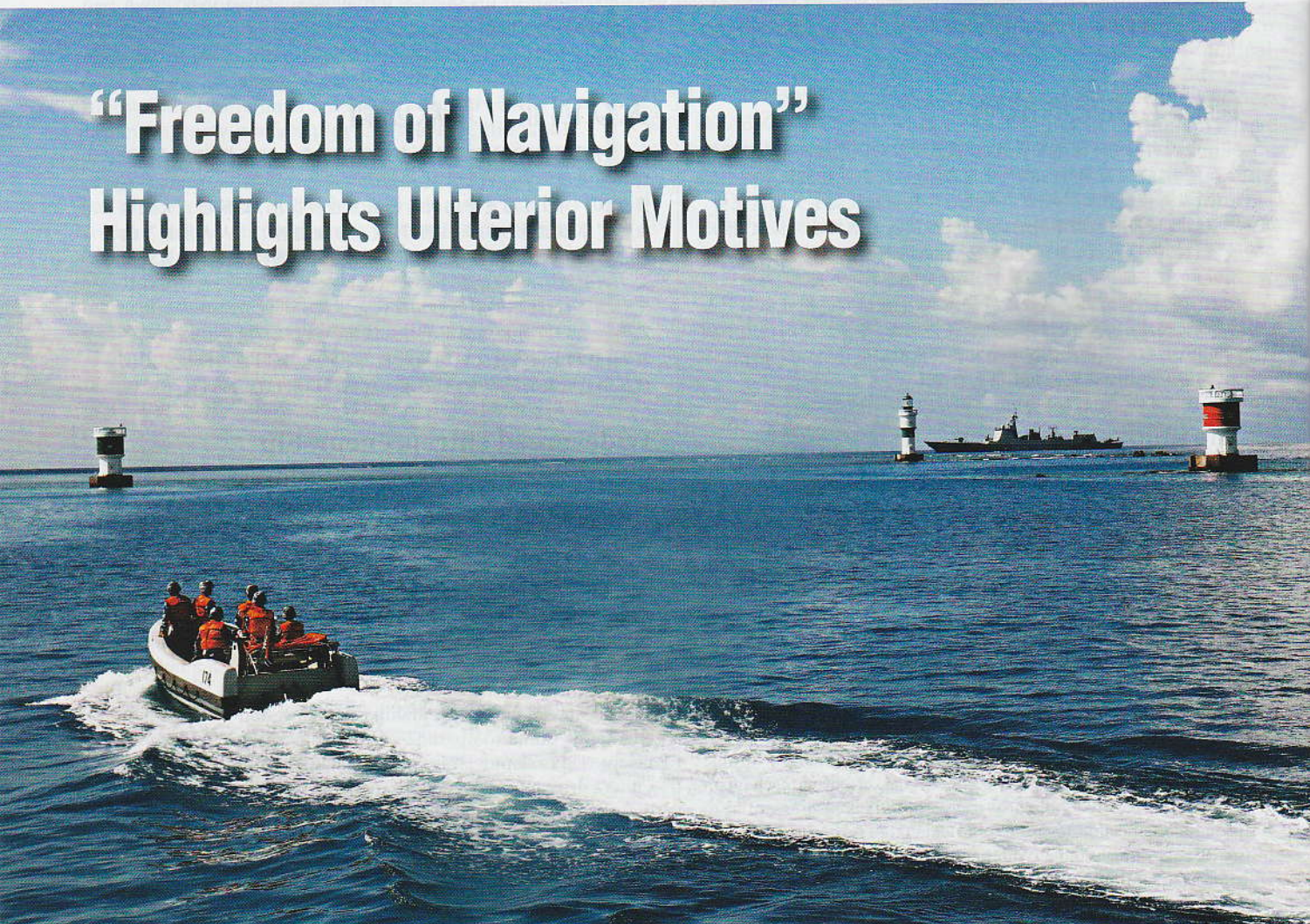




“Freedom of Navigation” Highlights Ulterior Motives



A small boat released by Chinese guided-missile destroyer *Hefei* cruises around the Nansha Islands and their adjacent waters in the South China Sea in May 2016.

By LIN MINWANG

THE United States Department of Defense released on March 6 its fiscal year 2016 Freedom of Navigation (FON) Report. The document provides a summary of excessive maritime claims from 22 claimants throughout the world which U.S. forces challenged during the period October 1, 2015 to September 30, 2016. They include claims in the South China Sea involving the Chinese mainland, Taiwan, the Philippines, Vietnam, Malaysia, and Indonesia. Although the release of this annual report has become a more or less a regular practice, bearing in mind the complexity of the situation in the Asia-Pacific region and uncertainty about China-U.S. relations, it has clearly hit a sensitive spot.

The U.S. has always advocated freedom of navigation, and gone to great lengths to dispute maritime claims that it considers “excessive.” The motivation for involving China in its Freedom of Navigation program, however, is to challenge the country’s jurisdiction over the airspace in the maritime exclusive economic zone (EEZ), as well as China’s attempts to restrict flights by foreign aircraft within the limits of the air defense identification zone. There has been a greater focus on the South China Sea in recent years.

The fact is, however, that International Law imposes different limitations on freedom of navigation which are applicable respectively to territorial waters, the EEZ, and on the high seas. China issued on February 25, 1992 its law on the territorial sea and contiguous zone, whereby foreign warships entering China’s territorial waters must first obtain approval. Although this rule accords with international law and practices, the

U.S. does not accept it, rather insisting that warships enjoy the same right of innocent passage through territorial waters as other boats. The U.S. furthermore holds that in such cases there is no need to obtain permission from or even to inform coastal states. It thus appears that the U.S. freedom of navigation program is a way of taking practical action to replace international rules with American standards, or even of imposing the will of the U.S. on other countries.

On the other hand, the Freedom of Navigation program is of a highly political nature, and imbued with ulterior motives. The Department of Defense has stated that the program's operation is based on principles, and not aimed at specific countries and regions. Yet it would appear that its targets have been carefully selected, and that Freedom of Navigation in the South China Sea is just one link. If the American program is truly based on principles, then the U.S. should adopt the same operative norm to deal with the controversial fishing waters off Okinotori Reef.

This endeavor in the South China Sea constitutes a challenge to China's reef building activities. The U.S. thus not only refutes China's sovereignty and rights over the South China Sea, but also casts aspersions on China's prestige through negative insinuations calculated to incite other disputant parties. Such practices will exacerbate the situation in the South China Sea.

Matters in the South China Sea are at present relatively calm and stable. "The situation in the South China Sea has palpably eased as a result of joint efforts by China and the Association of Southeast Asian Nations (ASEAN) countries, which are a blessing to the region and the world as a whole," Foreign Minister Wang Yi told a press conference on March 8 during the Fifth Session of the 12th National People's Congress.

When the so-called South China Sea Arbitration award was released on July 12, 2016, countries like the U.S., Japan, and Australia commended it as a constraining force on disputant parties, and expressed hope that all concerned would obey it. However, neither ASEAN countries nor disputant parties like Vietnam, the Philippines, Malaysia, and Indonesia reached a consensus on the arbitration, but kept to their original prudent stances. Since Rodrigo Duterte, president of the Philippines, visited China in October 2016, the bilateral relationship has rapidly thawed, and the South China Sea dispute has smoothly achieved a "soft landing." Developments in 2016 made clear to disputant parties that unilateral practices such as arbitration could not solve the issue, and that the dual-track approach proposed by China and ASEAN countries is the only reasonable choice. That is to say, based on historical facts and International Law, the dispute should be peacefully settled by the countries involved through negotiation and consultation. Peace and stability in the South China Sea should be jointly maintained by China and ASEAN countries.

The current stable situation is expected to be main-

tained. According to Foreign Minister Wang Yi, the Declaration on the Conduct (DOC) of Parties in the South China Sea is being implemented in a full and effective way. The parties directly concerned are returning to the right track of settling their disputes through dialogue and consultation. China and the ASEAN countries are working to promote the Code of Conduct in the South China Sea (COC), mainly through consultations, with the aim of working out common regional rules.

Wang said that by the end of February the China-ASEAN Joint Working Group had made marked progress with regard to consultations and produced the first draft of the COC framework.

"If, at this moment, someone should try to make waves and stir up trouble, they would have no support and face common opposition from the entire region," Wang said. "China will never allow hard-won stability in the South China Sea to be disturbed or undermined again."

Moreover, freedom of navigation in the South China Sea is clearly a "pseudo-proposition."

"China will never allow hard-won stability in the South China Sea to be disturbed or undermined again," said Chinese Foreign Minister Wang Yi.

"According to information from the City of London, the South China Sea is not listed as a high-risk area, and there is no data to show that international insurance companies have raised the insurance premium on ships passing through there. Therefore, where do the concerns about navigation security come from?" said Fu Ying, chairperson of the Foreign Affairs Committee of the

12th National People's Congress. It is thus apparent that the so-called Freedom of Navigation program is little more than a pretext for the U.S. army's gathering of intelligence on China through naval reconnaissance. By this token, freedom of navigation guarantees U.S. hegemony.

Despite their different stances on the Freedom of Navigation, China and America have weathered a number of crises, including the military plane collision in 2001, and the USNS Impeccable incident in 2009. Bearing in mind current China-U.S. relations and the diplomatic styles of the incumbent two state leaders, the occurrence of another critical incident could cause irreparable damage. Therefore, abandoning hegemonism and paying greater attention to other countries' legitimate safety concerns should be the principle that America should both understand and comply with. ■

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