



Written by [Warren Mass](#) on July 12, 2016

International Tribunal Rules in Favor of Philippines in Dispute With China

The Permanent Court of Arbitration (PCA), an international tribunal in The Hague, ruled in favor of the Philippines on July 12, in a maritime dispute with China over that nation's construction of artificial islands in the Spratly Islands in the South China Sea. The PCA concluded in the case of *Philippines v. China* that China has no legal basis to claim rights to the islands, as well as the bulk of the South China Sea.



Taiwan, Vietnam, and Malaysia have also claimed portions of these islands.

CNN reported that the tribunal concluded that China does not have the right to resources within its “nine-dash line,” which extends hundreds of miles to the south and east of its island province of Hainan and covers a major part of the South China Sea. The “nine dash line” — which originated under the communist nation's predecessor Republic of China government — was established in 1947 and included the Paracel Islands, the Spratly Islands, the Pratas Islands, and various reefs and shoals.

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“If China's nine-dash line is invalid as to the Philippines, it is equally invalid to those States and, indeed, the rest of the international community,” CNN quoted the lawyers who led the Philippines' legal team.

The *Times of India* quoted a statement from the tribunal's decision: “There was no legal basis for China to claim historic rights to resources within the sea areas falling within the ‘nine-dash line.’”

The *Times of India* also cited China's state-run Xinhua news agency's quotes from Chinese Foreign Minister Wang Yi, who said the arbitration case has moved the dispute into dangerous territory where tensions and confrontation may worsen.

Xinhua reported China's accusation that the tribunal's members were biased, “as most of them were picked by Shunji Yanai, then ITLOS (the International Tribunal for the Law of the Sea) president and former Japanese ambassador to the United States.”

The Xinhua report continued by describing Yanai as a “famous Japanese right-winger,” adding that his creation of the arbitral tribunal “is believed to be biased as he initially picked Judge Chris Pinto of Sri Lanka” as a tribunal member. Xinhua perceives that as an apparent conflict, since Pinto's wife is a Filipino national.

People's Daily, an official newspaper of the Chinese Communist Party, ran an article on July 12 citing an article bylined by Hannah Beech, *Time* magazine's East Asia Bureau Chief.

The communist organ heavily quoted from the *Time* article entitled “China Will Never Respect the U.S. Over the South China Sea. Here's Why.” *People's Daily* summarized the message in *Time*: “The U.S. refuses to play by international rules, declining to ratify a major U.N. convention to which more than 160 other countries are party.” It went on to quote the article: “Washington's outsider position undercuts its message as it urges China to respect global maritime norms. After all, China ratified the



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U.N. Convention on the Law of the Seas (UNCLOS) in 1996.”

People's Daily also borrowed this message from *Time*:

The U.S. Navy will continue to ply the high seas, acting as the world's oceanic policeman by engaging in freedom-of-navigation exercises. But American hypocrisy when it comes to maritime rule of law looks likely to endure, [the *Time* article] added.

People's Daily is half right. On the one hand, the United States, by engaging in a consistently interventionist foreign policy over the past 60 or 70 years, has taken on the self-appointed role of not only the world's *oceanic* policeman, but the world's *policeman*, period.

However, for China (or *Time*) to tie this foreign policy to the U.S. refusal to ratify UNCLOS lacks credibility. That is because almost every single instance of U.S. interventionism and engagement in foreign wars since the Korean War was part of a mission directed by or authorized by the UN or one of its agencies or “regional arrangements,” such as NATO. (John F. McManus, president emeritus of The John Birch Society, wrote about NATO's relationship with the UN in his article for *The New American*, “[NATO: The UN's Military Arm](#).”)

In case after case, whenever the United States has served as “the world's policeman,” it was under the auspices of the UN. An article in Wikipedia about the Korean War notes: “In the U.S., the war was initially described by President Harry S. Truman as a ‘police action’ as it was an undeclared military action, conducted under the auspices of the United Nations.” The article might have noted that, since our Constitution gives Congress the power to declare war, it is unconstitutional for any president to commit us to war without such a congressional declaration. (The last time Congress declared war was in 1942, when the United States declared war on Bulgaria, Hungary, and Romania.)

As McManus noted in a more recent article, “[Trump, War, and the Constitution](#)”:

On June 25, 1950, Communist North Korean forces invaded South Korea. Two days later, the UN Security Council issued a resolution calling on member nations to aid South Korea. President Harry Truman responded in a matter of days by ordering U.S. forces to Korea and, when pressed by several U.S. senators to explain how he could do so without the required congressional declaration of war, he said it wasn't war but “a police action.” He added that if he could send troops to NATO (which he had done), he could send troops to Korea. Thus ended the requirement for a declaration of war before sending our nation's forces into conflicts in Korea, Vietnam, Bosnia, Iraq, Afghanistan, and elsewhere. NATO and the UN have overridden the U.S. Constitution.

All military actions taken or contemplated by NATO and its twin SEATO (Southeast Asia Treaty Organization, created in 1954) had to be authorized and reported to the UN. Victory ceased to be the result of U.S. action — in Korea, Vietnam, Iraq, Afghanistan, and elsewhere. Control of U.S. military action was no longer held by Americans but by the anti-American United Nations.

While the actions taken by the United States as “the world's policeman” have largely been mandated by the UN, participation in the U.N. Convention on the Law of the Seas (UNCLOS) — sometimes referred to as the Law of the Sea Treaty, or LOST — presents another threat. It effectively empowers the UN itself to become “the world's policeman” and puts virtually the entire Earth under the authority of the UN's Division of Ocean Affairs and Law of the Sea (DOALOS).

For purpose of clarification, it should be noted that The Permanent Court of Arbitration (PCA), the tribunal in The Hague, that just decided against China, predates the UN by many years, being established



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in 1899 by the first Hague Peace Conference. The United States became a party to that convention in 1909 and China joined under the Qing dynasty in 1909 and again (as the Republic of China that preceded the present communist government) in 1917.

China ratified UNCLOS in 1996, but since there has never been a sufficient two-thirds consensus in the Senate in favor of the agreement, no president has submitted it for consideration.

There is no inconsistency (or “hypocrisy,” as China claims) between the U.S. failure to ratify UNCLOS and the U.S. expression of moral support for nations such as the Philippines in their territorial disputes in the South China Sea with China. However, there is an inconsistency between the noninterventionist foreign policy favored by our nation’s early leaders and the militant interventionism practiced by the United States for the past seven decades. Stating that we agree with the Philippines is fine. Sending the Seventh Fleet to the South China Sea to engage in sabre rattling with the Chinese is not fine.

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