



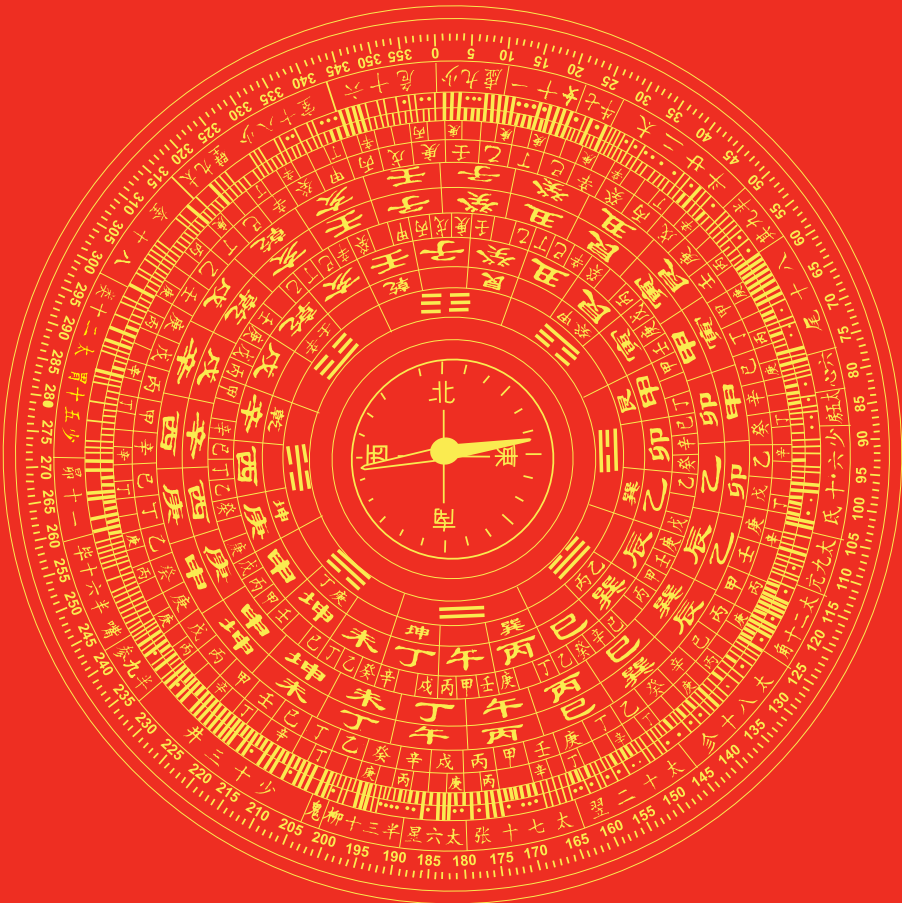
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# U.S.-China Maritime Confidence Building

Paradigms, Precedents, and Prospects



David Griffiths

# Report Documentation Page

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中海

The image features the Chinese characters '中海' (Zhōng Hǎi) written in a bold, expressive cursive calligraphic style. The characters are dark and have a textured, ink-like appearance. The character '中' is on the left, and '海' is on the right. Below the characters, there are two faint, greyish-blue brushstrokes that resemble the curved bodies of fish, one on the left and one on the right, framing the bottom of the text.



The views expressed in this paper are those of the author alone and not those of the U.S. Navy or any other agency of the U.S. government.





# U.S.-China Maritime Confidence Building

## Paradigms, Precedents, and Prospects

*The kind of security problems states will face in the twenty-first century are more likely to be about managing cooperation than triumphing through conflict.*

PHILLIP BOBBITT

### Planned Track or Drift into Danger?

#### *Peril on the Sea*

As two great powers that will influence much of the immediate future of our small and vulnerable planet, China and the United States are in a marriage of sorts—“united for the purpose of living together,” in the words of the *Oxford English Dictionary*.<sup>1</sup> Like it or not, the two societies depend on each other. Environmental degradation, social unrest, economic problems, or pandemic outbreak in one must inevitably affect the other. Both must be active contributors to a peaceful, prosperous, sustainable, global community. Both governments emphasize their commitment to a positive and constructive mutual engagement.

At sea, however, that engagement is not always trouble free. Confrontation happens—and when it does, events do not always unfold in the way that policy makers might have intended or preferred. Like a married couple, both sides prefer to downplay to the outside world the extent and nature of quarrels. But despite this public posture, those in command of naval and maritime air forces understand only too well the potential risks of damage, injury, and even death at the tactical level. More worrying is the inherent risk of unintended consequences and the potential for an uncontrolled strategic-political spiral of unwanted escalation. It is bad policy and in no one’s interest to perpetuate a relationship in which an innocent mistake at sea can trigger an unwanted political crisis.

The maritime relationship between China and the United States is a vital element in their relationship and a strategic concern for other states. Their tactical-level interaction at sea is too complex to be governed solely by legal arrangements and political postures. It is too important to be conducted on-scene by best guesses about each other’s intentions, especially when things get exciting and the testosterone and adrenaline start

flowing. And when things do go wrong, the resulting political fallout can be too serious to be addressed by rhetoric and dogmatic adherence to rigid positions. Interactions at sea are inherently fluid and must be managed mutually, responsibly, and predictably. At the moment, the maritime relationship between China and the United States is not working as effectively as it should—or must. The business of government is to manage events and minimize risk, so no political leadership should be satisfied with a situation in which an honest misjudgment or accident at sea can result in an unwanted international political problem at an inopportune time.

### *Existing Arrangements*

In 1998, the two governments concluded an agreement between their defense departments “establishing a consultation mechanism to strengthen military maritime safety,” a document colloquially known as the Military Maritime Consultative Agreement (MMCA).<sup>2</sup> But three years later, in good flying weather on a pleasant April day in 2001, what should have been a routine Chinese interception of an American reconnaissance aircraft went tragically wrong. A Chinese F-8 interceptor and a U.S. Navy EP-3 electronic surveillance aircraft collided over the South China Sea. The American aircraft made an emergency landing at the Lingshui air base in Hainan, resulting in considerable diplomatic and intelligence embarrassment. Tragically, the Chinese aircraft crashed, and the pilot was killed. In this case at least, the MMCA appears to have made no contribution to incident prevention, resolution, or “strengthening military maritime safety.”

It is highly unlikely that the young pilots of these two aircraft had taken off that morning intending to cause a problem for their respective political leaders. It is equally unlikely that either government had intended to lose aircraft and people or to create a deliberate diplomatic furor. An accident just happened, as accidents do from time to time in the complex and demanding environment of modern maritime operations.

### *Situation Management*

If there are no robust arrangements in place to manage such episodes, unintended consequences can bring nations to the brink of an unwanted crisis, sometimes to the detriment of otherwise carefully crafted political plans and policies. The challenge, therefore, is to establish effective situation-management mechanisms to ensure that risk is either avoided or managed safely. Even if a government deliberately chooses to provoke an incident as an act of national policy, it is still essential that events unfold as intended, send clear signals to the other party (or parties), and be managed through effective communication mechanisms to bring the situation to the desired—or at least a satisfactory—conclusion. There is no point in sending a diplomatic message if it is likely to be misunderstood, misinterpreted, or manipulated to advantage by the recipient.

### *The Requirement*

Since the EP-3/F-8 event, incidents have continued to occur between Chinese and American ships and aircraft. So far no one else has died or been injured, but experience suggests that it is only a matter of time. Meanwhile, political fallout continues to occur, whether or not either government actually intends to provoke the other. In March 2009, for example, a running confrontation occurred between the U.S. Naval Ship *Impeccable* (T-AGOS 23) and a number of Chinese vessels—some government craft and some apparently private fishing boats. The Chinese reaction included illumination of *Impeccable*'s bridge at night, low-level overflights by a Chinese military aircraft, and close maneuvers by civilian-manned trawlers that appear to have been acting under official direction. Fortunately, no serious damage occurred, and the only weapons used were grappling hooks, searchlights, and fire hoses. Nonetheless, allowing such unstable situations to evolve rather than managing them cooperatively is imprudent and dangerous.<sup>3</sup>

One month after the *Impeccable* affair and eight years to the day after the EP-3/F-8 incident, the presidents of the United States and China affirmed that they “share a commitment to military-to-military relations and will work for their continued improvement and development.” The importance of the maritime aspect of that initiative was underlined by a visit by the U.S. Chief of Naval Operations to China for the sixtieth anniversary of the founding of the navy of the Chinese People’s Liberation Army.<sup>4</sup> This is a very good time to take a critical look at prevailing paradigms, at lessons learned elsewhere, and at prospects for a transformative approach to military-to-military relationships at sea.

### **Paradigms and Policy: Paradigm Traps**

A paradigm is a framework with which we interpret events or circumstances;<sup>5</sup> it is a filter through which we view reality. For almost two thousand years, for example, the prevailing paradigm of astronomical science, at least in the Western world, was that planets rotate in concentric circles around a stationary earth in a stately dance of cycles and epicycles. Even when it became clear that this explanation was inadequate, the professional astronomical community persisted in struggling to develop increasingly complex “laws” of science that would reconcile an increasingly cumbersome accepted framework with reality. Finally, in 1543, the Polish astronomer Mikołaj Kopernik (Copernicus) published *De Revolutionibus Orbium Coelestium (On the Revolution of Heavenly Spheres)*, in which he argued that all the planets, including the earth, rotate around the sun, with the earth spinning on its axis daily and the moon circling around it. Adoption of this elegantly simple and revolutionary explanation of reality is a vivid example of what the historian of science Thomas Kuhn dubbed a “paradigm shift.”<sup>6</sup>

Winning acceptance for paradigm shifts often means struggling against inertia and sometimes fierce opposition. In theoretical science there is no pressure to do that quickly. In applied disciplines, however, delay in adopting the paradigm that best explains reality can be dangerous. In medicine, for example, clinging to an incorrect assumption can cost the life of an individual. In national and international security, clinging to inappropriate paradigms can result in conflict that can, in turn, cost the lives of thousands.

Just as scientific paradigms determine the way researchers approach their work, so too social and political paradigms underlie national security thinking. They are the unspoken and often unconscious assumptions on which strategies and plans are based. But as any military planner knows, assumptions must be treated as fact for practical planning purposes and thus need to be identified explicitly and reviewed constantly. An incorrect assumption may invalidate the entire plan. Consequently, those responsible for security need to question their own paradigms periodically to ensure that they do not—like pre-Copernican astronomers—squander time and effort on ever more elaborate attempts to squeeze reality into a conceptual straitjacket.

When a lot of time and effort, not to mention tax dollars and sometimes blood, have been invested into a strategy or plan that no longer fits the circumstances, it is not easy to discard the fundamental assumptions on which it is based. In 2002, biologist Duncan Davidson coined a term for this conceptual paralysis in science—“paradigm trap.”<sup>7</sup> Paradigm traps can occur in the world of security and strategy too, a point that historian Barbara Tuchman popularized eloquently in her 1984 book *The March of Folly*.<sup>8</sup> Before developing ways of enhancing the Chinese-U.S. maritime military relationship, therefore, it would be prudent to give thought to possible paradigm traps that may be inhibiting creative thinking.

#### *Example 1: The Threat of a Rising Sea Power?*

There is nothing new in the perception by a dominant state that the rise of a new naval power must necessarily result in rivalry and even conflict. More than two thousand years ago, the Greek historian (and naval commander) Thucydides reflected on the maritime origins of the Peloponnesian War. “What made war inevitable,” he said, “was the growth of Athenian power and the fear which this caused in Sparta.”<sup>9</sup> In modern times, the dramatic growth of the Imperial German Navy after 1898, driven by Tirpitz’s ambition to create a navy “equally strong as England’s,” triggered a naval arms race that contributed substantially to worldwide war in 1914. That tipping point was to determine much of the confrontational course of international relations throughout the remainder of the twentieth century and still affects us in the twenty-first.<sup>10</sup> More recently, beginning in the 1960s, the expansion of the Soviet Navy from a coastal-defense force to a blue-water fleet, coupled with political rhetoric about challenging the prevailing international order,

was a clear threat to the United States and its allies. Consequently it is not difficult to understand a paradigm within the United States and elsewhere today that perceives a traditional threat posed by the evolution of the People's Liberation Army Navy (PLAN) from a coastal-defense adjunct of the army to a world-class navy with global reach.

From a Chinese perspective, however, the Middle Kingdom is simply resuming its rightful historical place in the world, a status that had been disrupted temporarily by its unhappy relationship with Western maritime powers throughout much of the nineteenth and twentieth centuries. Contemporary Chinese deployments into the Indian Ocean evoke comparisons to the golden age of fifteenth-century Chinese seafaring, when Zheng He's great fleets reached the African coast on diplomatic and trading missions, an effort that contrasted starkly with the "European concept of a militant, crusading colonialism beyond the necessity of creating a favourable climate for east-west trade."<sup>11</sup> Today, Africa is again an arena where comparisons are made between the commercial versus military imperatives of Chinese and Euro-Americans, respectively. Chinese engagement is not only manifested in investment but also in a large number of businesspeople and workers living and working across the continent. There are reportedly now more Chinese residents in Nigeria than there were British at the peak of the colonial era. In contrast, unfairly or not, to many foreign observers the flagship of American engagement appears to be a military command—U.S. Africa Command (AFRICOM), headquartered comfortably in Germany. A typical American interpretation is that this joint command sends "a positive message to Africa that Washington views the African continent as being of great strategic interest and should facilitate further American aid, security assistance and business involvement in Africa."<sup>12</sup> Elsewhere, however, others worry that this apparent military focus suggests that "if it comes to a battle for the world's diminishing resources, the U.S. may fall back on its military might. So wary China is building a substantial ocean-going navy."<sup>13</sup> Although China's long blue-water history has been generally more about commerce and diplomacy than war fighting (except during Mongol rule), reassuring words that this will remain true in the twenty-first century are of little comfort unless they are consistent with deeds. Nonetheless, it not difficult to understand a Chinese paradigm that equates great-power status to a substantial naval force characterized by benign intent but global reach.

One of the great pitfalls in applying traditional paradigms to current situations is that our world has changed so dramatically in the space of one human lifetime. From the days of Athens and Sparta until the mid-twentieth century, interstate rivalries did not have to take into account such factors as democratized Internet communication, globalized economics, exploding populations, a potentially imploding environment, and the capability for nuclear, chemical, or biological catastrophe. There are certainly lessons to be learned from the relatively recent Soviet-U.S. superpower experience, but today's

Chinese-U.S. situation is fundamentally different. The former happened under the shadow of nuclear “mutually assured destruction” (with its appropriate acronym, MAD). Still, many observers today would argue that the difference is not truly fundamental, that commercial and financial interdependence suggests a paradigm in which China and America now live with the economic equivalent of MAD.<sup>14</sup>

If studying the past to derive lessons for the present is an invaluable tool for policy makers, however, it is also fraught with risk. The United States and China are not just two more great powers in the traditional mold. Human nature may not have changed much throughout recorded history, but the circumstances of the twenty-first century are inherently different from those of earlier times. It is all too tempting to explore the past with a bias toward examples that confirm prevailing orthodoxies. Perhaps one of the more enduring lessons of the human saga is in fact that truly significant leaps in progress are made by the innovators, not the emulators.

#### *Example 2: A Clash of Civilizations?*

A “clash of civilizations” paradigm is often used to bolster arguments that intercultural conflict is inevitable—for example, between China and the West. This, unfortunately, is an inaccurate, if popular, reading of the thesis. In his influential 1996 book *The Clash of Civilizations and the Remaking of World Order*, Samuel Huntington suggested a new “framework, a paradigm, for viewing global politics.”<sup>15</sup> The post–Cold War world, he argued, consists of seven or eight major civilizations that would be “the ultimate human tribes, and the clash of civilizations is tribal conflict on a global scale.”<sup>16</sup> The problem with the popularity of this paradigm is that—as so often happens with influential books—the title has lodged in public consciousness but the subtleties of its content have not. Huntington set out to propose a useful hypothesis, not to predict the inevitable. Indeed, the title of his original article in *Foreign Affairs*, upon which the book was based, ended with a question mark—punctuation that has since been, in his own words, “generally ignored.”<sup>17</sup> In fact, Huntington argued that the most important step in mitigating and reducing clashes of civilizations is to cultivate the commonalities and strengthen “Civilization in the singular.”<sup>18</sup> In this he shares the worldviews of other innovative thinkers ranging from Marshall McLuhan and his “global village” to Buckminster Fuller and his “spaceship earth.” Accordingly, Huntington’s advice is not to prepare for an inevitable clash across civilizational fault lines but to nurture a sense of global citizenship at the upper end of the loyalty spectrum that runs from family, through community, to state or province, to country or nation. The real clash of civilizations, he concludes, is between Civilization (with a capital C) and barbarism.<sup>19</sup> The “civilizational paradigm” is a useful concept and explains much, but the idea that civilizational fault lines must necessarily be a source of conflict rather than an opportunity for progress is a paradigm trap.

The relentless growth of population and technology has made all civilizations increasingly interdependent. Natural and medical disasters respect no human boundaries. Citizens of the “global village” are increasingly mobile. Sufficiently clever and motivated dysfunctional people now have a reasonable chance of obtaining weapons of mass destruction that destroy indiscriminately. In such a world, cultivation of at least a minimal sense of global citizenship is becoming an imperative for global security.

The United States and China have much in common when so much of the security agenda is driven by a relatively small percentage of bigoted, humorless, misogynistic, religion-abusing, criminal zealots. Businesspeople enjoying a drink in Shanghai, young women having their nails manicured in trendy Beijing salons, and poor peasant farmers in central China are all allies of their American counterparts in Los Angeles, Washington, and Mississippi, notwithstanding inevitable disagreements between their governments. That warrants mutual engagement, not withdrawal behind tribal or civilizational shields and barriers.

The unfortunate reality is that the United States and China are likely to continue to have substantial government-to-government disputes for the foreseeable future. Nonetheless, the twenty-first century is too complicated to afford the luxury of clinging to outdated security paradigms. It is in the national interest for governments to enable those who are entrusted with armed force to find common ground for understanding each other. Only then can they manage their maritime interactions professionally, safely, and responsibly.

There are all kinds of theories to explain the impersonal social or historical forces that drive nations into armed confrontation. And yet, as Dr. John Stoessinger concludes from the eight case studies in his book *Why Nations Go to War*, “it was *people* who actually precipitated wars” (his italics).<sup>20</sup> Despite what history books usually suggest, leaders rarely take that irrevocable step solely as a result of fact-based, dispassionate strategic calculation. More often, Stoessinger suggests, “the most important single precipitating factor in the outbreak of war is misperception.”<sup>21</sup> Hence, security is not about inexorable and impersonal civilizational forces. It is about the actions of people—individually, in groups, and in government. Misperception about those actors and their actions is a mutual enemy of both the United States and China.

### *Example 3: Security through Superiority?*

Security is a fundamental requirement for a normal life, as citizens from Gaza, Baghdad, or flooded New Orleans would attest. It is, as Joseph Nye has said, “like oxygen—you tend not to notice it until you begin to lose it, but once that occurs there is nothing else that you will think about.”<sup>22</sup> All too often the prevailing security paradigm is expressed solely in terms of armed control—of defenses and barriers, of surveillance and weapons systems. The problem with the chimerical goal of guaranteed control over events is that

it depends on the certainty of prevailing over adversaries. But even that may not result in real and enduring security. Even if it were achievable, more control by one necessarily means less control by the other, and that zero-sum thinking becomes a never-ending circle. It was not total military victory in 1945 that transformed Germany and Japan into prosperous democracies or laid the groundwork for the European Union. Rather, victory created the conditions under which long-term engagement and partnership ultimately transformed relationships from enmity to harmonious and peaceful friendship. Unless a state genuinely aspires to domination and armed hegemony, a strategy of focusing exclusively on armed superiority to control events is a paradigm trap.

“Security” should not be confused with “defense.” Although the words are often used interchangeably, defense is only one element of the security equation. “Defense” is defined by most dictionaries as protection or resistance against attack, which is precisely what armed capability aims to achieve. “Security,” on the other hand, is what military campaign planners would call the “desired end state.” Most dictionaries—in the English language, at least—define “security” not in terms of control but by using the word “confidence.” To be secure is to have confidence that one will wake up safely in the morning, go about one’s business in peace, and raise one’s family in prosperity and happiness. At sea, it means confidence that legitimate trade will flow predictably and unhindered, that the sea remains, in Mahan’s famous phrase, a “great common” and not an avenue for attack. Maritime security means that the ocean’s resources, on which we all depend, are used responsibly and safely and that the life-support system that it represents remains functional.

Of course, armed force is an important and irreplaceable element in security, because it is the ultimate guarantor against threats by perverse human beings. As Winston Churchill once said, “Virtuous motives, trammled by inertia and timidity, are no match for armed and resolute wickedness.” Nonetheless, military capability is only one element in the formula and not the entire answer. Even in an adversarial relationship there should be some degree of mutual confidence that each side is a civilized, honorable, and rational actor.

Helen Keller once wrote, “Security is mostly superstition. It does not exist in nature, nor do the children of men as a whole experience it.” A true and lasting secure relationship is characterized by openness, engagement, and trust. Confidence should, therefore, be the core concern of any relationship, especially between representatives of armed forces that interact routinely at the tactical level when implementing national security policy.



## Confidence-Building Paradigms

### *Naval Armament and Arms Control*

Salvador de Madariaga famously pointed out that “nations don’t distrust each other because they are armed; they are armed because they distrust each other.”<sup>23</sup> As long as China is resuming its place as one of the world’s major political, economic, and cultural powers, it is not going to forgo the development of a world-class, oceangoing navy. As long as the United States has the capability to project power into China’s home waters and is committed to defend allies who may come into conflict with China, there will be a Chinese imperative to aim for some form of materiel and operational parity.

Significant bilateral arms control is not a realistic policy option. In any case, history does not suggest much hope that such efforts would be likely to succeed. The disastrous result of the naval arms races that preceded the First World War inspired a flurry of naval disarmament initiatives during the pause in fighting between the armistice in 1918 and resumption of war in 1939. The Washington Conference of 1921–22 is the best-known example, but there were others. The prospects of success were as limited then as they are now, and for similar reasons. One is that of asymmetric interests. Different nations have differing maritime priorities arising from their unique geographies, economies, histories, and political alignments. These differences make it difficult to reach agreement on mutually acceptable bilateral naval limitations. Another is that navies are not just war-fighting organizations. They also have diplomatic and constabulary roles in peacetime, as well as war. In times of peace, warships are de facto mobile embassies, representing a people’s technology, skills, and values abroad. They also have national sovereignty roles, such as fisheries or law enforcement, that have few parallels in the other services. As instruments of foreign policy, naval forces can maneuver to send diplomatic signals in a way that armies and air forces cannot; there is a significant difference between a task force of warships cruising beyond the twelve-mile territorial limit and a division of tanks advancing to a point twelve miles from a land border.

When disputes occur, warships are more than just blunt instruments with which governments can project or threaten use of force. International law and custom expects naval forces to be commanded and controlled by qualified and disciplined individuals, potential contributors to positive, creative crisis management. For these reasons, maritime confidence building has generally been far more productive than structural naval arms control; not least because mariners of all nations share a common seagoing culture, one that helps to foster mutual understanding and facilitate dialogue.

### *Confidence Building: The Maritime Heritage*

Most literature on confidence building assumes that the idea began in the mid-1970s, with the introduction of the term “confidence-building measure” (CBM) during Cold War arms-control negotiations, in a continental European context. In fact, its history not only stretches back well before the advent of nuclear weapons but also has a significant maritime component. Formal and tacit agreements for the conduct of vessels at sea have been a norm on the world’s oceans from time immemorial.

**Commercial and Navigation Measures.** Mariners, whether naval or civilian, have a long tradition of mutual understanding in ways that have few parallels ashore. Maritime commerce has traditionally sought a stable and secure environment in which to pursue commercial rivalries, while warships have long interacted in times of peace and have acted as instruments of national policy in roles other than combat. Modern commercial marine law has a lineage traceable to a code created on the island of Rhodes three thousand years ago, just as well developed Indo-Pacific maritime trade had evolved its own body of customs of behavior on the other side of the globe.<sup>24</sup> The earliest known source for modern maritime law is the familiar twelfth-century *Rules of Oléron*, but there were also earlier commercial sea laws in ancient Greece, in seventh- and eighth-century Byzantium, and in the eleventh- and twelfth-century Italian city-states of Trani, Pisa, and Amalfi.<sup>25</sup> Mariners worldwide have been complying since 1846 with collision-prevention procedures that originated with what were known as the Trinity House (of Montreal) rules. These evolved into rules jointly adopted by Britain and France in 1863 and by 1864 had been adopted by over thirty countries, including the United States and Germany. Today, the *International Regulations for Preventing Collisions at Sea* are binding on any vessel anywhere on the global ocean. Upon this foundation, a vast body of regulation and law of the sea has evolved, to the extent that the 1982 United Nations Convention on the Law of the Sea has been described as a “constitution for the ocean.” This body of law is universally acknowledged, because that acknowledgment is mutually beneficial. It also provides a variety of technical forums in which all states can participate, whether hostile to each other or not. These face-to-face interactions between individual maritime professionals are, in themselves, an ongoing contribution to mutual understanding and mutual confidence.

**Naval Measures.** Even before the distinction between naval and merchant services became as sharp as it is today, agreements to promote confidence were established. In the year 1297, for example, King Edward I of England and Guy, count of Flanders, entered into an agreement “as to the Behaviour at Sea of English and Flemish Ships,” requiring vessels to fly flags showing the coats of arms of their respective sovereigns, to avoid confusion, and agreeing to cooperate in law enforcement efforts at sea.

One of the earliest examples of a maritime military confidence-building measure in the modern sense was part of an arms-limitation agreement made in 1817. Surprisingly, it is still in force today. The arms-control aspect has long since become irrelevant, but the confidence-building aspect remains. The War of 1812 had resulted in a proliferation of warships on the Great Lakes, which straddle the national boundaries of Canada and the United States in the heart of North America. After the war, the 1817 Rush-Bagot Agreement sought to assure mutual security by limiting the number of these warships. The exchange of notes constituting the agreement was preceded, in August 1816, by a mutually announced freeze on naval construction and an exchange of lists of naval forces maintained by each side. Today, this would be described as a constraint and information-exchange CBM. The letter of this agreement has long since grown obsolete, after more than 190 years, but the spirit of transparency continues to be respected. Obviously the provision limiting both sides to vessels “not exceeding one hundred tons burthen and armed with one eighteen-pound cannon” was long ago exceeded, but the principle of dialogue has not been.<sup>26</sup> Although Canada and the United States are now close allies and friends, the agreement was invoked by Canada when in the early 1960s the United States considered deploying ship- or submarine-launched ballistic missiles on the Great Lakes.<sup>27</sup> More recently, it was the basis of bilateral dialogue in 2006, when the U.S. Coast Guard announced that it would mount machine guns on its cutters.<sup>28</sup>

Treaties that contain what would now be called CBMs were created in Latin America in the early and middle twentieth century. The 1902 Pactos de Mayo (May Agreements) between Argentina and Chile contained elements that would today be described as information-exchange CBMs. In the 1920s the Pactos de Mayo served as a model for similar treaties in Europe.<sup>29</sup> Similarly, the 1923 General Treaty of Peace and Amity established a system of confidence-building information exchange in Central America.<sup>30</sup>

The long history of modern arms control, from the 1899 Hague Conference to the present, has shown that attempting to limit armaments without also nurturing mutual confidence becomes more a matter of bargaining for advantage than a means of reducing economically burdensome and potentially destabilizing armed rivalry. Fifty years before “confidence building” became a recognized concept, an American president, Warren Harding, said in his invitation to the Washington Conference, “It is, however, quite clear that there can be no final assurance of peace of the world in the absence of the desire for peace, and the prospect of reduced armaments is not a hopeful one unless this desire finds expression in a practical effort to remove the causes of misunderstanding and to seek ground for agreement as to principles and their application.”<sup>31</sup> Harding’s “practical effort to remove the causes of misunderstanding” remains as good a working definition as any of what today would be called confidence building.

### *Creating “Measures” or Transforming a Relationship?*

In assessing any security relationship, even between the best of friends, the prudent analyst must consider two factors—capabilities and intentions. Arms control deals with the quantifiable technical issue of capabilities. Confidence building addresses the more difficult and subjective matter of intentions.

James Macintosh is a Canadian academic who, after many years of analyzing and categorizing confidence-building measures, has concluded that a focus on producing “measures” is misleading and can be counterproductive. It is the *process* that is really important. Too often, political leaders commit themselves to creating CBMs and then, if negotiations do not result in “measures,” are left to announce failure. Macintosh has argued for a “transformation view” of confidence building, as a matter undertaken by policy makers “with the minimum, explicit intention of improving at least some aspects of a suspicious and traditionally antagonistic security relationship.”<sup>32</sup> Thus, effective confidence building should be focused not necessarily on producing a “measure” but rather on the dynamic process of transforming a security relationship from a flawed present to a more stable and less risky future.

It should be noted that successful relationships do not even need to rely on formal documentation. Mutual understanding and open channels of communication may suffice. As Ken Booth has said about arms control, “A formal treaty is to arms control what marriage is to love: it dramatizes, formalizes, constrains and solidifies a relationship, but is by no means necessary for its realization.”<sup>33</sup>

## **A Case Study in Transformative Confidence Building**

### *Collisions and Consequences*

Incidents such as the 2001 EP-3/F-8 collision or 2009 *Impeccable* encounter may appear relatively minor to the uninitiated, but similar events in different circumstances can have disastrous consequences. An incident that occurred four decades ago illustrates just how serious that risk can be.

In 1967, Soviet and American warships were operating in close proximity to each other in the Sea of Japan when, on two consecutive days, collisions occurred. What is significant about these incidents is not so much that they happened—they only caused dents and damaged guardrails—but rather what resulted at the political level. Although the ships were acting in accordance with national policy direction, the collisions themselves were probably accidental. Like China’s navy today, the Soviet Navy in 1967 was expanding rapidly from a coastal extension of the army to an oceangoing fleet worthy of a great power. In the Soviet case, many young commanding officers were relatively inexperienced, especially in the challenging business of maneuvering ships at close quarters,

when momentary misjudgment and the laws of physics can combine to draw moving hulls together very quickly. Whether or not these collisions were an accident, they became a volatile political issue. In Washington, the House Republican leader (and later president), Gerald Ford, stated that future guidance to American commanding officers should include the possible use of weapons. Not unreasonably, the commander of the Soviet Navy, Admiral Sergei Gorshkov, responded, “It is not hard to imagine what might happen if warships were to begin shooting at each other when they collide.”<sup>34</sup>

### *Catalyst for Confidence*

The Sea of Japan incident had not been the first such episode, nor was it the last, but it did prompt a process of finding a better way to manage interaction at sea.<sup>35</sup> Ultimately, the Soviet Union and United States engaged in a remarkably unconventional and creative process of mutual problem solving. The result was an innovative agreement, signed in 1972, that proved to be not only an excellent incident-management tool but also a catalyst for further practical cooperation.<sup>36</sup> In addition, it served as an inspiration (if not always a specific model) for a wide variety of maritime safety agreements around the world (some of which are described in the appendix).<sup>37</sup> The many lessons offered by these agreements can be (and are) the subject of entire seminars and workshops. For purposes of this discussion, however, the important point is that the prospect of a minor accident escalating into an act of war between nuclear powers was something that worried knowledgeable authorities then, just as it should worry decision makers in China and the United States now. Again—it is bad policy and in no one’s interest to perpetuate a relationship in which an innocent mistake at sea can trigger an unwanted political crisis.

### *From Confrontation to Comanagement*

An excellent example of how the 1972 Soviet-U.S. arrangement allowed both governments to manage conflicting political objectives occurred in the Black Sea in 1988. Two U.S. warships, conducting what was known as a “Freedom of Navigation” operation, transited through the territorial sea of the Soviet Union off the Crimean Peninsula, claiming “innocent passage.” The Soviet government saw this as a deliberate “military provocation”; two Soviet warships intercepted and deliberately bumped into the U.S. ships. Little damage was done, and the predictable public statements were made by both governments. Nonetheless, four months later the annual consultation between navies took place, and there admirals from both sides were able to discuss the incident with remarkable “openness and frankness.” As a result, they were able to make recommendations to their respective governments that resulted one year later in a political agreement that in turn resolved the issue in a manner acceptable to both.<sup>38</sup>

There are several important lessons to be learned from the Black Sea incident, particularly when it is contrasted to the futile 2009 Chinese-U.S. experience with USNS *Impeccable*.

- The actions in 1988 on both sides were deliberate and conducted at the direction of the highest levels in both governments.
- The diplomatic messages that naval forces were ordered to send were mutually understood, because they had been communicated clearly.
- Commanding officers on both sides were able to carry out the intents of their respective governments correctly and safely, because they could communicate with each other directly as the situation unfolded.
- Afterward, admirals from both navies, in the presence of advisers from the respective foreign ministries, were able to discuss what happened and share professional military background information that was otherwise unobtainable through diplomatic channels.
- The postincident consultation facilitated government-to-government resolution of the diplomatic issue that had prompted the event in the first place.

Unlike the Chinese-U.S. MMCA arrangement, the Soviet-U.S. maritime safety agreement made a positive difference in transforming a relationship at sea from confrontation to comanagement.<sup>39</sup> One of the most important features was that it made no attempt to resolve strategic and political problems. Rather, it focused on safe management of maritime operations whenever the respective maritime forces were implementing government policy—especially when those operations were necessarily confrontational. It enabled commanders on both sides to communicate intentions, resolve ambiguity, and clarify misunderstandings on the scene. Equally important, it enabled senior officers to consult frankly and openly after such events, allowing them to understand the issues in detail and to make appropriate recommendations to their respective governments. This experience and others like it around the world offer a variety of precedents and prospects for innovative and tailor-made methods (or “sailor-made,” as one commentator puts it) of preventing, or at least mitigating the effects of, confrontational encounters at sea.<sup>40</sup>

## Adjusting Course

### *Desired End State*

During an unlikely standoff in which Canadian and Spanish warships found themselves confronting each other over a fisheries dispute in 1994–95, and despite fiery political and media rhetoric on both sides, “a Canadian Admiral and his Spanish counterpart were

almost constantly in contact reviewing the situation and it was extremely unlikely that the two forces would have ever traded fire over the issue.”<sup>41</sup> In fact, both admirals and the commanding officers of both ships knew each other personally, through NATO interaction. This does not imply that anything was done contrary to government direction—on the contrary, it meant that both navies were able to implement the intended policies of their respective governments responsibly, safely, and without misunderstanding or mishap. Whatever political leaderships may be thinking, it is vital that their military subordinates share a professional relationship of mutual respect and understanding so that unintended consequences of military actions do not damage the national interest.

In the jargon of social science, those of all nationalities who go to sea can be described as an “epistemic community”—that is, a transnational group of specialists who share a common professional culture that transcends national or racial background. This is a particularly potent advantage of navy-to-navy relationships. The history of maritime confidence building is full of anecdotes about naval officers achieving levels of understanding almost unimaginable to diplomats, even to soldiers. After one very sensitive consultation following a serious incident between American and Soviet ships, for example, a State Department adviser to the subsequent navy-to-navy consultation reported that he was “utterly amazed at the frankness, professionalism, and objectivity of the exchanges during the sessions, in contrast to the normal diplomatic intercourse between the two countries.”<sup>42</sup> That single comment encapsulates nicely the difference between proven navy-to-navy models and more traditional, politically oriented approaches like the MMCA. The seagoing culture of professional mariners and naval aviators is an invaluable asset to national governments, because it allows practical and technical matters of safety and predictability to be addressed without political posturing. This asset needs to be enabled, not impeded.

In order to fulfill the mandate expressed by the two presidents in 2009 to improve and develop military-to-military relations, the U.S. and Chinese navies would do well to draw on this broad range of worldwide maritime confidence-building experience to create a joint strategy for achieving two goals. The first and fundamental goal would be to achieve better mutual understanding. The second, and more crucial for safety and security, would be to establish practical and robust mechanisms for relationship management at sea.

### *Mutual Understanding*

Even when military professionals arrive in the same room and are ready to discuss issues frankly, openly, and honestly, there is still the challenge of language limitations.<sup>43</sup> This is not just a matter of having good interpreters. Some ideas simply cannot be translated precisely from one language to another; experience has shown that when this is

not recognized and addressed, much confusion can follow. In English, for example, the word “security” has a different sense from “safety.” This distinction can be important: in a track-two Middle East forum some years ago, discussion of security issues had to be avoided because they were too sensitive to be allowed within the authorized “political space” (as Dr. Peter Jones has called it), but the specifically humanitarian business of safety, such as marine search and rescue, was perfectly acceptable.<sup>44</sup> In Chinese, the same word is customarily used to translate both concepts, the characters suggesting a more harmonious and less militant tone for “security” than in the common usage of Western militaries. That word, *an quan*, consists of two characters: *an* (meaning “peace”), the character for which combines the characters for “woman” and “roof,” and *quan* (meaning “complete” or “perfect”), which combines the characters for “joined” and “work.” While an American may hear in the word “security” a robust sense of strong defense mechanisms, his or her Chinese counterpart might picture a more harmonious, home-like environment in which defenses should be unnecessary. It is important to make the effort to explore these often subtle differences, because some can have operational implications. Again in a Middle East experience, difficulties once arose over use of the word “surveillance,” which in English describes a legitimate, overt activity but in Arabic translation carries the nefarious connotation of covert spying.

We need to understand each other’s cultural paradigms if we are to communicate effectively. This is a sensitive issue that needs to be approached with caution, because differences can be overplayed as well as underestimated. Nonetheless, credible studies in cultural psychology have suggested significant differences between typical Asian and Western thought processes. Richard Nisbett, for example, has made a strong case that Western modes of thought, with their ancient Greek philosophical roots, tend to be linear, categorical, and analytical, while Asian approaches tend to be more cyclical, contextual, and holistic; that Westerners focus on contracts, while Asians value relationships; and that Westerners stress abstract reason, while Asians stress interpersonal reasonableness.<sup>45</sup> If this is true, the implications for military-to-military dialogue need to be explored and understood. On the other hand, arguments for a unique “Asian Way” that is fundamentally different from Western thinking can be exaggerated and even exploited for political purposes. Our cultural modes of thought may be different, but we are all human. As the last British governor of Hong Kong has argued, “Decency is decent everywhere; honesty is true; courage is brave; wickedness is evil; the same ambitions, hopes and fears crowd around and result from similar experiences in every society.”<sup>46</sup> Understanding our differences and celebrating our common humanity is key to building resilient relationships that will be sustainable in stormy times as well as sunny periods.



### *A Case Study in Culture and Language*

The midair collision off Hainan in April 2001 marked the beginning of a tense period of what Peter Hays Gries and Kaiping Peng call “apology diplomacy,” which finally resulted in a peculiar letter from the U.S. ambassador saying that the president and secretary of state were “sorry” for the loss of the pilot and that the EP-3 had entered Chinese airspace and landed without verbal clearance. The president and secretary of state then made it abundantly clear publicly that this letter did not imply any acknowledgment of American fault. Meanwhile, the incident had generated a political storm in both countries, leading—in the United States, for example—to debates over issues ranging from the scale of future arms sales to Taiwan to support for China’s accession to the World Trade Organization.<sup>47</sup>

Reviewing what both sides said about the incident illustrates the misperception challenge well.<sup>48</sup> The United States was conducting what any Western nation would recognize as overt surveillance but in Chinese eyes was perfidious spying. To Americans it was obvious that the aircraft was in legal airspace, since international law does not prohibit military flights over an exclusive economic zone (EEZ), but Chinese held that the United States was hypocritically violating the spirit, if not the letter, of the law in that it has an air defense identification zone off its own coast extending well beyond its own EEZ. The United States objected strenuously to China’s claim of the right to examine the crippled EP-3 in Hainan, while Chinese noted that when a Soviet defector flew a MiG-25 into Japan in 1976, technicians from the U.S. Air Force Foreign Technology Division dismantled the aircraft and returned it in packing crates.<sup>49</sup> The almost universal focus in the United States was on the issue of air-to-air interceptions and previously recorded experience with this particular Chinese pilot, who this time had made a fatal mistake that had resulted in an American crew being held hostage for the sake of a hollow, face-saving apology. Chinese discourse was more contextual, seeing this incident as just one of many aspects of a long U.S. pattern of intelligence gathering and intimidation in the air and on the sea, stretching back to humiliating gunboat diplomacy in the nineteenth century. The American discourse was full of commentary on the perfidy and hegemonic ambitions of China. Chinese discourse was full of commentary on the perfidy and hegemonic ambitions of the United States. In fact, as Gries and Peng have argued, both sides were making equally valid arguments within their own cultural contexts but also exhibiting many cultural similarities. The important lesson, they point out, is that “a Sino-American relationship devoid of mutual trust becomes a volatile powder keg. Once ‘they’ cease to be human, the psychological foundation for violence is laid.”<sup>50</sup>

### *Robust Practical Mechanisms*

Although the MMCA contains nothing that would have helped once the EP-3/F-8 situation began to develop, the incident could have been avoided through good airmanship and adherence to existing procedures. There is, after all, lot of global experience with air-to-air interceptions and even an international manual governing the interception of civil aircraft, the principles of which would presumably be equally applicable to a military transport or reconnaissance aircraft.<sup>51</sup> Nonetheless, had a robust situation management arrangement been in place, a more precise and positive tool would have been available to prevent the incident or, if that had failed, to contribute to crisis resolution in the short term and improved “military maritime safety” in the longer term.

What difference might it have made if, instead of the MMCA, China and the United States had already created an arrangement that drew on some of the innovative elements that the United States found so successful and others emulated during and after the Cold War?

- The pilots did not communicate other than by hand signals from the Chinese pilot, the meaning of which were unclear to American crew. An agreement that had included provision for real-time communication would have provided working radio frequencies, call signs, and codes to bridge the language barrier and express intentions or concerns.
- Neither operational headquarters ashore was able to relay real-time incident-resolution messages through national authorities to the other nation. With a more practical arrangement in place, at very least there could have been urgent communication using established channels.
- After the incident was over, there was no forum for, or tradition of, candid consultation in which the facts of the case could be laid on the table so that both sides could establish, privately and without political posturing, what had happened and how to prevent it from happening again. With a more robust and cooperative arrangement, an annual or specially convened consultation could have done just that.

It is interesting to note that the unconvincing accusations against the American pilot—it seems clear that the immediate cause of collision was pilot error on the part of the interceptor—all appear to have originated from China’s civilian diplomatic community rather than from the defense establishment, suggesting political posturing rather than factual analysis.<sup>52</sup> It would seem that the military professionals would have had no problem going behind closed doors and taking a mutual approach to incident and risk management.

### *Getting from Here to There*

The military is an instrument of the state, custodian of the national armory, and steward of some of the government's most sensitive security concerns. Furthermore, in most advanced societies, it is firmly subordinate to civilian leadership. Consequently, any suggestion of an independent role can (and should) be viewed with justifiable suspicion in political and diplomatic circles. Before any substantive navy-to-navy dialogue can take place, therefore, the respective political authorities must not only grant permission but also become confident that the interaction will be a substantial asset to the national security interest. Fortunately, that is not a difficult case to make, since unintended incidents between armed forces are clearly not in anyone's national interest. The business of government is to manage events and minimize risk; no political leader wants a situation where an honest misjudgment by a junior officer at sea may create a counterproductive international political problem at an inopportune moment. The challenge, therefore, is for political leaders to understand the unique nature and advantages of frank and open mutual problem solving and then to define the "political space" within which naval professionals are free to deal with technical matters candidly and honestly. A fundamental lesson from more than thirty-five years of worldwide experience in developing maritime situation management mechanisms is that political posturing has no place inside a professional incident-management forum.

Experience suggests that the current MMCA is inadequate for effective incident management at sea. The process of refining or replacing it would be an excellent starting point for transforming the overall naval military-to-military relationship. Giving careful thought to prevailing paradigms, learning relevant lessons from worldwide experience in maritime situation management, and revisiting the issue in a spirit of mutual problem solving could do much to enhance mutual confidence and security.

### **Transforming the Maritime Military-to-Military Relationship**

The commanders and crews of the Chinese and American ships and aircraft that interact and sometimes confront each other at sea are decent, honest, and professional people, but tactical-level accidents and mishaps can happen to the best of them. Such events should not plunge political leaders into unexpected state-to-state confrontation for lack of a robust and effective situation-management mechanism.

### *The Human Element*

In international relations, the human element is fundamentally important, and mutual misunderstanding is one of the greatest risks. Reducing misperception is a core function of state-to-state confidence building, and that is something with which sailors have had centuries of experience. The best example of a modern confidence-building measure is

the concept of navy-to-navy agreements for prevention of incidents at sea—an innovative, resilient, adaptable, and proven mechanism that has been adopted and adapted to a wide variety of circumstances (summarized in the appendix). Successful examples have transformed relationships from uncertainty and suspicion to understanding and clarity.

The shared professional culture of the international naval community offers a powerful opportunity to improve security relationships between nations. For this to happen, however, there are three stages to consider.

- Political leadership must understand that navy-to-navy interaction is in its own best interest, not a security threat, and then grant its military experts sufficient “political space” to conduct their professional, technical business free of political posturing.
- The military professionals must develop a common understanding of their differing languages and cultures so that communication is clear and mutual understanding is achieved.
- This process should, and can, lead to a fundamental transformation of the relationship—not necessarily of political policies but certainly of how professional armed forces implement those policies to achieve the political intent. Both governments should be confident that they can order their respective maritime forces to implement national policy with the assurance that any interaction at sea, whether cooperative or confrontational, will be conducted in a consistently safe, professional, and predictable manner.

### *Practical Steps*

The Military Maritime Consultative Agreement between the United States and China was a good start on confidence building but is, in its present form, an inadequate measure for managing events. It does not contain relationship-transforming elements that could make it far more relevant and useful. After twelve years, numerous incidents, and one death, it is time to reevaluate it in the light of other experience worldwide so that it better serves the interests of both parties. With the right “political space” and a commitment to better mutual understanding, the two great nations can transform their security relationship at sea for the better.

It is in the interest of the governments of both China and the United States to manage interaction between their military forces at sea in a manner that is safe and minimizes the chances of unintended political consequences. This is particularly important at times when policies and positions differ, such as the dispute over the operations of USNS *Impeccable* off Hainan. In contrast, the Black Sea incident twenty-one years earlier showed that it is possible for nations to use naval forces to send political signals to each other in a professional, safe, and controlled manner. Not only that, but it is also possible to

enable such negative confrontations to be transformed into positive results. Experience elsewhere has shown that for this to become possible, the governments of China and the United States would do well to pursue two parallel paths toward a transformed relationship.

- Improve mutual understanding to make each side's military professionals more aware of the other's interests, motives, and concerns.
- Delegate sufficient and appropriate authority to specified military officials to enable them to establish professional, robust, resilient, and simple government-to-government mechanisms for communication, cooperation, and consultation at all levels, from the tactical to the strategic.

Mutual understanding can be advanced both by academic expert workshops and by appropriate technical and professional navy-to-navy exchanges. The China Maritime Studies Institute at the U.S. Naval War College is already creating nonpolitical academic opportunities, and it is to be hoped that more such initiatives will be pursued by both countries.

Professional maritime safety comanagement can only be achieved if governments delegate appropriate authority to maritime professionals so that they can deal directly with their counterparts on technical matters. Experience has shown that this works best when delegations are led by naval officers, with diplomats serving as advisers to a military head. Military-to-military frankness, professionalism, and objectivity are ideals toward which the governments of China and the United States would do well to strive.

## **Conclusion**

Wishful thinking will not reduce policy differences between two great powers such as China and the United States. It is likely that legitimate disagreements will occasionally be expressed at sea by warships and maritime air forces used as instruments of national policy. Discussions over legalities are important, but, just as in marriage, though the law may help to define limits to behavior, it is not the only element necessary for a stable and constructive relationship. The ultimate aim of legal argument is to come to an arrangement that both can accept. Meanwhile, however, operations are going on at sea continuously, and even as these words are being read an accident or misunderstanding may be happening at the tactical level that will have serious, even disastrous consequences. It should be a political imperative to comanage these interactions safely and in a manner that the respective governments desire, not leaving them to chance and improvisation.

A difficult situation that develops at sea is no time to cease communication in order to signal displeasure. On the contrary, it is the very time when communication becomes most vitally important; otherwise both parties risk losing control over events and having to deal with unwanted consequences. The existing Military Maritime Consultative

Agreement is a good start, but even if it had included provisions for real-time communication, it would not have helped much in subsequent real-world incidents—and “if it does not work in adversity then it’s not worth the paper it’s written on.”<sup>53</sup>

Two great naval powers like China and the United States need to create a much more comprehensive, robust, and effective military maritime safety-comanagement arrangement that will continue to work no matter how tense any future situation might become. A wide range of positive experience and good examples is available from around the world. There is nothing to lose and much to gain from drawing on that experience now, before a simple misunderstanding, mistake, or accident creates a problem that neither government intends or wants.

## Appendix: Maritime Incident Management Arrangements Worldwide

Arguably one of the most successful of all confidence-building measures (CBMs) has been the 1972 agreement for prevention of incidents at sea (INCSEA) between the United States and the then Soviet Union. It is one of the most enduring and resilient of CBMs, still in force today after more than thirty-five years. Furthermore, the nature of this bilateral agreement is so demonstrably successful that it has been adopted, adapted, and made the inspiration for a wide variety of bilateral and multilateral arrangements (of varying effectiveness) worldwide.

The author and his colleague Dr. Peter Jones, of the University of Ottawa, have been involved with a number of the examples described here and have been researching the issues and conducting seminars and consultations worldwide for more than a decade, including in Shanghai, China, in October 2007. By far the best description of the original U.S.-USSR agreement and some of the subsequent variations is David F. Winkler's *Preventing Incidents at Sea: The History of the INCSEA Concept* (Halifax, N.S.: Dalhousie University, Centre for Foreign Policy Studies, 2008). It is a reprint of his earlier U.S. Naval Institute book entitled *Cold War at Sea: High Seas Confrontation between the United States and the Soviet Union*, with the addition of a new preface by the author and an afterword by Griffiths and Jones describing some of the post-Cold War derivatives.

The list below outlines some of the variations on the theme that have been created around the world. Not all resulted in formally signed agreements, but most at least increased mutual understanding and helped to reduce misperceptions.

- USSR/Russia and Others. The original 1972 United States–Soviet Union INCSEA prototype was adapted by eleven other nations to establish navy-to-navy dialogue with the Soviet Union and later Russia. Significantly, some of these, such as those with Japan and South Korea, were negotiated and signed after the Cold War was over (1993 and 1994, respectively). There were a number of reasons for this. In part it was because negotiations were already under way. Also, continuing political uncertainty made establishing navy-to-navy links a prudent step. In almost all cases, however, in addition to the immediate advantage of improved safety, it was the attractiveness of having mandatory annual consultations that provided a nonpolitical avenue to enhance mutual understanding. As mutual confidence increased and incidents declined, the concept of “staff talks” developed, adding informal discussions on matters of mutual interest to the formal consultations. This demonstrates how the value of the concept is much more subtle and useful than mere conflict prevention. The rationale

and process are described by one of the senior negotiators in Yoji Koda, “The Emerging Republic of Korea Navy: A Japanese Perspective,” *Naval War College Review* 63, no. 2 (Spring 2010), pp. 13–34, available at [www.usnwc.edu/press](http://www.usnwc.edu/press).

- Poland/West Germany. An agreement similar in wording to the INCSEA model was also concluded between Poland and West Germany as the Cold War was ending in 1990.
- Greece and Turkey. The U.S.-USSR agreement was inspiration for a 1983 memorandum of understanding and subsequent Guidelines for the Prevention of Accidents and Incidents on the High Seas and International Airspace between Greece and Turkey. Although lacking the real-time tactical communications and annual consultation provisions of the prototype, this arrangement did illustrate the virtue of creative thinking in addressing specific mutual problems, by agreement to be particularly diligent about incident avoidance during the peak tourist season.
- Middle East. INCSEA was one of two elements in the maritime dimension of the Middle East Peace Process in 1993–95, the other being cooperative search and rescue. Although the operational experts were able to achieve a mutually acceptable draft agreement, the political process collapsed before it could be submitted for political-level consideration. Nonetheless, the effort was not wasted, because the process had brought former combatants together in a three-year process of joint problem solving that did much to improve mutual understanding, as well as to lay foundations for some discreet cooperation at sea that continued long after the political environment had again become confrontational. The process is described by Dr. Peter Jones, “Maritime Confidence Building in Regions of Tension,” in *Maritime Confidence-Building Measures in the Middle East*, ed. Jill R. Junnola, Report 21 (Washington, D.C.: Henry L. Stimson Center, May 1996), pp. 57–73.
- Middle East and North Africa. Even though the peace process ended in the mid-1990s, momentum was maintained in maritime confidence-building dialogue through a Maritime Safety Colloquium for Middle East and North African naval and coast guard officers, plus others with maritime safety mandates. This process was managed by the Canadian Coast Guard, with the U.S. Coast Guard as an active partner, demonstrating the methodologies and benefits of mutual cooperation in maritime safety. Until the process lost momentum for bureaucratic reasons after 2004, it succeeded in establishing a network of alumni from almost all Arab states, including Iraq, and from Israel. The story is described by Dalia Dassa Kaye in *Talking to the Enemy: Track Two Diplomacy in the Middle East and South Asia* (Santa Monica, Calif.: RAND, 2007), pp. 45–46.



- UN and CSCE Multilateral Proposals. In 1989, Sweden submitted a working paper to the UN Disarmament Commission proposing a multilateral agreement for the prevention of incidents at sea. Nothing came of it for a number of reasons, mostly related to the difficulties inherent in a multilateral arrangement's unsuitability for dealing with sensitive bilateral issues. Russia made a similar proposal to the Conference on Security and Cooperation in Europe (CSCE) in 1990, but that too went nowhere, for similar reasons.
- Western Pacific. The Western Pacific Naval Symposium produced a multilateral Code for Unalerted Encounters at Sea (CUES) in 2000. It incorporates elements of the original INCSEA wording but goes far beyond the classic simplicity of a straightforward incident-avoidance mechanism by adding tactical maneuvering and signaling instructions, reproducing elements of NATO procedures that were declassified after the Cold War to encourage cooperative multinational maritime operations among like-minded states. The effectiveness of this hybrid approach remains to be analyzed in the public domain.
- Malaysia and Indonesia. Because of the same limitations on multilateral arrangements that the Swedish proposal encountered, Malaysia and Indonesia found it necessary to supplement the multilateral CUES process with the parallel development of their own bilateral MALINDO (Malaysia-Indonesia) Prevention of Incidents at Sea Cooperative Guidelines. This was signed by the respective naval commanders in Jakarta in 2001. More complex than the classic INCSEA model but much simpler and more focused than CUES, this arrangement is an interesting example of a carefully staffed and functional adaptation of the INCSEA concept to address very different specific circumstances.
- India and Pakistan. In 1999 the foreign ministers of India and Pakistan signed a memorandum of understanding in Lahore to "conclude an agreement on prevention of incidents at sea in order to ensure safety of navigation by naval vessels, and aircraft belonging to the two sides." While little happened on the official front, academic studies by retired senior officers from both countries (some of whom were former chiefs of naval staff) enabled officials on both sides to better understand the principles, practice, and international experience in detail. (See Dalhousie University, Centre for Foreign Policy Studies, "Confidence and Cooperation in South Asian Waters," available at [centreforforeignpolicystudies.dal.ca/events/marsec\\_CCSAW.php](http://centreforforeignpolicystudies.dal.ca/events/marsec_CCSAW.php).) Official negotiations were reportedly ongoing before the 2008 attack on Mumbai by Pakistani extremists interrupted official dialogue.
- China and the United States. The 1998 Agreement between the Department of Defense of the United States of America and the Ministry of National Defense of the

People's Republic of China on Establishing a Consultation Mechanism to Strengthen Military Maritime Safety—or Military Maritime Consultative Agreement (MMCA)—was much more diplomatic in nature and tone than the classic INCSEA model, minimizing the role of operational experts and containing no provision for real-time tactical communication, as was to be tragically highlighted by the 2001 midair collision off Hainan. While annual meetings are useful to discuss incidents, they are not much help when events are unfolding rapidly on, over, or under the sea.

- **Dangerous Military Activities Agreements.** In addition to these naval-oriented arrangements, the INCSEA experience also inspired several examples of broader bilateral dialogue involving all branches of the armed forces, called “dangerous military activities agreements” (DMAAs). This demonstrates how—as is often the case in confidence building—maritime initiatives offer opportunities to create new precedents in an arena that is governed by long tradition and established law of the sea and is therefore often less sensitive than along land boundaries.

## Notes

1. Philip Bobbitt, *The Shield of Achilles* (New York: Anchor Books, 2003), p. 338.
2. “Agreement between the Department of Defense of the United States of America and the Ministry of National Defense of the People's Republic of China on Establishing a Consultation Mechanism to Strengthen Military Maritime Safety,” available at [www.fas.org/nuke/control/sea/text/us-china98.htm](http://www.fas.org/nuke/control/sea/text/us-china98.htm).
3. A good selection of articles discussing the incident appeared in *China Security* 5, no. 14 (Spring 2009), entitled “Understanding the *Impeccable* Incident”: Eric A. McVadon, “The Reckless and the Resolute: Confrontation in the South China Sea”; Ji Guoxing, “The Legality of the ‘Impeccable Incident’”; and Mark Valencia, “The Impeccable Incident: Truth and Consequences.” The issue is available at [www.chinasecurity.us/index.php?option=com\\_csissues&secid=13&catid=69&task=category&Itemid=8](http://www.chinasecurity.us/index.php?option=com_csissues&secid=13&catid=69&task=category&Itemid=8).
4. White House, Office of the Press Secretary, “Statement on Bilateral Meeting with President Hu of China,” 1 April 2009, available online at [www.whitehouse.gov/the\\_press\\_office/Statement-On-Bilateral-Meeting-With-President-Hu-Of-China/](http://www.whitehouse.gov/the_press_office/Statement-On-Bilateral-Meeting-With-President-Hu-Of-China/).
5. This section is drawn from an unpublished paper by the author entitled “Paradigm Traps: Reflections on Maritime Security Strategies,” presented to the International Symposium on Maritime Security in the South China Sea, Haikou, Hainan, China, 8–9 December 2005.
6. Thomas S. Kuhn, *The Structure of Scientific Revolution*, 3rd ed. (1962; repr., Chicago: Univ. of Chicago Press, 1996).
7. D. Davidson, “The Mouse Atlas: An Ontology for Mapping Gene Function Data to the Mouse Embryo” (presentation, Standards and Ontologies for Functional Genomics [SOFG], Hinxton, Cambridge, 17–20 November 2002).
8. Barbara W. Tuchman, *The March of Folly: From Troy to Vietnam* (New York: Ballantine Books, 1984).
9. Thucydides, *The Peloponnesian War*, ed. M. I. Finley, trans. Rex Warner (Harmondsworth, U.K.: Penguin Books, 1954), p. 49.
10. Philip Bobbitt (see note 1) has described the seventy-seven-year period that began in 1914, paused briefly after the 1918 armistice, reignited in 1939, and continued through hot and cold wars until the collapse of the Soviet Union in the last decade of the twentieth century as the “Long War.”
11. Louise Levantes, *When China Ruled the Seas* (New York: Oxford Univ. Press, 1994), p. 146.
12. Clifford Shelton, “The Energy Component of China's Africa Strategy,” in *China's Energy Strategy: The Impact of Beijing's Maritime Policies*, ed. Gabriel B. Collins et al. (Annapolis, Md.: Naval Institute Press, 2008), p. 198.
13. Richard Dowden, *Africa: Altered States, Ordinary Miracles* (New York: PublicAffairs, 2009), p. 486.

14. The point is made in *ibid.*, p. 486, and more recently in the state-run *China Daily* (John Kemp, "China's Role in Dollar Debate Suggests a Fundamental Shift," 13 July 2009, available at [www.chinadaily.com.cn/china/2009sed/2009-07/13/content\\_8468819.htm](http://www.chinadaily.com.cn/china/2009sed/2009-07/13/content_8468819.htm)). The author wishes to thank Prof. Thomas Fingar for pointing out that the term "mutually assured economic destruction" (MAED) is occasionally used.
15. Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (1996; repr. New York: Simon & Schuster, 2003), p. 13.
16. *Ibid.*, p. 207.
17. *Ibid.*, p. 13. The article was "The Clash of Civilizations?" in *Foreign Affairs* (Summer 1993), pp. 22–49.
18. Huntington, *Clash of Civilizations*, p. 320.
19. *Ibid.*, p. 321.
20. John G. Stoessinger, *Why Nations Go to War*, 8th ed. (Boston: St. Martins, 2001), p. xv.
21. *Ibid.*, p. 255.
22. Joseph S. Nye, Jr., "The Case for Deep Engagement," *Foreign Affairs* (July/August 1995), p. 96.
23. Much of this section is drawn from the author's article "Maritime Security, Terrorism and the 'New Economy,'" in *Ocean Yearbook* 19, ed. Aldo Chircop and Moira McConnell (Chicago: Univ. of Chicago Press, 2005), pp. 283–98. Quotation from Salvador de Madariaga, *Morning without Noon* (Farnborough, Hampshire, U.K.: Saxon House, 1974), p. 48.
24. To explore the history further see Edgar Gold, *Maritime Transport: The Evolution of International Marine Policy and Shipping Law* (Lexington, Mass.: D. C. Heath, 1981); and Li Qingxin, *Maritime Silk Road*, trans. William W. Wang (Beijing: China Intercontinental, 2006).
25. A. Saheb-Ettaba, "Maritime Legal Issues," in *Proceedings, Maritime Safety Colloquium 2002, October 27–31, 2002 in Doha, Qatar*, ed. David N. Griffiths (Ottawa: Canadian Coast Guard, 2002).
26. "Text of the Rush-Bagot Agreement, 1817," in Gilbert Norman Tucker, *The Naval Service of Canada* (Ottawa: King's Printer, 1952), app. I.
27. Barry O'Neill, "Rush-Bagot and the Upkeep of Arms Treaties," *Arms Control Today* 21, no. 7 (September 1991), p. 22.
28. Reported by the Canadian Broadcasting Corporation at [www.cbc.ca/story/canada/national/2006/03/15/coastguard-060315.html](http://www.cbc.ca/story/canada/national/2006/03/15/coastguard-060315.html).
29. Both are mentioned briefly in James Macintosh, *Confidence (and Security) Building Measures in the Arms Control Process: A Canadian Perspective*, Arms Control and Disarmament Studies, no. 1 (Ottawa: Dept. of Foreign Affairs and International Trade, 1985), pp. 17–18. See also Cdr. Pedro L. de la Fuente, "Confidence-Building Measures in the Southern Cone: A Model for Regional Stability," *Naval War College Review* 50, no. 1 (Winter 1997), p. 50.
30. Macintosh has identified land-oriented examples in Europe that go back even earlier. For a comprehensive survey of examples preceding the Helsinki Final Act of 1975 see Macintosh, *Confidence (and Security) Building Measures in the Arms Control Process*, pp. 16–25.
31. Quoted in *Conference on the Limitation of Armament, Held at Washington, November 12, 1921 to February 6, 1922: Report of the Canadian Delegate* (Ottawa: King's Printer, 1922).
32. James Macintosh, *Confidence Building in the Arms Control Process: A Transformation View*, Arms Control and Disarmament Studies, no. 2 (Ottawa: Dept. of Foreign Affairs and International Trade, Non-Proliferation, Arms Control and Disarmament Division, 1996), p. 63.
33. Ken Booth, "Disarmament and Strategy," in *Contemporary Strategy: Problems, Theories and Policies*, ed. John Baylis et al. (1975; repr., London: Croom Helm, 1981), p. 107.
34. The full story is described in David F. Winkler, *Preventing Incidents at Sea: The History of the INCSEA Concept* (Halifax, N.S.: Dalhousie University, Centre for Foreign Policy Studies, 2008), pp. 64–67.
35. The term "catalyst for confidence" is taken from David N. Griffiths, *Catalyst for Confidence: 25 Years of INCSEA* (Ottawa: Naval Officers Association of Canada, 1998), available at [www.noac-national.ca/article/griffiths/incsea\\_bydavidngriffiths.html](http://www.noac-national.ca/article/griffiths/incsea_bydavidngriffiths.html).
36. "Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on the Prevention of Incidents on and over the High Seas," available at [www.state.gov/t/isn/4791.htm](http://www.state.gov/t/isn/4791.htm). It was subsequently updated by a 1973 protocol to the agreement and a 1998 exchange of diplomatic notes.
37. For developments worldwide since the prototype agreement was created in 1972 see Winkler's epilogue to *Preventing Incidents at Sea* and the afterword by David Griffiths and Peter Jones.
38. The incident is described by Winkler in *Preventing Incidents at Sea*, pp. 188–91. The formal title of the resulting agreement was Joint Statement by the United States of America and the Union of Soviet Socialist Republics on the Uniform

- Interpretation of Rules of International Law Governing Innocent Passage, informally the "Jackson Hole Agreement" (after the name of the place at which it was signed on 23 September 1989).
39. For examples see chaps. 7–9 of Winkler, *Preventing Incidents at Sea*.
  40. For "sailor-made," Bakhtiyar Tuzmukhamedov, "'Sailor-Made' Confidence-Building Measures," in *Maritime Security: The Building of Confidence*, ed. Jozef Goldblat (New York: United Nations Institute for Disarmament Research, 1992).
  41. Laura J. Higgins, *Canadian Naval Operations in the 1990s: Selected Case Studies*, Maritime Security Occasional Paper 12 (Halifax, N.S.: Dalhousie University, Centre for Foreign Policy Studies, 2002).
  42. Quoted in Winkler, *Preventing Incidents at Sea*, p. 179.
  43. This section is an adaptation of the author's paper "Challenges in the Development of Military-to-Military Relationships" (presented to the China Maritime Studies Institute Conference on Defining a Maritime Security Partnership with China, Naval War College, Newport, R.I., 5–6 December 2007).
  44. The forum was the Maritime Safety (MarSaf) Colloquium, described by Dalia Dassa Kaye in *Talking to the Enemy: Track Two Diplomacy in the Middle East and South Asia* (Santa Monica, Calif.: RAND, 2007) pp. 45–46.
  45. Richard E. Nisbett, *The Geography of Thought* (2003; repr., London: Nicholas Brealey, 2005). Also see Gregory Kulacki, "Lost in Translation," *Bulletin of the Atomic Scientists* 62, no. 3 (May/June 2006), pp. 34–39.
  46. Chris Patten, *East and West* (Toronto: McClelland and Stewart, 1998), p. 140.
  47. The events are described in *China-U.S. Aircraft Collision Incident of April 2001: Assessments and Policy Implications*, CRS Report for Congress RL30946 (Washington, D.C.: Congressional Research Service, updated 10 October 2001), available at [www.fas.org/sgp/crs/row/RL30946.pdf](http://www.fas.org/sgp/crs/row/RL30946.pdf). The cross-cultural aspects are discussed in Peter Hays Gries and Kaiping Peng, "Culture Clash? Apologies East and West," *Journal of Contemporary China* 11, no. 30 (2002), pp. 173–78.
  48. For a Chinese perspective, see for example Ji Gioxing, *Rough Waters in the South China Sea: Navigation Issue Confidence-Building Measures*, AsiaPacific Issues, no. 53 (Honolulu, Hawaii: East-West Center, August 2001). The U.S. perspective is well summarized in the CRS report *China-U.S. Aircraft Collision Incident of April 2001*. Gries and Peng discuss the cultural similarities and differences between the two.
  49. John E. Jessup, *An Encyclopedic Dictionary of Conflict and Conflict Resolution, 1945–1996* (Westport, Conn.: Greenwood, 1998), p. 357.
  50. Gries and Peng, "Culture Clash?" p. 178.
  51. *Manual Concerning Interception of Civil Aircraft*, ICAO Document 9433, 2d ed. (Montreal: International Civil Aviation Organization, 1990). The CRS report *China-U.S. Aircraft Collision Incident of April 2001* suggests (p. 18) that the Chinese pilot should have followed the *International Flight Information Manual*, which has details on "international interception procedures" and "intercept pattern for identification of transport aircraft." However, notwithstanding the word "international" in the title, that is a U.S. publication, issued by the Federal Aviation Administration, not an international body.
  52. It is also interesting to note that six years later the website of the Chinese embassy in Washington still had a section dedicated to the incident ([www.china-embassy.org/eng/zt/zjsj/default.htm](http://www.china-embassy.org/eng/zt/zjsj/default.htm)).
  53. A comment made about the Soviet-U.S. arrangement quoted in Winkler, *Preventing Incidents at Sea*, p. 178.

## Abbreviations and Definitions

<b>A</b>	<b>AFRICOM</b>	U.S. Africa Command
<b>C</b>	<b>CBM</b>	confidence-building measure
	<b>CSCE</b>	Conference on Security and Cooperation in Europe
	<b>CUES</b>	Code for Unalerted Encounters at Sea
<b>D</b>	<b>DMAA</b>	dangerous military activities agreement
<b>E</b>	<b>EEZ</b>	exclusive economic zone
<b>I</b>	<b>INCSEA</b>	incidents at sea
<b>M</b>	<b>MAD</b>	mutually assured destruction
	<b>MALINDO</b>	Malaysia-Indonesia
	<b>MMCA</b>	Military Maritime Consultative Agreement
<b>N</b>	<b>NATO</b>	North Atlantic Treaty Organization
<b>P</b>	<b>PLAN</b>	People's Liberation Army Navy

## About the Author

David Griffiths is an independent consulting analyst who specializes in international aspects of confidence, cooperation, and capacity building, with a particular focus on maritime and coastal zone issues. A former Canadian naval officer, he spent fifteen of his thirty-one years in uniform at sea in ships and submarines, and the remainder in staff appointments that included personnel policy, project management, operational planning, and doctrine development, for which he received a Maritime Commander's Commendation in 1996. In 1992–93 he was seconded to the European Community Monitoring Mission in the Balkans, where he became head of the Coordination Centre, responsible for operations in Eastern Herzegovina, Montenegro, and the southern Dalmatian coast of Croatia. Between 1993 and 1996 his duties included service as a naval adviser to the Middle East Peace Process.

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