

## China Throws Out South China Sea Rule Book

Beijing hardly bothers with a legal rationale for seizing a U.S. drone

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China has in the past taken pains to anchor its challenge to the U.S. in the South China Sea within a broad framework of legality. The seizure of a U.S. drone was different. Photo: CCTV

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52 COMMENTS

SHANGHAI—In a tweet, Donald Trump called it stealing.

Many Western legal experts agree with him: The interception and capture of a U.S. Navy drone by the crew of a Chinese warship, they say, was tantamount to an act of piracy on the high seas. The Pentagon labeled the seizure “unlawful.”

On Tuesday, China handed back the craft, a day after a Chinese Foreign Ministry spokeswoman insisted that the sailors were simply gathering unattended property, as one might “pick something up from the street.”

That explanation beggars belief. China has crossed a new threshold. It once found it necessary to justify its assertive actions in the South China Sea within a broad framework of legality—however flimsy, contrived or contested its formulation of law appeared to the U.S. and its allies.

This, along with its efforts to win over the region with pocketbook diplomacy—free-trade deals, infrastructure investment, low-cost loans and aid packages—distinguished China from Russia, which has openly flouted international norms by invading Georgia and partially dismantling Ukraine.

The finned metal tube was clearly marked. Equally obvious, it was under the control of the nearby USNS Bowditch. If China can grab a submersible drone, why not interfere with the passage of a ship? In these matters, international maritime law does not distinguish between vessel types or sizes.

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China has again called into question its own repeated proclamations that it won't restrict freedom of navigation in the South China Sea.

Step by step, its neighbors fear, China is walking away from its assurances that it wants a "peaceful rise." Just last year, President Xi Jinping pledged not to militarize the seven massive islands China has dredged in the South China Sea, but lately it has positioned anti-aircraft weapons on them, according to a report by the Center for Strategic and International Studies, a Washington think tank.

Perhaps this episode was intended as a Chinese riposte to Mr. Trump. In Beijing's view, he has challenged the very underpinnings of the U.S.-China relationship by taking a phone call from Taiwan's president and questioning its cherished "one-China" principle from his Twitter account. And now China is breaking a taboo.

Scooping a submersible drone out of the waves, of course, is not comparable to Vladimir Putin's naked aggression.

But it's another move in a dangerous direction. In 2001, when a Chinese fighter collided with a U.S. spy plane off Hainan Island and forced it to land, Beijing complained that the plane was conducting illegal close-in surveillance, applying its own minority interpretation of international law.

This time it hardly bothered with a legal rationale. The People's Daily's overseas edition claimed the drone was in China's "jurisdictional waters," even though the spot falls outside its already extravagant claims to almost the entire South China Sea demarcated by its "nine-dash line." The foreign and defense ministries were vaguer, saying it was in "waters facing China."

The Foreign Ministry spokeswoman on Tuesday blamed U.S. close-in reconnaissance activities near Chinese territory.

Either way, the entire area is now militarized.

Some Chinese scholars suggest the interception sent a message that China won't tolerate the increasing use of American drones to snoop on its submarine activity at any distance from its shores.

Armed conflict remains highly unlikely; the People's Liberation Army is far from ready to take on the world's superpower.

Adm. Harry Harris, the U.S. Pacific Fleet commander, sent a blunt message to Beijing as he announced deployments of F-22 Raptor jets to Australia last week. "We will cooperate when we can, but we will be ready to confront when we must," he said.

China may well interpret such rhetoric as bluster. The nationalist-leaning Global Times, reacting to Mr. Trump's tweets, warned that if he keeps up his provocations as president, "China will not exercise restraint."

China returned a U.S. ocean glider similar to one pictured here that it had seized in the South China sea last week. ENLARGE

China returned a U.S. ocean glider similar to one pictured here that it had seized in the South China sea last week. PHOTO: EUROPEAN PRESSPHOTO AGENCY

During the Cold War, rules of the road, diligently adhered to, prevented accidents that might have brought the U.S. and the Soviet Union to war. China and the U.S. have been working on similar protocols. Last week's apparently calculated act of lawlessness, though, changes the game.

Between Mr. Trump's cavalier approach to China's sacred cows, and China's new disdain for legal niceties, expect regular eruptions. China is clearly testing U.S. resolve.

A shift in strategy assumes of course that the decision to snatch the drone came from the top rather than a rogue commander, though the latter possibility is just as ominous: It would raise questions

about Mr. Xi's sweeping reorganization of the armed forces designed to impose greater Communist Party control.

Mr. Xi's administration has declared "maintaining stability" to be its top task for 2017 as the economy sputters. Now, the challenge from Mr. Trump to Beijing is forcing both countries into uncertain waters. Mr. Xi's navy has just literally and figuratively rocked the boat.

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