary, when President Rodrigo Duterte assumed the Presidency of the Republic of the Philippines in 2016, he pursued his appeasement policy toward China and campaigned for the illusive passage of the Association of Southeast Asian Nations (*hereinafter* ASEAN) –China Code of Conduct (*hereinafter* COC) in 2019. In essence, this paper will examine the consequences of the Philippines' foreign policy shift in the SCS and argue that an independent foreign policy in the Indo-Pacific area must be reconsidered. This paper is divided in six sections. The first section will introduce the subject and scope for the following parts. The second section will examines the Philippine's SCS policy before to the 2016 award, while the third section will discuss ASEAN's role in the SCS. The fourth section will explore the shift in the Philippine policy following the award and the election of President Duterte and the fifth segment will examine the worsening of Philippine-American ties and their implications for the SCS. And the final segment will summarise the findings.

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PHILIPPINE'S PRE-AWARD POLICY

Former President Aquino had little interest in foreign affairs during his first few months in office. In his inauguration address in 2010, he glossed over his administration's foreign policy agenda. However, President Aquino was overtaken by unanticipated circumstances, compelling him to devote more time to foreign policy than he anticipated in mid-2010 (Xinhua News Agency 2010). ¹Two Chinese patrol boats harassed a survey ship commissioned by the Philippine Department of Energy to conduct natural gas exploration in the Reed Bank on 2nd March 2011. ²As a result of this incident, that occurred within the Philippines' Exclusive Economic Zone (*hereinafter* EEZ), the Aquino Administration lodged a protest with China's embassy in Manila. Dismissing the Philippine complaint, a Chinese embassy official asserted that China possesses undisputed sovereignty over the Nansha (Spratlys) Islands and the neighbouring areas. Beijing therefore demanded that Manila obtain Chinese authorization before conducting oil drilling activities within the Philippines' EEZ. Additionally, China also insisted that the Philippines and other claimant states to acknowledge China's sovereign claim to the SCS. ³

Following which, the Philippines found itself in a standoff with China over the Scarborough Shoal. Throughout the impasse, China demonstrated no inclination to deescalate or resolve the problem. After a two-month standstill, China and the Philippines agreed to withdraw their civilian ships off the shoal, as part of a settlement negotiated by the United States of America. China later redeployed its maritime surveillance ships to prevent the Philippines from accessing

¹ Xinhua News Agency. "Aquino to Consider Foreign Trips When Domestic Issues Settled - People's Daily Online." En.people.cn. July 5, 2010. <http://en.people.cn/90001/90777/90851/7053202.html>.

² Yung, Christopher, and Patrick McNulty. "An Empirical Analysis of Claimant Tactics in the South China Sea." National Defense University Press. August 1, 2015. <https://ndupress.ndu.edu/Media/News/Article/718101/an-empirical-analysis-of-claimant-tactics-in-the-south-china-sea/>.

³ De Castro, Renato Cruz. "The Limits of Intergovernmentalism: The Philippines' Changing Strategy in the South China Sea Dispute and Its Impact on the Association of Southeast Asian Nations (ASEAN)." *Journal of Current Southeast Asian Affairs* 39, no 3 (2020): 186810342093556. <https://doi.org/10.1177/1868103420935562>.

the shoal, and has maintained a presence there ever since.⁴ When tensions at the Scarborough Shoal subsided, China decided to strengthen its hold on the territory. The crew members of China Maritime Surveillance vessels erected a chain barrier across the shoal's mouth, preventing the Philippines from accessing the same. Additionally, China deployed these ships to safeguard a fleet of Chinese fishing boats operating deep into the Philippines' EEZ.⁵ Clearly, this episode highlights an international reality: China's economic and naval might cast a long shadow over the Philippines, which is embroiled in a territorial conflict with China in the SCS.

SITUATION IN THE ASEAN

In late July of 2011, the Philippines presented its case against China to ASEAN, hoping to persuade this emerging power to accept a more binding COC in the SCS. The Philippines believed that a legally binding ASEAN–China COC would deter China from establishing military installations on islets and shoals and engaging in provocative behaviour toward the other claimant states.⁶ Regrettably, the negotiations for a legally enforceable COC have resulted in the unanticipated division of the regional organisation into two factions: claimant and non-claimant nations. As a result, ASEAN was unable to develop a unified stance on the SCS conflict. China took advantage of the ASEAN's internal divisions to consolidate its influence and control over the SCS's waters and land features.⁷ In the same year, China vehemently opposed a binding CoC with the ASEAN, arguing that such an agreement should be established by consensus, with ASEAN member states engaging China on the draft agreement's formulation. According to China, they should then be asked to approve this proposed deal. Both parties ultimately agreed that all actions and projects undertaken in accordance with the Declaration on the COC (*hereinafter* DCOC) should be reported to the ASEAN–China Ministerial Meeting.⁸ Finally, the ASEAN–China summit produced a set of imprecise instructions for implementing the DCOC, which is not a COC in and of itself. The guidelines simply highlighted several confidence-building projects in the SCS, including collaboration on marine, environmental, severe acute respiratory syndrome, transnational

⁴ Id at note 2.

⁵ Id at note 3.

⁶ Jenne, Nicole. “Managing Territorial Disputes in Southeast Asia: Is There More than the South China Sea?” *Journal of Current Southeast Asian Affairs* 36 (3): 35–61.2017. <https://doi.org/10.1177/186810341703600302>.

⁷ Id at note 3.

⁸ Id.

crime, navigation, and biodiversity challenges. They ignored critical measures such as the rules of engagement guiding the behaviour of claimant countries' vessels in the disputed waters. Additionally, it disregarded the Philippines' proposal that China and ASEAN member states collaborate to develop a framework for segregating contested from undisputed territories in the SCS.⁹

DUTERTE'S SHIFT IN THE LAP OF CHINA

Since taking office in June of 2016, Duterte has completely altered his foreign policy by taking a position diametrically opposed to Benigno Aquino III's defiance of China's increasing territorial claims in the SCS. Rather than relying on the 2016 award to invalidate Chinese claims to sovereignty in the SCS, Duterte has chosen a conciliatory tone with his neighbour, owing in large part to his keen interest in China's potential contributions to his centrepiece US\$180 billion “Build, Build, Build” infrastructure programme. He also holds a record for the most visits to China by a sitting Philippine President.¹⁰

This shift was obvious when Duterte travelled to Beijing in October of 2016 with hundreds of Filipino businesses. He also stated his intention to sever ties with Washington. Additionally, he seems to have downplayed the SCS conflict on multiple occasions, according to some news reporting sources.¹¹ Additionally, the tough-talking leader recognises that the Philippines is no match for China in terms of military might, and hence dealing with the Chinese diplomatically is the wisest course of action. However, Duterte's positive position toward China has indirectly permitted the latter to continue developing facilities in Scarborough Shoal and to conduct marine scientific research in Benham Rise.¹² As a result of this soft stance, President Duterte was able to secure significant commercial deals with Beijing totalling \$24 billion in investment

⁹ Oak, Niranjana Chandrashekar. “Is the Latest Draft of the ‘South China Sea Code of Conduct’ Really a Milestone?” ORF. September 20, 2018. <https://www.orfonline.org/expert-speak/44343-latest-draft-south-china-sea-code-conduct-really-milestone/>.

¹⁰ Collinson, Elena. “Philippine Foreign Policy in an Era of Great Power Contestation - AIIA.” Australian Institute of International Affairs. December 27, 2018. <https://www.internationalaffairs.org.au/australianoutlook/philippine-foreign-policy-era-great-power-contestation/>.

¹¹ Business Times. “Duterte Aligns Philippines with China, Says US Has Lost.” [Businesstimes.com.sg](https://www.businesstimes.com.sg/government-economy/duterte-aligns-philippines-with-china-says-us-has-lost). 2016. <https://www.businesstimes.com.sg/government-economy/duterte-aligns-philippines-with-china-says-us-has-lost>.

¹² Heydarian, Richard Javis. “What Duterte Portends for Philippine Foreign Policy.” Rajaratnam School of International Studies Commentary 1 (3). 2016. <https://dr.ntu.edu.sg/bitstream/10220/40774/1/CO16123b.pdf>.

and financing.¹³ However, as the two countries' friendship grew stronger, the Philippines was forced to keep the 2016 arbitral award aside. It is well established that legal authority over a portion of the SCS provides the country that owns it with a negotiation chip and an upper power position in the region. This is because the contested territory contains at least seven billion barrels of oil and an estimated 900 trillion cubic feet of natural gas, both of which have the potential to generate spectacular economic prospects.¹⁴ Additionally, the area is renowned as one of the world's most vital commerce lanes, with approximately \$5.3 trillion worth of products passing through each year, accounting for 30% of worldwide maritime traffic.¹⁵ As a result, it is clear that the SCS is critical in serving as a national interest for the region's numerous countries.

For China, the primary objective would most likely be to gain control of the area. This can be presumed from their assertiveness and nine-dash claim, which was deemed illegal by the PCA and the global community. Essentially, the Chinese government wishes to maintain control over the area for defensive purposes rather than expansion, as seen by the establishment of multiple military outposts and the construction of artificial islands (Emmerson 2016).¹⁶ This is one such strategy for countering the US presence in the region and weakening the sophisticated hubs and spokes system that has been restricting China for years. Additionally, this action aligns with Xi Jinping's "Chinese Dream" or great rejuvenation campaign, which was the primary purpose of his government, according to some sources (Wang 2013).¹⁷ One of the consequences of Duterte's foreign policy toward the SCS was allowing China to militarise the disputed area, which undoubtedly may result in a long-term threat to the Philippines' security and stability. The Pentagon has released a study on China's 3,200-acre land reclamation project, which focusses on the creation of Chinese islands in the SCS's south-eastern section, or Spratly Islands. The Chinese government was adamant in its reclamation efforts, which were allegedly part of a larger island-building operation. Chinese officials maintained that they had reclaimed

¹³ Rosales, Kris. "Philippines, China Sign \$24-B Deals." Philstar.com. October 22, 2016.

<https://www.philstar.com/headlines/2016/10/22/1635780/philippines-china-sign-24-b-deals>.

¹⁴ Kipgen, Nehginpao. "The Philippines' South China Sea Flip-Flop." Thediplomat.com. March 2, 2017.

<https://thediplomat.com/2017/03/the-philippines-south-china-sea-flip-flop/>.

¹⁵ Ibid.

¹⁶ Emmerson, Donald. "Why Does China Want to Control the South China Sea?" Thediplomat.com. May 24, 2016. <https://thediplomat.com/2016/05/why-does-china-want-to-control-the-south-china-sea/>.

¹⁷ Wang, Zheng. "Not Rising, but Rejuvenating: The 'Chinese Dream.'" Thediplomat.com. February 5, 2013. <https://thediplomat.com/2013/02/chinese-dream-draft/>.

only territories that are part of their boundaries, in order to give public services and assistance to Chinese fisherman (Sison 2017).¹⁸

Additionally, the Philippines' reorientation of foreign policy will have an effect on the US's role as a balancing force in the area. Washington may encounter difficulties sustaining peace and stability under a Duterte presidency if other states in the region attempt to deny its presence. As a result, this scenario complicates the strategic alliance between ASEAN member states that demand a functioning COC as a solution to the SCS problem.¹⁹ As a result, another implication of the shift is a slowdown of the creation of SCS COCs.

US-PHILIPPINE RELATIONS ON THE VERGE OF COLLAPSE

Duterte has courted Beijing since assuming office in 2016, downplaying Beijing's development of military facilities on reclaimed islands in the SCS and the hostile behaviour of China's maritime militia vessels. He has also largely ignored a 2016 international tribunal judgement that categorically rejected China's asserted sovereignty claims over the majority of the SCS. Simultaneously, Duterte has persistently weakened his country's connection with the United States. He has paused on renewing the Visiting Forces Agreement (hereafter VFA), which allows American forces to remain in the Philippines despite initially attempting to eliminate it. Duterte also vetoed the Enhanced Defense Cooperation Agreement, which would have made it easier for the United States to send soldiers and weaponry into bases near the SCS.²⁰

Duterte's most fervent policy goal was to eradicate the plague of drugs from the Philippines, which he pursued during his presidency by advocating the execution of drug pushers and addicts alike. As extrajudicial murders increased, the body count and abuses of human rights became disturbing events that Washington could not ignore. Both the US Embassy and State Department expressed alarm in August of 2016, over the war on drugs' savagery (“US:

¹⁸ Sison, Nathan. “The Influence Of China On Philippine Foreign Policy: The Case Of Duterte’s Independent Foreign Policy.” Thesis, Thammasat University. https://tiara-tu.ac.th/uploadFiles/150921_50a86d38b86c3d82440a0a44a81a8fde.pdf.

¹⁹ Id at note 14.

²⁰ Kurlantzich, Joshua. “Duterte’s Ingratiating Approach to China Has Been a Bust.” [www.worldpoliticsreview.com](https://www.worldpoliticsreview.com/articles/29697/duterte-s-approach-to-china-philippines-relations-has-been-a-bust). June 2, 2021. <https://www.worldpoliticsreview.com/articles/29697/duterte-s-approach-to-china-philippines-relations-has-been-a-bust>.

Extrajudicial Killings Alarming,” 2016).²¹ In late August of the same year, as part of the preparations for a meeting between Obama and Duterte in the ASEAN summit in Laos, the White House emphasised its concern on human rights violations (Mogato 2016).²² Duterte regarded the drug campaign as an internal matter, and detested the American lectures on human rights. Duterte assailed Obama in a profane diatribe and accused American duplicity for its own police killings, and proclaimed that the Philippines is not a vassal state (“Rody: Obama must listen to me on rights,” 2016).²³ The White House replied by cancelling Duterte's meeting (Diola 2016).²⁴

Nonetheless, the reunion with China was more than a trade-off of economic assistance in exchange for South China Sea pliability. Duterte repeatedly cited China as a growing force that, unlike the US, will respect Philippine's domestic affairs. This reengagement with China culminated in October 2016 with Duterte's four-day visit to Beijing. Duterte articulated his strategic vision in a speech made in the Great Hall of the People following days of carefully staged pomp and in the aftermath of a violent anti-US rally in Manila. Throughout the fall of 2016, news of the US–Philippines alliance's flooded media outlets across the globe. What made the Beijing declaration particularly perilous was the absence of formal structures to rein down Duterte inside the US–Philippine alliance. Article VIII of the MDT provides that, although the treaty remains in force in perpetuity, each party may unilaterally end the alliance one year after notifying the other of its intention to do so. Due to the absence of explicit requirements or institutional procedures for discussion, conflict resolution, or reconciliation, Duterte might unilaterally terminate the alliance after a one-year waiting period.

The Philippines and the United States continue to have significant strategic connections, and security officials who value the alliance act as a check on some of Duterte's impulses. It is likely that Duterte was pushed by the country's military and national security establishment to

²¹ Rosales, Kris. 2016. “Philippines, China Sign \$24-B Deals.” *Philstar.com*. October 22, 2016. <https://www.philstar.com/headlines/2016/10/22/1635780/philippines-china-sign-24-b-deals>.

²² Mogato, Manuel. 2016. “Duterte Tells Regional Leaders, U.S. Not to Lecture Philippines on Rights.” *Reuters*, September 8, 2016, sec. Emerging Markets. <https://www.reuters.com/article/us-laos-obama-duterteidUSKCN11E1PV>.

²³ The Philippine Star. 2016. “Rody: Obama Must Listen to Me on Rights.” *Philstar.com*. 2016. <https://www.philstar.com/headlines/2016/09/01/1619314/rody-obama-must-listen-me-rights>.

²⁴ Diola, Camille. 2016. “White House Explains Decision to Cancel Obama-Duterte Meeting.” *Philstar.com*. 2016. <https://www.philstar.com/headlines/2016/09/07/1621371/white-house-explains-decision-cancel-obama-duterte-meeting>.

purchase a new supersonic cruise missile that would provide for deterrent capability against China, to withdraw his attempt to jettison the VFA, and to make other quiet efforts to repair ties with the US.

CONCLUSION AND THE WAY FORWARD

Duterte appears to have thought that; by pivoting toward Beijing, aid and investment would flood into the Philippines, bringing jobs, growth, and desperately needed infrastructure projects. Nonetheless, his approach has resulted in minimal economic advantages throughout his six-year tenure, which concludes next year. Beijing offered tens of billions of dollars in fresh investments in the Philippines in 2016 in splashy announcements. However, development on two projected Chinese infrastructure projects — a bridge and an irrigation system — has only begun, and they are far from completion. China's much-touted energy, train, and other infrastructure projects are yet to come into force.

Duterte's approval ratings remain high, but the Philippine's citizens have observed how little he has gotten from Beijing. Numerous opinion polls indicate that Filipinos have an increased level of anti-China attitude. Perhaps cognizant of that trend in public opinion, some presidential hopefuls, including boxer-turned-politician Manny Pacquiao, have been speaking out against China. If elected, he has the potential to shift the country's foreign policy away from Beijing, toward the United States, and toward the formation of a multilateral coalition to preserve freedom of navigation and territorial rights in the SCS.

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