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Dark Struggle between China and the Philippines over the South China Sea

By UDAGAWA Keisuke

The dominant issue involving the South China Sea and the East China Sea is usually assumed to be a “Taiwan contingency” that could occur as a result of the deteriorating relationship between China and Taiwan. However, the “first island chain” also includes the Philippines, as well as Japan’s Nansei Islands. This point was highlighted in a lawsuit filed by the Philippines with the Permanent Court of Arbitration against China’s claim to territorial rights over the waters and islands in the area of the South China Sea enclosed by the so-called nine-dash line. The Philippines asked the court to confirm that China was in violation of the United Nations Convention on the Law of the Sea and that its claim did not have any legal basis. The incident occurred because China did not heed the warning that the Philippines had been issuing since 2013. In 2014, the Philippines established a panel and requested the court for arbitration. On July 12, 2016, the court, which is based in The Hague, Netherlands, ruled that China’s claim to historical rights over the nine-dash line and the enclosed sea area was without any legal basis and in violation of international law, as follows:

- China’s claim to historical rights over the sea area enclosed by the nine-dash line is in violation of the UN Convention on the Law of the Sea and should not be recognized.
- Scarborough Reef, Gaven Reef (northern reef only), Kennan Reef (including Hughes Reef), Johnson South Reef, Cuarteron Reef, and Fiery Cross Reef are all “rocks” entitled only to a territorial sea of 12 nautical miles (they do not have an exclusive economic zone (EEZ) or continental shelf).
- None of the Spratly Islands’ high-tide highlands is maritime terrain capable of sustaining human habitation or independent economic life as defined in Article 121(3) of the UN Convention on the Law of the Sea. They do not constitute an EEZ or continental shelf.
- Mischief Reef, Second Thomas Reef, and Subi Reef are all low-tide highlands that sink below sea level at high tide, and they are not under any maritime authority.

China made the following announcement regarding the ruling: “With regard to the award rendered on 12 July 2016 by the Arbitral Tribunal in the South China Sea arbitration established at the unilateral request of the Republic of the Philippines (hereinafter referred to as the “Arbitral Tribunal”), the Ministry of Foreign Affairs of the People’s Republic of China solemnly declares

that the award is null and void and has no binding force. China neither accepts nor recognizes it." Seeking to prevent the conflict from escalating, then-President Rodrigo Duterte turned his attention away from this issue and focused instead on efforts to eradicate narcotics in the country. However, Ferdinand Romualdez Marcos Jr., the current president, seems to have a different approach.

On February 13, the Philippine Coast Guard announced that on February 6, a China Coast Guard vessel pointed a laser at a Philippine patrol vessel while it was on a resupply mission for the Navy near Ayungin Reef of the Spratly Islands. The Philippine Coast Guard condemned the action as a clear violation of the Philippines' sovereign rights, saying that some of the vessel's crew were temporarily blinded and that the Chinese ship was being dangerously maneuvered. Wang Wenbin, deputy director general of the Department of Information at China's Ministry of Foreign Affairs, clarified at a news conference on February 13 that China had defended its sovereignty and that it acted in a "restrained manner." According to the Philippine Coast Guard, the Chinese ship shone a green laser light twice and that the ship approached about 140 meters behind the Philippine patrol boat. The Philippine Coast Guard released a statement saying that it would maintain its presence in the area and assert the nation's sovereignty to protect its territory. (Chinese ship aims laser at a Philippine Coast Guard vessel in the South China Sea: Kyodo News, February 13, 2023 <https://news.livedoor.com/article/detail/23702930/>)

On February 14, the Philippine Department of Foreign Affairs sent a diplomatic note to China calling on the country to ensure its vessels cease "aggressive activities." The move came after the Philippine Coast Guard condemned China on February 13, saying that a Chinese Coast Guard vessel committed acts of obstruction in the South China Sea. According to the Philippine Coast Guard, on February 6, the Chinese Coast Guard ship directed a "military-grade laser" at one of Manila's vessels on a resupply mission to a naval base on Ayungin Reef of the Spratly Islands. Foreign Affairs Spokesperson Teresita Daza noted that the incident occurred soon after President Marcos and Chinese President Xi Jinping agreed to seek a diplomatic solution to the problems over the South China Sea during their meeting in early January, adding that "these acts of aggression by China are disturbing and disappointing." The department also stated that the actions of China's Coast Guard vessel were a threat to the Philippines' sovereignty and security and the country had a prerogative to conduct legitimate activities within its EEZ. There was no immediate comment from the Chinese embassy in Manila, but on February 13, the Chinese Foreign Ministry said that its Coast Guard had conducted actions according to the law. (Philippines files protest against China over use of laser, "aggressive activities" by vessels, Reuters, February 14, 2023,

16:08 <https://news.livedoor.com/article/detail/23707522/>)

Regarding the ruling by the Permanent Court of Arbitration, then-President Duterte of the Philippines said that war was not an option and that he would send former President Fidel Ramos to China as a special envoy to initiate bilateral talks. China, which was dissatisfied with the court ruling, welcomed the Philippines' proposal. For his part, Ramos also accepted the appointment. In his first policy speech after taking office, Duterte referred to the South China Sea as the "West Philippine Sea," but also expressed consideration for China by adding that it was also known as the "China Sea." On October 20 of the same year, Duterte and Chinese President Xi Jinping set aside the dispute over the South China Sea ruling and agreed to cooperate with each other on various other areas. However, "setting aside" meant that the problem was to emerge later. It is only natural that the Philippines would deploy its vessels in the South China Sea, where both sides assert their sovereignty. The International Court of Arbitration has recognized the Philippines' claim. Therefore, China's insistence on the nine-dash line is completely unacceptable under international law.

China directed a military laser at a vessel operated by the Philippines, which has the support of the court. The Philippines has the right to conduct economic activities within its EEZ, where China has no monopoly. Even if China makes a decision based on domestic law, it has no meaning under international law. China is being condemned internationally for its total disregard for international law. Such disregard is behind Russia's invasion of Ukraine. This means that China's disregard for international law could lead to a Taiwan or a Philippine contingency. As a result, the Philippines, like Taiwan, may face major problems as China exerts military pressure.

Then, what should be done in the future? An argument could be made that sanctions should be applied to China when it exerts military pressures. However, few countries are willing to go that far. Economic sanctions were imposed on Russia when the nation annexed Crimea in 2014, but this did not stop the country from invading Ukraine in 2022. How should the international community interpret this fact of history? It is important to closely examine the true nature of former socialist countries by treating them separately from democratic nations. A situation may arise in which precautionary measures must be implemented based on international law.

(This is an English translation of the article written by UDAGAWA Keisuke, Writer/Journalist, which originally appeared on the e-forum "Hyakka-Somei (Hundred Ducks in Full Voice)" of CEAC on March 24, 2023.)