

Managing South China Sea Dispute: INCSEA, COLREG and CUES, does it work?

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Former Chief
of Naval
Operations
Admiral Elmo
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- viewed incidents with the Soviet Navy as "an extremely dangerous, but exhilarating, running game of chicken."

Clear Past, Present...future Danger

- China military build-up on Mischief Reef
- Repeated use of force by Chinese against Vietnamese fishing boats and arrests of their crews since 2005
- Firing warning shots at three Filipino fishing vessels operating in the vicinity of Jackson Atoll on February 25, 2011
- Evidence of exercise of economic coercion, threatening U.S. and international oil and gas companies, including Exxon/Mobil (in 2008) and BP (in 2007)
- In March 2010 that the South China Sea was a “core interest” for China, a position previously reserved for Tibet, Xinjiang, and Taiwan
- Unilateral Imposition of fishing bans for the northern section of the South China Sea in April 2010 and May 2011, and the escorting of PRC fishing vessels in the South China Sea by armed FLEC patrol boats
- Harassment of a Filipino research vessel (M/V Voyager) in March 2011 that was conducting a seismic survey in the vicinity of Reed Bank, 85 nautical miles from Palawan Island
- Severing of the exploration cable of a Vietnamese survey ship (Binh Minh 02) on May 26, 2011
- Challenging an Indian naval vessel forty-five nautical miles off the coast of Vietnam in July 2011 and warning Indian oil companies in September 2011 not to enter into joint oil exploration projects with Vietnam in the South China Sea

Comments on INCSEA Confidence- Building Measures in South Asia

- Insulation from Political Influence.
- Accommodated Passive Intelligence Objectives.
- Avoiding Visibility.
- Commitment to Naval Channels of Consultation.
- Naval Character.
- Simplicity.

Retired Rear Admiral Ronald Kurth

subsequent May 1984
review of the agreement
after KAL 007

- “The Soviets really, really did everything possible to preserve the agreement and re-establish confidence. They handled their conduct in the Sea of Japan very openly and we did indeed re-establish confidence”.

Admiral Gary Roughead

- We have one. It is called the rules of the road [International Regulations for Preventing Collisions at Sea]. My view is that the international protocols are adequate for us to have a very safe and co-operative interaction at sea. In my mind, we don't have to have a set of separate rules for a country and how navies operate together. . . . To say that we need something like that [INCSEA] almost defines the type of relationship – that you are unable to operate within the norms of the international structure and that you need something apart – I am just not there

COLREG 1972

Article II specifically requires ship commanders to strictly observe the letter and spirit of COLREGS

Article III provides that:

- When operating in close proximity, ships shall remain well clear to avoid risk of collision;
- When operating in the vicinity of a formation, ships shall avoid manoeuvring in a manner that would hinder the evolutions of the formation;
- Formations shall not conduct manoeuvres in internationally recognized traffic separation schemes;
- Ships engaged in surveillance shall stay at a distance that avoids the risk of collision and shall avoid executing manoeuvres embarrassing or endangering the ship under surveillance;
- When operating in sight of one another, ships shall use signals prescribed in COLREGS, the International Code of Signals (ICS) or other mutually agreed signals;
- Ships shall not simulate attacks, launch any object in the direction of a passing ship or illuminate the navigation bridge of a passing ship;

CUES

- CUES a non legally binding is an agreement of which naval leaders of the participating nation agrees to have
 - a standardised protocol of safety procedures,
 - basic communication and
 - basic manoeuvring instructions to follow for naval ships and aircraft during unplanned encounter at sea

Admiral Wu Shengli,
commander of the PLA
Navy on CUES

- “we need to respect history and take history as a mirror and continue to resolve maritime disputes and conflicts through peaceful means, as well as to avoid extreme behaviour that may endanger regional security and stability”

Yoshihide

Suga

Chief Cabinet
Secretary, Japan

- Will use CUES as an avenue in strengthening Japan efforts in persuading China to bring into force a broader marine crisis management mechanism between the defence ministries of the two countries.

WHY DO WE NEED SUCH MACHANISM?

- Cooperation on certain maritime issues is obligatory under various conventions negotiated through the United Nations and the International Maritime Organization (IMO) and UNCLOS 1982
- The utility of naval forces as an instrument of state policy.
- The economies of most countries is increasingly dependent on sea-born trade
- Maritime conflict could have global implications.
- The sea is look at as a new frontier for resource, economic gains and energy source exploration

Importance of mechanism to control behaviour

- The mechanism serves to:
 - Enhance mutual knowledge and understanding of military activities
 - Translate the provision into military and enforcement agencies control mechanism ROE and in the RUF
 - Reduce possibility of conflicts resulted out of:
 - accident, or
 - Miscalculations, or
 - Failure of communication, and
 - Increase stability both in times of calm and in crisis