

## **Why China's Acceptance of the Ruling Is Material**

*Statement of Justice Antonio T. Carpio*

China is legally bound by the tribunal's ruling, whether China likes it or not. That is the compulsory nature of international law. But China can decide to go rogue and refuse to accept and implement the ruling.

This is what China has done – refusing to vacate Mischief Reef which the tribunal ruled is submerged at high-tide and forms part of the Philippine EEZ. The tribunal ruled that only the Philippines can exploit or erect a structure in Mischief Reef.

In international law, where there is no world policeman to enforce a legally binding ruling, acceptance and implementation of the ruling by the losing State is obviously material. More so if the losing State is a military power, and the winning State is not.

That is why the UNCLOS provisions governing compulsory arbitration provide that the ruling “shall be complied with by the parties to the dispute.” The losing State is not only legally bound, but must also comply, with the ruling.

So while China is indisputably legally bound by the ruling, it is important that China accept and implement the ruling. As long as China refuses to accept and implement the ruling, the Philippines should deny China's request to conduct any marine scientific research in Benham Rise. The Philippines would be foolish to grant China's request while China refuses to comply with the ruling.

Of course, there are aspects of the ruling that can be implemented even without China's acceptance of the ruling. Thus, when the tribunal ruled

that the nine-dashed line has no legal effect, it confirmed the existence of high seas in the South China Sea and EEZs around such high seas. The naval powers of the world, led the by the U.S., are sailing in the high seas and EEZs of the South China Sea to assert freedom of navigation, even without China's acceptance of the ruling.