

PARIS : Webinaire, La Méditerranée Orientale à la Croisée des Chemins



Le Transatlantic Leadership Network annonce la publication de *Maritime Disputes in the Eastern Mediterranean : The Way Forward*, de Roudi Baroudi.

La Méditerranée orientale à la croisée des chemins : Les questions énergétiques au premier plan

Jeudi 11 juin 2020 9 H 30 – 11 H 00 EST

Avec la participation de : Dr. Roudi Baroudi, directeur général, Energy & Environment Holding ; Jonathan Moore, U.S. Department of State ; Senior Bureau Official/Principal Deputy Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs ; Kurt Donnelly, U.S. Department of State. Deputy Assistant Secretary for Energy Diplomacy, Bureau of Energy Resources. Sous-secrétaire adjoint pour la diplomatie énergétique, Bureau des ressources énergétiques.

Remarques préliminaires : John B. Craig, Ambassadeur, Senior Fellow, Transatlantic Leadership Network.

Modéré par : Debra Cagan, Distinguished Energy Fellow, Transatlantic Leadership Network

« Un commentaire d'expert et un travail de fond ».

John B. Craig, ambassadeur, ancien assistant spécial du président George W. Bush pour la lutte contre le terrorisme, et ancien ambassadeur des États-Unis à Oman

« Baroudi plaide avec force pour un compromis afin que les États de la région puissent dépasser leurs différends coûteux et récolter les bénéfices de la coopération. L'approche de M. Baroudi a beaucoup à nous apprendre et, espérons-le, contribuera à des progrès pacifiques, si seulement les parties adverses l'écoutent ».

Andrew Novo, professeur associé d'études stratégiques à l'Université de la défense nationale

« ...Les pays de la région, ainsi que les États-Unis et l'Union européenne, devraient adopter l'approche de Baroudi pour réduire les tensions et profiter des avantages de cette manne d'énergie ».

Douglas Hengel, maître de conférences dans le cadre du programme sur l'énergie, les ressources et l'environnement de

l'université Johns Hopkins, SAIS et chercheur au German Marshall Fund

À propos de l'auteur

Roudi Baroudi a 40 ans d'expérience dans les domaines du pétrole et du gaz, de la pétrochimie, de l'électricité, de la réforme du secteur de l'énergie, de la sécurité énergétique, de l'environnement, des mécanismes de commerce du carbone, de la privatisation et des infrastructures. Ses avis sur ces questions et d'autres questions connexes sont fréquemment sollicités par des entreprises locales et internationales, des gouvernements et des médias.

Ενα Νέο Βιβλίο Δείχνει τον Δρόμο για την Ειρηνική Επίλυση των Διαφορών Αναφορικά με τα Θαλάσσια Σύνορα

THE TRANSATLANTIC LEADERSHIP NETWORK IS PLEASED
TO ANNOUNCE THE PUBLICATION OF
MARITIME DISPUTES IN THE EASTERN MEDITERRANEAN:
THE WAY FORWARD,
BY ROUDI BAROUDI



TLN

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Ενας Οδικός Χάρτης Μπορεί να Βοηθήσει τα Παράκτια Κράτη να Επωφεληθούν του Υποθαλάσσιου Πλούτου

ΟΥΑΣΙΓΚΤΟΝ: Ο ειδικός σε θέματα ενέργειας, Ρούντι Μπαρούντι, στο νέο του βιβλίο αναδεικνύει μηχανισμούς μείωσης της έντασης, οι οποίοι συχνά ξεχνιούνται αλλά μπορούν να βοηθήσουν στην εκμετάλλευση πετρελαίου και φυσικού αερίου αξίας δισεκατομμυρίων δολλαρίων.

Το βιβλίο *Διαφωνίες επί των Θαλασσίων Συνόρων στην Ανατολική Μεσόγειο: Μια Πρόταση Επίλυσης* διανέμεται από το Ινστιτούτο Μπρούκινγκς και σκιαγραφεί το εκτενές νομικό και διπλωματικό πλαίσιο το οποίο διατίθεται για χώρες με διαφιλονεικούμενα θαλάσσια σύνορα. Ο συγγραφέας Ρούντι Μπαρούντι συζητά την αυξανούσα επιρροή του Διεθνούς Δικαίου της Θάλασσας υπό την αιγίδα των Ηνωμένων Εθνών (United Nations Convention on the Law of the Sea – UNCLOS), οι κανόνες του οποίου αποτελούν πια την βάση για την επίλυση όλων, σχεδόν, των διαπραγματεύσεων και συμφωνιών στην θάλασσα. Εξηγεί, επίσης, πως οι πρόσφατες εξελίξεις στον επιστημονικό και τεχνολογικό τομέα – και ειδικά στην χαρτογράφηση ακριβείας – έχουν αυξήσει περαιτέρω την επιρροή των κανόνων του Διεθνούς Δικαίου της Θάλασσας, αφαιρώντας κάθε ενδεχόμενη ασάφεια από οποιαδήποτε διαπραγμάτευση που βασίζεται στους κανόνες του Δικαίου.

Το βιβλίο εστιάζει στην ανατολική Μεσόγειο, όπου οι πρόσφατες ανακαλύψεις υδρογονανθράκων ανέδειξαν το γεγονός ότι τα περισσότερα θαλάσσια σύνορα της περιοχής παραμένουν ακαθόριστα. Η αβεβαιότητα την οποία δημιουργεί αυτή η κατάσταση όχι μόνο καθυστερεί την εκμετάλλευση των πόρων και την διοχέτευση του πλούτου προς όφελος των κοινωνιών, αλλά δημιουργεί και κινδύνους θερμών επεισοδίων και πολέμων. Τέτοιου είδους προβλήματα υπάρχουν σε όλη την Γή. Ο Μπαρούντι σημειώνει, ωστόσο, ότι η δίκαιη επίλυσή τους σε μία περιοχή μπορεί να ενδυναμώσει την εμπιστοσύνη στους πολύπλευρους μηχανισμούς σε κάθε περιοχή.

Σε περίπτωση, σημειώνει, που οι χώρες της ανατολικής Μεσογείου

συμφωνούσαν σε μια δίκαιη επίλυση των διαφορών τους με βάση το Διεθνές Δίκαιο, «θα ήταν μια έμπρακτη απόδειξη ότι η μεταπολεμική αρχιτεκτονική συλλογικής ασφάλειας παραμένει όχι μόνο εφικτή αλλά και απαραίτητη... θα απεδείκνυε σε όλον τον κόσμο ότι κανένα εμπόδιο δεν είναι τόσο μεγάλο και καμμία ιστορική εχθρότητα τόσο βαθιά ριζωμένη ώστε να μην υπερσκελίζεται από τον βασικό κανόνα στον οποίο συναίνεσαν όλα τα μέλη των Ηνωμένων Εθνών με την συμμετοχή τους σε αυτόν – την ευθύνη να επιλύουν τις διαφορές τους χωρίς την χρήση ή την απειλή βίας.»

Το βιβλίο μας υπενθυμίζει πως υπάρχουν μοχλοί οι οποίοι μπορούν να αμβλύνουν τις διπλωματικές ανισότητες, και αυτό είναι ιδιαίτερα χρήσιμο σε μια εποχή όπου η όλη ιδέα της πολυπλευρικής προσέγγισης βάλλεται από τις ίδιες χώρες οι οποίες την δημιούργησαν. Ο τρόπος γραφής του βιβλίου ζωντανεύει ένα θεματικό πλέγμα ιστορίας, γεωγραφίας, δικαίου και χαρτογραφίας, καθιστώντας τα θέματα αυτά προσιτά στο ευρύ κοινό στο οποίο απευθύνεται, καθώς και σε πολιτικούς και διπλωμάτες.

Ο Μπαρούντι εργάζεται εδώ και τέσσερις δεκαετίες στον ενεργειακό τομέα. Ανάμεσα στις πολυεθνικές εταιρείες, κυβερνήσεις και διεθνείς θεσμούς που έχει συμβουλέψει στο διάστημα αυτό συγκαταλέγονται τα Ηνωμένα Έθνη, η Ευρωπαϊκή Επιτροπή, το Διεθνές Νομισματικό Ταμείο και η Παγκόσμια Τράπεζα. Οι εξειδικευμένες γνώσεις του βρίσκονται στους τομείς του πετρελαίου και φυσικού αερίου, τα πετροχημικά, τον ηλεκτρισμό, την ενεργειακή ασφάλεια και την μεταρρύθμιση του ενεργειακού τομέα για να αντιμετωπίσει περιβαλλοντικά ζητήματα, την αγορά του άνθρακα, τις ιδιωτικοποιήσεις, και τις υποδομές. Είναι Διευθύνων Σύμβουλος της ανεξάρτητης συμβουλευτικής εταιρείας Qatar Energy and Environment Holding, με έδρα την Ντόχα του Κατάρ.

Το βιβλίο αυτό είναι απόσταγμα πολυετούς προσωπικής έρευνας, ανάλυσης και υπεράσπισης θέσεων του Μπαρούντι. Την επιμέλεια του κειμένου ανέλαβε η Debra L. Cagan, (Distinguished Energy

Fellow, Transatlantic Leadership Network) και ο Sasha Toperich (Senior Executive Vice President, Transatlantic Leadership Network).

Το βιβλίο *Διαφωνίες επί των θαλασσίων Συνόρων στην Ανατολική Μεσόγειο: Μια Πρόταση Επίλυσης* εκδίδεται από το Transatlantic Leadership Network (TLN), μια ένωση δικηγόρων, παικτών του ιδιωτικού τομέα και αναλυτών οι οποίοι στοχεύουν στον διαρκή εκσυγχρονισμό των σχέσεων Ηνωμένων Πολιτειών και Ευρωπαϊκής Ένωσης. Η αρχική μορφή του βιβλίου ήταν ηλεκτρονική. Τώρα διανέμεται από τις Εκδόσεις του Ινστιτούτου Μπρούκινγκς, που ιδρύθηκαν το 1916 για την έκδοση ερευνών του Ινστιτούτου, το οποίο θεωρείται από πολλούς ως το πιο αξιосέβαστο ινστιτούτο έρευνας των ΗΠΑ.

Πολλοί εξειδικευμένοι παρατηρητές πλέκουν το εγκώμιο του βιβλίου. Παραθέτουμε λίγα αποσπάσματα:

Douglas Hengel, Professional Lecturer in Energy, Resources and Environment Program, Johns Hopkins University School of Advanced International Studies, Senior Fellow at German Marshall Fund of the United States, and former State Department official: “Μέσα από αυτό το στοχαστικό και γλαφυρό βιβλίο, ο Ρούντι Μπαρούντι μας δίνει ένα πλαίσιο... το οποίο μας δείχνει τον δρόμο προς μια δίκαιη και ειρηνική λύση... οι χώρες της περιοχής, καθώς και η Ευρωπαϊκή Ένωση και οι Ηνωμένες Πολιτείες, θα έπρεπε να ασπαστούν την προσέγγιση του Μπαρούντι.

Andrew Novo, Associate Professor of Strategic Studies, National Defense University: “... Ένα καλά ισορροπημένο, καινοτόμο και θετικό μήνυμα το οποίο μπορεί να βοηθήσει πολλά θέματα να προοδεύσουν που δεν φαίνονται να επιδέχονται επίλυσης. Χρησιμοποιώντας το Διεθνές Δίκαιο, γεω-στοιχεία υψηλής ακρίβειας και μια ισχυρή οικονομική λογική, ο Μπαρούντι προσφέρει ένα πειστικό επιχείρημα υπέρ ενός συμβιβασμού, εφόσον, φυσικά, οι εμπλεκόμενες πλευρές θέλουν να ακούσουν.”

New Book Shows Way to Peaceful Resolution of Maritime Border Disputes



Road Map Can Help Coastal Countries Tap Offshore Resources

WASHINGTON, D.C.: A new book by energy expert Roudi Baroudi highlights often overlooked mechanisms that could defuse tensions and help unlock billions of dollars' worth of oil and gas.

“Maritime Disputes in the Eastern Mediterranean: the Way Forward” – distributed by Brookings Institution Press – outlines the extensive legal and diplomatic framework available to countries looking to resolve contested borders at sea. In it, Baroudi reviews the emergence and (growing) influence of the United Nations Convention on the Law of the Sea (UNCLOS), whose rules and standards have become the basis for virtually all maritime negotiations and agreements. He also explains how recent advances in science and technology, in particular precision mapping, have expanded the impact of UNCLOS guidelines by taking the guesswork out of any dispute-

resolution process based on them.

As the title suggests, much of the study centers on the Eastern Mediterranean, where recent oil and gas discoveries have underlined the fact that most of the region's maritime boundaries remain unresolved. The resulting uncertainty not only slows development of the resources in question (and reinvestment of the proceeds to address poverty and other societal challenges), but also increases the risk of one or more shooting wars. Baroudi notes, however, that just as such problems and their consequences exist around the globe, so might their fair and equitable resolution in one region work to restore faith in multilateralism for peoples and their leaders in all regions.

Were the countries of the Eastern Mediterranean to agree under UNCLOS rules to settle their differences fairly and equitably, he writes, "it would give a chance to demonstrate that the post-World War II architecture of collective security remains not merely a viable approach but also a vital one ... It would show the entire world that no obstacles are so great, no enmity so ingrained, and no memories so bitter that they cannot be overcome by following the basic rules to which all UN member states have subscribed by joining it: the responsibility to settle disputes without violence or the threat thereof."

Baroudi's work offers both general and specific reminders that levers exist which can level the diplomatic playing field, a useful contribution at a time when the entire concept of multilateralism is under assault from some of the very capitals that once championed its creation. In addition, it is written in an engaging style that makes several disciplines – from history and geography to law and cartography – accessible and interesting to everyone from academics and policymakers to engineers and the general public.

Baroudi's background consists of more than four decades in the

energy sector, during which time he has helped design policy for companies, governments, and multilateral institutions, including the United Nations, the European Commission, the International Monetary Fund, and the World Bank. His areas of expertise range from oil and gas, petrochemicals, power, energy security, and energy-sector reform to environmental impacts and protections, carbon trading, privatization, and infrastructure. He currently serves as CEO of Energy and Environment Holding, an independent consultancy based in Doha, Qatar.

The book has been distilled from years of Baroudi's personal research, analysis, and advocacy, with editing by Debra L. Cagan (Distinguished Energy Fellow, Transatlantic Leadership Network) and Sasha Toperich (Senior Executive Vice President, Transatlantic Leadership Network).

"Maritime Disputes in the Eastern Mediterranean: the Way Forward" is published by the Transatlantic Leadership Network (TLN), an international association of practitioners, private sector leaders, and policy analysts working to ensure that US-EU relations keep pace with a rapidly globalizing world. Distribution has been entrusted to Brookings Institution Press, founded in 1916 as an outlet for research by scholars associated with the Brookings Institution, widely regarded as the most respected think-tank in the United States.

The TLN hosted a webinar on Thursday to launch the e-book version, with guests and participants joining via Zoom from cities around the world. Following introductory remarks by Cagan and former US Ambassador John B. Craig, a lively discussion took place with a panel featuring Baroudi and two very relevant representatives from the US State Department – Jonathan Moore (Principal Deputy Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs), Kurt Donnelly (Deputy Assistant Secretary for Energy Diplomacy, Bureau of Energy Resources) and Dr. Charles Ellinas (Senior Fellow with the Atlantic Council's Global Energy

Center)

Prior to the launch event, the book had garnered advance praise from key observers, including:

Douglas Hengel, Professional Lecturer in Energy, Resources and Environment Program, Johns Hopkins University School of Advanced International Studies, Senior Fellow at German Marshall Fund of the United States, and former State Department official: “In this thoughtful and well-argued book, Roudi Baroudi provides a framework ... guiding us down a path to an equitable and peaceful resolution ... The countries of the region, as well as the United States and the European Union, should embrace Baroudi’s approach ...”

Andrew Novo, Associate Professor of Strategic Studies, National Defense University: “... A balanced, innovative and positive message that can provide progress for a series of apparently insoluble problems. Using international law, highly detailed geo-data, and compelling economic logic, Baroudi makes a powerful case for compromise ... if only the opposing sides will listen.”

Greece, Cyprus, Israel sign EastMed pipeline deal



Greece, Cyprus and Israel yesterday signed an agreement for a huge pipeline project to ship gas from the eastern Mediterranean to Europe. The 2,000km (1,200-mile) EastMed pipeline will be able to carry between nine and 12bn cubic metres of gas a year from off shore reserves held by Israel and Cyprus to Greece, and then on to Italy and other southeastern European countries. The discovery of hydrocarbon reserves in the eastern Mediterranean has sparked a scramble for the energy riches.

Greek Prime Minister Kyriakos Mitsotakis, Israeli Prime Minister Benjamin Netanyahu and Cypriot President Nicos Anastasiades joined the ceremony at which their respective energy ministers signed the deal in the Greek capital. The EastMed project is expected to make the three countries key links in Europe's energy supply chain. The EastMed alliance "is of enormous importance to the state of Israel's energy future and its development into an energy power and also from the point of view of stability in the region," Netanyahu said in a statement issued as he left Israel for Greece yesterday. Mitsotakis said the pipeline was of "geo-strategic importance" and would contribute to regional peace. Earlier, Greek Energy Minister Kostis Hatzidakis called it "a project of peace and

co-operation”.

Anastasiades said his aim was “co-operation and not rivalry in the Middle East.” Avinoam Idan, a former Israeli government security official who is now a geostrategy expert at Haifa University, said of the deal: “It’s important for Israel, it’s important for the transit countries, Greece and Cyprus, and of course Europe.” As the new source of energy would not compete with Russian supplies to the EU, “there is no reason to see it as a big change in the geopolitical dynamic in Europe’s energy market,” he told AFP. The Greek economic daily Kathimerini said on Wednesday that Athens and Nicosia had been in a hurry to finalise EastMed so as “to counter any attempt to stop the project.” The cost of the installation from the eastern Mediterranean to Italy is estimated at €6.0bn (\$6.7bn).

Blue Economy is Essential for All of the Euro-Mediterranean Nations



ATHENS: (Agencies) No single factor is more important to cross-border cooperation than the rule of law, a leading

energy policy expert told this week's EU-Arab World Summit in Athens.



Greek Prime Minister H.E. Mr. Kyriakos Mitsotakis greeting Energy expert Mr. Roudi Baroudi at the 4th EU Arab-World Summit in Athens, October 2019

Several high-profile speakers addressed opening-day sessions on Tuesday, including Greek Prime Minister Kyriakos Mitsotakis, Cypriot President Nicos Anastasiades, former French Prime Minister Francois Fillon, and former Italian Prime Minister Massimo D'Alema. Most of these dealt in broad strokes with topics of mutual EU/Arab interest such as economic challenges, the immigration crisis, and shared interests in the Mediterranean's rapidly expanding oil and gas industry.

On Wednesday, speakers delved more deeply into specific issues, among them Greece's Deputy Minister for Energy and the Environment, Gerassimos Thomas, who focused on the

geopolitical relationship(s) among undersea gas resources, liquified natural gas (LNG) activities, the delivery of East Med resources to Europe, and associated concerns about environmental impacts.

This and other in-depth talks prompted Roudi Baroudi, CEO of Doha-based independent consultancy Emergy and Environment Holding, to remark that with such a complex web of factors at play among so many countries, the only logical approach was to ensure that any and all stakeholders willingly submit to the same rules.



Mr. Roudi Baroudi with H.E. Mr. Massimo D'Alema, former Prime Minister of Italy

“In order to fully appreciate and safely exploit all of the advantages offered by well-managed maritime resource, there can be no substitute for common rules and standards,” Baroudi told attendees and journalists on the sidelines of the summit. “This blue economy could be a game-changer for countries all around the Mediterranean and even further afield.”

Baroudi, a 40-year veteran of the energy business who has

helped shape both public and private policies on several continents, said that “the best, the cheapest, and the easiest way” to ensure timely and sustainable development for all players to honor their obligations under international law.

“If these countries just do their basic duty under the United Nations Charter, which is to seek the peaceful resolution of disputes, we’ll already be halfway there,” Baroudi said. “If they also make policy decisions based on the principles of Euro-Med partnership, then everyone wins.”

Baroudi also mentioned that the EU, for instance, has a clear interest in promoting full Maritime demarcation, not just because it would remove uncertainties affecting its southern members, but also because it would open up new opportunities for the Euro-Mediterranean Partnership by continuing dialogue, reducing frictions and strengthening business ties.



Former Prime Minister of France, Francois Fillon and Energy expert Roudi Baroudi in discussions during the 4th EU-Arab World Summit in Athens, October 2019

“The peoples of the Mediterranean deserve the chance at affluence that new oil and gas revenues would provide. They deserve the modern schools, hospitals, roads, and other infrastructure that would reinvigorate their economies, eliminate poverty, and reduce inequality .”

Baroudi concluded that it is very important to increase public awareness of the Maritime domain for the blue economy to really take hold all of the Euro Mediterranean Nations enjoy and to integrate fair, diplomatic, political, legal and scientific dimensions/approaches.

Venti di guerra scaldano il Mediterraneo. La soluzione: un arbitro internazionale



Tra confini contesi e tesori energetici. Gli Usa non bastano più. Baroudi: “Vanno applicate legge e tecnologia”

Redazione – Sab, 15/06/2019 – 08:00

Non c'è pace nel Mediterraneo dell'Est. Pressoché ignorata dai giornali italiani è in corso una escalation militare nella zona: la marina di vari Paesi, dalla Turchia, alla Russia, agli Usa incrocia al largo della Grecia, della Turchia, di Cipro, del Libano. É qualche giorno fa la notizia di una

imponente manovra della marina turca nell'Egeo e nel Mediterraneo dell'Est, con 131 navi, 55 aerei, e 25 mila soldati, che ha portato a tensioni con gli altri paesi presenti nella zona con le loro unità e i loro marinai. Crocevia del Grande Gioco nel Mediterraneo, la zona sembra sempre più calda e qualcuno prova a lanciare l'allarme al Segretario Generale delle Nazioni Unite, António Guterres. L'imprenditore dell'energia, nonché personalità di spicco nel mondo politico-diplomatico mediorientale, Roudi Baroudi, ha lanciato un appello preoccupato proprio a Guterres. Dopo aver rilevato l'escalation militare nella zona, Baroudi spiega che l'oggetto delle tensioni sono i confini marittimi tra i paesi confinanti, e in particolare i nuovi giacimenti di idrocarburi scoperti nell'area. Pensiamo solo al giacimento Leviathan, al largo delle coste Israeliane: quasi sei miliardi di metri cubi di gas, o al giacimento Zohr, al largo dell'Egitto, di nove miliardi di metri cubi stimati. A fronte di queste e altre scoperte, e della ricchezza immensa dei giacimenti offshore ivi presenti (sono 231, tra petrolio e gas, un numero impressionante), c'è un coacervo di paesi che non hanno confini marittimi stabiliti con certezza: parliamo di Cipro, Egitto, Israele, Libano, Siria, e Turchia, e il problema ulteriore che alcuni paesi accettano la convenzione internazionale per il diritto marino (Unclos), altri no. E il risultato che quasi il 70 per cento delle dispute marittime della zona sono, di fatto, insolute. Date le tensioni politiche ed economiche in gioco la situazione è davvero rischiosa, per tutti, rileva Baroudi nel suo appello. Come risolvere la situazione? Baroudi propone a Guterres di creare uno «Special advisor» che si occupi del problema, ma soprattutto «di lanciare un processo di mediazione dell'Onu. Va notato che, mentre il ruolo degli Stati Uniti da solo si è rivelato insufficiente, il coinvolgimento in un'operazione patrocinata dalle Nazioni Unite sarebbe indispensabile. In particolare per limitare le tensioni tra Libano e Israele lo sforzo Usa è uno dei requisiti per il successo». Ma quale sarebbe la strada per definire una buona volta i confini

marittimi, epicentro di tutte le tensioni della regione? Baroudi propone un «approccio integrato, multidisciplinare» fatto di «buona legislazione e buona scienza». «Le nuove tecnologie di geolocalizzazione e mappatura sono così affidabili che qualsiasi procedimento arbitrale internazionale può valersi di un terreno comune scientifico». E sul versante legale, Baroudi afferma: «La Corte di giustizia internazionale che è il principale organo giudiziale delle Nazioni Unite, ha affermato in molti casi che le regole di delimitazioni marittime contenute nell'Uclos riflettono la legge internazionale, quindi sono applicabili in generale. Questa giurisprudenza offre una guida autorevole per gli stati



costieri, nel risolvere le loro dispute».

http://www.ilgiornale.it/news/mondo/venti-guerra-saldano-mediterraneo-soluzione-arbitro-1712245.html?mobile_detect=false

FAILING OR INCOMPLETE? GRADING THE SOUTH CHINA SEA ARBITRATION



On July 12, 2016, an arbitral tribunal at the Permanent Court of Arbitration in The Hague issued its ruling in Manila's case against Beijing's claims in the South China Sea. Convened under the compulsory dispute settlement provisions of the United Nations Convention on the Law of the Sea (UNCLOS), the tribunal's five arbitrators ruled overwhelmingly in the Philippines' favor. Beijing refused to participate in the arbitration and rejected the outcome. Meanwhile, the newly-inaugurated president of the Philippines, Rodrigo Duterte, downplayed the victory in the hopes of coaxing China toward a more conciliatory policy and, as a result, international pressure on China to comply with the award has evaporated. The ruling clarified important aspects of UNCLOS and customary international law, but there was never much hope Beijing would accept its findings. Nonetheless, many observers hoped that over time China might find politically face-saving ways to bring its claims and behavior into line with the substance of the ruling, even while rejecting the process. In the three years since the arbitral award, and since Manila's adoption of a more accommodating policy toward Beijing, has China moved any closer to compliance? AMTI has compiled a list of actionable findings from the tribunal and assessed whether China's recent actions are in-line with them. Overall, China is in compliance with just 2 of 11 parts of the ruling, while on another its position is too unclear to assess. In one of the two most far-reaching decisions in the case, the arbitrators found that "the Convention [UNCLOS] defines the scope of maritime entitlements in the South China Sea, which may not extend beyond the limits imposed therein" (Judgement, para. 278). This means that "China's claims to historic rights, or other sovereign rights or jurisdiction, with respect to...the 'nine-dash line' are contrary to the Convention and without lawful effect" if they extend beyond the territorial sea, exclusive economic zone (EEZ), and continental shelf to which it is entitled by UNCLOS (para. 279). Nevertheless, the day after the arbitral award was issued, the Chinese Ministry of Foreign Affairs released

a white paper which insisted, "In addition [to internal waters, territorial sea, contiguous zone, EEZ and continental shelf], China has historic rights in the South China Sea." In the last three years, Chinese officials have spoken less often about the nine-dash line as the basis of their claim over the South China Sea, but China continues to claim ill-defined historic rights to virtually all waters and seabed in the South China Sea. It is on this basis that Chinese fishers operate in the EEZs of Vietnam, the Philippines, and Indonesia, and on which Beijing objects to all oil and gas operations within the nine-dash line, regardless of how far they lie from Chinese-claimed land features.

Scarborough Shoal and high-tide features in the Spratlys generate territorial seas but not EEZs or continental shelves.

The second key finding in the case was that neither Scarborough Shoal nor any of the high-tide features in the Spratly Islands "are capable of sustaining human habitation or an economic life of their own" and "are therefore legally rocks for purposes of Article 121(3) and do not generate entitlements to an exclusive economic zone or continental shelf" (paras. 643 and 646). This means that the only EEZs and continental shelves in the South China Sea are those generated by the coastlines of the surrounding states and, possibly, some of the Paracel Islands. The Spratlys and Scarborough Shoal generate only a series of 12-nautical-mile territorial seas. Combined with the tribunal's rejection of China's claim to historic rights throughout the nine-dash line, this reduces the legally disputed areas around islands and reefs to the following: It is widely believed that China claims EEZs and continental shelves from Scarborough Shoal and many, if not all, of the Spratlys, but this has not been made explicit in Chinese law or public statements. Beijing's 2016 white paper insists that "China has, based on the Nanhai Zhudao [islands of the South China Sea], internal waters, territorial sea, contiguous zone, exclusive economic zone and continental shelf." But it could be argued that this only means that some

of the islands, particularly the Paracels, generate these entitlements. Additionally, Chinese actions in its neighbors' EEZs can be explained by its ongoing demand for historic rights and are therefore not proof of a claim to EEZs and continental shelves from the Spratlys or Scarborough. Future developments, for instance the declaration of straight baselines around Chinese-claimed features in the Spratlys, could make Chinese non-compliance with this piece of the arbitral award more explicit, but for now Beijing's claims remain too ambiguous for a clear assessment.

Second Thomas Shoal and the waters around it are part of the EEZ and continental shelf of the Philippines.

The tribunal found that Second Thomas Shoal, which has been occupied since 1999 via the intentional grounding of the Philippine navy ship BRP *Sierra Madre*, is underwater at high-tide and generates no maritime entitlements of any kind. And because none of the Spratly Islands can generate EEZs or continental shelves, "There is, accordingly, no possible entitlement by China to any maritime zone in the area." Second Thomas Shoal sits within 200 nautical miles of the Philippine coast and is therefore "part of the exclusive economic zone and continental shelf of the Philippines" (paras. 646 and 647). Nevertheless, China Coast Guard vessels continue to patrol near Second Thomas regularly and in May 2018 a People's Liberation Army-Navy (PLAN) helicopter dangerously harassed a Philippine resupply mission to the *Sierra Madre*.

China illegally occupied Mischief Reef, which is part of the Philippine continental shelf.

Like Second Thomas Shoal, the arbitral tribunal ruled that Mischief Reef is a low-tide feature that constitutes part of the EEZ and continental shelf of the Philippines. Further, the arbitrators found that "China has, through its construction of installations and artificial islands at Mischief Reef without the authorisation of the Philippines, breached Articles 60 and 80 of the Convention...The Tribunal further finds that, as a low-tide elevation, Mischief Reef is

not capable of appropriation" (para. 1043). This is probably the most difficult part of the ruling to imagine China ever complying with because it would require abandoning its naval and air base at Mischief or securing Philippine permission to continue its occupation. In the meantime, China not only occupies the reef but seemingly continues to claim maritime entitlement to it as evidenced by its objections to U.S. freedom of navigation operations within 12 nautical miles of the facility.

China illegally prevented the Philippines from exploiting the resources of its continental shelf.

The arbitral award concluded that Reed Bank, which is entirely underwater and sits within 200 nautical miles of the Philippines, is part of that country's continental shelf. Referring to a specific incident in which Chinese law enforcement vessels prevented the operations of a Philippine survey ship, the tribunal found that "China has...breached Article 77 of the Convention with respect to the Philippines' sovereign rights over the non-living resources of its continental shelf in the area of Reed Bank" (para. 716). China continues to block the Philippines from exploring for oil and gas at Reed Bank despite the ruling. In November 2018, the two sides signed a memorandum of understanding that could pave the way for oil and gas development at Reed Bank. The details have not been hashed out yet and it is possible that the agreement could pave the way for China to come into technical compliance with the ruling. If Beijing agrees to have a Chinese company invest in a Philippine service contract (SC 72) at Reed Bank under Manila's supervision, the agreement will be consistent with the ruling. But if China insists on a joint development agreement outside of Philippine jurisdiction, it will cement its noncompliance.

China violated the Philippines' rights to fish within its EEZ.

The tribunal found that China violated the Philippines sovereign rights to the living resources of its EEZ, in particular "by promulgating its 2012 moratorium on fishing in

the South China Sea, without exception for areas of the South China Sea falling within the exclusive economic zone of the Philippines and without limiting the moratorium to Chinese flagged vessels” (para 716). China nonetheless continues to declare a unilateral fishing ban from May to August each year covering all waters north of the 12th degree of latitude, including large sections of the EEZs of the Philippines and Vietnam. The most recent ban provoked an angry response from the office of the president of the Philippines.

China failed to prevent its fishers from operating illegally in the Philippine EEZ.

The arbitrators determined that China had “failed to exhibit due regard for the Philippines sovereign rights with respect to fisheries in its EEZ,” citing cases in which Chinese law enforcement vessels tolerated and failed to prevent Chinese-flagged vessels from operating at Mischief and Second Thomas Shoals in 2013 (para. 757). Hundreds of Chinese fishing vessels continue to operate under the supervision of the China Coast Guard at Mischief Reef and throughout the Spratlys on a daily basis, though most spend more time serving in the maritime militia than they do fishing. In June, a Chinese fishing vessel operating in the Philippine EEZ at Reed Bank sank a Filipino fishing boat, leading to an ongoing crisis in Sino-Philippine relations. Elsewhere in the South China Sea, fishing vessels from China continue to operate with the support of the coast guard and navy as far away as Indonesia’s EEZ.

China illegally blocked traditional Filipino fishing at Scarborough Shoal.

At Scarborough Shoal, which has a handful of rocks that break water at high-tide, the tribunal concluded that both Chinese and Filipino fishers have the right to engage in traditional fishing regardless of who ultimately has sovereignty over the shoal. But the arbitrators ruled that China had, “through the operation of its official vessels at Scarborough Shoal from

May 2012 onwards, unlawfully prevented Filipino fishermen from engaging in traditional fishing” (para. 814). By late 2016, in an apparently gesture of goodwill to the Duterte government, China Coast Guard vessels stationed at Scarborough began to allow Filipino fishing vessels to operate along the exterior of the reef, though they were not permitted to fish inside the lagoon. That remains the case today, though the situation remains tense amid frequent reports of harassment and intimidation of Filipino fishers by the Chinese law enforcement personnel at the feature. Nonetheless, this is the one aspect of the arbitral award with which China is most clearly in compliance. And that fact is so politically important to the Duterte government that the president recently claimed to have made a secret verbal agreement with President Xi Jinping in 2016 to turn a blind eye to Chinese fishing in the Philippine EEZ in exchange for Filipino fishing rights at Scarborough—in effect trading non-compliance with one part of the judgement for compliance with another.

China allowed its fishers to illegally engage in environmentally destructive harvesting of endangered species.

The award concluded that China had, “through its toleration and protection of, and failure to prevent Chinese fishing vessels engaging in harmful harvesting activities of endangered species at Scarborough Shoal, Second Thomas Shoal and other features in the Spratly Islands, breached Articles 192 and 194(5) of the Convention” (para. 992). This was largely, though not exclusively, in reference to the large-scale extraction of endangered giant clams which destroyed or severely damaged more than 25,000 acres of shallow coral reef from 2012 to 2016, often under the eye of Chinese law enforcement vessels. After a sharp drop-off in activity after 2016, Chinese clam harvesters have returned to their destructive activities at Scarborough Shoal and throughout the Paracels, often acting within clear view of the China Coast Guard.

China illegally destroyed the marine environment through its

island-building campaign.

The tribunal found that from late 2013, China's "island-building activities at Cuarteron Reef, Fiery Cross Reef, Gaven Reef (North), Johnson Reef, Hughes Reef, Subi Reef and Mischief Reef, breached Articles 192, 194(1), 194(5), 197, 123, and 206 of the Convention," which mandate obligations to protect and preserve the marine environment. (para. 993) China completed its dredging and landfillwork in the Spratly Islands by late 2016, and its last documented island-building anywhere in the South China Sea was in the Paracels in mid-2017. It could be argued that some of China's ongoing activities, for instance the installation of monitoring stations on reefs in the Paracels, are still illegally damaging marine habitat without proper environmental impact assessments. But having run out of space for new landfill, China is now technically in compliance with the bulk of this section of the ruling. That could change, however, should China launch new dredging or landfill work at Scarborough Shoal or elsewhere.

Chinese law enforcement vessels violated COLREGS by creating a risk of collision and danger to Philippine vessels.

Finally, the arbitrators ruled that during the 2012 standoff following their seizure of Scarborough Shoal, Chinese law enforcement vessels "created serious risk of collision and danger to Philippine vessels and personnel" which meant China had "violated Rules 2, 6, 7, 8, 15, and 16 of the COLREGS [International Regulations for Preventing Collisions at Sea] and...Article 94 of the Convention." While there has been no repeat of these incidents at Scarborough Shoal due to Philippine authorities keeping their distance, China Coast Guard, PLAN, and maritime militia vessels continue to regularly engage in the same violations of COLREGs to create the risk of collision for foreign vessels in the South China Sea. The harassment of a Philippine resupply vessel near Second Thomas Shoal in May 2018 was one example. The dangerous actions of a PLAN ship during the USS *Decatur's* freedom of navigation operation through the Paracels in October 2018 was

another. And then there are the frequent violations of COLREGs by Chinese fishing vessels and state-directed militia toward both fellow claimants and outside actors.

Nicosia to reject Turkish natural gas proposal



A proposal by Turkish Cypriot leader Mustafa Akinci for a committee that would jointly administer natural gas affairs is expected to be rejected by the government and party leaders when they meet on Tuesday. President Anastasiades received the proposal through the UN and shortly after Turkish Foreign Minister Mevlut Cavusoglu expressed the view that until Greek Cypriots adopt the proposals set out by Akinci, Turkey would continue its drilling “with determination and without change”. According to an official statement President Anastasiades

received over the weekend in Limassol the head of the office of the Special Representative of the UN in Cyprus Sergiy Illarionov who presented to the President Akinci's proposal. The President called a meeting of the National Council for July 16th to inform political leaders on the details of the proposal. Sources say the plan involves the establishment of a committee under the coordination of the UN with an equal number of representatives from both sides and an independent observer. The proposal also includes details on the composition, establishment and operation of the hydrocarbons fund. News reports citing diplomatic sources said that the plan is similar to an earlier proposal submitted by former Turkish Cypriot leader Eroglu. The move comes as the EU is set to adopt a number of punitive measures against Turkey for its illegal activities off Cyprus. Cyprus had hoped for targeted EU sanctions against the Turkish Petroleum Company in order to dissuade Turkey from drilling in its EEZ. Analysts argue that the geography of the Eastern Mediterranean leaves Turkey with limited marine area while the status quo of divided Cyprus is seen as a leverage to gain a foothold in the potentially resource rich East Med basin.

<https://knews.kathimerini.com.cy/en/news/nicosia-to-reject-turkish-natural-gas-proposal#.XSw4gLzv9HE.twitter>

EU adopts measures against Turkey's illegal drilling in Cyprus' EEZ



The European Union decided on Monday to symbolically punish Turkey over illegal drilling for oil and gas off Cyprus and threatened harsher sanctions in the future unless Ankara changes tack. Foreign affairs ministers of the 28-nation bloc met in Brussels to endorse a decision to curb diplomatic contacts and funding for Ankara, retaliation for what it sees as interference with Cyprus' exclusive economic zone. Cyprus has pressed for a tough line threatening harsher sanctions in the future but others warned against antagonising a key ally on security and migration affairs. "The provocations of Turkey are unacceptable to all of us," German Minister of State for Europe Michel Roth said on arriving at the talks. "We have now found a balanced language that keeps all our options open, including of course sanctions." "I can only hope that we do not now add another crisis to the many conflicts and crises. Turkey knows what's at stake and the European Union is united on the side of Cyprus." An EU diplomat told Reuters Ankara could lose some €150m of €400m the bloc had earmarked for 2020 for everything from political reforms to agriculture projects to help Turkey prepare for

eventual EU membership. A decision endorsed by the EU ministers invited the bloc's executive and foreign policy arm to "continue work on options for targeted measures in the light of Turkey's continued drilling activities", according to the text seen by Reuters. That means any future sanctions would most likely focus narrowly on freezing assets and banning from the EU firms or people involved in the drilling, diplomats in Brussels said. "It is very clear that we stand behind Cyprus, this makes sense since we never recognised the Turkish occupation of northern Cyprus. It is normal for Cyprus to want to define their own natural resources," Austrian Foreign Minister Alexander Schallenberg said on Monday. According to the final text seen by CNA the 28 recall "the Council conclusions of 18 June 2019 and previous European Council conclusions, notably those of 20 June 2019", and "deplores that, despite the European Union's repeated calls to cease its illegal activities in the Eastern Mediterranean, Turkey continued its drilling operations west of Cyprus and launched a second drilling operation northeast of Cyprus within Cypriot territorial waters". The Council reiterates "the serious immediate negative impact that such illegal actions have across the range of EU-Turkey relations. The Council calls again on Turkey to refrain from such actions, act in a spirit of good neighbourliness and respect the sovereignty and sovereign rights of Cyprus in accordance with international law". Furthermore, "the Council, welcoming the invitation by the Government of Cyprus to negotiate with Turkey, notes that delimitation of exclusive economic zones and continental shelf should be addressed through dialogue and negotiation in good faith, in full respect of international law and in accordance with the principle of good neighbourly relations". "The EU remains fully committed to supporting the UN-led efforts to work with the parties with a view to creating the conditions conducive to resuming negotiations on a comprehensive settlement of the Cyprus problem", the text reads. "In this regard, the Council recalls that it remains crucial that Turkey commits and contributes to such a

settlement, including its external aspects, within the UN framework in accordance with relevant UNSC Resolutions and in line with the principles on which the EU is founded and the acquis", the EU 28 state in the same text. According to EU sources, the Council will publish the text around 11pm Cyprus time. High Representative Federica Mogherini, refrained from commenting on the decisions during the Council's press conference. (Reports from Reuters and CNA in Brussels)

https://cyprus-mail.com/2019/07/15/eu-adopts-measures-against-turkeys-illegal-drilling-in-cyprus-eez/amp/?__twitter_impression=true