

## **Asean's next challenge: Preventing incidents at sea**

Kwa Chong Guan

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On May 31, the Indonesian Navy's KRI Untung Surapati-872 warship drove the Malaysian KD YU-3500 out of the disputed waters off the south-east coast of Sabah, according to Indonesian press reports. This incident is the latest in a series of stand-offs between the Indonesian and Malaysian navies in the water around the Ambalat Block.

Three months earlier, on March 8, five Chinese ships harassed the US Navy's Impeccable ocean surveillance vessel in the South China Sea, about 120km south of Hainan. Again, this was the latest in a series of stand-offs between the Chinese and the US navies, the most serious of which occurred in April 2001, when the Chinese intercepted a US EP-3 surveillance plane off Hainan. The Chinese have also confronted Vietnamese vessels in the disputed waters around the Paracel Islands in the South China Sea.

Why are such naval stand-offs occurring in an era of improving security cooperation and when Asean is working towards becoming a Security Community? After all, Asean member states have renounced the use of force, as enunciated in their 1976 Treaty of Amity and Cooperation. Will we see more such stand-offs as navies in the region modernise and upgrade their capabilities?

Such naval confrontations and stand-offs are not new. In the late 1960s, there were several incidents between the British Royal Navy or the US Navy and the Soviet Navy. These included planes of the two nations passing near one another, their ships bumping one another, and their ships and aircraft making threatening movements.

In March 1968, the United States proposed talks on preventing such incidents from escalating into serious conflicts. The Soviet Union accepted the invitation in November 1970. The result was the Incidents at Sea Agreement (Incsea) signed in 1972. The procedures laid out in the agreement for direct naval-to-naval dialogue and a non-political focus on safety worked during the Cold War.

Knowing this, why have the US and China not been able to work out a similar Incsea? In January 2001, the Malaysian and the Indonesian navies worked out and signed a Malaysia-Indonesia Prevention of Incidents at Sea Agreement (Malindo Incsea). But this Incsea has not prevented naval stand-offs between the two, as seen in the Ambalat incidents.

One possible reason the US-Soviet Incsea worked was that it was about pre-empting incidents in seas neither the US nor the Soviets claimed as territorial waters. In contrast, the stand-offs between the Indonesian and Malaysian navies are in waters claimed by both countries. Similarly, the issue between China and a number of its maritime South-east Asian neighbours is rival claims to islands and coral reefs around which they hope to claim a 320km Exclusive Economic Zone, as provided for in the 1982 United Nations Convention on the Law of the Sea. China and some Asean countries also claim blocks of the South China Sea as part of their continental shelf.

At stake in the naval stand-offs in the South China Sea and in the waters of South-east Asia is the safeguarding of national sovereignties over disputed maritime areas. In contrast to the land, where territorial boundaries tend to be well-defined and disputes more manageable, the sea is a frontier zone.

The disputes over Sipadan, Pedra Branca, the Paracels, or the Spratlys and Ambalat are consequences of unresolved marine boundaries left by the colonial powers. The challenge for us in Asean today is how to build confidence and trust despite these unresolved marine boundaries. Common sense suggests that it will be in our self-interest to put in place conventions and institutions that promote good order at sea so as to benefit us all. Unfortunately, defending national integrity and sovereignty often overrides most other concerns and interests.

There will be consequences for this failure to agree on how to prevent incidents at sea. One major upshot will be that we are going to see more naval stand-offs and confrontations. The challenge for Asean and its regional partners will be to put in place procedures to manage the crises that will follow a clash of navies.

The writer is Head of External Programmes at the S. Rajaratnam School of International Studies, Nanyang Technological University, and teaches history at the National University of Singapore.