



## Measures to Manage Potential Disputes in the South China Sea

by Scott Snyder and Ralph A. Cossa

The April 1 collision between a U.S. reconnaissance plane and a Chinese jet fighter over the South China Sea, in all probability, was an isolated occurrence. But, confrontations involving Chinese and other regional military forces in disputed waters around China's periphery are much more frequent and could precipitate new crises.

In mid-May, for instance, armed Chinese sailors boarded and detained a Taiwan fishing boat suspected of illegally selling diesel fuel to Chinese fisherman. This incident occurred 35 miles northeast of Taiwan in Taiwan's claimed exclusive economic zone. The Taiwan Coast Guard responded to the fishing boat's distress call and a nine-hour stand-off ensued before Mainland customs officials on board the PRC patrol craft agreed to release the fishing boat, thus averting a crisis.

This is not an isolated instance. Taiwan authorities report over 200 instances of what they describe as Chinese Navy "harassment" against Taiwan fishing boats annually, mostly in the South China Sea. Meanwhile, Taiwanese Coast Guard officials manning isolated Pratas Reef acknowledge at least as many instances when they felt compelled to board, detain, or at least chase away Chinese fishermen operating illegally within three miles of this tiny Taiwan-occupied islet in the South China Sea.

Nor is this strictly a China-Taiwan phenomena. In early May, the Philippine Navy fired on Chinese fishermen engaged in illegal operations in disputed waters near the Philippines. No one was killed in this incident but similar encounters in the past have left several Chinese fishermen dead.

Such incidents highlight the increasing likelihood of military conflict as countries in the region try to enforce disputed claims. Many Southeast Asian neighbors are particularly concerned that PRC naval and air force improvements will eventually shift the balance of power to enforce its disputed claims decisively in Beijing's favor. The PRC's inconsistent interpretation and application of the UN Convention on the Law of the Sea (UNCLOS) to its South China Sea territorial claims and recent PRC challenges to an Australian flotilla in international waters near the Taiwan Strait appear to justify such concerns.

However, the most serious immediate threats currently result from a vacuum of responsibility rather than hegemony by a dominant regional power. The core of the dispute remains state sovereignty - attempts to enforce disputed, overlapping claims could trigger a conflict that no one seeks. In addition, serious environmental problems resulting from a possible oil spill, damage to reefs and vital marine habitats through construction

and from illegal fishing (including the use of dynamite and poisons), or the rise of piracy constitute growing threats to human security.

The dispute has also prevented oil companies from carrying out further exploration in recent years, and there is increasing skepticism that the South China Sea will ever compete as an oil producer with the Persian Gulf or the Caspian Sea. Ironically, while the discovery of significant oil reserves would intensify the competition, the proved absence of oil would do little to alleviate current sovereignty-based concerns.

The difficult cross-Strait relationship between Taipei and Beijing is another major obstacle to managing disputed South China Sea territorial claims. Although the historical Chinese claim itself is one of the few international issues on which Taipei and Beijing appear to agree, meetings to discuss the South China Sea have been disadvantaged by PRC efforts to ensure Taiwan's non-participation. For instance, despite Taiwan's positive step last year toward demilitarization of Pratas Island and Itu Aba (by removing Marine Corps forces and placing these islands under Coast Guard jurisdiction), Taiwanese officials complain that they have been shut out of PRC-ASEAN negotiations on a South China Sea Code of Conduct. One challenge for Taipei will be to make its voice heard with Beijing and ASEAN without making the dispute an issue in cross-Strait relations.

The Fourth South China Sea Security Implications Workshop, sponsored by the Honolulu-based Pacific Forum CSIS and the Institute of Strategic and Development Studies in Manila, and hosted by the Institute of International Relations, National Chengchi University in Taipei in late April, identified a number of confidence building measures (CBMs) to avoid accidental escalation of conflict in the South China Sea, including the following:

- A halt to further military construction or force build-ups in disputed territories or, preferably, a return to the status quo at the time of the 1992 ASEAN Declaration on the South China Sea.
- Negotiations on a region-wide Code of Conduct to foreswear the use of force and to work toward the eventual demilitarization of the disputed territories, preferably with verification and enforcement mechanisms.
- Enhanced efforts through the ongoing Indonesian Workshop process - an indispensable dialogue mechanism and a CBM in its own right - to promote data exchange and database compilation in the areas of biodiversity and hydrography.
- An annual environmental assessment of the South China Sea by private scholars, along with the development of rapid response mechanisms and spheres of responsibility among claimants to respond to oil spills or other environmental disasters.

- The eventual establishment of a marine park to preserve the unique biodiversity of the South China Sea.
- Joint development efforts that set aside issues of sovereignty and build habits of further cooperation.
- The commissioning of a non-binding report by a distinguished private group of experts on law of the sea matters to clarify how UNCLOS properly applies to conflicting maritime claims.
- Cooperation on anti-piracy efforts and the establishment of uniform international safety standards for vessels and aircraft transiting the region.
- Increased bilateral negotiations, such as the recent Sino-Vietnamese agreement on delimitation of the Gulf of Tonkin, which can serve as important first steps toward building broader multilateral agreements.

The above recommendations - along with more traditional CBMs such as advance notification of military activities, establishment of hot lines, and shared rules of engagement - require cooperation now to avoid disputes or disasters in the future. Especially important is developing procedures to ensure that Taiwan's voice is also heard. Otherwise, the next crisis could force international attention on this potentially explosive issue in ways that will be detrimental to the interests of us all.

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