

National West Philippine Summit of 8-9 of July, 2026, in Manila
Commemorating the 10th Year of the South China Sea Arbitral Award

Remarks by Research Director, Atsuko Kanehara

1. The Rule of Law

(1) I would like to make brief analysis on the Arbitral Award on the South China Sea dispute, in accordance with our shared idea of “the rule of law.”

Let me succinctly confirm the substance of “the rule of law.”

The rule of law is a concept with historical roots that has developed within domestic law. While debated, it is a technical term possessing an inherent meaning. The rule of law is frequently invoked across numerous contexts and may be considered an axiom subject to little dissent.

As to the international maritime order, as the main pillars of the rule of law, three principles were declared in the Keynote Address by Mr. Shinzo Abe, Prime Minister of Japan at the 13th IISS Asian Security Summit, Shangri-La Dialogue. These are:

First, making and clarifying claims based on international law,

Second, not using force or coercion in trying to drive their claims,

Third, seeking to settle disputes by peaceful means.

At the second Manila Dialogue in November 2025, Vice Commandant for Operation of the Japan Coast Guard also reaffirmed the Abe’s Three Principles as the rule of law at sea.

(2) In accordance with the three principles of the rule of law at sea, I will examine the Arbitral Award on the South China Sea Dispute. I will take up the three principles by the following order: the first principle, the third principle, and the second principle with some clarification.

2. First Principle: “Making and Clarifying Claims Based on International Law.”

(1) The first principle of the rule of law at sea is “making and clarifying claims based on international law.” In this regard, the epoch-making decision of the Award is as follows.

(2) The Award dealt with three points: first, legal effect of the so-called nine-dash line of China under international law; second, legal status of maritime features, namely, the issue of whether a maritime feature has a status of island under international law, the United Nations Convention on the Law of the Sea (UNCLOS); and, third, legal evaluation of

Chinese activities, such as fishing, marine pollution, law enforcement in a dangerous manner.

(2) The first point relates to the first principle of the rule of law at sea.

China' has based its claim for extravagantly wide sea areas upon its historic right.

With respect to the legal effect of the so-called nine-dash line under international law, the Award declared China's historic right is incompatible with UNCLOS. It is declared illegal. Therefore, China's activities based upon its claim of historic right are illegal under UNCLOS.

3. Third Principle: Seeking to Settle Disputes by Peaceful Means

(1) The third principle of the rule of law at sea is "seeking to settle disputes by peaceful means."

UNCLOS sets forth the compulsory dispute settlement procedures. The procedure of the Arbitral Tribunal is one of these dispute settlement mechanisms. China is a party State to UNCLOS. For China, such dispute settlement is compulsory.

(2) China invoked a lack of jurisdiction of the Arbitral Tribunal, and it was absent from the tribunal's procedure. However, the Tribunal itself decided that it has the jurisdiction to entertain the South China Sea Dispute.

Therefore, irrespective of China's absence from the Tribunal's procedure, its ruling is binding on China. This is the significance of the compulsory arbitral procedure under UNCLOS.

4. Second Principle: Not Using Force or Coercion in Trying to Drive Their Claims

(1) The second principle of the rule of law at sea is "not using force or coercion in trying to drive their claims."

We can enlarge this principle to mean that no States can unilaterally change the *status quo* by force or coercion, and by any other means. "Status quo", certainly, includes "legal *status quo*." No States can unilaterally change the legal *status quo* by force or coercion, and by any other means.

(2) The Award is final and binding for China, too. This is the effect of the Award that international law decides. Therefore, by any means, China is not allowed to try to unilaterally change the legal *status quo* which the Award has created.

(3) Even after the Award of 2016, China has continued its activities that are not compatible with UNCLOS and the Award. Such violations of UNCLOS and the Award would make both the relevant rules of UNCLOS and the compulsory dispute settlement mechanism futile.

We need to stop and prevent such a result.

(4) The point is that repeated and continued illegal acts never change the illegal nature of the acts. International Law cannot be changed by unilateral violations of States. Unilateral violations cannot change legal *status quo*.

(5) To demonstrate the illegality of such acts, not only the Philippines but also the international community should maintain the critical attitude and response toward such China's activities. Otherwise, such activities might render, as a matter of fact, not as a matter of law, the Award, and even international law meaningless.

(5) This can be called "non-recognition" policy or "non-recognition principle" against the illegal situation. It contributes to maintaining the effectivity of international law.

International law does not have authoritative, centralized enforcement mechanism. This is different from domestic societies. In that sense, international law can be said to be toothless. However, to complement the lack of such teeth, we have, the non-recognition policy, or non-recognition policy to combat illegal situations. We should make it work properly.

Ending

This two-day conference deals with various issues of the law of the sea, such as history of the law of the sea, baseline, EEZ and Continental Shelf, dispute settlement, and islands.

For sharing the international order of the sea, and strengthening our tie to maintain the order, this conference is critically important.

I am really honoured to be part of it.

This is the end of my remarks.

Thank you for your attention.