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## **10 reasons why the South China Sea ruling may lead to regional peace and cooperation**

**Prof. Andrew K.P. Leung**



Biography:

### **Prof. Andrew K.P. Leung**

Andrew Leung is Chairman of Andrew Leung International Consultants founded in London and now relocated to Hong Kong. He is an international and independent China Strategist with over 40 years' wide-ranging experience. Andrew is Fellow of Royal Society for the Encouragement of Arts, Manufactures and Commerce (FRSA); Elected Member, Royal Society for Asian Affairs; and China Futures Fellow (2011-13) of Berkshire Publishing Group, Massachusetts. He is on the Brain Trust of Evian Group, a Lausanne-based think-tank; a Gerson Lehrman Group Council Member; an International Expert with Thompson Reuters; a Senior Analyst with Wikistrat; and a Senior Consultant, MEC International (a UK-based global strategic energy consultancy). Andrew is Honorary President of China-Hong Kong Economic and Trading International Association. He was Founding Chairman of the China Group, Institute of Directors City Branch, London. He was on the Governing Council, King's College London (2004-10) and Advisory Board Member of China Policy Institute, Nottingham University (2005 -2010). Andrew is a Visiting Professor with Metropolitan University Business School and former Visiting Professor, Sun Yat-sen University Business School, China (2005-10). Andrew is Advisory Board Member of European Centre for e-Commerce and Internet Law. He was former Editor-at-Large of MEC, a London-based international energy consultancy, for a commissioned consultancy on China's energies. He is Advisory Board Member of "The Global Analyst", India. Andrew helped set up Standard Chartered Bank's first merchant-banking subsidiary in Hong Kong (1983). He was sponsored by the US-government on a month-long visit to brief Fortune 50 CEOs on China beyond Tiananmen Square (1990). He was invited to Buckingham Palace in 2002 to brief HRH Prince Andrew prior to his first official visit to China as UK's Special Representative for Trade and Investment. Mr. Leung regularly speaks at international forums, including Forum Istanbul Turkey (five times), a banking conference in Ghana, a conference in Zambia on resource sustainability, and green energy, smart city, and other socio-economic conferences in Beijing, Shanghai, Dalian, Xian, and Shenzhen. He is regularly interviewed on live television with CNBC, Aljazeera English, RT International (Russia), TRT International (Turkey), Times Now of India, BBC, ABC (Australian Broadcasting Corporation), Channel News Asia (Singapore) and CCTV Beijing (English Channel). Andrew was awarded Hong Kong's Silver Bauhinia Star (SBS) and was included in UK's Who's Who since 2002.



Andrew Leung says the air of restraint following the contentious verdict and Manila's recent overtures augur well for a bilateral solution between China and the Philippines

Notwithstanding the initial standoff, both the Philippines and China have acted with commendable restraint after the Permanent Court of Arbitration found overwhelmingly in favour of Manila in its ruling on the South China Sea. The same applies to the US, the region's "arbiter-in-chief", as well as other rival territorial claimants.

Philippine President Rodrigo Duterte was reported to favour a settlement with China after discussions with the US ambassador and a delegation of US lawmakers.

During a recent exploratory visit in Hong Kong, his special envoy, former president Fidel Ramos, managed to sign an ice-breaking statement with Fu Ying (傅瑩), chairwoman of the National People's Congress Foreign Affairs Committee, and Wu Shicun, the president of China's National Institute for South China Sea Studies. It proposes cooperation in fisheries, marine conservation, tourism, investment, and drug and anti-corruption enforcement. Meanwhile, most other Association of Southeast Asian Nations members are trying to stay out of the dispute.

The turn of events is driven by a number of dynamics.

## **Fidel Ramos: Duterte's icebreaker in South China Sea Row**

First, China's legal position is not as totally indefensible as some may think. Beijing has consistently maintained that the court is not a competent authority in settling territorial disputes. Under Article 298 of the UN Convention on the Law of the Sea, a signatory may, with a formal written statement, exclude any compulsory jurisdiction over "maritime boundary delimitation, territorial sovereignty, military confrontation, and/or historical titles". Some 30 signatories have exempted themselves in this way, including China. Indeed, in its carefully worded press release, the tribunal has been explicit in restricting its authority to "waters and resources" rather than land claims, historical or otherwise.

Additionally, much of the ruling depends on what is defined as an island qualifying for a 200-nautical-mile exclusive economic zone.

The verdict found that none of the features in the Spratly Islands claimed by China, including Taiping, the largest occupied by Taiwan, qualifies as an island as none can sustain independent permanent human habitation in its natural state. Taiping has for centuries been used as an island by Chinese and other fishermen. It is 1.4km long and 0.4km wide, with a variety of fauna and flora and a daily natural fresh water capacity of 65 tonnes. To both Beijing and Taipei, this ruling appears tendentious.

Second, as explained by Fu Ying in *The National Interest*, a US journal on foreign affairs, China has long been a victim in territorial encroachments rather than an aggressor. Examples include treatment in the 1951 Peace Treaty of San Francisco (which excluded China), dealing with Nansha and other islands occupied by Imperial Japan. Subsequent years saw unilateral seizures by Vietnam and the Philippines of islets and reefs claimed by China in the South China Sea.

## **Philippines urges Beijing to 'respect' South China Sea Ruling**

Third, what's at stake is not just territorial integrity. The South China Sea is a vital conduit for international trade and resources on which China's survival depends. This is threatened by strategic "choke points", such as the Strait of Malacca, under the sway of US naval dominance. China's sense of insecurity has deepened

following the US “pivot to Asia”, which aims to deploy 60 per cent of America’s global naval assets to the region.

Fourth, China has been strengthening national defence in the South China Sea by building a blue-water navy, a nuclear submarine base on Hainan Island and, recently, military assets on occupied land features. This adds to China’s “anti-access, area denial” capabilities, including mid-range, mobile aircraft-carrier-killer missiles. China thus feels able to counter what it perceives as US military showmanship, such as “freedom of navigation operations”.

Fifth, virtually all of China’s neighbours in the South China Sea are heavily dependent on its trade and investments in a China-centric global supply and value chain, giving it powerful leverage. China is therefore well positioned to insist on bilateral talks as the only means to resolve territorial disputes.

Sixth, the US, which is not a party to the arbitration, seems to realise that to avoid unintended escalations, there is a need for strategic restraint in confronting China. For example, Jeffrey Bader, a senior fellow in foreign policy at the Brookings Institution, argues that, on balance, other rival territorial claimants should not be encouraged to seek similar court rulings. Instead, he suggests that the US should do well in encouraging Manila to settle differences bilaterally with China.

Seventh, international verdicts have a history of being ignored when in conflict with overriding national interests. America’s unilateral adventures in Nicaragua and Iraq were cases in point.

Eighth, China cherishes an image as a responsible stakeholder in the international rule-based order. While it will not undo built islands, it has never ruled out joint resource exploration and management. Beijing may therefore not be averse to a quid pro quo with Manila on the premise of setting aside (but not relinquishing) either side’s respective territorial claims.

## **Justice not Served by Tribunal’s Ruling on South China Sea**

Ninth, China may be interested in jointly exploiting the Reed Bank field, 80 nautical miles northwest of Palawan, which is claimed by China but within the Philippine exclusive economic zone. This field holds between 764 million and 2.2 billion barrels of oil and 7.6 to 22 trillion cubic feet of natural gas.

This potential energy supply is much needed by the Philippines to replace the Malampaya gas field west of Palawan, which supplies 30 per cent of Luzon’s electricity but is expected to be depleted by 2024-2030.

Tenth, the tribunal finds that China’s island building and uncontrolled fishery activities have caused severe harm to the ocean’s ecology. It is a sad reality that fishing fleets in the region are venturing further and further afield owing to the depletion of fish stocks nearer to shore. There is a critical need for international cooperation in sustaining the region’s fish stocks, which know no territorial boundaries. So it behoves China to join hands with neighbours in these matters.

Following Ramos’ mediation, therefore, the prognosis for the Philippines to settle the territorial dispute with China bilaterally looks encouraging. What is more, if it proves mutually beneficial to set aside disputes for joint development and ecological management, this may set an example for other rival claimants, ushering in a new era of regional cooperation. This should augur well for peace, stability and prosperity in the South China Sea.

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