



REJECTING XI'S BULLYING AT THE SECOND THOMAS SHOAL

BY MICHAEL TKACIK

*Michael Tkacik (mtkacik@sfasu.edu) holds a J.D. from Duke University School of Law and a Ph.D. from the University of Maryland. He is a Professor of Government at Stephen F. Austin State University where he also directs the School of Honors. His research interests focus on the Indo-Pacific. He has published widely in journals such as *Comparative Strategy*, *Defense & Security Analysis*, and *International Relations*.*

On July 21 the Philippines and China announced a “[provisional agreement](#)” to deescalate a conflict over a submerged reef in the South China Sea and within the Philippines’ Exclusive Economic Zone (EEZ). The agreement would allow the Philippines to resupply the grounded BRP Sierra Madre on Second Thomas Shoal. Predictably, China sought to interpret the agreement as reinforcing its illegal claims inside the Philippines’ EEZ. The Philippines was able to resupply the Sierra Madre on July 27. While nine Chinese ships (including three [People’s Liberation Army Navy warships](#)) shadowed the mission, the Philippines claim there was no interference. China, on the other hand, claims to have undertaken “[on-the-scene](#)” inspections of the shipment.

Whether or not China interfered with this particular resupply mission, it is likely to interfere with these missions again in the future by claiming a right to inspection. For this reason, the provisional agreement should be rejected by the Philippines and it should resupply the BRP Sierra Madre with whatever materials, and by whatever means, it sees fit. If China continues to interfere, the Philippines should take up the United States’ [offer to assist in the resupply](#) missions.

What’s wrong with China’s interpretation?

China’s interpretation of the provisional agreement seeks to force the Philippines to accept, *ipso facto*, the argument that China has the legal possession over the South China Sea. China claims it must be informed in advance of any resupply missions, that Manila can only send “living necessities,” and that China is entitled to “on-site confirmation” of the supplies sent. This essentially confirms China’s legal ownership of the Second Thomas Shoal as well as implicitly grants legitimacy to China’s ownership over a variety of additional features in the Philippine’s EEZ. Manila would be admitting that China has legal ownership and that any actions taken by the Philippines are taken only through China’s good offices. This is [illegal at international law](#) and unacceptable for the Philippine’s national interests.

A second problem with Beijing’s interpretation is that it cedes not just legal authority, but also actual control, over natural resources to which the Philippines has clear need. The Philippines is a young and growing country ([unlike China](#)) that needs to feed its population. It will also increasingly need the [energy resources available](#) from the South China Sea. To surrender these resources not only sets a precedent that undermines the rule-based world order, it undermines the Philippines’ economic future.

What’s really going on here?

A great deal of handwringing has occurred over China’s behavior in the South China Sea since 2014, but its behavior has been consistently revisionist over the past 50 years. For example, in January 1974 China attacked and seized certain [Vietnamese occupied features in the Parcel Islands](#). In the late 1980s China [skirmished with the Vietnamese](#) at Johnson Reef in the Spratly Islands. And of course, in 2014 it began building islands inside of the Philippines EEZ in violation of international law. Other states such as [Indonesia have faced Chinese bullying](#).

China seeks to control the South China Sea because it wants to control the resources therein and seeks to expand its security perimeter. China’s behavior not

only violates the [United Nations Convention on the Law of the Sea](#) per the [Permanent Court of Arbitration's 2016 ruling](#), but it is also arguably a violation of the UN Charter, [Article 2, Section 4](#). China is violating international law at multiple levels as it seeks to undermine the already stressed rule-based international order.

The problem with the provisional agreement is that it grants legal justification to China's otherwise illegal actions. It is another example of China's continued use of "[lawfare](#)." It cedes authority to China where China has no legal right. This is the first step on a slippery slope that recognizes China's claim on the Philippines' EEZ.

Instead, the Philippines should continue to reject all of Beijing's claims inside the Philippine EEZ. It should continue to assert its rights and [consult with the United States](#) on assistance in resupplying the BRP Sierra Madre. In essence, the Philippines and the US should escalate gray zone tactics, but not respond with force. Manila's legal claim should be backed by permanent and effective occupation. Thus, not only should the resupply missions continue, but the Philippines should establish a more permanent presence at the Second Thomas Shoal.

As to lawfare, there are a number of options the Philippines and the US might take. First, the Philippines could settle some of its outstanding maritime disputes with neighboring states. The Philippines has previously [settled certain disputes through negotiation](#). This approach has worth insofar as it is peaceful. But using internationally recognized dispute mechanisms to settle other outstanding issues would go a long way to demonstrating the value of the liberal order as opposed to China's rejection of the rule of law. Second, the Philippines can continue to use the rule of law to assert its rights, such as it did in June when it [filed a claim](#) with the UN to extend its continental shelf. This again demonstrates the alternative to China's approach. Third, the Philippines could bring another action at the Permanent Court of Arbitration regarding China's destruction of habitat. [The Philippines considered this in late 2023](#). The US, for its part, has the resources and legal skills to lend the Philippines

support. Moreover, it has the ability to influence global opinion in a way that asserts continuing awareness of China's revisionism.

Beijing does not recognize rule of law. Indeed, it cannot because of the authoritarian nature of its regime. The provisional agreement is an attempt by the PRC to build legal support for its otherwise illegal and unsupported South China Sea claims. The Philippines and like-minded states should not buttress or in any other way legitimize China's actions by negotiating rights that China has no legal claim to. Doing so undermined the global rules-based order.

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