

America's mixed maritime signals in the South China Sea

Euan Graham

Details have given rise to confusion over what exactly the USS Lassen did, writes Euan Graham

When a US Navy destroyer sailed past the Spratly Islands in late October, much of Asia breathed a sigh of relief. The administration of President Barack Obama had put deed to the insistence of Ashton Carter, defence secretary, that the US "will fly, sail and operate wherever international law allows". A line had been drawn in China's "Great Wall of Sand", demonstrating US freedom to operate at will in the South China Sea.

Relief has since turned to puzzlement. As details have emerged, they have given rise to confusion over what the USS Lassen did and did not do. The US has been accused of sending mixed signals. And the administration's wall of silence on the mission has not helped.

The US continues to express concern over Chinese intentions. Mr Obama said in Manila on Wednesday: "We agree on the need for bold steps to lower tensions, including pledging to halt further reclamation, new construction and militarisation of disputed areas in the South China Sea." But the Lassen's mission may in fact have strengthened Beijing's legal hand by tacitly acknowledging a territorial sea around one of its new artificial islands.

We know it was warned not to enter "Chinese waters" as it passed within 12 nautical miles of Subi Reef, a formerly submerged natural feature on which China has built an artificial island. We know its crew talked chow with their Chinese naval shadows. But vital specifics remain unclear, such as which other small features the destroyer passed in the Spratlys and how it operated as it steamed by. Unnamed US government sources have insinuated that the warship invoked the protocol of "innocent passage". This is a subdued mode of conduct that applies to a state's territorial sea, which under the UN convention on the law of the sea extend to 12 nautical miles.

If there was strategic logic to the operational caution of the Lassen's transit, it could either be to probe China's responses; or it could be that it was scripted in such a way as to mollify hawks at home while keeping Sino-US relations on track during east Asia's summit season — with an eye on securing a global climate-change agreement with China's co-operation in Paris. Or perhaps it was meant as a ladder for Beijing to climb down from its assertive stance and to clarify the nature of its claims within the disputed "nine-dash line".

The point is we do not know. Whatever signals the US was trying to send have been lost in translation. Reports that a US B52 bomber subsequently flew near the Spratlys have not dispelled the ambiguity surrounding US intentions.

The US is not helped by the fact that it has not ratified the convention, even as it asserts the rights that treaty defines. This is the element of exceptionalism that undercuts Washington's efforts to claim the moral ground in the South China Sea. The US Navy adheres closely to the convention — but nothing short of ratification by the Senate will satisfy in the court of world

opinion. Hawkish critics of Mr Obama's foreign policy must grasp that US moral leadership in defence of the international rules-based order begins at home. Senator John McCain, a Republican supporter of ratification, has formally requested clarification about the Lassen's mission from Mr Carter.

When Washington finally speaks, it should eschew the language of innocent passage, which the US Navy is under no obligation to observe anywhere in the Spratlys. Beijing has not legally defined its territorial claims in the archipelago, despite President Xi Jinping's recent incantations about the territories being "Chinese . . . since ancient times". South-east Asian countries that claim territory in the area have not done so either. Until such time as this changes, there is no need for the US Navy to concede its lawful right to operate normally. That should not be seen as a brazen provocation to China or anyone else.