

# The Philippines takes South China Sea dispute to UN tribunal

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On January 22, the Philippine government of President Benigno Aquino filed a case for binding arbitration before a United Nations tribunal over its territorial dispute with China in the South China Sea. This is yet another ratcheting up of the mounting tensions between China and other regional claimants to the South China Sea, particularly Vietnam and the Philippines.

As the dispute over the South China Sea escalates, the hostilities between China and Japan over the Senkaku/Diaoyu islands, in the East China Sea, are also becoming ever more aggressive. The provocative drive by the Obama administration to encircle China with its so-called “pivot” to Asia, is responsible for fuelling both these dangerous disputes.

Over the past year there have been series of confrontations between Chinese and Philippine vessels over disputed atolls and rock formations in the South China Sea, including a maritime stand-off at Scarborough shoal that lasted for over a month. The Philippine government has responded to these disputes by escalating the tension through inflammatory rhetoric, increased military spending targeted at maritime conflict, and diplomatic machinations, including giving support for Japanese military expansion.

The recent case filed before the UN tribunal is part of this pattern. Both China and the Philippines are signatories of the United Nations Convention on the Law of the Sea (UNCLOS). The law provides for binding arbitration between rival claimants in disputes over overlapping maritime boundaries—including territorial seas, exclusive economic zones and continental shelves. It does not, however, adjudicate the status of territorial disputes over islands.

The core of the case filed by the Philippine

government is that a number of islands claimed by China are not islands at all. They are, according to Manila’s argument, “rocks”—the quotation marks are in the original legal filing. These rocks, it is further argued, are submerged at high tide. They are, thus, not islands, and cannot give China a 12-nautical mile territorial claim to the waters around the alleged islands.

The arbitration of this dispute involves a panel of five judges, one appointed by each of the rival claimants, with the remaining three being agreed upon jointly.

In 2006, China filed a statement with the UN opting out of the section of the UNCLOS entitled “Compulsory Procedures Entailing Binding Decisions.” Any decision rendered by the arbitral tribunal is thus moot, as it will not be regarded as binding against the Chinese government.

Manila is aware of this, of course. What is stake in the case filed with the UNCLOS is the creation of a rationale for the intervention of the United States in the disputed waters. A resolution by the arbitral tribunal on behalf of Manila, and subsequently rejected by China—as is its legal right since 2006—will be depicted as providing a warrant for further diplomatic machinations by the United States.

As always, Washington is in the thick of the matter. A delegation of US congressmen, headed by Edward Royce, chair of the House Foreign Affairs Committee, visited Aquino on January 28 and declared their support for the case filed by the Philippines against China.

This is extraordinary on at least two levels. Despite its diplomatic subterfuge and military mobilization to contain China, the United States has always officially maintained neutrality on the territorial disputes in the South China Sea. To publicly express support for a case

filed in this territorial dispute is a clear violation of any semblance of neutrality.

What is more, the United States is not a signatory of the UNCLOS. Despite incessantly making reference to its “legal framework” for the resolution of maritime disputes, Washington has, since the establishment of the UNCLOS in 1982 steadfastly refused to sign the treaty.

The stance of the Aquino administration that it is defending Philippine national sovereignty is hypocritical. On January 17, the USS Guardian, an avenger-class mines countermeasure ship ran aground on Tubbataha reef, 80 miles east southeast of the island of Palawan and well within Philippine territory.

The Philippine government had neither authorized the US ship’s presence, nor was it even aware of it. The US Navy lamely blamed the wreck upon a guidance malfunction. No explanation was given for what the ship, forward deployed to Sasebo, Japan, was doing anywhere near Tubbataha.

Tubbataha reef is a UNESCO World Heritage Site. The coral-grounded ship has proved to be irremovable. The sailors were evacuated by the US military and flown to Japan without ever encountering Philippine authorities. The ship will now be dismantled and removed piecemeal.

Aquino has raised not a word of protest against the intrusion of the ship or the destruction of the reef. A token fine may be imposed for the irreparable damage done to the reef—perhaps as high as \$300 per square meter, or the cost of some hardwood flooring. But there has been no clamor about national sovereignty, no call for adjudication, no appeals to ASEAN.

All the rhetoric of the Aquino administration against China—the provocative escalation of tensions over the Spratly Islands, the whipping up of nationalism at home, as well as the latest appeal to the United Nations—is driven by the role of Manila, under the leadership of Aquino, as a proxy for the interests of US imperialism in the region.

The dangers that flow from these disputes are very real.

Former Australian Prime Minister Kevin Rudd in an article in *Foreign Policy* on January 30, wrote: “With tensions rising from conflicting territorial claims in the East China and South China seas, the region increasingly resembles a 21st-century maritime redux

of the Balkans a century ago—a tinderbox on water.”

The imperialist machinations of Washington, the mounting crisis of world capitalism, the reemergence of Japanese militarism, and the spread of nationalism’s noxious fumes, have brought the region to such a confluence of tension that a dispute over a group of partially submerged rocks could set off a regional conflict and threaten a global war.



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