

China's Actions in the South China Sea: Examining Armed Attacks, Acts of Aggression, and Self-Defense

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China's recent [kinetic actions](#) against Philippine boats attempting to resupply the outpost at the Second Thomas Shoal on 17 June 2024 have inched both nations closer to conflict. Similar to the June 2020 [Galwan incident](#) at the India-China border, the Chinese coast guard personnel used swords, spears, and knives during the assault. This new approach avoids using small arms, particularly automatic weapons, to prevent further escalation.

China's actions—notwithstanding any argument that the waters are either contested or belong to China—can be pegged as an “Act of Aggression” or “Armed Attack”. The UN charter recognizes both terms ([Articles 51](#) and 1 (1), respectively) and posits the right of self-defense as a response that is an inherent right duly recognized by customary law. Any argument

to place the Chinese Coast Guard or even the Chinese Maritime Militia outside the ambit of a regular armed force can be countered by the ruling in the [1986 Nicaragua-US case](#) wherein the International Court of Justice ruled that apart from use of regular armed forces, Armed Attack also included sending by or on behalf of a state armed bands, groups, irregulars, or mercenaries to carry out acts of armed force of such gravity as to amount to an actual armed attack by regular forces. Further, [UNGA Resolution 3314](#) of 14 December 1974, termed Aggression as a “use of armed force by a state against the sovereignty, territorial integrity or political independence of another state, or in any other manner inconsistent with the charter of the UN.” Thus, an act of aggression does not require declaration of war, and includes the use of armed bands, etc.



While pursuing grey zone operations, China has invoked international law and the UN charter to justify its claims over islands it considers sovereign territory and where it has developed military infrastructure. This was apparent from the Chinese Defence Minister, General Wei Fenghe’s [speech](#) at the 2019 Shangri La dialogue where he stated that “It is the legitimate rights of a sovereign state to carry out construction on its own territory. China built limited defence

facilities on the islands and reefs for self-defence. It is only when there are threats will there be defences. In the face of heavily armed warships and military aircraft, how can we not deploy any defence facilities?" One clear interpretation is that China is unlikely to "Fire the First Shot" and will create a scenario wherein it will act in self-defense against an Armed Attack or an Act of Aggression. It is highly possible that the recent incident using sharp weapons against the Philippines was conducted to elicit a response using a firearm which could have been claimed as the First Shot. Though the Philippine military personnel were armed they refrained from using firearms, as they were ordered not to, and hence avoided aggravating the situation.

There have been many instances of hard armed tactics by China in the maritime domain over the past two decades against Vietnam and the US, and increasingly in recent weeks against Taiwan and the Philippines. The instability caused by such incidents and exercises reduce the margin for error, which is particularly dangerous. History is replete with wars that have broken out due to a single shot being fired, World War I being the largest example, or small unit level fire fights. The absence of internationally accepted definitions of Armed Attack and Act of Aggression widens the scope for acting in self-defense. These ambiguously-defined terms need to be clarified. Hence, nations are wary of acting in haste and would rather resort to discussions. Although this is a much-preferred route it does not offer a tangible solution and prolongs instability, which in turn provides time for the provocateur nation to adopt new tactics. China frequently manipulates international laws while creating national laws and rules to justify its actions. One example is the new rule permitting the Chinese Coast Guard to use lethal force against foreign ships in waters it claims.



The unresolved question is: When should nations resort to self-defense against China? Mere pushback has proven insufficient. The answer becomes more complex if the victim nation shares a land border with China and/or faces it in the maritime domain. The situation is further exacerbated when the victim nation lacks the capacity and capability to, firstly, engage in a strong pushback or act of self-defense; and secondly, sustain military actions, including a full-scale conflict.

Inadequate capacity and capability can be backed by an alliance, which is provided by the US in the case of the Philippines. On 18 June 2024, the US [reiterated](#) that it is obligated to defend the Philippines as per the 1951 Mutual Defence Treaty, which, according to a US State Department spokesperson Matthew Miller, “extends to armed attacks on Philippine armed forces, public vessels, or aircraft – including those of its coast guard – anywhere in the South China Sea”. Hence, an act of self-defense of a US ally duly supported by the US would depend on the consensus of an action by China being termed an Armed Attack or even an Act of Aggression. This consensus depends on when the US and its allies are prepared to confront China. Firstly, they must believe that self-defense military responses will be

sufficient to halt further Chinese actions without escalating into a full-scale conflict. Secondly, they must be ready to pursue the conflict to its conclusion under terms favorable to the US and its allies.

While China has currently limited its strongarm tactics to the South China Sea, it is only a matter of time before similar actions are extended to other maritime regions beyond, aimed at safeguarding China's overseas interests, which is one of the eight strategic tasks earmarked for the PLA in the 2015 white paper on military strategy. Preparation for Military Struggle is a major aspect of the 2015 paper and dates back to 1993 when Jiang Zemin directed the PLA to prepare for local war under modern, high-tech conditions after observing the US military operations in the Gulf War.

For India, a strategic partner of the US, it is a question of time before the Galwan and Second Thomas Shoal tactics are employed in the waters of the Indian Ocean Region, possibly starting in areas where Chinese fishing and research vessels are employed and deployed. India's response must be carefully measured and considered. Unlike land, where sovereignty is the primary concern, maritime areas beyond Territorial Seas, which are similar to sovereign territory, are governed by a variety of international and customary laws. India should develop a strategy of responses and consider robust self-defense measures that provide effective pushback both on land and at sea, without escalating into a full-scale conflict. These actions must remain within the boundaries of international and customary law, particularly in the maritime domain.