



AVERTING CRISIS IN THE SPRATLYS: TOWARDS A REGIONAL NAVAL FORUM

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As China seeks to bolster its claims over the Spratly archipelago in the South China Sea, incidents between navies have the potential to spiral into more dangerous escalations. To avert crisis, argues Ba Hamzah, more needs to be done to promote crisis management and confidence-building between the claimant parties through the establishment of a Regional Naval Forum.

The quick thinking on the part of the naval commanders of the PLA Navy and U.S. Navy to implement a code of behaviour known as CUES—the Code on Unplanned Encounters at Sea—helped to avert a potentially dangerous incident in May in the disputed Spratly islands in the South China Sea, site of a contentious airstrip being built by China. While CUES was put into effective practice on this occasion, more needs to be done so as to avoid similar incidents in the future. It is recommended that the navies and other enforcement agencies of the claimant states in the Spratlys organize a Regional Naval Forum to provide a platform to facilitate discussion, to exchange information, and to communicate with each other more effectively. In particular, it is incumbent on China to initiate the building of confidence and peace in the Spratlys.

Following the Code

On May 11, 2015, the *USS Fort Worth (LCS 3)*, a littoral combat ship from the U.S. Seventh Fleet Command on a mission to advance the Freedom of Navigation (FON) Program, approached within a few miles of the Fiery Cross Shoal in the Spratly islands, where China is constructing a 3,000 meter airstrip for its forward defense. The *USS Fort Worth* was closely tracked and shadowed by several Chinese PLA naval vessels, including the *Yangcheng*, a PLA Navy Type 054A guided-missile frigate, on the day of the incident. According to senior U.S. naval officers, although such encounters are routine, the incident could have had dangerous consequences but for the quick decision of naval commanders to use the agreed protocols under CUES to prevent miscommunication and clarify intentions.

Introduced in 2014, CUES is a non-binding, voluntary

undertaking to abide by certain set procedures for communicating with other navies and aircraft when they encounter each other unexpectedly. In a tense and crisis environment, the maritime guidelines have proven useful to avoid incidents at sea, preventing misjudgement especially by potentially overzealous operational commanders. Currently, more than twenty navies are party to CUES (the PLA Navy signed up in 2014) that the U.S. Navy has initiated under the auspices of the Western Pacific Naval Symposium, which meets every other year.

CUES and Incidents at Sea Agreements (for example, signed between the U.S. Navy and the Soviet Union Navy in 1972) will become very handy in a disputed area like the Spratlys, where many naval vessels from different countries with different types of rules of engagement converge, most of the time failing to talk to each other in a familiar language or protocol. In fact, all four claimant states (China, Malaysia, Philippines, and Vietnam) to the Spratlys are morally obliged to apply CUES as well as other International Maritime Organization (IMO) Conventions to ensure safety at sea and cleaner oceans. The relevant IMO conventions include the Convention for Safety of Life at Sea (SOLAS 1974 and its relevant protocols), the Convention on the International Regulations for Preventing Collisions at Sea (COLREG, 1972 and the International Convention on Maritime Search and Rescue (SAR, 1979), to name just a few.

If all parties to the conflict in the Spratlys can implement their obligations at sea (vide the IMO Conventions and CUES), they can together prevent possible miscalculations and misunderstanding and help improve safety at sea, as well as preventing collisions between commercial ships and naval vessels.

Notwithstanding, CUES has certain limitations. It is



non-binding in nature, meaning that there is no obligation to enforce the rules, and it deals only with participating navies; it does not cover other “civilian” enforcement agencies, for example the Coast Guard among other agencies, many of which are well-armed. It obviously also does not address the root causes of the conflict over the Spratlys.

As the site of competing multiple claims (as opposed to more bilateral disputes such as that over the Paracel islands between China and Vietnam), it is the Spratly dispute where the establishment of a regional mechanism is most pressing. Furthermore, in the continued absence of a Code of Conduct (CoC) in the South China Sea between ASEAN countries and China, an interim measure is required to better manage tensions now at the operational level. Indeed, given the current tensions in the archipelago, where the military situation is particularly fluid and where the danger of an armed conflict has never been so apparent, there is a need to go beyond CUES to mitigate tension and build greater confidence.

Establishing a Regional Naval Forum

A recent attempt to reduce tensions over the Spratlys has seen the convening of a track two group comprised of the four claimant states. This group has recently proposed the establishment of a regional mechanism for the naval commanders and commanders of other enforcement agencies (primarily from the claimant states) in the Spratlys to start talking to each other.

If the commanders can communicate and alert each other of their respective intentions in the disputed part of the Spratlys, the problem of mistrust could be partially circumvented and greater predictability at sea achieved. Thus through a Regional Naval Forum, naval commanders and heads of the enforcement agencies at sea, as well in the air, would be able to exchange views on how to promote confidence in a defined operational area in the Spratlys. This could, for instance, take the form of an early warning mechanism to discuss and inform of movements of vessels. A direct communication link between the commanders on the ground is essential to make this Regional Forum effective.

While such a forum would obviously not address jurisdictional matters over the competing claims to the islands, it would serve as a much-needed confidence-building measure that could also supplement an eventual Code of Conduct. Furthermore, although the U.S. would not be included at the initial formative stage, it would also help to build trust

between the U.S. Navy and PLA Navy, complementing the Military Maritime Consultative Agreement between the two sides and the still to be formally adopted Memorandum of Understanding (MOU) on the Rules of Behavior for the Safety of Air and Maritime Encounters. Through the forum the U.S. could also apply pressure on the other claimant states not to undermine the process and to adhere to a more predictable security architecture regarding the Spratlys.

The Ball is in China’s Court

Not only does China deploy the most naval assets around the Spratlys, but it also has the most potential to inflict damage on other regional navies, a cost which would be politically prohibitive and counterproductive to its interests. The onus is now on China to start the process of peace-making in the Spratlys and to push through the mechanism. Accordingly, a Regional Naval Forum would complement China’s other “peace” initiatives such as the RMB 3 billion China-ASEAN Maritime Cooperation Fund announced in 2011 and the US\$ 40 billion Silk Road Fund (2014). Furthermore, establishing such a forum would also make good on President Xi Jinping’s promise that China will not use force in the South China Sea, and thus represent a signal of good intent to other countries in the region.

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