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The USS Cowpens Incident: Adding to Strategic Mistrust

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Synopsis

Recent naval incidents in the region increase strategic mistrust and suggest the need for common understandings regarding naval operations, including possible INCSEA arrangements.

Commentary

AGAINST THE background of the sovereignty disputes in the East and South China Seas, naval stand-offs in the region seem to be increasing. In an incident earlier this month, the guided-missile cruiser, USS *Cowpens*, had to take avoiding action to prevent a collision with a Chinese Navy landing ship that had reportedly stopped in its path. In an earlier incident in late October, China lodged a formal protest that Japanese naval and air patrols had disrupted a Chinese live-firing naval exercise in the East China Sea.

These two incidents are similar - both involve the naval forces of one country disrupting exercises being conducted by another navy. They suggest a return to scenarios of the Cold War when the naval forces of the Soviet Union and those of NATO regularly harassed each other's activities. If this is the case, then it is backward step for regional maritime security. It suggests the need for bilateral INCSEA – Incident at Sea -- arrangements, particularly between the Chinese Navy on one hand and the American and Japanese navies on the other.

The USS *Cowpens* incident

The *Cowpens* incident began with the Chinese aircraft carrier *Liaoning* and several other surface warships conducting exercises and trials in the South China Sea. Despite navigational warnings and avoidance zones promulgated by China, the *Cowpens* was closely monitoring operations by the *Liaoning* group - "tailing and harassing" as alleged by the Chinese.

This close monitoring is reminiscent of the Cold War. As a report last year on 'Managing Sino-US Air and Naval Interactions' by the National Defence University in Washington noted, "US doctrine and operational practice in conducting and responding to surveillance operations derive primarily from Cold War interactions with the Soviet military". These operations are not just a matter of collecting intelligence, but also involve demonstrating presence and occasionally "getting in the way".

The *Cowpens* incident is believed to be the first occasion when a major US surface warship has been used in this role. There will be an adverse impact on regional security generally if such incidents become common. All

navies have the right to exercise at sea, particularly in their own exclusive economic zone (EEZ) or on the high seas, without interference by another navy.

US defence officials have reportedly maintained that the ships were in international waters, and that 'it is routine for different navies to operate in close proximity to each other'. However, this claim is open to question - it is not routine for navies to operate in close proximity to each other, particularly if one has issued an appropriate navigational warning about the exercise.

Incident at Sea Agreements (INCSEA)

The conventional wisdom in the region has been that an INCSEA arrangement, such as those between the Soviet Navy and the USN and other NATO navies during the Cold War, was not necessary - there was no "Cold War" between the US and China, and the two parties did not engage in close monitoring and harassment of each other's forces, as did the Western and Soviet navies during the Cold War. The recent *Cowpens* incident suggests that this situation might be changing.

The status of waters where an agreement would apply is another reason that makes it difficult for the US and China to agree an INCSEA. The agreements between the Soviet and NATO navies applied only to operations on the high seas. However, the waters of the East and South China seas are not high seas or international waters. Rather they are EEZs where littoral countries have significant rights and duties. An INCSEA to apply in these waters would open up differences of opinion between China and the US on the conduct of military operations in another country's EEZ.

When an incident occurs between American and Chinese naval vessels, USN spokes-persons invariably make frequent reference to the 1972 International Convention on the Prevention of Collisions at Sea (COLREGs) - with an inference that the Chinese vessel involved was not adhering to this convention's regulations. However, the full circumstance of the incident are rarely available to assess whether in fact this was the case.

COLREGS can be twisted to one's advantage. It is relatively easy, and can be a tactical gambit, for one vessel to create a situation whereby the other vessel becomes the "give way" vessel - for example, by moving to cross the bows of the vessel from its starboard hand - or even by stopping or slowing down ahead of the other vessel thereby making it an overtaking vessel. In the recent incident, the *Cowpens* may well have been the "give way" vessel requiring it to take the avoiding action described in media reports of the incident.

What is required

The US Defence Department has reportedly downplayed the *Cowpens* incident because it was resolved in a routine professional manner with good bridge-to-bridge communications. It is not that easy, however. The incident has increased strategic mistrust, as well as fuelling feelings of antagonism between the crews of the vessels involved. Such incidents make China 'the enemy' for American sailors, and vice versa.

Hard questions need to be asked about whether the benefits of close surveillance of another navy's operations, in terms of intelligence collected that cannot be obtained by other means, outweigh the costs. Was the *Cowpens* obtaining worthwhile intelligence, or was it merely the assertion of rights as a matter of principle? An INCSEA arrangement would certainly help. If that is not achievable in the foreseeable future, then a more modest understanding might be possible regarding non-interference with the legitimate naval exercises of another country. The most basic requirement is that all parties should refrain from actions that just add to levels of strategic mistrust.

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