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South China Sea: New US Policy and Its Implications

By Olli Pekka Suorsa

SYNOPSIS

US Secretary of State Mike Pompeo announced a new policy on South China Sea on 13 July 2020. It aligned America's position in the South China Sea closely with the 2016 Philippines versus China arbitration ruling award, which delegitimised China's nine-dashed line claim in the South China Sea and the UNCLOS.



A US Navy vessel near the West Capella drillship. Pic:US Navy photo

COMMENTARY

AMID GROWING tensions between the United States and China, Washington has announced a new South China Sea policy. The new policy was expressed by Secretary of State Mike Pompeo on 13 July 2020 as the two powers locked horns on multiple fronts from economic and technological competition and issues over Hong Kong and Xinjiang, to the confrontation in the South China Sea.

The new policy statement called out Chinese coercive actions against its Southeast Asian neighbours and promised support in protection of their respective maritime rights. The stronger US stance came after a landmark US-Japan-Australia joint statement of 7 July, condemning Chinese actions in the region. The trilateral declaration was followed by unilateral statements by Japan, Australia and India, among others, along the same tone.

Why the New US Policy

Pompeo's statement made the intention of the new policy crystal clear: "Beijing's claims to offshore resources across most of the South China Sea are completely unlawful, as is its campaign of bullying to control them".

The policy aligned the US South China Sea position closely with the United Nations Convention on the Law of the Sea (UNCLOS) and the 2016 Philippines versus China international arbitration ruling, which delegitimised claims to historic rights and China's so-called nine-dashed line in the South China Sea as the basis of Beijing's claims.

The statement therefore also showed Washington's strong support for the declaration made by ASEAN leaders at the end of the 36th ASEAN Summit on 26 June 2020, insisting that all maritime claims to be based on international law, and especially the UNCLOS.

Not all this is new, though. Washington has consistently denounced Chinese excessive and illegal maritime claims in South China Sea, including the nine-dashed line, and has increasingly called out Chinese bullying of other South China Sea claimant states.

More Explicit Tone

What is different, however, is the explicit tone and message it sends to Beijing as well as allies and partners in the region that the US is doubling down on stopping China's coercive actions in the South China Sea.

As a clear signal to allies and partners, the statement singles out Chinese assertive actions in the Philippines' Scarborough Shoal, Mischief Reef, and the Second Thomas Shoal, Vietnam's Vanguard Bank, Malaysia's Luconia Shoals, and Natuna Basar off Indonesia.

It calls out China's harassment of coastal states' legitimate fishing and hydrocarbon development activities around those maritime features. The policy thus gives explicit US support to those states and the exercise of their rights within their respective maritime zones, receiving positive acknowledgments from the region.

In addition, the support for claimants to exercise their legal rights in their respective exclusive economic zones gives Washington a new tone to its actions in the South China Sea, one that has more credibility than backing all US moves under the assertion to uphold the freedom of navigation in the region. The two need to go hand in hand.

China's Response & What Lies Ahead

China, unsurprisingly, was unhappy about the US statement and followed up with the rather usual tirade. Beijing lashed Washington on interfering in the region's issues and on unnecessarily escalating the situation.

Beijing views the new statement as a significant shift in Washington's policy toward South China Sea, abandoning the stated neutrality on sovereignty disputes. Instead, China sees the new US policy as a direct challenge to its own position and blames Washington on putting a wedge between itself and Southeast Asian claimant states.

With the South China Sea policy statement, US created itself a more explicit policy framework for activities that would deter what Pompeo accused as attempts to create a Chinese "maritime empire" in the South China Sea and support the smaller Southeast Asian coastal states' rights and freedoms in their respective exclusive economic zones (EEZs).

For the US, however, the real challenge still lies ahead. How Washington go on to implement the strongly-worded policy matters ultimately more than the statement itself.

In a keynote speech to the tenth annual CSIS South China Sea conference, on 14 July 2020, the US Assistant Secretary of State for the Bureau of East Asian and Pacific Affairs David Stilwell said that "all tools are on the table" and hinted that there certainly was room to sanction Chinese officials and state-owned enterprises that engage in illegal activities.

An example of possible US actions that will follow took place from late April till early May when Chinese Haiyang Dizhi 8 oil exploration vessel, flanked by Chinese maritime militia and coast guard boats, intruded into Malaysia's EEZ. Ostensibly to survey the area, the Chinese vessels harassed the Petronas-operated West Capella rig's drilling operations, inviting a close monitoring by nearby US Navy warships.

Following this brief standoff, the US Navy's littoral combat ships intermittently made themselves seen by Chinese surveillance vessels. The Navy has thus made its presence seen and felt for all sides. Whether these examples have provided a precedence for the future US Navy missions and involvement in disputes remains to be seen.

Legitimacy and Credibility

It goes without saying that while stronger US support for weaker states' maritime rights is welcomed, it also raises tension in the region. With the stronger, more muscular US

Navy presence comes more frequent encounters with Chinese counterparts and, therefore, grown risk of accidents and escalation.

Washington must therefore ensure that its actions, while deliberate, are both credible, controlled and legitimate, and avoid entangling smaller states between the two behemoths navies.

Ideally, US presence comes in frequent coordination with allies and partners, giving any action it takes broader legitimacy. Ultimately, legitimacy is the most critical enabler for any US action in the South China Sea and how those actions will be received and perceived by others.

It is, nevertheless, a good start that the US is voicing support for the 36th ASEAN Summit chairman's statement and backing allies and partners – such as Japan, Australia, India – in unilateral as well as joint statements that call out Chinese coercive actions.

It is also helpful that Washington is insisting on the primacy of international rules and norms over “might makes right”. Probably not in too distant future, we will see whether Washington will be willing to follow through with this bold policy statement.

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