

# Vietnam backs Philippine case against Chinese maritime claims

John Roberts

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The Vietnamese government's decision to support the legal case initiated by the Philippines to contest China's territorial claims in the South China Sea is a sign of the growing geo-political tensions. Relatively low-key maritime disputes, which have festered for decades, have become dangerous potential flashpoints as the US has encouraged countries like Vietnam and the Philippines to challenge China.

Hanoi submitted its legal brief to the Arbitral Tribunal at The Hague on December 11. As part of the Philippines case filed on March 30, Vietnam is requesting the court rule that Manila's maritime claims are part of its continental shelf and within its 370 kilometre exclusive economic zone. Such a decision would cut across the basis of China's claims in the South China Sea which depend in part on "historical rights."

The Vietnamese position paper offered support for the Philippines case, rejected China's "nine dash" map that sets out its maritime claims and requested that the arbitration panel take into consideration Vietnam's interests in the South China Sea, which Hanoi refers to as the East Sea.

After the Philippines, Vietnam has been the most vocal opponent of China's claims in the South China Sea. Vietnam has always rejected Chinese sovereignty over the Hoang Sa (Paracel) and Truong (Spratly) archipelagos and adjacent waters. Nevertheless, Hanoi's move was unexpected in diplomatic circles.

Both Hanoi and Beijing have attempted to repair relations following the tense standoff from May 2 to July 16 this year when China placed an oil rig in disputed waters. Vietnamese and Chinese ships clashed near the rig and anti-Chinese riots resulted in 400 Chinese factories being torched. Some 7,000 Chinese workers evacuated from Vietnam after four were killed.

In August, after China pulled out the rig, Le Hong Anh, a senior Vietnamese Communist Party official, visited Beijing for talks aimed at easing tensions. In mid-October, Vietnamese Defence Minister Phung Quang Thanh paid another visit to set up direct military-to-military communications to resolve future disputes. On October 27, Chinese State councillor Yang Jiechi held high-level talks with Vietnam's Foreign Minister Pham Binh Minh.

Hanoi's legal move appears to be something of a compromise, reflecting divisions within the regime. Vietnam backed the Philippine case, but stopped short of filing its own independent legal challenge. A section of the Vietnamese leadership is pushing to break "out of China's orbit," accelerate pro-market policies and develop closer relations with Washington and its allies including the Philippines. More cautious layers are seeking to balance between Washington and Beijing.

Vietnamese Premier Nguyen Tan Dung, who is regarded in US foreign policy circles as closer in relationship to Washington, went further than the official submission to The Hague. He foreshadowed the filing of a separate challenge to China. "We are prepared and ready for legal action ... We are considering the most appropriate timing to take this measure," he said.

The Vietnamese move came just prior to the December 15 deadline set by the judges for China to respond to the Philippines submission. China ignored the deadline. Beijing has insisted all along that the disputes among claimants to the South China Sea, which also include Brunei, Malaysia and Taiwan, have to be settled bilaterally. It also challenges the legitimacy of the case which rests on the 1982 UN Convention on the Law of the Sea (UNCLOS).

The Chinese Foreign Ministry responded to Vietnam

by rejecting its claims as “illegal and invalid” and urged it to accept China’s “territorial sovereignty” and “historical facts.” On December 25, in a damage control exercise, senior Chinese Communist Party official Yu Zhengsheng visited his counterpart Le Hong Anh in Hanoi saying he had been sent by Chinese President Xi Jinping to put relations on a “correct path.”

The Philippine Foreign Ministry immediately expressed its delight at the unexpected change in Vietnam’s stance, declaring it was “helpful in promoting the rule of law and ... peace and stability in our region.” In fact, President Benigno Aquino, with the backing of Washington, has been particularly aggressive in asserting Philippine claims in the South China Sea. He has also signed an agreement with the US giving the American military open access to the country’s military bases.

The US is also ramping up its support for the Philippine legal challenge. On December 5 the State Department released a report from its Bureau of Oceans and International Environmental and Scientific Affairs entitled: “China: Maritime claims in the South China Sea” which is a de facto submission to the Hague court seeking to demolish the legitimacy of China’s maritime claims. It states that “China has not clarified ... the legal basis or nature to its claim” and refutes the “nine dash” map as having any validity.

A State Department official told the UK-based *IHS Jane’s Defence Weekly* that the report did not present a change of policy. Up until this year, Washington has repeatedly declared that it took no stand on competing territorial claims and was simply interested in protecting “freedom of navigation”, especially for its war ships.

The US official declared that the report was just a “technical and legal analysis” flowing from the US national interest in seeing claimants deal with their disputes and conform to international law. *Jane’s* noted that the document was “brutally uncompromising in outlining US criticisms of China’s claims.”

Two days later, China produced its Position Paper emphasising that the Philippine case involves territorial sovereignty over several maritime features and is outside the jurisdiction of UNCLOS. The paper stated that the Philippines and China had signed bilateral agreements to settle disputes and, by bringing about the

case before the arbitration court, Manila had breached its obligations under international law.

Washington has never ratified UNCLOS and has never agreed to any international court having jurisdiction over the US. That has not stopped the US from cynically exploiting the disputes in the South China and assisting the Philippines to prepare its legal case under UNCLOS. As far as Washington is concerned, the maritime disputes are simply a convenient means for driving a wedge between China and its South East Asian neighbours.

At the same time, the US is building closer military ties throughout the region as it seeks to encircle China and prepare for war. On December 17, shortly after Vietnam submitted its legal brief, US Pacific Fleet commander Admiral Harry Harris visited Da Nang, a key US naval base during the Vietnam War, to discuss increased US-Vietnamese naval cooperation in 2015.



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