

The East and South China Seas: How to Prevent Accidental Collisions and Limit Their Politico-Military Escalation — Deepen Military Dialogue through Confidence Building Measures (CBMs)—

CIGS Working Group on “Watch Your Six” (WY6)¹

Dark clouds are hanging over the East and South China Seas. Control of the air zones over the Seas is in dispute. Countries concerned, both those with direct territorial interest and those more widely interested, such as the United States and Australia, are concerned about the observance of international law in this area.²

Unfortunately, there has been little progress in finding political agreements to settle these territorial disputes. In the ensuing tension, the value of effective communication between those who are actually engaged in search, rescue, and military operations in this area is of ever greater importance. Such two-way communication can be extremely effective in preventing unintentional incidents and limit the political for politico-military escalation. Establishing appropriate crisis management mechanisms is only one step amongst many. Even with long established exchange programs and accident prevention mechanisms, the potential for unintended or accidental collisions remains. The current perilous situation needs to be fully discussed. Looking to the long-term, Japan and China should urgently initiate and continue constructive dialogue to set up concrete crisis management mechanisms.

Both Japan and China need to deepen this dialogue calmly with a view to enhancing mutual understanding between their armed forces. In this context, the members of the Working Group on “Watch Your Six” (WY6) have written on the importance of military-to-military confidence building measures (CBMs).³ The significance of CBMs have been debated among prominent scholars in the United States and China.⁴ Increasing the predictability of military behavior of the other side has a tremendous effect on the prevention of unintended or accidental collisions in the East and South China Seas.

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² See, for example, Michael Pilger, “ADIZ Update: Enforcement in the East China Sea, Prospects for the South China Sea, and Implications for the United States,” U.S.-China Economic and Security Review Commission (USCC) Staff Research Report, Washington, D.C.: USCC, March 2016.

³ Toshimichi Nagaiwa and Jun Kurihara, “Japan-China Military Confidence Measures,” *Tokyo-Cambridge Gazette: Politico-Economic Commentaries*, No. 7 (October 2011) and No. 11 (September 2014).

⁴ The importance of CBMs cannot be overemphasized at all levels. See, for example, Gu Guoliang (顾国良) and Steven E. Miller, “Arms Control and the Spread of Weapons of Mass Destruction,” in Richard Rosecrance and Gu Guoliang, (eds.), *Power and Restraint: A Shared Vision for the U.S.-China Relationship*, New York: PublicAffairs, 2009.

1. Air Zones over Disputed Territorial Areas: A Worldwide Phenomenon

On July 17, 2014, Malaysia Airline Flight 17 (MH17), a scheduled international passenger flight from Amsterdam to Kuala Lumpur, was shot down near the Ukraine–Russia border. On November 24, 2015, a Russian Sukhoi Su-24M bomber aircraft was shot down by a Turkish Air Force F-16 fighter jet near the Syria–Turkey border.

There have been many similar incidents since the end of Cold War. To make matters worse, such incidents have not always been fully investigated. The causes of the incidents have not been clearly identified; and culpability for and responsibility of most incidents remain in the realm of obscurity and guesswork. Such incidents could also take place in the skies over the western Pacific.

2. China's Air Defense Identification Zone (ADIZ)

On November 23, 2013, China abruptly announced the creation of an air defense identification zone (ADIZ) (防空识别区) in the East China Sea, which includes the air above the Senkaku Islands (尖閣諸島; 尖閣列島). China's legal concept of this ADIZ is not in accordance with the universal principles of ADIZ *per se*; China claims selective administration rights within the Zone, going against freedom of navigation (FON) (航行自由) principles.⁵

As many observers had predicted, on May 24, 2014, two Chinese Su-27 fighters (苏-27) flew abnormally close to aircraft of the Japan Maritime Self-Defense Force (MSDF) (OP-3C) and Air Self-Defense Force (ASDF) (YS-11EB) over the East China Sea.⁶ Approaching swiftly and unexpectedly from behind in the blind spot of the plane was an unforgivably reckless action, which might lead unintentionally to a serious accident.

A number of similar incidents have occurred in international waters in the East and South China Seas, providing evidence of China's assertive behavior, and leading to a growing concern about the observance of the Code for Unplanned Encounters at Sea (CUES) (海上意外相遇规则). Examples abound, including (1) the Hainan Incident of April 1, 2001, (2) the USNS *Impeccable* Incident of March 8, 2009, (3) the incident of January 19, 2013, in which a Chinese Navy Jianggai-I (江凱-I型; 江凱 I) class Frigate, the *Wenzhou* (温州号), beamed what is believed to be a fire-control radar toward a helicopter (SH-60) based on the MSDF destroyer JS *Onami* (おおなみ), (4) the incident of January 30, 2013, in which a Chinese Navy Jiangwei-II (江衛-II型; 江卫 II) class Frigate, the *Lianyungang* (連雲港号; 连云港号). beamed what is believed to be a fire-control radar

⁵ As for an argument of this view, see for example, Su Jinyuan (苏金远), "The East China Sea Air Defense Identification Zone and International Law," *Chinese Journal of International Law*, Vol. 14, No. 2 (June 2015), pp. 271-303.

⁶ See, for example, the website of Japan's Ministry of Defense, <http://www.mod.go.jp/e/pressconf/2014/05/140525.html>.

toward the MSDF destroyer JS *Yuudachi* (ゆうだち),⁷ and (5) the USS *Cowpens* Incident of December 5, 2013.⁸ This Chinese behavior has brought into question the image of China's "peaceful rise (和平崛起)." It has been gradually replaced by a growing concern about a "China threat (中国威胁)."⁹ These incidents have also brought into focus the need to establish a code for unplanned airspace encounters, along the lines of CUES.

3. Abortive Attempts to Avoid Accidents Made by the United States and China

For years, the United States and China have made assiduous efforts to establish a crisis management mechanism to prevent unintentional or accidental collisions. In January 1998, the two countries established the Military Maritime Consultative Agreement (MMCA) («关于建立加强海上军事安全磋商机制的协定») to avoid accidents when their respective maritime and air forces operate in close proximity. The agreement, however, has not been entirely successful.

In the meantime, in May 8, 1999, the bombing of the Chinese Embassy in Belgrade by the United States, and the Hainan Incident of April 1, 2001 gave added urgency to the need for a well-thought-out Sino-U.S. crisis management mechanism. The first special meeting under the MMCA on Guam took place in September 2001. But the talks stalled almost immediately.

As an alternative measure, the U.S. and China tried to set up a Special Policy Dialogue in early 2005 to address defense policy issues not covered by the MMCA, leading to the establishment of formal Defense Policy Coordination Talks (DPCT) (防务政策磋商机制) in December 2006. Unfortunately U.S.-China military-to-military relations were again derailed after the USNS *Impeccable* Incident in March 2009. Since then, China has persistently demanded that the United States address three obstacles in order for military-to-military relations to progress. These are (1) termination of arms sales to Taiwan, (2) repealing provisions of the National Defense Authorization Act (NDAA) (国防授权法案) prohibiting twelve areas of military cooperation, and (3) a halt to close-in reconnaissance by U.S. aircraft and ships in China's Exclusive Economic Zone (EEZ) (专属经济区). China also downgraded the DPCT to a working level.

Having reviewed the history of bilateral defense consultation, Carl Thayer, a political scientist and emeritus professor at the University of New South Wales, concludes that "after sixteen years of efforts to negotiate an agreement on maritime and air safety there is little evidence that military-to-military consultations

⁷ See, for example, the website of Japan's Ministry of Defense, <http://www.mod.go.jp/e/pressconf/2013/02/130205a.html>.

⁸ See, for example, the website of the *Stars and Stripes*, <http://www.stripes.com/news/pacific/chinese-warship-nearly-collided-with-uss-cowpens-1.257478>.

⁹ As for the latest developments of the PLA's increasing quantities and expanding range of activities, see, for example, National Institute for Defense Studies (NIDS), "NIDS China Security Report 2016 [「中国安全保障レポート 2016」; «中国安全保障报告 2016»]" (written in Chinese, English, and Japanese), March 2016.

and strategic dialogue have reduced strategic mistrust and raised transparency.¹⁰ In 2011, Randy Schriver, a former official in the Office of the Secretary of Defense, called for reducing military contacts, reflecting his ambivalent feelings.¹¹

In other words, Sino-US communications have long been swinging between the extremes of trust and distrust, without producing any viable crisis management mechanism. Nonetheless, the United States and China have to convince themselves that “Confidence-building measures such as dialogues at all levels including high-level talks, hotline contacts, and crisis management between the two countries should be taken so as to avoid misjudgment or accidents, which may lead to military conflict neither side wants.”¹² The United States, as well as Japan, needs to know more in detail about China’s intention and capabilities to develop a crisis-management mechanism with Chinese characteristics including (1) China’s cultural sensitivity of saving “face” (面子), (2) its Middle Kingdom nationalism (中华民族主义), and (3) its exceptionalism (中国例外主义).¹³ Accordingly, this first “Watch Your Six” (WY6) issue stresses the importance of two-way communication in order to invite China’s conciliatory approach and encourage China to participate in the world’s crisis management schemes.

4. A Glimmer of Hope: Emerging Conciliatory Measures

In the meantime, in 2014, there was a sea change in China’s behavioral pattern. The 14th Western Pacific Naval Symposium (WPNS) (西太平洋海军论坛) was held in Qingdao and CUES was unanimously approved for the first time (prior to 2014, among the WPNS member countries, only China had not approved CUES). In his closing address after China had hosted for the first time, Admiral Wu Shengli (吴胜利), Commander of the People’s Liberation Army Navy (PLAN) (中国人民解放军海军), proudly stated that the event had met its goals of “broadening horizons, enhancing mutual understanding and deepening friendship (开阔了视野, 增进了了解, 深化了友谊, 实现了预期目标).”¹⁴

¹⁰ See Toshimichi Nagaiwa and Jun Kurihara, “Japan-China Military Confidence Measures,” *Tokyo-Cambridge Gazette: Politico-Economic Commentaries*, No. 11 (September 2014).

¹¹ Shirkly A. Kan, “U.S.-China Military Contacts: Issues for Congress,” RL32496, Washington, D.C.: Congressional Research Service (CRS), July, 2014, p. 22.

¹² Gu Guoliang and Steven E. Miller, *op. cit.*, p. 178.

¹³ As for China’s effort to learn from western-style crisis management, see, for example, Alastair Iain Johnston, “The Evolution of Interstate Security Crisis-Management Theory and Practice in China,” *Naval War College Review*, Vol. 69, No. 1 (Winter 2016), pp. 30-72. As for China’s crisis-management, Johnston suggests that “The key will be whether top civilian and military leaders can be convinced to incorporate crisis-management principles and mechanisms into a leaner and more efficient civilian national security decision-making system and whether that system can minimize the impact of parochial military and paramilitary interests, intra-elite political competition, the ideology of territoriality, and Chinese exceptionalism.” See also Andrew Scobell, Arthur S. Ding, Phillip C. Saunders, and Scott W. Harold, (eds.), *The People’s Liberation Army and Contingency Planning in China*, Washington, D.C.: National Defense University Press, 2015.

¹⁴ See, for example, the *People’s Daily* [«人民网»] “Di-14-jie Xi-Taipingyang Haijun Luntan Nianhui Bimù Wú Shènglì Zhì Bì mù Cì [End of the 14th WPNS, Admiral Wu Shengli Gave his Closing Address/第 14 届西太海军论坛年会闭幕 吴胜利致闭幕词],” April 23, 2014, (<http://military.people.com.cn/n/2014/0423/c1011-24934463.html>).

Furthermore, Japan and China have worked bilaterally. For example, Japan's Sasakawa Peace Foundation (笹川平和財団; 日本笹川和平財団) and the China Center for Collaborative Studies of the South China Sea at Nanjing University (南京大学中国南海研究协同创新中心) issued the "Report on the Japan-China Dialogue on the Safety of Airspace in the East China Sea" in December 2015, in which a code of conduct between Japan and China on the safety of Airspace in the East China Sea was proposed and CBMs in the East China Sea Airspace were also suggested.¹⁵ The Sasakawa Peace Foundation and the China Center for Collaborative Studies continue to deepen mutual understanding and trust in an effort to engender a robust mechanism to avoid unintended and accidental collisions.¹⁶

5. Conclusion: More Communication Needed

Against a challenging political backdrop, courteous and sincere communication has gradually begun. This should be further emphasized in the future, especially among those who actually associate with search, rescue and military operations in this area. Such two-way communication can be extremely effective to prevent unintentional or accidental collisions and limit politico-military escalation.

Japan, along with the United States and China, should contribute to collaborative leadership to establish a robust and reliable crisis management by continued military-to-military CBMs. Indeed, any institutional arrangement regarding crisis management cannot completely remove the possibility of unintended or accidental collisions. Nevertheless, the three countries should work together to address the current tense situation in the East and South China Seas. From a sustainable long-term perspective, they should waste no time in initiating and continuing constructive dialogue to set up concrete crisis management mechanisms.

Both Japan and China should deepen the dialogue between their armed forces. In this context, the Working Group on "Watch Your Six" (WY6) will continue to produce essays and papers on the importance of military-to-military CBMs and more concrete and specific schemes of such CBMs.

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¹⁵ Sasakawa Peace Foundation and China Center for Collaborative Studies of the South China Sea at Nanjing University, "Report on the Japan-China Dialogue on the Safety of Airspace in the East China Sea [「日中東シナ海空域安全対話報告書」; «中日东海空域安全对话报告»,] (written in Chinese, Japanese, and English), December 2015.

¹⁶ See, for example, *Huanqiu Shibao* [Global Times; «环球时报» (环球网)], "ZhōngRì Zhuānjiā Duitán Shuāngbiān Guānxi: Wù Ràng Qīngkuàng Jīnyībù Èhuà [Expert Dialogue on the Sino-Japanese Relationship: Do Not Make the Situation Further Aggravated/中日专家对谈双边关系: 勿让情况进一步恶化]," March 11, 2016.