Toe to Toe

The China-US Struggle over the South China Sea Grows

By Mark J. Valencia

IT HAS BEEN five months since the July 12 “game-changing” ruling by the Permanent Court of Arbitration in The Hague against China’s claims in the South China Sea. Has the game changed as a result, and what is the prognosis?

While five months may seem like a short time, the decision and related developments have spurred significant changes in the region’s political environment. These include China’s reaction to the ruling and its implications, new Philippine President Rodrigo Duterte’s seeming about-face toward China and away from the US, rising nationalism and greater foreign policy independence for some countries in the region and another US Freedom of Navigation (FoN) operation. The election of Donald Trump as the next US president will also have an impact on the issue.

CHINA’S REACTION

China did install defensive weapons on its artificial islands, including anti-aircraft and anti-missiles systems. But despite dire warnings from many Chicken Little analysts regarding China’s expected aggressive reaction to the ruling, the sky did not fall — at least not yet. China has not produced any worst-case scenario reactions such as building on Scarborough Shoal or declaring an ADIZ in the area, and an uneasy calm has descended on the sea. Nevertheless, the decision has set in motion political and military adjustments throughout the region.

Most importantly, the ruling, which China rejects and the US accepts, has exacerbated the contest for regional dominance. As aptly put by Australian analyst Hugh White, “[The issues] are not about the rocks and reefs of the South China Sea, or even about the broader principles of international maritime law. Those issues are simply being used, by both sides, in a much deeper contest over the future of the Asian regional order and their respective roles in it.” The contest is simple and stark: America wants to remain the leading strategic power in Asia, and China wants to replace it. The stakes are therefore very high — especially, in Beijing’s view, for China.

The strategic positions at stake make this situation perilous due to fears that maritime incidents could trigger a wider conflict. The US “rebalance” toward Asia and China’s inexorable rise put their national security interests at odds. Prime among these potential triggers are the US FoN operation activities and missions by intelligence, surveillance and reconnaissance (ISR) ships and aircraft off China’s coast. US military vessels and aircraft carried out around 700 patrols in the South China Sea in 2015, which the US labels “freedom of navigation” exercises that are in its national security interest. China considers them provocative and has requested the US to desist.

The US believes China is developing an “anti-access/area denial” strategy that is designed to control China’s near seas and prevent access to them by the US in the event of a conflict — say between China and Taiwan. This strategy requires Chinese dominance in command, control, communications, computers, intelligence, surveillance and reconnaissance systems (C4ISR). The US response is the Joint Concept for Access and Maneuver in the Global Commons, which depends on crippling China’s C4 ISR. This means that C4 ISR is the “tip of the spear” for both sides, and both are trying to dominate it in China’s near seas.

Despite the disputes, there have been some potential positives. China and the US have agreed on a communications code for unplanned encounters at sea (CUES), and they have also agreed to finalize a rules of behavior MOU for the US and Chinese Coast Guards as soon as possible. Moreover, China and ASEAN agreed to adopt CUES (for navies only) and in principle to set up a hotline to manage maritime emergencies.

But most encounters between US ISR vessels and aircraft and China’s warships and warplanes are not unplanned, unintentional or even unexpected. While the new agreements may make them safer, they will not make them any friendlier or less frequent. Indeed, if the US persists in provocative actions despite China’s opposition, it must expect to be challenged.

UNDERMINING ASEAN

Few foresaw the broader and deeper legal and political implications of the ruling and its aftermath. The decision rejected China’s claim to historic rights in the waters within its so-called...
The contest has spread to China-Japan relations. Japan hinted that it might join the US Freedom of Navigation operations in the South China Sea. In response, China bluntly warned Japan that it would be crossing a red line if it did so.

Focus on “flying over island chains, controlling the East China Sea and cruising the South China Sea.” It also undertook joint naval drills with Russia in the South China Sea, practicing defense, rescue, anti-submarine and “island seizing” operations. The latter included island-landing and island defense and offense exercises.

Moreover, China warned Japan to “exercise caution in its words and deeds” regarding the South China Sea. It signaled Australia to physically stay out of the dispute and not to provide increased use of military facilities to the US, lest it become a potential “target.” And it warned Singapore, ASEAN’s designated co-ordinator for dialogue with China, also to stay out of the matter.

With Cambodia’s support, China successfully opposed mentioning the decision in statements issued by international meetings such as the ASEAN Summit in Vientiane. It also stayed out of the G-20 communiques, despite US President Barack Obama raising the issue. In response to his doing so, China’s Premier Li Keqiang proclaimed China’s willingness to work with ASEAN countries to “dispel interference” in the region by outside powers.

GETTING BUSY
The US continued to press its regional involvement, transferring its most modern weapons systems there, stepping up military exercises and condemning China’s “misbehavior” in the South China Sea. It apparently felt the need to reassure its friends, allies and potential enemies that the US pivot and staying power are real. According to US Deputy National Security Advisor Ben Rhodes, “We have been encouraging individual countries to make statements in support of the ruling.” US Air Force Secretary Deborah Lee James said that China was pursuing “militarization” in the South China Sea, and that the US military should conduct more air and sea operations to deter Beijing. The US Coast Guard Commandant proposed making the Coast Guard “the face of the United States in the region.”

Other claimants have not been idle. The Philippines announced plans to build a new seaport on disputed Pag-asa Island in the Spratlys. Vietnam also moved mobile rocket launchers to five of its installations in the Spratlys and extended its airstrip over Spratly Island to accommodate surveillance aircraft. It also seemed poised to use the decision to claim traditional fishing rights in the territorial seas of the Paracel Islands and to argue that China cannot claim an EEZ from these features.

But new Vietnamese Prime Minister Nguyen Xuan Phuc made an initial visit to China and agreed to resolve differences through negotiations. Taiwan’s Navy and Coast Guard undertook “humanitarian exercises” around Taiping Island. Vietnam objected; China did not. Indonesia, which had tried to appear neutral, began to assert its rights in the face of encroachment by Chinese fishermen in its EEZ around the Natuna Islands. It also began to discuss with the US military aid to beef up its presence in the Islands.

DUTERTE AND ‘INDEPENDENT’ FOREIGN POLICIES
Ironically, the US encouraged — some say supported — the Philippines’ legal filing against China. It publically extolled the panel’s ruling and urged China to adhere to it. But under Duterte the Philippines is not pushing China to do so. This weakens international support for the implementation of the decision. In apparent response to Duterte’s stance, China has allowed Filipinos to fish again in the vicinity of the disputed Scarborough Shoal. Moreover, Duterte returned from his China trip with US$9 billion in soft loans and US$15 billion in economic deals. He also unilaterally declared a maritime sanctuary in Scarborough lagoon and China did not object.

The Philippines is the main hinge of the US diplomatic and military pivot toward Asia. But Duterte says he intends to loosen ties with the US and lead his country toward a more “independent” foreign policy. In particular, Duterte wants to forge closer relations with China and Russia. He suspended military exercises with the US in the South China Sea because “China is against it” and has said that US troops in the southern Philippines should leave. He canceled five joint exercises, including symbols of the US-Philippines alliance like CARAT and Phiblex. Moreover, the large-scale Balikatan exercises will henceforth focus only on humanitarian and disaster response. Duterte also said that the 2014 US-Philippines Extended Defense Co-operation Agreement (EDCA), which allows the US to rotate troops and equipment through the Philippines and use some of its bases, is only an executive agreement that can be revoked. However, he also said that he would not abrogate the 1951 Mutual Defense Treaty with the US that provides a security umbrella for the Philippines. As for US military aid, Philippine Defense Secretary Delfin

nine-dash line in the South China Sea. This was expected. But what was not fully foreseen is the reinvigoration of the test of political wills between China and the US, which both supports the decision and may “enforce” it. This has become a fundamental struggle between preserving a status quo world (and maritime) “order” that disproportionately benefits the developed world and altering the system to the benefit of China and other developing countries. This intensified competition has in turn raised tensions in the region with potentially serious implications.

Indeed, the issue has now become a point of contention in the China-US competition for the hearts and minds of other South China Sea claimants (Brunei, Indonesia, Malaysia and Vietnam), as well as other ASEAN members. The tug-of-war has produced a split in ASEAN, casting doubt on its viability and central role regarding security issues in Southeast Asia.

Worse, the contest has spread to China-Japan relations. Japan supported the decision and hinted that it might join the US FoN operations in the South China Sea. In response, China bluntly warned Japan that it would be crossing a red line if it did so and promptly stepped up pressure and tension in the East China Sea. Another country caught in the political “squeeze” is Australia, which was already split regarding burgeoning economic benefits from its relationship with China versus its historical security alliance with the US.

Also not expected was the sweeping ruling on the legal status of various features in the Spratlys. Challenging conventional wisdom and the “creeping jurisdiction” movement, the arbitration panel ruled that none of the features in the Spratlys Islands — as well as Scarborough Shoal — can generate 200-nautical-mile exclusive economic zones (EEZ) or continental shelves; they are at most rocks entitled to only 12-nautical-mile territorial seas.

Although the ruling is not binding on any nation other than China and the Philippines, it sets a paradigm-changing precedent that may revive other maritime disputes in the region and beyond. It also means that China’s oft-repeated proposal for joint development of resources in areas of overlapping claims may be moot, as is a Code of Conduct for disputed areas since there are now few differences in valid claims that are left to be resolved.

Meanwhile, China continues to make its military presence felt. Its air force, for example, announced “regular” exercises over the Bashi Strait and into the Western Pacific. The exercises of the G-20 communiques, despite US President Barack Obama raising the issue. In response to his doing so, China’s Premier Li Keqiang proclaimed China’s willingness to work with ASEAN countries to “dispel interference” in the region by outside powers.

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Other claimants have not been idle. The Philippines announced plans to build a new seaport on disputed Pag-asa Island in the Spratlys. Vietnam continued to antagonize China, while India offered it a credit line of $500 million for defense co-operation and Japan offered help to upgrade its maritime security capabilities. Vietnam also moved mobile rocket launchers to five of its installations in the Spratlys and extended its airstrip over Spratly Island to accommodate surveillance aircraft. It also seemed poised to use the decision to claim traditional fishing rights in the territorial seas of the Paracel Islands and to argue that China cannot claim an EEZ from these features.

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Lorenzana said that “we can live without it.” He also indicated that the US had refused to sell certain weapons to the country and that Russia and China could supply them instead.

Duterte summed up his feelings by saying that “America would never die for us”—a reference to US vagueness on whether or not it would come to the aid of the Philippine military in a conflict over the disputed islands. Duterte also stated that “China is now in power and they have military superiority in the region.” The reaction of US policy-makers and analysts on Asia has ranged from anger to hand-wringing to ignoring, denying or downplaying the significance and root of the problem—American hubris.

After one of Duterte’s outbursts, Philippine Foreign Minister Perfecto Yasay Jr. eloquently explained that “The United States held on to invisible chains that reined us in towards dependence and submission as little brown brothers not capable of true independence and freedom.” Indeed, many Filipinos have a love-hate relationship with America and Americans that can no longer be ignored.

The general regional reaction to the decision and its aftermath has been silence, with a few exceptions, maybe a sign that the US’s military welcome in Southeast Asia is wearing thin. Indeed, President Barack Obama’s foreign policy brain trust may have underestimated China’s diplomatic leverage and skill and overestimated its own.

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The shift in sentiment toward the US has been stimulated by reaction to its overly aggressive involvement in South China Sea issues and the aftermath of the arbitration decision. It could be that the peoples that the US has conquered, bullied or treated condescendingly all these years are starting to demand equal rights and treatment in interstate and intercultural relations. Indeed, Duterte has demonstrated that bold nationalist leadership in long-dependent countries can defy the foreign policy preferences of the protective patron and even bring benefits—at least in the short-term. The Duterte phenomenon should inform US foreign policy in Asia and elsewhere. The genie of nationalism, independence and flexibility in foreign policy is out of the bottle and altering relations between Southeast Asian countries and the US.

There is growing concern that Duterte’s volte-face may even be a tipping point toward the demise of the US pivot to Asia. Unfortunately for the US, the Philippines will assume the rotating chairmanship of ASEAN next year. Max Boot, senior fellow at the Council on Foreign Relations, concludes that Duterte’s renegotiated foreign policy “is a potential disaster” because “China could either neutralize this vital American ally, or even potentially turn the Philippines into a PLA Navy base.” Even The New York Times editorialized that “Such an alarming about-face would be a serious blow to regional stability and to President Obama’s policy of strengthening relations with Asian countries as a counterpoint to a newly aggressive China.”

The political ripples are spreading rapidly. Malaysian Prime Minister Najib Razak visited China seeking investment and closer ties as relations have improved markedly after Chinese companies in late 2015 agreed to buy assets of scandal-scarred 1Malaysia Development Berhad for US$4 billion. This was a great relief to Najib, 1MDB’s creator and chairman of its advisory board until May of 2016, because it helped ease public concern over the fund’s ballooning debt. In contrast to this gesture, the US Department of Justice has filed lawsuits regarding money laundering by 1MDB. Malaysia also agreed to buy up to 10 littoral mission ships from China during Najib’s visit, which means it will probably not be buying similar vessels from the US.

Meanwhile, US relations with another ally, Thailand, are not good. Thailand is going through a tumultuous political transition, and its military government is very unhappy with US criticism of its domestic policies and lack of progress toward democracy. Consequently, it has expanded its military relations with China, including buying submarines.

Singapore, which has or had a special relationship with China and is the designated ASEAN interlocutor with China, is the latest ASEAN country to get publicly caught in a political pickle. China’s People’s Daily editorialized that Singapore “has obviously taken sides over South China Sea issues while emphasizing it does not.” Hong Kong, presumably at Beijing’s direction, seized Singapore-bound armored personnel carriers from a Taiwan-flagged container ship. China subsequently criticized Singapore for undertaking military exercises with Taiwan.

For Australia, Malaysia and Singapore, any pretext to military neutrality is already compromised by their facilitation of China-focused US intelligence-gathering flights and hosting of the rotational deployment of US warships (and, in Australia’s case, even US troops). This presumably makes them potential diplomatic and physical targets for China in the event of China-US hostilities.

**FREEDOM OF NAVIGATION OR PROVOCATION?**

In late October, the US undertook yet another FoN operation, the first since the July ruling, challenging China’s claims in the South China Sea. According to the Pentagon, the US warship Decatur sailed within waters claimed by China near the Paracel Islands, which are also claimed by Vietnam and Taiwan, but not within the 12-nautical-mile territorial sea limits of any of the islands. The destroyer “conducted this transit in a routine lawful manner,” the US said.

Some analysts criticized the action as redundant, unnecessary and provocative.

The US believes that China’s baselines there are illegal under the UN Convention on the Law of the Sea, which Washington has not ratified. The Decatur, in crossing China’s declared baselines, must have also entered Chinese-claimed territorial seas—an area where China demands prior notification by foreign warships.

More political, the FoN operation occurred while Duterte was on a state visit to China. US officials revealed the operation only hours after Beijing and Manila issued a joint statement announcing they would seek to resolve their disputes in the South China Sea through negotiations. While the operation may have been planned well in advance of Duterte’s visit, it—or its announcement—could have been postponed until after he left China. That it was not could be interpreted as an attempt to pressure Duterte and even disrupt the Philippines-China détente.

Whatever the circumstances, China scored a public relations coup. “This shows that it is the United States which is the troublemaker when it comes to the stability of the South China Sea,” China’s Defense Ministry said. China’s state media accused Washington of wanting “to meddle on its own after losing the support of other countries in the region.”

An obvious question is why the Obama administration in its last months would antagonize
China with such a redundant and provocative action. It almost seems as if the Pentagon wanted to make relations with China difficult for the next US president.

**TRUMP AND THE SOUTH CHINA SEA**

Many Asian foreign policy analysts are looking keenly at Trump’s picks for defense and foreign-policy positions in light of South China Sea issues. There are several competing and contrasting threads in the Trump camp that are relevant, including whether the officials will emphasize power, interventionism or isolationism.

“Make America Great Again,” Trump’s campaign slogan, could translate into a muscular approach to foreign policy. Implementing such a policy in Southeast Asia is likely to be accompanied by bluster, threats and shows of force in the South and East China Seas. Trump reportedly intends to block China’s ambitions, presumably by increasing the US Navy’s presence. The US military has been somewhat constrained under Obama but may be unleashed to undertake more aggressive ISR probes and FoN operations. Under Trump, the US may even successfully pressure Japan and/or Australia to undertake joint air and sea patrols in the South China Sea. That would be anathema to China.

How China reacts may set the tone for US-China relations and peace and stability in the region for the foreseeable future. China is unlikely to be intimidated in its own backyard. Indeed, it may well meet US actions with its own. Nationalists, particularly those in the People’s Liberation Army Navy, will press China’s leadership to respond. This means that more military-to-military incidents are probable and that they may make past incidents, like those involving the EP-3, the *Impeccable* and the *Cowpens*, seem mild. These events were all quite dangerous and were resolved only after involvement by the leadership on both sides.

Trump has said that China’s advances in the South China Sea “have been at will because they have no respect for our president and they have no respect for our country.” The first six months to a year of the Trump administration will be the most dangerous. President Trump will be under pressure to confirm his tough guy persona and to re-establish American military dominance. The (slim) hope is that China will give him some leeway in this transition year and that China and the US will develop a new strategic understanding of what amounts to peaceful co-existence.

Perhaps Trumps’ predilection for isolationism — together with economic concerns — may counterbalance an urge to flex US muscle in Asia. Trump does seem wary of expending more American blood and treasure to defend allies such as Japan, the Philippines and Taiwan. Moreover, it is becoming increasingly clear that several ASEAN states do not want the region to become polarized and to be put in a position of having to choose between China and the US. Indeed, some are already leaning towards China, and under duress others may do so as well.

Meanwhile, China is likely to continue its successful soft-power approach to dominating Southeast Asia and the South China Sea. This includes small step-by-step physical advances, economic aid, investment and dealing with its rival claimants in a non-threatening manner. For example, China’s Agriculture Ministry announced its intention to again ban fishing in areas of the South China Sea.

The sordidness of the recent US presidential election campaign, the result and the aftermath have confirmed some of the region’s deepest fears about the US. To many, the recent developments appear exemplary of the worst instincts of human and state behavior. In a pragmatic scenario, as long as China does not interfere with trade and the ability of US business to make money, the Trump administration is unlikely to confront it. This may be the most that can be hoped for. But if Trump’s recent policy-breaking phone call from Taiwan President Tsai Ing-wen is any indication, US-China relations are likely to be in for a rough patch.

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