

Duterte's missed opportunities

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Good morning to our participants in Asia. Good evening to those in the US East Coast.

There are fireworks in the air. We woke up to the statement of the US State Department in what appears to be its strongest position on the South China Sea. And before that, on a sleepy Sunday, July 12, the Department of Foreign Affairs, for the first time, celebrated the anniversary of the Philippine victory. In a statement, it asked China to comply with the arbitral ruling.

Today, I will focus my talk on two points: One, Duterte's missed opportunities and two, his two-faced diplomacy in the ASEAN.

Since July 12, 2016, Duterte, his heart bursting with love for China, has been in denial about this epochal victory.

As a result, he missed at least 2 opportunities to use the arbitral ruling to settle conflicting claims with the Philippines' neighbors and counter Chinese intimidation in the South China Sea.

As we know, the arbitral ruling also benefited other claimant countries in Southeast Asia.

Moreover, Duterte used his supposed "independent" foreign policy to justify his embrace of China and play a double game in the ASEAN.

On the missed opportunities:

First, the Philippines could have used the ruling to enter into sea boundary agreements with claimant countries in the ASEAN. A model would be the Philippines-Indonesia maritime boundary treaty which went into force in 2019.

The treaty drew a boundary between the overlapping exclusive economic zones or EEZ of the Philippines and Indonesia. It was first taken up in 1994 (during President Fidel Ramos's time) and was signed by both countries in 2014 (President Benigno Aquino III's term).

Duterte and the Indonesian parliament ratified it in 2017 but it was only in 2019 when the Philippine Senate concurred with the ratification.

However, no similar agreements between the Philippines and Vietnam and Malaysia were started under Duterte. These concern demarcating their overlapping EEZs and the extended continental shelves in the Spratlys.

I understand that Vietnam sent word to the Department of Foreign Affairs, early on in the Duterte presidency, about crafting such an agreement but this fell on deaf ears.

Second, environmental and marine scientists have proposed setting up a marine protected area in the Spratlys which are the rich spawning grounds of fish in the South China Sea.

John McManus, a marine biology professor, has advocated a separate treaty through which claimants declare the Spratlys an international marine protected area. He pointed out that Vietnam and Malaysia have already set up national marine protected areas in the Spratlys.

The Philippines, after its victory, could have used the momentum to lay the groundwork with ASEAN to achieve this goal.

On my next point, Duterte's double game in the ASEAN.

Through the years, it has become clear that Duterte trotted his "independent" foreign policy to achieve other goals: to shift from multilateral to bilateral approach when it came to South China Sea issues; and to advocate a similar stance for ASEAN countries.

Duterte departed from the ASEAN's multilateral approach when he said during the ASEAN summit in 2017 that the arbitral ruling was "not an issue in ASEAN" but one that was between Manila and Beijing. He disregarded the fact that, in 1992, when the ASEAN foreign ministers met in Manila, they issued their first statement of concern on the South China Sea, marking the beginning of a multilateral effort to address the problem.

He conveniently forgot that, in 1995, it was the Philippines that ran to the ASEAN to seek support when China occupied Mischief Reef.

While Duterte urged ASEAN members not to take sides between China and the US because it would be a "strategic mistake," Duterte himself chose China over the US. Essentially, he practiced a two-faced diplomacy.

His claim that his foreign policy was "independent" was meant to justify his pivot to China. This showed as early as 2017 when the Philippines chaired the ASEAN.

During a summit held in Manila, the Southeast Asian countries took a softer stance towards China, as reflected in the ASEAN chairman's statement which dropped references to "land reclamation and militarization" by China in the South China Sea. Nowhere was there a mention of the Philippines' 2016 landmark arbitration victory.

Duterte's double game was equally driven by domestic concerns. At the time the Philippines chaired the ASEAN in 2017, when Duterte called on the members to respect each other's independence, [he](#) was being criticized for his brutal war on drugs. Thus, he was using his supposed "independent" foreign policy to defend human rights violations on his watch.

Belatedly, in last month's ASEAN virtual summit, Duterte, reading from a prepared text, mentioned UNCLOS in his speech where he called on "parties" to "refrain from escalating tensions" and abide by international law.

What actions Duterte will take after this will either determine his sincerity or show that he was simply paying lip service to the rule of law.

There's some nuance here, though. The Department of Foreign Affairs, under Secretary Teodoro Locsin, has acted independently.

In March 2020, the DFA filed two diplomatic notes with the United Nations, asserting the country's claims in the West Philippine Sea. These were in opposition to Malaysia's application in December 2019 to define the limits of its extended continental shelf beyond its 200-mile EEZ; and to China's response against Malaysia.

In April 2020, the DFA lodged a diplomatic protest with China after it named two districts, "Nansha" and "Xisha," in the South China Sea and declared them under the administrative control of Sansha City. This was a reiteration of the position of the Philippines which, in 2012, protested China's establishment of Sansha City.

Most recently, on July 12, the DFA issued a statement celebrating the arbitral ruling, a first in the Duterte administration. It was the strongest so far. Secretary Locsin stressed the rejection of China's nine-dash line and other key points of the Award which he said is "non-negotiable."

While then DFA Secretary Alan Cayetano released a statement on the first anniversary of the Philippine victory, there was no mention at all of the Award. It was a dud, a non-statement.

Today, we can see that, despite Duterte's policy of appeasement, China has not paused in its aggressive claim over the West Philippine Sea. Recall that in February 2020, a Chinese warship targeted a Philippine Navy vessel after the latter sent a radio message that it was in Philippine waters. The DFA protested this.

We expect China to continue its covetous actions. As the saying goes, there is no rest for the wicked.

Thank you for listening.