



Written by [Warren Mass](#) on August 2, 2016

China Defies Tribunal, Warns Against “Illegal” South China Sea Fishing

China’s Supreme People’s Court (SPC) issued a regulation on August 2 stating that people caught illegally fishing in disputed Chinese waters in the South China Sea could be jailed for up to a year. China claims jurisdiction over an area extending hundreds of miles to the south and east of its island province of Hainan covering a major part of the South China Sea. The communist government claims sole fishing and oil exploration rights over China’s exclusive economic zones (EEZ) — which are disputed and overlap EEZ claims of Brunei, Indonesia, Malaysia, the Philippines, Taiwan, and Vietnam.



“Judicial power is an important component of national sovereignty,” the Supreme Court’s ruling was quoted by Reuters as saying. The statement continued:

People’s courts will actively exercise jurisdiction over China’s territorial waters, support administrative departments to legally perform maritime management duties ... and safeguard Chinese territorial sovereignty and maritime interests.

The Chinese high court asserted that its jurisdiction extended to Chinese-claimed contiguous zones, exclusive economic zones, and continental shelves. However, since China’s territorial claims to most portions of the South China Sea are in dispute, it follows that its jurisdiction would be disputed, as well.

One of the nations that has objected to China’s claims, and its construction of artificial islands in the Spratly Islands, is the Philippines. Taiwan, Vietnam, and Malaysia have also claimed portions of these islands, but it was the Philippines that brought a case against China to the Permanent Court of Arbitration (PCA), an international tribunal in The Hague. The PCA ruled in favor of the Philippines on July 12, in the case of *Philippines v. China*, concluding that China has no legal basis to claim rights to the Spratly Islands, as well as the bulk of the South China Sea. The Philippines brought its case to the Hague under the UN Convention on the Law of the Sea (UNCLOS).

Reuters reported that China’s Supreme Court made no direct mention of the South China Sea or the Hague ruling, but said its judicial ruling was made in accordance with Chinese law, as well as UNCLOS, which was ratified in 1985 by the Philippines and in 1996 by China.

The Times of India quoted this statement from the tribunal’s decision: “There was no legal basis for China to claim historic rights to resources within the sea areas falling within the ‘nine-dash line.’” (The “nine dash line” — which originated under the communist nation’s predecessor Republic of China government — was established in 1947 and included the Paracel Islands, the Spratly Islands, the Pratas Islands, and various reefs and shoals.)



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The Times noted that since the Chinese government has said the Hague tribunal's verdict was null and void, China apparently intends to use today's regulation by its high court as legal cover for the Chinese naval forces to effectively enforce China's claims over most of the South China Sea and to back the rights of its fishermen to continue fishing in the region.

Another indication that China may intend to bolster its presence in the South China Sea was revealed in a statement made by China's defense-ministry spokesman, Senior Colonel Yang Yujun, at a monthly news conference on July 28, during which he said China and Russia will hold joint naval exercises in the South China Sea in September.

"This is a routine exercise between the two armed forces, aimed at strengthening the developing China-Russia strategic cooperative partnership," the *Wall Street Journal* quoted Yang as saying. "The exercise is not directed against third parties."

The *Journal* viewed this announcement in the perspective of China's defiance of the Hague tribunal decision, observing that the United States and its allies have urged China to abide by that ruling and have accused Beijing of trying to maintain its claims by establishing a physical presence in the South China Sea. These actions include building seven fortified artificial islands in disputed waters.

China has named Russia as one of dozens of countries that it says have supported its claims to areas of the South China Sea. But the *Journal* noted that Moscow has been subtle in its public support for China, saying that claimants should seek a diplomatic settlement under international law.

China has strenuously objected to flights by U.S. Navy P-8A Poseidon surveillance aircraft over the seven artificial islands that China is constructing in the Spratly/Nansha islands to gather intelligence about the Chinese activities. We reported in [a May 2015 article](#) that the *Global Times*, a newspaper owned by the Chinese Communist Party's *People's Daily*, stated in an editorial on May 25, 2015 that "U.S.-China war is inevitable in the South China Sea ... if the United States' bottom line is that China has to halt its activities" in the disputed Spratly Islands.

After a P-8A flew over the Chinese construction zone on May 20, the Chinese Navy contacted the plane by radio and asked it to leave the area.

An article in Britain's *Telegraph* reported on May 22 that China was "strongly dissatisfied" with the U.S. flights over its island construction sites.

The Telegraph quoted China's Foreign Ministry spokesman Hong Lei, who claimed that the Chinese military "drove away" the U.S. aircraft, while describing the flights as a security threat to the Chinese-claimed islands. Lei stated at a news conference:

Such action is likely to cause an accident; it is very irresponsible and dangerous and detrimental to regional peace and stability. We express our strong dissatisfaction. We urge the US to strictly abide by international law and international rules and refrain from taking any risky and provocative actions.

China will continue to closely monitor the relevant area and take the necessary and appropriate measures to prevent harm to the safety of China's islands and reefs as well as any sea and air accidents.

In response, Assistant Secretary of State Daniel Russel told reporters on May 21 that the P-8A reconnaissance flight was "entirely appropriate" and that U.S. naval forces and military aircraft would "continue to fully exercise" the right to operate in international waters and airspace.



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Colonel Steve Warren, a Department of Defense spokesman, described the P-8A mission as “routine” and said such flights occurred “every few days.”

Warren said while the Poseidon had not gone within the 12-mile territorial limits that China claims around the artificial islands, future flights might do so.

“We don’t recognize those islands as anything other than international space,” he said. “For us to fly through that, we wouldn’t see that as a change in the way we do business. It just so happens we haven’t flown over them in the last 20 years.”

Photo of Chinese pedestrian walking past billboard showing China’s claims to the South Sea islands: AP Images

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