

# UN court to deliver decision on South China Sea disputes

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Tensions between the United States and China are about to markedly escalate as the UN Permanent Court of Arbitration prepares to hand down its judgment tomorrow in The Hague on the Philippine legal challenge to Chinese maritime claims in the South China Sea.

Beijing has refused to recognise the court's jurisdiction, has not participated in its proceedings and has declared it will not abide by its findings. In the lead up to the court decision, the Chinese military has conducted exercises, due to finish today, in waters near the Paracel Islands that are under its control.

Washington has cranked up its propaganda apparatus and military activity in the South China Sea, setting the stage for a dangerous confrontation. There is no shortage of commentators in the US and international media accusing China of refusing to abide by international rules and warning in sensational terms of an aggressive Chinese response to the court ruling.

Among the most significant are the remarks of Kurt Campbell, former US assistant secretary of state, reported in an article today in the *Australian* entitled, "Beijing tantrum on sea ruling looming." Campbell, now working as a foreign policy adviser to Hillary Clinton, declared there was "no question" there would be "a substantial reaction" from Beijing.

"The outrage and unhappiness in China will not be staged and it's likely there will be some [military] deployments and active steps taken," he said. Campbell warned that Beijing might respond by carrying out naval patrols near, or building military facilities on, the Scarborough Shoal, with "very negative consequences for everyone." He also repeated the much-canvassed suggestion that China could declare an Air Defence Identification Zone (ADIZ) over the South China Sea, to which it has claimed historic territorial rights.

Along with Clinton, Campbell was a key architect in the first Obama administration of the US "pivot to Asia"—a comprehensive diplomatic offensive, combined with economic measures and huge US military build-up, aimed at subordinating China and the region to American domination. In 2010, Clinton deliberately inflamed territorial disputes in the South China Sea as a means of driving a wedge between China and its South East Asian neighbours, thus creating a dangerous new regional flashpoint.

Lurid accusations of China's "aggression" and "belligerence" serve as the pretext for America's military expansion throughout Asia, including in the South China Sea. Since 2010, the US has secured access to military bases in the Philippines and Australia, strengthened military alliances and partnerships, restructured and reinforced its own military forces in Asia and expanded its anti-ballistic missile systems, most recently in South Korea, in preparation for a war with China.

While the media has highlighted current Chinese naval exercises in the South China Sea, scant attention has been paid to heightened US naval activity. An article in the *Navy Times* last week pointed out that over the previous fortnight, the destroyers *Stethem*, *Spruance* and *Momsen* patrolled very close to Chinese-controlled features at the Scarborough Shoal and in the Spratly Islands.

"We have been regularly patrolling within the 14 to 20 nautical-mile range of these features," an unnamed official said. In other words, the warships remained just outside the 12-nautical-mile territorial limit of Chinese-controlled reefs and islets. Since last October, the US navy has provocatively sent destroyers inside the 12-nautical-mile limit on three occasions in so-called "freedom of navigation" operations.

Last Wednesday, the USS aircraft carrier Ronald Reagan and its strike group of cruisers and destroyers began a new patrol of the South China Sea. Bonnie Glaser, an analyst with the Washington-based Centre for Strategic and International Studies (CSIS), told the *Navy Times* that the persistent presence of a US aircraft carrier in the region was part of an enhanced US military posture in the South China Sea.

Glaser said the number of days that US warships spent in the South China Sea was dramatically escalating, from more than 700 in 2015 to a projection of more than 1,000 this year. “On any given day you are seeing two or more ships operating in the South China Sea,” she said. Glaser heads the China Power Project at the CSIS, which has been closely involved with the Pentagon in implementing its military build-up in Asia.

Last week, Chinese Foreign Minister Wang Yi spoke to US Secretary of State John Kerry by telephone to urge Washington to stay out of territorial disputes in the South China Sea and “take no actions that harm China’s sovereignty and security interests.” Washington, however, intends to ramp up the pressure. Unnamed officials told Reuters the US would escalate its “freedom of navigation” challenges to China if Beijing ignored The Hague ruling.

Washington’s claims to be solely interested in “freedom of navigation” and the international rule of law are utterly hypocritical. In the first place, unlike China, the US has never ratified the UN Convention on the Law of the Sea (UNCLOS) and so has been compelled to use its former colony, the Philippines, as a legal surrogate. It is no accident that the Philippine case has been drawn up and argued by Washington attorneys.

Secondly, while condemning China for failing to abide by international law, the US treated the court proceedings in The Hague with complete contempt. All its reckless naval intrusions into Chinese-claimed waters proceeded before the UN court handed down its judgment.

While it is highly likely that the tribunal will favour the Philippines and thus the US, its lengthy delay in announcing a decision highlights the case’s political character and the complexities involved, which could have ramifications in other maritime disputes. Under UNCLOS, the UN court has no jurisdiction to decide

on matters of disputed land territory; it is restricted to adjudicating on maritime disputes.

The court ruled last year it had clear jurisdiction to hear only seven of the 15 issues in the Philippine case and would have to decide on jurisdiction in another seven—including the key issue of China’s historic claims to much of the South China Sea—after further consideration “in conjunction with the merits.” In doing so, it left open the possibility that it might not decide on some of the most contentious issues. On the last of the 15 issues, that “China shall desist from further unlawful claims and activities,” the tribunal called on the Philippines to “clarify and narrow” its submission.

Whatever the legal decision, the US will escalate its military confrontation with China in the South China Sea. While declaring that it defends “freedom of navigation,” Washington regards US control of these strategic waters as crucial to its preparations for war with Beijing. The Pentagon’s AirSea Battle plan envisages a massive air and missile onslaught on the Chinese mainland, complemented by a naval blockade to cripple the Chinese economy. The South China Sea is central to both components of this strategy.



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