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## **Expanding CUES: Singapore's Timely Proposal**

*By Lee YingHui*

### **Synopsis**

*The risks of unintended military confrontations in the South China Sea has increased significantly with Chinese deployment of surface-to-air missiles and the United States' deployment of an aircraft carrier strike group into the disputed waters. Singapore has proposed an expansion of the Code for Unplanned Encounters at Sea (CUES) to help lower tensions. Will this work?*

### **Commentary**

RECENT DEVELOPMENTS in the South China Sea are a serious cause for concern for Southeast Asian states, which have a huge interest in ensuring the safety and security of these waters given their importance for international shipping. Ongoing militarisation in the disputed waters increases the risks of unintended military confrontations which threaten regional stability.

In particular, China's extensive land reclamation and installation of military facilities on the disputed islands, together with the United States' increasingly high-profile naval operations in the region, further increase the complexity and volatility of the situation in the South China Sea.

### **Who Is Militarising the South China Sea?**

On 17 February 2016, Secretary of State John Kerry accused China of militarising the South China Sea, in response to Chinese deployment of two batteries of eight HQ-9 surface-to-air missile launchers and a radar system on Woody Island. From Washington's perspective, Chinese land reclamation to create artificial islands and

the installation of military facilities there are perceived as a threat to the freedom of navigation in the disputed waters and to US naval dominance in the region.

On the other hand, China views the increasing presence of US naval forces in the South China Sea, and sale of naval vessels to ASEAN claimants such as the Philippines, as a threat to what Beijing claims to be Chinese sovereignty and interest in the South China Sea. Highlighting that China was not the first to militarise the South China Sea, China also views the varying degrees of military build-up and deployment in the disputed waters by other ASEAN claimant states, notably the Philippines and Vietnam, as militarisation.

In response to Kerry's statement, Chinese Foreign Minister Wang Yi defended the installations on Woody Island as "limited and necessary self-defence facilities...consistent with [Chinese] right for self-preservation and self-protection". Wang Yi further alluded that the US is primarily responsible for the rising tensions, stating that "China cannot be blamed for militarisation". His remarks at a press conference on the sidelines of the National People's Congress on 8 March 2016 came after the US deployment of an aircraft carrier strike group to the disputed waters.

### **A Security Dilemma**

The accusations and counter-accusations between Washington (as well as other claimants) and Beijing show that perceptions of militarisation are highly subjective. An action perceived to be an act of militarisation by one party is often considered defensive by another.

This security dilemma best explains the current situation of rising tensions in the South China Sea. Assuming that both sides have defensive intentions, actions by Beijing intended to heighten its security will induce insecurity in Washington and other claimants causing it to respond with similar actions, and vice versa.

Thus these actions produce an escalatory cycle which will lead to a further rise in tension in the South China Sea.

### **Expanded CUES: Singapore's Timely Proposal**

Although the threat of deliberate military confrontation and open conflict remains low and given that the economies of China, the US and other claimants are highly interdependent, the likelihood of unexpected military encounters and confrontations has increased in the South China Sea. Given the active role of coast guards in the region, a potential clash between a coast guard and naval vessel is also a serious concern. The risk of tactical miscalculations leading to fatal incidents, involving both naval and coast guard vessels, has increased significantly.

In response to this, Foreign Affairs Minister Vivian Balakrishnan announced on a two-day visit to China recently that Singapore has suggested "expanding [CUES] to cover both naval vessels and coast guards" to the Chinese. He disclosed this when speaking to reporters on the final day of his visit. Having its origin in the Western

Pacific Naval Symposium, CUES was adopted by 21 member states, including China and all ASEAN claimant states in April 2014.

Singapore's proposal is timely given the current situation. The proposal will help reduce tensions by setting down rules of engagement for unexpected encounters at sea and help prevent miscommunication and avoid miscalculation for parties involved. Although non-binding in nature, this can be a useful interim tool to help manage the rising tensions in light of stalled negotiations for a binding Code of Conduct.

### **Will The Proposal Take Off?**

Although still at its nascent stage, there are several reasons to be optimistic that the proposal will be accepted. China, the US and the ASEAN states have all demonstrated their willingness to adopt CUES in the South China Sea. Significantly, China has proposed a "joint training on the Code for Unplanned Encounters at Sea [with ASEAN]...in 2016 in the South China Sea" last October. Familiarity with the protocol sets the foundation for the expansion of CUES to include coast guards.

The fact that the proposal was put forward to the Chinese by Singapore is also not insignificant. As a non-claimant state in the South China Sea disputes, Singapore has a track record of being a neutral mediator in the conflict. This could potentially play a role in alleviating Chinese suspicions of the proposal as yet another US attempt to intervene in the conflict.

However, there are also challenges to its adoption. Firstly, CUES in its original form applies only in Exclusive Economic Zones (EEZs) and on the high seas, not in territorial waters. As such, it may be difficult for claimant states, especially China, to formally agree to expand CUES to the entire South China Sea if this issue is not addressed.

Secondly, it is likely that the US, along with some ASEAN claimants such as the Philippines and Vietnam, will regard the current proposal as insufficient. The increased involvement of maritime law enforcement and civilian vessels in clashes in the South China Sea, such as the Chinese Safety Administration vessels and fishing vessels, could prompt these countries to push for the expanded CUES to move beyond coast guards to cover the larger range of vessels.

At this stage it is unknown how China will respond to such proposals. However, the technical difficulties of applying the complex protocols to civilian vessels will inevitably prolong negotiations and delay adoption of an expanded CUES.

### **Way Forward**

Given the possible reservations with regard to the conservative scope of Singapore's proposal, it is all the more important for ASEAN to push for its adoption. Sensitivities in the South China Sea are such that one cannot expect everything to be achieved in one single step. An incremental approach is crucial for the expansion of CUES in the disputed waters.

Although the exclusion of civilian vessels may limit its actual effectiveness, Singapore's proposal, if adopted, will still be an important confidence-building mechanism to help manage rising tensions. This small step would help build trust among the US, China and ASEAN and act as an important foundation for further expansion of CUES and other cooperative mechanisms in the South China Sea.

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