

The Philippines and Vietnam's Responses to the Permanent Court of Arbitration's Final Award on the Arbitration Case Initiated by the Philippines Against China over the South China Sea (July 2016)

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Abstract

In July 2016, the Permanent Court of Arbitration (PCA) issued its final award on the South China Sea dispute between the Philippines and China that caught the attention of the international community. Since this was the first time that a claimant in the South China Sea had ever referred the case to an international juridical body in an effort to settle the dispute, the responses of both claimant and non-claimant stakeholders were awaited. Realising the relevance of the issue, I conduct a comparative study of the responses to the PCA's final award to two major claimants with similar positions on the South China Sea—the Philippines and Vietnam. The main aim of this study is to indicate the similarities and/or differences in the way these two states responded to the final decisions of the PCA. The study finds that even though both the Philippines and Vietnam reacted to the award in a similar manner, the motives behind their responses were different. In general, the South China Sea policy of the Philippines has always been less consistent than that of Vietnam, which can be explained through each state's foreign policy tendencies.

Keywords: South China Sea dispute, South China Sea arbitration, PCA's final award, Philippines, Vietnam.



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Introduction

In early 2013, the Philippines initiated an arbitral case¹ against China over the South China Sea (SCS). The decision of the Philippines to go against China caught the attention of not only policy makers of claimant and non-claimant stakeholders in the SCS, but also scholars from the field of International Relations (IR). Settling international disputes between states under the Permanent Court of Arbitration (PCA) was not a new phenomenon in IR. However, the SCS arbitration was the first case in which one country attempted to resolve the dispute in the SCS by instituting arbitral proceedings against the other. The SCS dispute is considered a flashpoint in East Asian politics and security, mostly because of its complexity, the number of claimants (five states/six parties),² and the interests of non-claimant stakeholders (e.g. the United States [U.S.], India, Russia, Japan, etc.). The dispute remains a tough and unpredictable problem in global politics as new developments appear every year. Furthermore, despite various efforts and attempts made by both claimant and non-claimant stakeholders, there is currently no mechanism that can settle the dispute in the sea area. Policy makers, scholars, as well as the international community condemn the potentially negative impact on peace and stability in the region and beyond. Under these circumstances, the final award³ of the Permanent Court on the case has long been awaited.

The PCA's final award on the arbitral case in 2016, its implications, as well as regional and international responses to the ruling are key issues that appeal to policy makers and IR scholars. Among all claimants in the SCS dispute, the Philippines is the actor that instituted the arbitral case. Vietnam is among the major claimants in the SCS and supported the Philippines throughout the arbitration against China more than any other state. The Vietnamese government stated that the arbitration's result may directly influence its legal interests and rights (PCA 2015: 72). On the other hand, Vietnam has long been in maritime dispute with China and thus the arbitral proceedings initiated by the Philippines against China refer to a legal mechanism that Vietnam could consider as a solution for its own dispute settlement with China in the SCS. Realising the relevance of the topic, this article is concerned with the responses of the Philippines and Vietnam to the PCA's final award on the arbitral case initiated by the Philippines against China over the SCS (July 2016). The aim of this article is to

¹ Hereafter, the terms "arbitral case," "the arbitration," or "the arbitral proceedings" refer to the SCS arbitration between the Philippines and China unless otherwise specified.

² Claimants in the SCS dispute include China, Vietnam, the Philippines, Malaysia, Brunei, and Taiwan. Since Taiwan is not recognised as a sovereign state by many countries, the number of claimants in the SCS dispute is usually considered as five states/six parties.

³ Hereafter, the terms "final award," "award," "ruling," "final ruling," "verdict," or "final verdict" refer to the final award issued by the PCA over the SCS dispute between the Philippines and China unless otherwise stated.

determine whether two different nations with somewhat similar positions in the regional dispute act similarly or differently in an IR event in which China is involved. I thus respond to the following research question: “What are the similarities/differences between the Philippines’ responses to the PCA’s final award and those of Vietnam?”

Literature Review

In order to establish a set of criteria for the analysis of states’ responses to the decision of an international judicial body, I review three sets of literature: first, reactions of states to the rulings of an international judicial body; second, reactions of South East Asian (SEA) states to various IR events or phenomena (mostly involving China); and third, reactions of states to the SCS final award. Most of the literature touches on a wide range of issues (judicial, political and diplomatic, economic, and environmental issues) rather than just the states’ reactions to the award alone. In general, scholars tend to examine the reactions of states by describing how they greet the rulings (or the phenomenon) in the first place and how they act in the aftermath of the event (e.g. Zunes 2004; Butcher 2013; Askandar and Sukim 2016; Thayer 2017a; Zhang 2017; Bautista 2016). This process occurs by restating or quoting the statements of high-ranking officers, diplomatic circles, spokespersons’ speeches etc. The second and third sets of literature are more relevant to the topic of this article. To be more specific, the attitude of SEA states such as the Philippines and Vietnam towards China are occasionally influenced by convergent interests with the U.S. and domestic politics (leaders’ ideologies and preferences, power struggles, the degree of trust in China, and social reactions) (e.g. Southgate and Khoo 2016; Chen 2018; Thayer 2011; Shoji 2016). As in the case of the SCS arbitration, authors such as Bautista (2016), Quintos (2018), Castro (2016) etc. explain the Philippines’ reactions by emphasising the adjustments to its SCS policy due to the change in the country’s leadership. Vu and Nguyen (2017) also pose hypotheses for Vietnam’s responses such as the Vietnamese government’s need for more time to evaluate the award’s pros and cons, its possible impact on the interests of Vietnam, or pressure by from China etc.

Methodology

Even though the research area of this article is not entirely new, there is currently no consensus on an analytical framework for the analysis of states’ responses to IR phenomena; this extends to the PCA’s final award in the context of this article. In order to contribute a comprehensive analysis, different approaches developed by scholars and experts in the field will therefore be combined.

The objective of this article is not to predict the responses of states but to assess their existing reactions to the PCA's final award. The immediate responses of both the Philippines and Vietnam will initially be clarified by pointing out the authorities' perspective on the PCA final award (viewpoints, state support, or objections to the final ruling etc.), the authorities' actions (what has been done in the aftermath of the award), and target audiences for the responses. It is noteworthy that finding target audiences is a more difficult task. As for this criterion, I make my own assumptions based on statements, remarks, speeches, and actions by the governments around the time when the PCA issued its final judgement. In turn, I strengthen my arguments and avoid speculation over the matter.

In addition, I would like to find out if there was a continuation in the SCS policy of both states. To achieve this, I will assess the policy of both the Philippines and Vietnam in the period starting from early 2013, when the Philippines initiated the arbitration, to before the final ruling was issued (July 12, 2016). I will then compare these earlier policies with their latest reactions to the decisions of the PCA. The assessment is based on three abovementioned criteria: the authorities' perspective, the authorities' actions, and target audiences.

Lastly, I will also try to explain the responses of both the Philippines and Vietnam by examining each state's foreign policy tendencies, as well as the leadership's ideology and personal preferences. In the context of this article, foreign policy tendencies are the state's tendencies to use certain policies or strategies in dealing with China vis-à-vis the SCS dispute. I pay particular attention to external security environment factors (especially the U.S.). Specifically, I would like to find out the changes in the states' attitudes depending on the U.S.'s level of involvement in the SCS dispute. In terms of leadership ideology and personal preferences, I would like to make clear whether the leader chooses to prioritise economic interests or security concerns, and whether the leader is pro-China or pro-U.S. etc. Ultimately, I hope to find out the extent to which the individual leader influences the foreign policy of the state.

The Philippines' Response to the PCA Final Award

The Filipino Authorities' Perspective

In response to the issuance of the PCA's final award, the Philippines' authorities showed neither its overwhelming support nor strong objection: it "welcomes" the award and fully "respects" the decision of the Tribunal (The Philippines Department of Foreign Affairs 2016). The Philippines also affirmed its acknowledgment of the award's finality (Yasay 2016). Duterte, the country's president, stressed that the Philippines would take a "soft-landing" approach in disputes with China. He made sure that his country would not "flaunt" or "taunt" China with the favourable award. He

also stated that the Philippines would have to consider how to use the PCA's final award with caution (Esmaque II 2016).

The Filipino Authorities' Actions

The Filipino government initially called on "all those concerned to exercise restraint and sobriety" (The Philippines Department of Foreign Affairs 2016), and later clarified that the country would not make any "stronger statement" on the SCS award (Esmaque II 2016). In the post-ruling period, the Philippines has barely mentioned the PCA's final award. Any reference was low-key, as the Philippines did not want to provoke China by further bringing up the issue (CNBC 2016). In general, President Duterte did not intend to raise the PCA final award in either multilateral fora (Association of Southeast Asian Nations—ASEAN) or bilateral meetings with China: "In the play of politics now, I will set aside the arbitral ruling" (cited in Heydarian 2018: 295).

The Filipino Authorities' Target Audiences

I hypothesise that target audiences for the Philippines' reactions are China and the United States. Firstly, shortly before the PCA final award was issued, President Duterte showed his determination to enhance and deepen bilateral relationships with China, even though that meant the Philippines had to compromise on certain issues in the SCS. The possibility existed for the Philippines to sign a joint agreement with China to share resources in the SCS as long as it brought greater interests to Duterte's country. The Filipino president was ready for direct talks with China on the SCS dispute: "If it [the award] is favourable to us, let's talk" (The Straits Times 2016), noting that if China "build[s] me a train around Mindanao, from Manila to Bicol..., for the six years that I'll be president, I'll shut up" (cited in ABS-CBN News 2016). Besides, Chinese authorities always object to the internationalisation of the SCS dispute and traditionally demand to negotiate bilaterally with other claimants so that it can take advantage as the larger power. The award, in the end, is favourable to the Philippines—a fact often viewed as "a national humiliation" for Chinese people by scholars and the media. I therefore assume that the Philippines' responses mostly targeted Beijing as the country wanted to show its goodwill to save the Chinese government's face and its determination to strengthen its relationship with China in good faith.

Secondly, President Duterte aimed to distance the Philippines from the U.S., its longstanding ally: "I will be chartering a [new] course [for the Philippines] on its own and will not be dependent on the United States" (cited in Heydarian 2017). The Philippines, in President Duterte's words, was at the "point of no return" in relations with the U.S. and "ready to not really break ties but... will open alliances with China" (cited in Reuters 2016). Thus, the author assumes that the Philippines also targeted

the U.S. when it responded to the award to confirm its intentions with its long-standing ally, especially about bilateral relations with China in the immediate future.

The Consistency of the Philippines' SCS Policy Throughout the Arbitration

The Philippines' policy in the post-ruling period fundamentally contradicts that from the previous period. The first similarity pre- and post-ruling is the Philippines' recognition of the Tribunal's jurisdiction as well as its conclusions issued in July 2016. The second is that the Philippines targeted China. Nevertheless, the motives behind its policies were different. If the Philippines targeted China by staying low-key in the post-ruling period to indicate its intention to cooperate with China in all seriousness, in the pre-ruling period, the country targeted China by fostering security cooperation with other powers (the U.S. and Japan). In doing so, it confirmed its determination and readiness to confront China and defend the Philippines' sovereignty in the SCS with assistance from these powers.

In the pre-ruling period, the Aquino⁴ administration did not want to pursue bilateral means to resolve the SCS dispute, particularly the dispute with China. Aquino was eager to obtain more support from the international community in countering China. Accordingly, the Philippines attempted to internationalise the SCS dispute in the pre-ruling period and confronted China on the diplomatic front. Indeed, the Duterte administration did not seek multilateral means to deal with China. President Duterte indicated that the Philippines would use a "soft-landing" approach towards China (Esmaquel II 2016), and that the country would be open to bilateral negotiations with China.

In terms of action, President Aquino was proactive and openly and vigorously challenged China when it came to the SCS dispute. He refused to hold direct talks with China. He tried to spread and assert the Philippines' narrative of dispute to the international community. At the same time, he fostered security-based relations with regional and external powers (the U.S. and Japan) and received assistance from these powers. Unlike President Aquino, President Duterte responded to the PCA final award in a low-key manner. He simultaneously hoped to sit at the negotiating table with China. He would form an alliance with China as long as China invested in the Philippines and sustained its national interests. The Duterte administration also wanted to reduce its dependence on its longstanding ally, the United States.

In terms of target audiences, the Philippines conducted a policy that also targeted the international community—an important element in its SCS policy against China under Aquino in the pre-ruling period. This is relevant because, as previously mentioned, President Aquino's administration emphasised the internationalisation of SCS issues. The Philippines' government at that time wanted to spread its own perspectives

⁴ Hereafter, Aquino refers to Benigno Aquino III, the fifteenth President of the Philippines.

on the conflict with China in the SCS to win sympathy and obtain as much support from the international community as possible. This is mostly because the Philippines' authorities worried that bilateral negotiations with China would place the country in an unfavourable position. The Philippines wanted to avoid a situation where China could take advantage of the smaller country. President Duterte did not target the international community in general as the previous administration did; he sought specific actors, namely China and the United States. Overall, inconsistencies can be observed in the Philippines' SCS policy throughout the arbitration.

The Philippines' Responses: Proposed Explanations

Foreign Policy Tendencies

While the Philippines has disputes and disagreements with China and other claimants in the SCS such as Vietnam and Malaysia, the country merely viewed the overall dispute in this sea area as a test of its bilateral relations with China (Baviera 2016: 166). The inconsistency of the Philippines' SCS policy towards China can be seen from the mid-1990s when the dispute in the SCS was first seen as a major national security problem by the Philippines' authorities (Baviera 2016: 176; Storey 2016a: 148). Since the SCS affair became a priority in the Philippines' foreign policy, the country has been actively using both bilateral and multilateral diplomatic means to manage the dispute with China. However, whether the emphasis is put on bilateralism (bilateral negotiations with China) or multilateralism (mostly ASEAN–China negotiations) depends on the will of the countries' leaders. In the Philippines, the leaders decide whether to be soft or tough when responding to China.

In the late 1990s and early 2000s, the Philippines showed its strong determination against China through its responses. During this period, the country generally wanted to internationalise the issue (by engaging ASEAN, the United Nations [UN], the U.S., and Japan) and at the same time showed no interest in resolving the dispute bilaterally with China. According to the Filipino authorities, the SCS dispute has always been a multilateral issue due to the number of claimants. Thus, a multilateral dispute settlement mechanism must be set up rather than the bilateral talks proposed by China (Zha and Valencia 2001: 89).

Under the presidency of Arroyo (2001–2010), the Philippines had a very different policy towards China. President Arroyo was very open to bilateral talks with China, hoping to enhance and strengthen diplomacy and economic relations between the Philippines and China. Indeed, under the presidency of President Arroyo, bilateral relations between the two nations bloomed. To be more specific, China became an important Official Development Assistance (ODA) donor to the Philippines. The country received generous ODA and a loan payment scheme with low interest rates and a long

repayment term from China (Guzman 2014: 77). Moreover, the number of state visits by President Arroyo was greater than any predecessor (Guzman 2014: 88), and the number of joint agreements increased (Guzman 2014: 89). President Arroyo also expressed her belief that both countries could turn the disputed sea area into a cooperative one and called for more joint exploration activities during her visit to China in 2006 (Zha 2015: 250).

Aquino succeeded Arroyo and performed a 180-degree change to the Philippines' foreign policy. The Aquino administration took a tougher stance on China; most significantly, he neither wanted to cooperate with the Chinese government nor hold bilateral talks with them. Aquino wanted to internationalise the issues in the SCS and resolve the dispute through a multilateral mechanism. For instance, President Aquino suspended all major new agreements that the Arroyo administration had signed with China (Baviera 2014: 141). His administration started a legal case against China over its dispute in the SCS with the International Tribunal on the Law of the Sea (ITLOS), which then appointed the PCA to take on the case. This was the first time that a Southeast Asian state had ever sought arbitral proceedings against China as a means of settling the maritime dispute in the SCS.

The above examples indicate that inconsistencies in the Philippines' foreign policy, particularly towards China concerning the SCS, are not uncommon. The change in leadership led to the change in its foreign policy. Therefore, the inconsistencies in the Philippines' SCS policy in the pre- and post-ruling periods are not something new and unexpected. In this case, the foreign policy tendencies explain the contradictions of the Philippines' South China Sea policy in two periods.

Authors such as Southgate and Khoo (2016) suggest that the convergence in national interests among the Philippines and other powers, particularly the U.S., might also impact upon the way the Philippines reacts to any incidents in the SCS. The reality has proved that this argument is plausible.

From the mid-1990s, the U.S. and the Philippines' interests in the SCS did not converge. The U.S. was simply interested in freedom of navigation (Baviera 2016: 172)—an issue it believed was not endangered by Chinese movement in the sea area. The U.S. would therefore not let itself become deeply involved in the dispute (Zha and Valencia 2001: 92). The Philippines' armed forces, however, were weak; the country did not have enough resources to increase its military capability to match that of China in case of attack (Zha and Valencia 2001: 93). It was unlikely that the U.S. would actively assist the Philippines in case the latter had to confront the Chinese militarily despite its mutual defence treaty. This made the Philippines tend to seek support from regional partners and respond to China with a lack of force (Zha and Valencia 2001: 94).

Under Arroyo's two presidential terms, the interests of both the U.S. and the Philippines were once again divergent. During this period, the U.S. shifted its focus to the

Middle East because of the September 11, 2001 terrorist attacks, which also meant the SCS remained low-key in the U.S.'s foreign policy. While the U.S. prioritised the Middle East, President Arroyo also refocused the Philippines' attention to the enhancement and fostering of bilateral relations with China.

After President Aquino assumed office, there was another shift in the U.S.' foreign policy which meant the interests of both states no longer diverged. The Obama administration pursued the "Pivot to Asia" strategy in which it refocused its attention on the Asia Pacific region. Moreover, the Southeast Asia region was placed at the top of the "Pivot to Asia" agenda (Garrison and Wall 2016: 58). While China gradually pursued a more assertive and aggressive approach to maritime disputes in the SCS, the U.S. also adopted a tougher policy towards China (Garrison and Wall 2016: 59) in which it openly criticised the Chinese government's unlawful actions in the SCS (such as land reclamation projects, artificial island building etc.). At the same time, the U.S. showed its deeper engagement with SCS issues by fostering security cooperation with other states in the region by, for example, updating the longstanding Mutual Defence Treaty and carrying out military exercises with the Philippines. The U.S. showed its willingness to boost the confidence of regional states in response to China's aggressive rise while President Aquino adopted a hard and confrontational stance towards the Chinese government.

The PCA final award was issued when the U.S. was in the middle of a transition of power. Even though the U.S. was among the countries that supported the award, it kept a low profile on the issue in the aftermath of the arbitration. The U.S. merely called for those concerned to show restraint and patience without insisting on the compliance of parties or the finality of the award (Heydarian 2017: 231). The U.S.' low-key reaction can also be reflected in its actions in the aftermath of the award. To be more specific, shortly after the issuance of the PCA's final award, the U.S. National Security Adviser visited Beijing "to advance... cooperation" and its "most consequential relationship." Moreover, the Chief of U.S. Naval Operations also went to China to "improve mutual understanding and encourage professional interaction" between the U.S. and China (Nguyen 2017: 127). Because of the change in the country's leadership, there was uncertainty about how the new U.S. president and the cabinet would respond to China and to what extent the U.S. would engage in the SCS dispute. Whether a coincidence or not, the Philippines tends to act tough towards China if it shares interests with the U.S., and the country's attitude and behaviour also changes when its interests do not meet those of the United States. If reviewing the influence of the external security environment, especially the U.S., on the SCS policy of the Philippines towards China since the mid-1990s, the low-key responses of the Philippines to the PCA final award is something that can be anticipated.

Leadership Ideology and Personal Preferences

From the above assessment, the lack of continuity in the Philippines' SCS policy can easily be identified. In the Philippines, the president has great power to affect the foreign policy direction of the country. The newly elected leader of the Philippines' tended to criticise the previous administration's policy and shifted it to draw a clear distinction with his predecessors. This trend continued when Duterte was elected as President of the Philippines. He assumed office shortly before the awaited PCA's final award was issued. The different ideology and preferences of the new president had a strong impact upon the country's response to the award. President Duterte had long criticised President Aquino for adopting a pro-U.S. foreign policy. He openly announced his willingness to engage in bilateral negotiations with China. Accordingly, at the time, the Philippines was expected to remain low-key concerning maritime disputes in SCS during his six-year term to obtain Chinese assistance in infrastructure development and investment projects in return. President Duterte announced that he would not continue the military modernisation programme initiated by former president Aquino. He also revealed his distrust for the U.S. by stating that he did not believe U.S. commitments to support the Philippines vis-à-vis the SCS dispute despite the Mutual Defence Treaty (Castro 2016: 146). He therefore developed a foreign policy whereby the Philippines is not dependent on the U.S. (Heydarian 2017: 220). Besides, before becoming the President of the Philippines, Duterte had long been known as an anti-western politician who was historically close to the communist movement of the Philippines. He openly criticised the U.S.' military presence in his motherland's territory (Heydarian 2017: 221). This explains why President Duterte would distance his country from the security umbrella of the United States.

Returning to the issuance of the PCA final award, Duterte's declarations were consistent during the presidential campaign and aligned with his personal ideology and preferences: he did not take advantage of the opportunity to put China under international pressure. His explanation was that if the Philippines continued to include the SCS award in bilateral and multilateral fora, the state would provoke hostility from the Chinese side, thus opening up the possibility of the use of force in the SCS (Heydarian 2017: 221).

Overall, the SCS dispute was not at the top of President Duterte's agenda. He focused on fostering bilateral relations with China (even though this meant the Philippines would have to compromise on certain issues in the SCS) in order to obtain assistance and investment from the Chinese government while distancing the country from its long-standing ally: the United States. President Duterte prioritised economic concerns over security concerns. This preference explains the restrained and muted responses of the Philippines to the PCA final award. Besides, the shift in the country's SCS policy, which is fundamentally because of the change in national leadership, led to the country's inconsistency during the arbitration.

Vietnam's Response to the PCA Final Award

Vietnamese Authorities' Perspective

In response to the issuance of the PCA's final award, Vietnam announced that it "welcomes" the final decision of the Tribunal and "reaffirms its consistent position regarding this arbitration." The note verbale sent to the Tribunal in December 2014 explains that Vietnam has no doubt that "the Tribunal has jurisdiction in these proceedings" and that the Philippines' requests submitted to the Tribunal were justified and in accordance with the United Nations Convention on the Law of the Sea 1982 (UNCLOS) (PCA 2016: 72). Vietnam also acknowledged that the PCA's final award was legally binding. Vietnam simultaneously showed its strong support for the peaceful settlement of the dispute in the SCS by legal and diplomatic means (Vietnam MOFA 2016).

Vietnamese Authorities' Actions

Vietnam called on China and the Philippines, both parties to UNCLOS, to abide by the final award of the Tribunal (Storey 2016b: 3). In his brief remarks concerning the reaction of Vietnam to the issuance of the final award by the PCA, the spokesperson of the Vietnamese Ministry of Foreign Affairs (MOFA) also noted that the Ministry would later "make a statement on the content of this award" (Vietnam MOFA 2016). The Ministry has not subsequently issued a detailed statement on the award's content. In the post-ruling period, Vietnam has scarcely mentioned the PCA final award; Vietnamese senior leaders are said to have avoided mentioning the award specifically (Thayer 2017a). Concerning the SCS dispute, Vietnam continues to reaffirm its longstanding position: to solve the dispute by peaceful means in accordance with international law, especially UNCLOS, or strongly promote the establishment of the Code of Conduct (COC) in the SCS etc.

Vietnamese Authorities' Target Audience

I hypothesise that the Vietnamese authorities were not targeting any specific countries when reacting to the award. The reaction to the ruling was merely a "play it safe" strategy (neither objecting nor offering overwhelming support), which helped the country eschew any potential risks. The SCS dispute has always been a core matter in Vietnam's foreign policy. Therefore, in regards to SCS, Vietnam has acted and implemented its policy cautiously. There is a wide range of issues that Vietnam needs to consider before proclaiming its official legal stance on SCS issues. Vu and Nguyen (2017: 11) suggest Vietnam needed more time to assess the award fully and thoroughly. The country needed to evaluate how and to what extent the Tribunal's decisions may affect Vietnam's national interests in the SCS and how the ruling may be

used. For this reason, Vietnam would not put itself in a problematic situation and instead stayed safe with its muted responses.

The Consistency of Vietnam's South China Sea Policy Throughout the Arbitration

The Vietnamese SCS policy in the pre- and post-ruling periods is, in general, consistent. However, the level of consistency varies from issue to issue.

Throughout the arbitral case, Vietnam recognised that the issues requested for consideration at the Tribunal by the Philippines were under its jurisdiction and the award was final and binding for both parties. By acknowledging the Tribunal's award in adjudging the matters submitted by the Philippines as well as the final decision of the Tribunal, Vietnam showed its strong support for the internationalisation of the SCS dispute.

Differences in actions and target audiences are apparent. In terms of the authorities' actions, Vietnam acted more proactively in the pre-ruling period. Even though it was not party to the arbitral proceedings, the Vietnamese government submitted a statement about its stance on the SCS arbitration with annexed documents. In the statement, Vietnam clarified that it had no doubt about the jurisdiction of the Tribunal in the proceedings (Vietnam MOFA 2014: 1), and it supported the interpretation and application of some UNCLOS provisions made by the Tribunal (Vietnam MOFA 2014: 5–6). Vietnam also expressed its perspective that the Philippines had requested the Tribunal consider the issues under its jurisdiction and in accordance with UNCLOS (issues unrelated to questions of sovereignty and maritime delimitation) (Vietnam MOFA 2014: 2–3). Vietnam also strongly and publicly criticised Chinese claims: “Vietnam resolutely protests and rejects any claim by China in the SCS which is based on the nine-dash line.” (Vietnam MOFA 2014: 3). It also mentions another issue considered by the Tribunal that related to the country's national interests. Specifically, the matters mentioned by the Philippines are low-tide elevations or rocks and thus generate no entitlements in the maritime zones (Vietnam MOFA 2014: 3–5). Other than that, Vietnam reaffirmed its right to interfere in the proceedings in case the country's rights and interests are affected in accordance with international law (Vietnam MOFA 2014: 7). Later in its submission, Vietnam re-expressed its rejection of China's claims in the SCS in response to the position paper of the Chinese government. In 2016, when the Tribunal advised that it would issue the final award on the arbitral case over the SCS, Vietnam's spokesperson released a statement that reiterated Vietnam's close observation of the arbitral proceedings. Vietnam used every opportunity to voice its interests and confrontation against China. In contrast, Vietnam took low-key and muted action as discussed above in the post-ruling period.

In terms of target audiences, Vietnam did not seem to fix upon specific audiences when reacting to the award in the post-ruling period. Beforehand, however, Vietnam

seemed to target China and the international community when pursuing its SCS policy. This can be explained as follows. Firstly, in mid-2014, shortly before Vietnam submitted its statement to the Tribunal, the HD-981 incident⁵ led to a major breakdown in diplomatic relations between Vietnam and China. The tensions between the two states escalated to the worst extent in years. In response to this, Vietnam used tough rhetoric to criticise China and attract public support from the international community. I assume that Vietnam's action (the submission of the note verbale to the Tribunal) in late 2014 might have targeted China to reiterate that Vietnam could act more proactively to protect its maritime claims in the SCS. Secondly, Vietnam has long made efforts to internationalise the SCS as a means of deterring China. The efforts to internationalise the dispute can be seen from Vietnam's attempts to raise and include the matters of the SCS dispute in all ASEAN agendas, documents, and/or joint communiques. Looking back at the arbitral case, Vietnam might have supported the Philippines in the hope that this would strengthen the jurisdiction of the Tribunal, simultaneously attracting more support from foreign states and partners to counter China. The final award may influence Vietnam's approach to future negotiations with China concerning the SCS dispute.

I consider the policy of the Vietnamese government generally consistent even though differences in actions and target audiences can be seen in the two periods (pre- and post-ruling). This is mostly because while the actions of the Vietnamese government in the later period differed, it was not contradictory to the country's overall perspective (i.e. to support the internationalisation of the maritime dispute in SCS and the multilateral dispute settlement in accordance with international law). The extent to which Vietnam responded to the issues that directly involved China changed but still followed the general framework of the policy it adopted during the earlier stage.

Vietnam's Response: Proposed Explanations

Foreign Policy Tendencies

In Vietnam and China's bilateral relations, territorial disputes in the SCS are the most complicated issue—one that has always ranked highly in Vietnamese foreign policy. In dealing with China, the Vietnamese government aims to maintain its sovereignty and political autonomy while preserving stable, peaceful, and beneficial bilateral relations with China (Tran 2016: 89). According to Storey (2016a), the Vietnamese government generally pursues a consistent policy framework made up of five different

⁵ This refers to the case in which the Vietnamese government claims China placed its drilling oilrig HD-981 in Vietnam's Exclusive Economic Zone (EEZ). China also sent a great number of ships, including military vessels and aircraft, to Vietnamese territory in order to support the oilrig.

strategies that are implemented simultaneously: first, Vietnam maintains regular dialogue with China despite tensions during the dispute; second, Vietnam promotes the implementation of the Declaration on the Conduct of Parties in the SCS⁶ (DOC) and the negotiations regarding the Code of Conduct (COC); third, Vietnam attempts to “internationalise” the SCS issues, making them well known and appealing to the international community by raising the matter in different regional and international fora as well as hosting annual academic conferences on the issues; fourth, Vietnam attempts to increase its naval and air capabilities by modernising the military; and finally, Vietnam diversifies and strengthens bilateral relationships with a variety of world powers including the U.S., Japan, India, and Russia (Storey 2016a: 146). All of these strategies are in accordance with the four main pillars of Vietnamese foreign policy: independence and self-reliance, multi-lateralisation and diversification of external relations, struggle and cooperation, and pro-active international integration (Thayer 2017b: 184). It is also important to note that the Vietnamese Politburo Resolution⁷ states that Vietnam’s foreign policy is oriented on the basis of the country’s national interests. This means that despite its socio-political system, Vietnam would cooperate with any country with mutual interests and counter those that harm Vietnam’s national interests (Thayer 2016: 210). China was categorised as a friendly country as it had the same socialist background as Vietnam. Despite this commonality, the two countries had different national interests in the SCS in the later period (Thayer 2017b: 185). In sum, Vietnam’s reaction towards China (strong or low-key) depends on the extent China may harm its national interests. In fact, many cases have driven the Vietnamese government to take drastic action. For example, in 2011 China cut the cables of Vietnam’s seismic survey vessels⁸ and placed China’s drilling oilrig HD-981 in Vietnam’s EEZ in 2014. After these incidents occurred, the Vietnamese government strongly criticised China for infringing upon Vietnam’s sovereign and jurisdictional rights. Moreover, it attempted to bring up the issue in regional and international fora to catch the attention of and gain support from the international community. The Vietnamese government was not afraid to issue bold statements against China. For instance:

⁶ ASEAN-China Declaration on the Conduct of Parties in the SCS.

⁷ Vietnam implements a one-party political system in which the Communist Party of Vietnam has centralised control over political and socio-economic issues etc. The Politburo is the highest body of the Vietnam Communist Party, which is in charge of the orientation of the government and enacts policies approved by the Vietnamese National Assembly or the Central Committee Communist Party. As a result, the Politburo Resolution is significant in Vietnam’s policymaking process.

⁸ The incident was controversial because Vietnam’s two seismic vessels were undertaking seismic surveys and conducting seismic exploration within the Vietnamese continental shelf and EEZ in accordance with UNCLOS.

We [Vietnam] always want peace and friendship [with China] but this must ensure independence, self-reliance, sovereignty, territorial integrity, and maritime zones. These are sacred and we will never trade them off for some kind of elusive, dependent peace and friendship” (Vietnamese Embassy in Germany 2014).

Vietnam even implied that the country was “prepared and ready for legal action” against China (Keck 2014).

Overall, Vietnam has a firm policy framework for dealing with China: it is ready to challenge if its national interests are harmed and is simultaneously willing to cooperate if China shows good faith in the course of securing Vietnamese national interests. Returning to the arbitration, its foreign policy tendencies can explain the reaction of Vietnam to the award to a certain degree. In its final award, the Tribunal interpreted Article 121 UNCLOS on rocks and islands, and concluded the maritime status of features (whether the features are rocks or islands, whether they generate entitlement to the surrounding maritime zone etc.) in the Spratly Archipelago—claimed by Vietnam. Therefore, it is understandable that Vietnam made low-key or even muted responses. This might partly be because it needed to review thoroughly whether the arbitral award would have any negative impact on its claims in the SCS and harm its national interests in the sea area. Vietnam might need to exercise caution to ensure its national interests and bilateral relations with China are not put at stake. The actions of Vietnam in response to the Tribunal's final award might have been inconsistent with its own actions in the pre-ruling period. The reaction of Vietnam, however, is consistent with its longstanding adopted policy framework towards China.

As the strongest influence on the external security environment, the U.S. also affects Vietnam's attitude and behaviour towards China. From the 1990s–2008, Vietnam dealt with SCS issues moderately. For example, in 1997 and 1998, Vietnam found a Chinese exploratory ship operating in the Spratly Archipelago, an area claimed by Vietnam and deep in its continental shelf. The country criticised the Chinese government, publicised its dissatisfaction, and protested against the unlawful actions of China but on a limited number of occasions (Amer 2014: 19, 31). It is important to restate that in the 1990s, freedom of navigation was the only interest of the U.S. in the SCS (Baviera 2016: 172; Zha and Valencia 2001: 92). The maritime dispute among claimant states did not affect its freedom of navigation in the sea area, which led to the neutral behaviour of the United States. In general, the U.S. did not get deeply involved in SCS issues. In 2001, due to the events of September 11, the U.S. launched the War on Terror that shifted its foreign policy focus to the Middle East. During President Bush's two presidential terms from 2001 to early 2009, the SCS maintained a low profile in the U.S.' foreign policy. This might explain the moderate attitude of Vietnam towards China from the 1990s–2008.

In 2009, the Obama administration shifted its emphasis to the Asia Pacific region and engaged more deeply with SCS affairs. Since 2009, a change in the Vietnamese

SCS policy can be clearly identified. Vietnam has adopted a stronger and more proactive stance towards China. This can be seen from the two cable-cutting incidents in 2011 or the previously discussed HD-981 incident in 2014. In the earlier period, Vietnam continuously made its discontent about China's unlawful acts in the SCS widely known; since 2009, Vietnam publicised its dissatisfaction to an even greater extent by voicing strong protestations against China and the country's aggressive movements in the SCS using diplomatic means. Other than that, shortly after the two incidents in which China cut the seismic vessels' cables, Vietnam held its own live-fire drills (Branigan 2011). Although Vietnam announced that these exercises had "nothing to do with the recent incidents involving China," a newspaper controlled by the Chinese Communist Party considered it "a military show of force to defy Beijing" (cited in BBC 2011). In the same year, Vietnam also held elections to Vietnam's National Assembly in the Spratly Archipelago to reclaim its indisputable sovereignty over the territory (Amer 2014: 20–21). Moreover, Vietnam also strengthened its military capability by modernising its navy by, for instance, signing a contract with Russia to purchase six Russian-made diesel electric attack submarines in 2009. Modernisation aimed to defend every inch of its territory (Vnexpress 2017).

When the U.S. did not intensively engage in the SCS, Vietnam displayed a moderate and persistent attitude when dealing with China. When the U.S. shifted its focus to the SCS, Vietnam showed more proactive and stronger responses to Chinese assertiveness and aggression in the SCS. Going back to the PCA's final award, as previously mentioned, the U.S.' official response was relatively low-key and cautious. The strict insistence on both the Philippines and China's compliance with the award could not be seen. When the award was issued, the U.S. was in the middle of a period of changing power; the new president's SCS policy was open to question, and the extent to which the U.S. would engage in the SCS was uncertain. More importantly, the Philippines—a party to the arbitration that Vietnam supported more than any state in the earlier period—responded with restraint to the result of the arbitration. The Philippines, under new leadership, adopted a totally contradictory SCS policy and showed its intention to further cooperate and strengthen bilateral relations with China. Taken together, these factors—to a certain degree—help us understand the low-key and muted reactions of Vietnam towards the PCA final award.

Leadership Ideology and Personal Preferences

The Vietnam Communist Party (VCP) plays a crucial role in the foreign policymaking process of Vietnam. In the past, public opinion did not have much influence on VCP leaders' decisions about Vietnam's foreign policy. Nevertheless, VCP leaders are now under social pressure when deciding on the adoption or implementation of certain foreign policy issues, especially those that concern bilateral relations with China. According to Thayer, a Southeast Asia regional specialist, the legitimacy of Vietnam's

one party regime would be seriously challenged by public opinion if it failed to deter an aggressive China in the SCS (Thayer 2017b: 184). His viewpoint is not groundless: the Vietnamese struggled for a long time until becoming independent. Today's independent nation state spent nearly a millennium under Chinese imperial rule, more than six decades under French colonialism, and about twenty years warring against the coalition led by the United States. Among all the old enemies, the lack of sentiment towards China is the most notable and shared among the Vietnamese people. This is mostly due to the long history of tension between the two (one thousand years under Chinese rule and the border war in 1979)⁹. The Vietnamese people in general understand and treasure the value of freedom and independence. Furthermore, the majority of Vietnamese people frequently express a strong sense of nationalism that makes them even more sensitive about China and concerned about the SCS dispute.

Thayer also notes that there is a possible division in Vietnam's leadership regarding the management of relations with China: whether to adopt the shared socialist ideology or economic, political, and defence/security significance as the basis for dealing with China. Regardless, it could be argued that there are no "pro-China factions" in Vietnam (Thayer 2017b: 184). When Nguyễn Phú Trọng—a man considered more conservative and less harsh when criticising China's assertiveness in the SCS—was re-elected as the General Secretary of the VCP for a second term, many media reports expected a shift in Vietnamese SCS policy. Nguyễn Tấn Dũng, the former General Secretary, had been a strong critic of China. However, the change of leadership did not seem to have much influence on Vietnam's policy in the SCS. Vietnam continues to follow its foreign policy framework strictly (Shoji and Tomikawa 2017: 144).

In general, the leaders' personal ideologies and preferences may have affected Vietnam's reaction to China, which can thus explain the inconsistencies in Vietnam's actions in the pre- and post-ruling periods. Given Vietnamese foreign policy is decided through the collective ideology of the VCP, its policy was consistent in general throughout the arbitration. The VCP need to act cautiously, particularly in relations with China, in order to defend the country's national interests and eschew social pressure, hence securing the legitimacy of its one party political system. Rather than the leaders' personal ideologies and preferences, foreign policy tendencies can better explain Vietnamese reactions to the PCA final award.

⁹ This refers to the Sino-Vietnam war in 1979. China deployed more than 300,000 troops to Vietnam in the month after Vietnam withdrew its troops from Cambodia. It conducted a war to "teach Vietnam a lesson it would not soon forget." This armed conflict was seen as a response to Vietnamese policy towards China and its expansion in the Southeast Asian region (Zhang 2005: 851, 865, 867). For further information, see Zhang 2005.

Main Findings: Conclusions

This article analyses and compares the Philippines and Vietnam's responses to the PCA's final award on the arbitration case initiated by the Philippines against China over the South China Sea (July 2016). The main objective was to find answers to the following research question: "What are the similarities/differences between the Philippines' responses to the PCA's final award and those of Vietnam?"

The analytical framework for the analysis of the Philippines and Vietnam's reactions to the PCA's final award was established based on a wide range of methods used and developed by other scholars in the field. The combination of varied methods is indispensable because there is currently no consensus regarding an analytical framework for the issue. I started my study by initially reporting "the immediate responses of both states," which include the authorities' perspectives, actions, and target audiences. I then attempted to find out if the states' SCS policies in the pre- and post-ruling period were consistent or not. To determine this, I also went through the states' policies and strategies in the pre-ruling period using three criteria: the authorities' perspectives, actions, and target audiences. I then compared them with "the immediate responses of both states" to the PCA's final award. Finally and significantly, I attempted to explain the responses of both states using two criteria: the tendencies of each state's foreign policy, and the leaders' ideologies and personal preferences. In terms of foreign policy tendencies, I tried to shed light on how states tend to act towards China over time and how the U.S. (as the most important actor in the external security environment) affects these states' attitudes towards China. In terms of leaders' ideologies and personal preferences, I endeavoured to clarify whether the leaders of each state would prioritise economic over security concerns or vice-versa. I hoped to determine the extent of the leaders' influence on the states' foreign policies on an individual level. Generally, I assessed the responses of each state separately. I will highlight the similarities and discrepancies in the Philippines and Vietnam's reactions in the following paragraphs—the main findings of this study.

The Philippines and Vietnam are the two major claimants with somewhat similar positions in the SCS dispute. The two states responded to the PCA's final award in a comparable manner yet the motives behind such responses diverged, mostly due to differing foreign policies. Various similarities and differences exist between the responses of both states, enabling me to address the research question directly. Similarities in the responses of both the Philippines and Vietnam to the PCA's final award include:

1. Both the Philippines and Vietnam welcomed the award and appreciated its use in the peaceful settlement of international disputes,¹⁰ which is in accordance

¹⁰ The award provided a set of legal practices that can be applied to similar maritime disputes in the SCS and other global water bodies.

- with international law. The two states also acknowledged the finality and binding nature of the award.
2. The responses of both the Philippines and Vietnam were low-key and even muted. The result of the arbitration has barely been mentioned in the aftermath.
 3. Both states' actions in the pre- and post-ruling period were generally inconsistent. In the pre-ruling period, the two countries were proactive and kept a high profile in the diplomatic confrontation with China. In the post-ruling period, both the Philippines and Vietnam maintained low-profile positions.
 4. In the pre-ruling period, the Philippines and Vietnam both agreed that the SCS dispute is a multilateral concern and thus should be resolved multilaterally. They supported the internationalisation of the dispute. During this period, the two states took proactive action against China. Their action targeted China and the international community. Both states wanted to show their determination and hard stance against China in solving disputes in the SCS and internationalising the SCS issue in order to gain more sympathy and support from the international community.
 5. The foreign policy tendencies of each state can—to a certain extent—explain their responses to the PCA's final award as well as the consistency or inconsistency of their SCS policies in the pre- and post-ruling periods. The Philippines tends to pursue a new SCS policy whenever there is new leadership. The external security environment, in which the U.S. is an enormously influential actor, significantly influences the degree to which the Philippines would respond to Chinese action in the SCS. Vietnam tends to pursue a firm and consistent SCS framework that puts national interests first in accordance with the main pillars of its foreign policy. External security, particularly the U.S., also has a considerable impact on the foreign policymaking process of Vietnam.

Differences in both states' responses to the PCA's final award are identified below:

1. The Philippines clearly stated that they would further study the award and its implications. However, they would not use the result of the arbitration, which was favourable to the Philippines, to take advantage of China. Meanwhile, Vietnam's responses were more ambiguous and general. The use of the arbitral award by Vietnam remained unclear.
2. In the aftermath of the arbitration, the Philippines specifically targeted China and the U.S. whereas Vietnam simply adopted a "play-it-safe" strategy and did not target any specific actors when it responded to the PCA's final award.
3. The SCS policy of the Philippines in the post-ruling period fundamentally contradicted the previous period. Under President Duterte, the Philippines was willing to hold talks with China to enhance bilateral relations. The Philippines was ready to compromise and obtain economic benefits in return. The

Philippines also wanted to solve the dispute bilaterally and to distance itself from the U.S.—its long-standing ally. The SCS policy of Vietnam in the two periods was generally consistent. Even though the actions of Vietnam in the post-ruling period were restrained and muted in contrast to the earlier period, its actions remained in line with Vietnam's traditional SCS policy and foreign policy. Vietnam maintained its support for the internationalisation of the SCS dispute and its stance that the dispute in the SCS must be multilaterally resolved by peaceful means in accordance with international law.

4. In the Philippines, the President holds enormous power that significantly affects the country's foreign policy in general and SCS policy in particular. Therefore, the leader's ideology and personal preferences are significant elements that affect the foreign policymaking process. The new leadership tends to criticise and turn the country's policy on its head to ensure it differs from previous leadership. In Vietnam, it is not the personal ideology and preferences of the leader (the President or the Party General Secretary) but the collective ideology and preferences of the VCP leaders that is the decisive factor affecting Vietnamese foreign policy. Furthermore, memories from the past when Vietnamese people had to struggle against the Chinese for independence make issues involving China sensitive. Moreover, Vietnamese people in general hold a negative or anti-China view. This is why Vietnamese leaders have to avoid social pressure and maintain the legitimacy of the one party political system when making policy on China. Overall, the leaders' ideology and personal preferences can better explain the responses of the Philippines to the PCA's final award and its inconsistent policy throughout the arbitration. Meanwhile, the leaders' ideology and personal preferences may affect the extent that Vietnam would confront China. It may not, however, change the overall framework of its foreign policy generally and SCS policy in particular as it does with the Philippines.

Relevance of the Main Findings

The results of this study are relevant to the teaching and learning of International Relations. The international systems in which states operate are frequently considered uncertain and untrustworthy. The main findings about the Philippines and Vietnam's responses are another good example confirming that international politics is unpredictable and full of mistrust. At the same time, the responses of the Philippines and Vietnam prove that in the SCS, new developments undoubtedly appear every year that contribute to the complexity of the dispute. The main findings indicate that two factors characterise the nature of the SCS dispute: uncertainty and diversity. The SCS dispute is diverse and uncertain, partly due to the abundance of states' SCS policies that may

change due to numerous factors: for instance, foreign policy tendencies (how states tend to behave), the external security environment (what kind of attitude states tend to have or what kind of strategy states tend to adopt depending on the level of engagement of certain powers in the SCS), the personal ideology and preferences of the leaders etc.

The main findings prove that the analytical framework established in this study is feasible for the analysis of states' responses to an IR phenomenon. As this framework is established to examine the reactions of small states (the Philippines and Vietnam) to an IR event that is not favourable to a greater power (China), it might not be fully relevant and applicable for studies in which the research subjects are larger states with enormous economic and security capabilities. The analytical framework introduced in this study can be used as the background for research on larger states' responses to an IR phenomenon. More work must be done to improve and develop the analytical framework utilised in this study for a better and more comprehensive explanation of great powers' reactions.

The study results may be a useful source for studies examining future behaviours or reactions of the Philippines and Vietnam to any matters regarding the SCS dispute. In this context, the analytical framework provided may be developed for research that focuses on the prediction of future behaviours of states.

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ABBREVIATIONS

ASEAN	Association of Southeast Asian Nations
COC	Code of Conduct
DOC	Declaration on the Conduct ¹¹
EEZ	Exclusive Economic Zone
ICJ	International Court of Justice
IR	International Relations
ODA	Official Development Assistance
SCS	South China Sea
PCA	Permanent Court of Arbitration
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea 1982
U.S.	United States
VCP	Vietnam Communist Party

¹¹ ASEAN-China Declaration on the Conduct of Parties in the South China Sea