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‘Abominable’ and the Nine-Dash Line: What Should Yeti Do?

By Vu Hai Dang

SYNOPSIS

The incident of the Abominable movie having scenes depicting China's controversial nine-dash line map caused strong reactions from Southeast Asian countries. How can international companies doing business in the region avoid getting entangled in similar incidents in the future?

COMMENTARY

WITHIN A span of five days from 13-17 October 2019, three Southeast Asian countries displayed their objections to the children's animation movie “*Abominable*”, a joint production by American DreamWorks and China-based Pearl Studio about Yeti, the Himalayan Snowman. The trigger: scenes that depicted China's controversial nine-dash line in the South China Sea which the international community does not recognise. Relevant authorities from Vietnam, Philippines and Malaysia have since taken measures to prevent the movie from public screening in their respective territories.

Malaysia stopped it from being shown in cinemas unless the map is removed; the Philippines banned the movie; and Vietnam ordered cinemas to withdraw the show. This series of unfavourable reactions from the three regional co-claimants came just days after the sports channel EPSN was criticised for showing a China graphic using this very map. The regional responses to the map replayed what happened three years ago when China first issued the new electronic passport featuring the nine-dash line – except this time it has to do with foreign private companies.

Legal Implications

While the tactic of using maps for advancing territorial and maritime claims has been demonstrated to have little legal effect in international tribunals, it is still a very common practice of states. What are the legal implications in international jurisprudence of the use and promotion of the nine-dash line map for the parties to the South China Sea China disputes, namely China and other Southeast Asian countries?

By the same token, what are the legal implications for the international private companies? Are there ways for international companies that do not want to take sides in the disputes to avoid similar incidents in the future?

It is well-known from international case law that maps and other cartographic materials can only be accepted as evidence by international tribunals and courts under very restricted circumstances. For instance, when these maps are annexed to boundary treaty or when they are drawn by neutral bodies or boundary commissions.

In any case, relevant maps must be sufficiently technically and geographically accurate, which is clearly not the case of China's nine-dash line map. The line depicted on the map does not have any clearly-defined geographic coordinates and has been changing over time. Perhaps the best added value that these maps could have for China is a manifestation of the country's claim in the South China Sea.

However, this value is also very limited due to its lack of precision and clarity. In fact, in the *South China Sea Arbitration*, the arbitral tribunal, even though mentioning the nine-dash line map in the examination of China's arguments, had to look to other sources – legal texts, official statements, etc – to configure China's South China Sea claim.

Reaction from Southeast Asian Claimants

While the promotion of the nine-dash line map carries little legal value for China, the Southeast Asian claimants cannot remain silent. They must have some sort of reaction in protest or objection to the controversial map every time they come across it officially. It is because they do not want to be understood or misunderstood as accepting the map by virtue of acquiescence.

This was the direction taken by the International Court of Justice in the *Preah Vihear* case. The reaction from government to government usually takes the form of a *note verbale* protest or a refusal to stamp on the passport with the nine-dash line map (like in the case of the Chinese passport).

From government to companies, it will be translated into actions which are costly for the firms, such as in the case of the Abominable movie: ranging from orders to cut scenes to calling for boycott or withdrawing it from public screening. Indeed, the French luxury brand Dior has just been subject to calls for boycott in China for presenting a map of the country without Taiwan.

How to Avoid Similar Incidents

Even though the use, reproduction and promotion of the nine-dash line map, either intentional or unintentional, by international private companies such as DreamWorks

and ESPN, carry no legal effect as they are not official authorities, such an action could have political implications. China could use them to justify that these companies support their claims in the South China Sea. Indeed, China has used some maps published by private foreign entities as proof of “international recognition” of China’s sovereignty.

Except companies that deliberately favour China and accept the loss of markets in Southeast Asian countries, those who genuinely do not want to be perceived as taking sides in the South China Sea disputes should familiarise themselves with existing regional geopolitical sensitivities.

They might want to be more careful in marketing their products and services to avoid similar incidents in the future. A “technical” mistake on their part could become costly in business and financial terms.

Perhaps the safest way is to avoid the depiction of any map on their products, but this is probably not practical for certain types of products, such as tourist promotional flyers, transportation brochures, and geographical indications. Another way is to have all claimant states’ claims on the map; but this is also an extreme measure as the map will look very confusing and technically very difficult to read.

An alternative solution is to refer to maps produced by the United Nations, such as the ones published by its Geospatial Information Section (<https://www.un.org/Depts/Cartographic/english/htmain.htm>). The most authoritative international organisation in the world has as members all claimant states in the South China Sea and is completely neutral to the South China Sea disputes.

Its world map (<https://www.un.org/Depts/Cartographic/map/profile/world.pdf>) takes no sides in any unresolved territorial and maritime dispute nor depict any unilateral claim. This could be a reasonable way for international private entities to avoid getting entangled in the complicated mapping problem.

Vu Hai Dang is a Senior Research Fellow at the Centre for International Law, National University of Singapore. He researches on international law, international environmental law, law of the sea and the South China Sea. He contributed this to RSIS Commentary.
