

## Reading US' movements in the South China Sea

Written by HoonTing 何

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Last week, US destroyer the USS Lassen made a high-profile passage through the South China Sea, challenging the 12-nautical-mile (22.2km) territorial limits around artificial islands China has built in the Spratly Islands (Nansha Islands, 南沙群岛).

Until now, it has not caused a serious problem between the two nations, with each side interpreting the incident in the way that best suits them.

Beijing can say it was an “innocent passage” through its territorial waters, while Washington can declare that it was a victory for “freedom of navigation.”

As Article 19.2 of the UN Convention on the Law of the Sea states, warships do have the right of innocent passage through other nations' territorial waters, as long as they adhere to regulations.

In 1989, the US and the former Soviet Union released the Joint Statement on the Uniform Interpretation of Rules of International Law Governing Innocent Passage.

The statement says: “All ships, including warships, regardless of cargo, armament or means of propulsion, enjoy the right of innocent passage through territorial waters in accordance with international law, for which neither prior notification nor authorization is required.”

Just a few days after the Lassen departed from Malaysia, People's Liberation Army (PLA) naval vessels began tailing the US ship. The Lassen had estimated it would pass by the Subi Reef (Jhubi Reef, 渚碧礁) within 24 hours of leaving port on the morning of Oct. 27, but media reports said the mission was completed in half that time.

Only Beijing and Washington know what the US warship had actually been up to: Had it been taking measurements, fishing, loading or unloading military equipment, collecting intelligence or otherwise interfering with China?

If the Lassen did engage in any of the above activities then, yes, it could be regarded as innocent passage. If the US had any other objectives in mind, then the issue would not be quite so black and white.

The warship sailed from the north to the south in the western Spratlys, taking it through not only within the 12-nautical-mile territorial waters claimed by China, but also the overlapping waters near disputed reefs claimed by US allies such as the Philippines and Vietnam. In other words, by sending a warning to the three nations simultaneously, the US maintained its traditionally neutral position of not getting involved in territorial maritime disputes.

The political consequences of the passage might be more intriguing. Australia and Japan supported the action, while South Korea has been criticized for not taking sides. The Philippines said that the move was legal, while Vietnam said that it was unrelated to the territorial disputes, showing that it understood the situation.

Although PLA naval vessels did not follow the Lassen into the disputed waters claimed by the Philippines and Vietnam, Beijing summoned the US ambassador to China over the passage and criticized Washington for being “extremely irresponsible.”

If Chinese ships had followed the Lassen into waters claimed by other nations, their entry would have been perfectly legal and in line with the “nine-dash line” demarcated by Beijing. So China shot itself in the foot by not entering the disputed waters.

Or is Beijing about to integrate its claims to the South China Sea, based on its invented demarcation line, with its claims to the East China Sea, based on the UN Convention on the Law of the Sea, through the building of more artificial islands?

*HoonTing is a political commentator.*

Translated by Eddy Chang

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