

COMMENTARY (U.S.)

## When China's Behavior Betrays Its Words

Whether Beijing is sincere about its desire for regional harmony must be judged by its actions on the South China Sea.



The USS Dewey in the South China Sea on May 6. PHOTO: EUROPEAN PRESSPHOTO AGENCY

By Lynn Kuok

June 8, 2017 12:36 p.m. ET

A Chinese newspaper reported last month that the People's Liberation Army installed rocket launchers on Fiery Cross Reef, a disputed feature in the South China Sea. In mid-December, the Center for Strategic and International Studies in Washington released satellite photos that showed China deploying weapons on artificial islands constructed in the past three years. These developments have alarmed Southeast Asian nations because they suggest Beijing intends to further change the status quo in the South China Sea with force or the threat of force.

Beijing has repeatedly said that such moves are defensive, and that it can do what it likes on its own territory. And it's true that a state generally has the right to do as it wishes on sovereign territory.

But features in the Spratly Islands are claimed by five other claimants. International law on the responsibility of an occupying state in a disputed area is far from clear.

China's actions are all the more surprising given its self-image as the region's peacemaker. Last month, President Xi Jinping called the Belt and Road Initiative an attempt to "create . . . a big family of harmonious co-existence."

The most prudent course for all claimants in the South China Sea would be to refrain from provocative activities, especially those that involve irreversible changes to a feature. The Declaration on the Conduct of Parties in the South China Sea concluded between China and the Association of Southeast Asian Nations member states in 2002 explicitly exhorts parties to "exercise self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability." Beijing has warned its neighbors not to increase their presence on features under their control.

In April, Philippine President Rodrigo Duterte ordered his military to occupy features under the country's control in the South China Sea. The president also mentioned that he might visit Thitu Island (also known as Pag-asa Island), the largest feature the Philippines occupies in the Spratly Islands.

A week later, after Beijing had some strong words with Mr. Duterte, the president made an about-turn, announcing that he would no longer push through with his plan. He explained that the Chinese government convinced him that it would cause trouble if “every head of state of the contending parties . . . will go there to plant their flags.”

Beijing’s call for restraint wasn’t based on claims that Mr. Duterte’s proposed actions were unlawful. Rather it was prompted by the likelihood that such actions would raise tensions and spark off a negative spiral of action and reaction.

The reasoning behind China’s advice to the Philippines could also usefully be applied to Beijing’s island-building and construction activities as well as its reported deployments of weapons and equipment on features it occupies. China isn’t the only nor the first claimant to engage in such activities, but the speed and scale of development has dwarfed others and caused much anxiety in the region and beyond.

Moreover, none of China’s actions in this respect bolster its claims in the South China Sea. A court or tribunal doesn’t look at state actions after a dispute arises to determine sovereignty.

In pursuing these actions, Beijing is likely motivated more by the worrying goal of seeking to change the status quo on the ground. Enhancing its physical presence on features increases its ability to project power in the region.

Some analysts have criticized China’s island-building and construction activities, as well as its “militarization” of features for flouting a 2016 United Nations tribunal’s decision on the South China Sea. But such criticism is misguided.

The tribunal didn’t rule on whether China’s island-building and construction activities as well a militarization of the high-tide features it occupies in the Spratly Islands, including Fiery Cross Reef, were unlawful. The lawfulness of these acts depend on whether China has sovereignty over these features, which the tribunal did not determine, and the responsibility of an occupying state in disputed areas, which is unclear.

Rather, the tribunal ruled that China’s island-building and construction activities were unlawful because they violated environmental obligations under the United Nations Convention on the Law of the Sea (Unclos), aggravated and extended the dispute before the tribunal and had the effect of permanently destroying evidence of the natural condition of features in question.

Nevertheless, China’s actions, including recent reports of deployments of weapons, are worrying because they undermine trust, heighten tensions and encourage retaliatory measures by other parties. They also run counter to the obligation of restraint under the 2002 declaration between China and Asean member states.

All parties who have an interest in lowering tensions in a fraught region should hold themselves to two tests: first, adherence to international law, including Unclos; and second, restraint where action might not necessarily be unlawful but would nonetheless increase tensions. Peace and stability in the region depend on this.

As China comes bearing gifts and countries seek to assess its intentions, Beijing’s willingness to consistently abide by these two tests will be an important gauge of its sincerity in seeking a “big family of harmonious co-existence.” It will also indicate the type of power China will be. A truly great one upholds the rule of law and exercises wisdom and prudence in all things.

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