



THE SOUTH CHINA SEA ARBITRATION

A Chinese Perspective

Edited by Stefan Talmon and Bing Bing Jia



The South China Sea Arbitration A Chinese Perspective

Yih-Jye Hwang, Edmund Frettingham



The South China Sea Arbitration A Chinese Perspective:

The South China Sea Arbitration Stefan Talmon, Bing Bing Jia, 2014-11-01 On 22 January 2013 the Republic of the Philippines instituted arbitral proceedings against the People's Republic of China PRC under the United Nations Convention on the Law of the Sea UNCLOS with regard to disputes between the two countries in the South China Sea South China Sea Arbitration On 19 February 2013 the PRC formally expressed its opposition to the institution of proceedings making it clear from the outset that it will not have any part in these arbitral proceedings and that this position will not change It is thus to be expected that over the next year and a half the Tribunal will receive written memorials and hear oral submissions from the Philippines only The Chinese position will go unheard However the Tribunal is under an obligation before making its award to satisfy itself not only that it has jurisdiction over the dispute but also that the claims brought by the Philippines are well founded in fact and law UNCLOS Annex VII Article 9 This book aims to offer a not the Chinese perspective on some of the issues to be decided by the Tribunal and thus to assist the Tribunal in meeting its obligations under the Convention The book does not set out the official position of the Chinese government but is rather to serve as a kind of amicus curiae brief advancing possible legal arguments on behalf of the absent respondent The book does not deal with the merits of the disputes between the Philippines and the PRC but focuses on the questions of jurisdiction admissibility and other objections which the tribunal will have to decide as a preliminary matter The book will show that there are insurmountable preliminary objections to the Tribunal deciding the case on the merits and that the Tribunal would be well advised to refer the dispute back to the parties in order for them to reach a negotiated settlement The book brings together scholars of public international law from mainland China Taiwan and Europe united by a common interest in the law of the sea and disputes in the South China Sea This title is included in Bloomsbury Professional's International Arbitration online service The South China Sea Arbitration Yoshifumi Tanaka, 2019-11-28 Beyond the scope of the dispute settlement between the Philippines and China the South China Sea arbitral award can be thought to significantly influence the development of international law and the law of the sea Accordingly this book seeks to examine the South China Sea arbitration from the perspective of the development of public international law and its limitations Specifically it addresses the issues of jurisdiction of the Annex VII Arbitral Tribunal the historic rights the legal status of maritime features the lawfulness of various activities of China and the role of the South China Sea arbitration in the international dispute settlement In considering these issues this book examines the South China Sea arbitration in three respects i the clarification of relevant rules and obligations under the UN Convention on the Law of the Sea as well as international law ii the protection of community interests at sea and iii considerations of time elements in international law This title is included in Bloomsbury Professional's International Arbitration online service *The South China Sea Arbitration* Stefan Talmon, 2022-08-08 This book examines the South China Sea Arbitration between the Philippines and China widely hailed as a landmark case in the law of the sea Stefan

Talmon argues that while the Tribunal assembled international lawyers of the highest repute and unrivalled experience the case was nevertheless decided wrongly He examines every step of the proceedings and critically engages with both the Philippines submissions and the Tribunal's rulings He finds that the Tribunal was lacking jurisdiction to decide the case that some of the Philippines claims were also inadmissible and that the Tribunal's awards were tainted with procedural errors

Legitimacy, Jurisdiction and Merits in the South China Sea Arbitration: Chinese Perspectives and International Law Jiangyu Wang, 2017 *The South China Sea Arbitration* Yoshifumi Tanaka, 2019-11-28 Beyond the scope of the dispute settlement between the Philippines and China the South China Sea arbitral award can be thought to significantly influence the development of international law and the law of the sea Accordingly this book seeks to examine the South China Sea arbitration from the perspective of the development of public international law and its limitations Specifically it addresses the issues of jurisdiction of the Annex VII Arbitral Tribunal the historic rights the legal status of maritime features the lawfulness of various activities of China and the role of the South China Sea arbitration in the international dispute settlement In considering these issues this book examines the South China Sea arbitration in three respects i the clarification of relevant rules and obligations under the UN Convention on the Law of the Sea as well as international law ii the protection of community interests at sea and iii considerations of time elements in international law This title is included in Bloomsbury Professional's International Arbitration online service *The South China Sea Arbitration* S. Jayakumar, Tommy Koh, Robert Beckman, Tara Davenport, Hao Duy Phan, 2018-10-26 Bringing together leading experts on the law of the sea The South China Sea Arbitration provides a detailed analysis of the significant aspects findings and legal reasoning in the high profile case of the South China Sea Arbitration between the Philippines and China The book offers a comprehensive overview and analysis of the major issues discussed in the Arbitration including jurisdiction procedure maritime entitlement and the protection of the marine environment The chapters also explore the implications of the case for the South China Sea disputes and possible dispute settlements under the 1982 United Nations Convention on the Law of the Sea The robust discussion in each chapter will be an invaluable contribution to the ongoing debate on the South China Sea Arbitration This informative and compelling book will be essential reading for scholars and students of public international law law of the sea international dispute settlement and international relations Policy makers and governmental officials with responsibility for law of the sea and international dispute settlement as well as members of international courts and tribunals international organisations and non governmental organisations will find this book a stimulating read Contributors include R Beckman T Davenport E Franckx L Q Hung S Jayakumar S Kaye T Koh Y Lyons M H Nordquist N Oral H D Phan J A Roach C Symmons **South China Sea Lawfare** Fu-Kuo Liu, Keyuan Zou, Shicun Wu, Jonathan Spangler, 2017-04-20 South China Sea Lawfare Post Arbitration Policy Options and Future Prospects is the second of two reports in the series published by the South China Sea Think Tank Published shortly after the tribunal issued its final award in the Philippines v China arbitration case in July 2016 the report is

the result of a collaborative effort by an international team of authors and incorporates the diverse perspectives of claimants and non claimant stakeholders in the South China Sea maritime territorial disputes The South China Sea Arbitration Alfredo C. Robles, 2019-01-01 The South China Sea Arbitration which marks the first time that the Philippines and China have been parties to a compulsory dispute settlement procedure is a landmark legal case The Tribunal tackled head on critical issues in the interpretation and application of the UN Convention on the Law of the Sea that other international courts have failed to address particularly the compatibility of historic rights with the Convention the identification of maritime features as permanently submerged or above water at high tide and the distinction between features that are fully entitled to maritime zones and those that are not In addition the Tribunal also had to decide on issues as diverse as near collisions at sea illegal fishing of giant clams and sea turtles and the destruction of fragile coral reefs resulting from island building The Tribunals task was rendered arduous by Chinas refusal to appear before it In these circumstances understanding the Tribunals decisions is a challenging undertaking Chinas public relations campaign targeting the proceedings raised issues that the layperson could readily grasp notably African states support for its non appearance the integrity of the judges and the validity of arbitral awards Understanding the Awards and Debating with China aims to facilitate understanding of the South China Sea Arbitration by presenting detailed summaries of the two Arbitral Awards The author rebuts the questionable claims raised by Chinas public relations campaign and highlights Chinas covert actions during the proceedings *The Defaulting State and the South China Sea Arbitration* Alfredo C. Robles Jr., 2023-05-27 This book focuses on the legal and procedural problems caused by China s default in the South China Sea Arbitration Many of these problems arose because in several respects China departed from the conduct of other defaulting States in cases before the International Court of Justice The book argues that the Tribunal confronted with the difficulties of maintaining the balance between two parties in a situation of default drew on the full range of its powers to ensure that neither China nor the Philippines would suffer from China s default Further the book describes the shortcomings of the submissions of putative amicus curiae It refutes China s questioning of the independence and impartiality of the experts and of the judges In so doing it explains the expert opinions and the Tribunal s assessments of the latter in the areas of satellite imagery coral reef ecology and navigational safety while rebutting the half truths and counter truths disseminated by Chinese scholars about the proceedings The book compares China s threats to the independence of the Tribunal to its behavior towards Chinese judges It places China s accusations of bias against the Tribunal in the context of China s domestic situation and concludes that the Tribunal acting independently and impartially was able to perform the judicial function despite China s default Perspectives on the South China Sea Murray Hiebert, Phuong Nguyen, Gregory B. Poling, 2014-10-08 The South China Sea is arguably one of the world s most dangerous regions with conflicting diplomatic legal and security claims by major and mid level powers To assess these disputes CSIS brought together an international group of experts from Australia Canada China Indonesia Japan Malaysia the

Philippines the United Kingdom the United States and Vietnam This volume gathers these experts analyses to provide a diverse and wide ranging set of perspectives on the region and to explore possibilities for future cooperation *Perspectives on the South China Sea* Murray Hiebert,Phuong Nguyen,Gregory B. Poling,2014-10-08 The South China Sea is arguably one of the world s most dangerous regions with conflicting diplomatic legal and security claims by major and mid level powers To assess these disputes CSIS brought together an international group of experts from Australia Canada China Indonesia Japan Malaysia the Philippines the United Kingdom the United States and Vietnam This volume gathers these experts analyses to provide a diverse and wide ranging set of perspectives on the region and to explore possibilities for future cooperation

South China Sea Lawfare Fu-Kuo Liu,Jonathan Spangler,2016-01-29 South China Sea Lawfare Legal Perspectives and International Responses to the Philippines v China Arbitration Case is the first of two reports published by the South China Sea Think Tank Published shortly after the tribunal issued its first award in the Philippines v China arbitration case the report is the result of a collaborative effort by an international team of authors and incorporates the diverse perspectives of claimants and non claimant stakeholders in the South China Sea maritime territorial disputes **Joint Development of**

Hydrocarbon Deposits in the Law of the Sea Vasco Becker-Weinberg,2014-08-05 This book examines the concept and purpose of joint development agreements of offshore hydrocarbon deposits from the perspective of public international law and the law of the sea taking into consideration and extensively reviewing State practice concerning seabed activities in disputed maritime areas and when hydrocarbon deposits extend across maritime boundaries It distinguishes between agreements signed before and after the delimitation of maritime boundaries and analyzes the relevance of natural resources or unitization clauses included in maritime delimitation agreements It also takes into consideration the relation between these resources and maritime delimitation and analyzes all the relevant international jurisprudence Another innovative aspect of this book is that it examines the possibility of joint development of resources that lay between the continental shelf and the Area considering both theoretical and practical problems As such the book is a useful tool for scholars and experts on public international law and the law of the sea but also for national authorities and practitioners of international disputes resolution as well as public and private entities working in the oil and gas industry International Relations in Southeast

Asia Donald E. Weatherbee,2014-11-25 This fully revised and updated edition of Donald E Weatherbee s widely praised text offers a clear and comprehensive introduction to international relations in contemporary Southeast Asia The author analyzes the efforts of the Southeast Asian states to adapt collectively through the ASEAN Community building process to the challenges of traditional intraregional security issues the requirements of the international economy and the political demands of nontraditional issues such as democracy human rights and environmental degradation Weatherbee warns that autonomy expressed in the claim to the ASEAN Community s centrality to Asia could be threatened by the strategic impact of China s rise and America s recommitment to regional strategic balance An invaluable guide to the region this thoughtful and

lucid work will be an essential text for courses on Southeast Asia and on the international relations of the Asia Pacific

International Law for Freshwater Protection Agnes Chong, 2022-04-04 International Law for Freshwater Protection traces the development of international water law on fresh water protection and demonstrates how the regime focuses on the utilisation and rights of sovereign states over the protection and sustainable growth of shared water resources The evolving jurisprudence influenced by environmental law highlights the regime's insufficient focus on the environmental protection of watercourses This book argues that existing rules mechanisms and norms within international law can address the regime's imbalance and establish how these might be applied to improve freshwater protection **China and International**

Dispute Resolution in the Context of the 'Belt and Road Initiative' Wenhua Shan, Jinyuan Su, Sheng Zhang, 2021-02-18 The first comprehensive study of China's role in international dispute resolution in the context of the Belt and Road Initiative

Routledge Handbook of the South China Sea Zou Keyuan, 2021-06-28 The Routledge Handbook of the South China Sea presents a comprehensive and in depth analysis of South China Sea issues It evaluates the dynamics of the latest developments and identifies factors that contribute to dispute settlement and a cooperative management regime of one of the most important seas in the world one which not only contains rich marine resources and distinctive biodiversity but is also a critical sea route for global trade and communications The Handbook is divided into six parts each representing a focused area of enquiry History and geostrategic landscape Sovereignty and maritime entitlements South China Sea policies of major claimants Natural resources and environment Cooperation and institutions Challenges and prospects Written by world renowned experts and scholars with specialisms from geography to international law the volume's 25 chapters contribute interdisciplinary perspectives reflecting the impact of how South China Sea policies are shaped by national governments and international organizations As such the Handbook provides an authoritative reference to South China Sea Studies useful for students and scholars of international relations history maritime and Asian studies China's Policy towards the South China Sea Lingqun Li, 2018-02-19 This book provides an explanation of Chinese policy towards the South China Sea and argues that this has been sculpted by the changing dynamics of the law of the sea in conjunction with regional geopolitical flux The past few decades have witnessed a bifurcated trend in China's management of territorial disputes Over the years while China gradually calmed and settled most land border disputes with its neighbors disputes on the ocean frontier continued to simmer in a seething cauldron China's Policy towards the South China Sea attributes the distinctive path of China's approach to maritime disputes to a unique factor the law of the sea LOS as the rules of the road in the ocean By deconstructing the concept of sovereignty and treating the LOS as an evolving regime the book examines how the changing dynamics of the LOS regime have complicated and reshaped the nature and content of sovereign disputes in the ocean regime as well as the options of settlement Applying the findings to the South China Sea case the author traces the learning curve on which China has embarked to comprehend the complexity of the dispute accordingly and finds that it is the dynamic

interaction of the law of the sea regime and the geopolitical conditions that has driven the evolution of China's South China Sea policy. This book will be of great interest to students of Chinese and Asian politics, international law, international relations and security studies. *Maritime and Territorial Disputes in the South China Sea* Yih-Jye Hwang, Edmund Frettingham, 2021-03-09. This edited volume rethinks the relationship between power and law in the age of China's rise by examining recent developments in the South China Sea (SCS). The contributors explore different interpretations of international law on the legal status of the contested islands and rocks and provide detailed analyses of the contested concepts and provisions of the 2016 ruling by the SCS arbitration tribunal as well as the environmental, economic and political impacts of the ruling. This book facilitates a more meaningful and productive dialogue over the intersection, interaction and interdependence between power and law in the context of the SCS. Assessing the interactions between political, legal and normative forces, it provides insights into the specific dynamics of the dispute and the shifting security landscape in the region but also offers a basis for thinking more deeply about the broader rise of China. This book will appeal to both students and scholars of IR, International Law and Asian Studies and those engaged in research on the SCS disputes, the rise of China and with a theoretical interest in law and power in international affairs.

Global Regulatory Standards in Environmental and Health Disputes Caroline E. Foster, 2021. This book explores the role played by international courts and tribunals in the development of global regulatory standards. Focusing on regulatory coherence, due regard for the rights of others and due diligence in the prevention of harm, the book considers how such standards represent a new relationship between domestic and international law.

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