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Why Indonesia won't let Beijing forget the Philippines' South China Sea arbitration win


Jakarta has filed a diplomatic protest against Beijing's extensive maritime claims, citing a 2016 tribunal ruling that found in favour of the Philippines

But does this really mark a departure for the Southeast Asian nation and its approach to the South China Sea dispute?

Topic | Indonesia



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Indonesia's low-key diplomatic protest at the United Nations against China's disputed claims in the South China Sea last week made some analysts sit up and take notice, with one even describing the move as groundbreaking.

The “note verbale” – an unsigned but officially marked diplomatic communication issued in the third person that carries less weight than a formal diplomatic note – invoked the [2016 ruling](#) by a tribunal established under the UN Convention on the Law of the Sea (UNCLOS) that overwhelmingly rejected Beijing’s “[nine-dash line](#)” claim to almost all of the contested waterway and found in favour of [the Philippines](#) instead.

Addressed to UN Secretary General Antonio Guterres, the note sent on May 26 said [China](#)’s wide-ranging claim “implying historic rights” in the South China Sea “clearly lacks international legal basis”, adding that Indonesia “is not bound by any claims made in contravention to international law”.

This is not the first time Indonesia, which is not a claimant state in the South China Sea dispute, has stated its position – but this time the wording seemed stronger. Gregory Poling, director of the Asia Maritime Transparency Initiative in Washington, said it marked “the first time that any of the Philippines’ Southeast Asian neighbours has stood up and explicitly endorsed its arbitration win against China”, according to an interview he gave to regional online news portal BernarNews. Philippine news portal ABS-CBN, meanwhile, ran an analysis piece that described the note verbale as a “diplomatic bombshell”.

But does this really mark an overhaul of Indonesia’s traditionally reserved South China Sea policy? There are at least three reasons to think not.

First, the May 26 note is only the latest in a flurry of diplomatic correspondence between members of the [Association of Southeast Asian Nations](#) and China, sparked by a submission to the UN from [Malaysia](#) in December that claimed entitlements over an extended part of its continental shelf. The Philippines and [Vietnam](#) have both also responded, and Indonesia’s recent note follows one from China on April 17.

A similar volley of responses from the region's governments occurred following a joint submission by Vietnam and Malaysia in 2009 to the same UN Commission on the Limits of the Continental Shelf.

That time, Indonesia's was one of the 10 responses and it is clear from wording of its 2010 note verbale that Jakarta's position on the illegality of Beijing's claims has changed little in the past decade.

The nine-dash line, it said then, "clearly lacks international legal basis and is tantamount to upset UNCLOS": a phrase that was repeated in the May 26 note.

Beijing responded to Indonesia's 2010 note by sending one of its own, a subdued reaction that is likely to have informed Jakarta's decision to reiterate its position – especially at a time when China seems to be entangled in disputes on multiple strategic fronts, from India to Hong Kong, against the background of a global pandemic.

Second, this is not even the first time that Jakarta has officially invoked the 2016 tribunal ruling, which helped form the basis of a new state map of Indonesia that was unveiled in July 2017, then deputy coordinating minister for maritime affairs Havas Oegrosono said at a press conference at the time.

It was also invoked in the public statements and diplomatic protests that Jakarta made at the start of this year after a fleet of Chinese fishing vessels, escorted by coastguard ships, were caught illegally fishing in Indonesia's exclusive economic zone in the North Natuna Sea.

By repeatedly challenging Beijing's claims, Indonesia is pursuing a strategy of "persistent objection" and preserving its right, under international law, not to be bound by the concocted norms that China appears to be pushing.

Acrobatic legal terms such as “traditional fishing rights” and “jurisdiction over relevant waters” have been rolled out by Beijing in recent years to justify its massive maritime claims that encroach on Indonesia’s exclusive economic zone. Some Chinese scholars have even suggested that customary international law allows continental states to use offshore archipelagos as the basis for maritime entitlements – the opposite of what the 2016 ruling found and contrary to UNCLOS.

It is therefore in Jakarta’s strategic interest to continue resisting China’s claims and uphold the current rules-based maritime order, while rejecting the alternative, contradictory system Beijing seems intent on building with its gradual chipping away of internationally recognised norms.

Which leads to the third and final point: Indonesia’s South China Sea policy is rooted in international law and multilateralism – reflected in the ongoing talks between it, as an Asean member, and Beijing on a code of conduct for the disputed waterway. As the 2016 tribunal ruling merely strengthened Jakarta’s position, there is no incentive for it to change its playbook.

Indonesia’s reliance on international law allows it to avoid investing heavily in strategic military deterrence, while also keeping domestic politics and anti-China sentiment at bay. Bureaucratic rivalries and overlapping authorities between the different agencies in charge of Indonesia’s foreign and maritime policies also remain unchanged. It is these same constraints that also make Indonesia less likely to change its position, further suggesting that the invocation of 2016’s tribunal ruling was a calculated risk and part of a broader, consistent strategy in dealing with China and the South China Sea.

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