

ASEAN BRIEFS

Preventing Conflict in Southeast Asia:
A Case for Coast Guard Cooperation



Vol. 5/ Issue 2/ February 2018



ASEAN Briefs is a regular publication about current developments on ASEAN regionalism, especially in the Political-Security, Economic as well as Socio - Cultural Pillars.

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Executive Summary

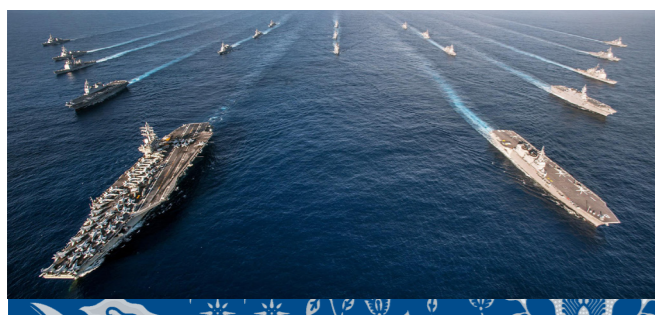
- Overlooked by the higher-profile naval modernization, recent developments show the substantial expansion, both qualitatively and quantitatively, and utilization of coast guards by major powers in the region, including China, Indonesia, Japan, Malaysia, the Philippines, and Vietnam.
- Recent developments show that coast guards in Southeast Asia are utilized more as a tool to assert sovereignty in the disputed waters, especially in the South China Sea, than to conduct patrol and enforce domestic and international laws *per se*.
- The existence of territorial disputes in the South China Sea increases the chance of unplanned encounters between the coast guards which, absent governing principles of behavior and operational code of conduct, could result in conflict escalation.
- The utilization of coast guards in the disputed waters, however, proves that the conflicting parties are not prepared for full-scale conflict escalation. This could present itself as a promising avenue to prevent conflict in Southeast Asia. This could be achieved by strengthening cooperation between coast guards and developing standard operating procedures and operational code of conduct for coast guards.



Introduction:

When it comes to maritime security in Southeast Asia and the potentials of conflict between claimant states in the South China Sea, the discussion is understandably dominated by the naval modernization undertaken by the regional players. The discussion largely revolves around the images of submarines or aircraft carriers and how they could alter the balance of power in the region. A number of important analyses have been produced discussing the nature, process, and likely consequences of naval expansion in the region.¹ Though there is no consensus on the nature of it –whether it constitutes an arms race or not- most of the analyses nominally accept that if left unmanaged regional naval modernization could lead into contention and conflict escalation. Largely overshadowed by the higher-profile naval expansion, however, is the expansion of maritime law enforcement capacity in the region.

As will be explored in more details in the following section, major claimant states in the South China Sea disputes – China, Indonesia², Japan, Malaysia, the Philippines, and Vietnam - have recently undertaken significant increase of maritime law enforcement capacity both in quantitative and



qualitative terms. The total tonnage of coast guard vessels of China, Indonesia, Japan, Malaysia, the Philippines, and Vietnam combined between 2010 until 2016 has increased by 66%³. In terms of growth, the Philippines lead with a two-fold increase during the mentioned period while China and Vietnam have increased their coast guards tonnage by 73%. Indonesia and Japan have increased their coast guards tonnage by 70% and 50% respectively. There has also been a significant increase in terms of the actual number of coast guard vessels. As will be explained below, when it comes to maritime policing, the quantity of vessels tend to be more important than the ships' individual quality such as size and armaments⁴. In addition to quantitative expansion, the governments of these countries have also taken measures to streamline their respective maritime security governance either by establishing a dedicated quasi-civilian maritime law enforcement agency to carry out coast guard tasks or developing the existing agencies and unifying command and control.

A number of reasons have been cited as the drivers for regional coast guard expansion. First and foremost, the United Nations Convention on the Law of the Sea (UNCLOS) that came into force in 1994 has extended coastal states' maritime jurisdiction, thus expanding coastal states' maritime resource base to secure. In Southeast Asia, in which demand for fish and fish products is increasing, food security has become major interests of regional countries. Moreover, the continued increase of demand for seaborne energy import has also put maritime order at the highest priority of many countries in the region. In addition

Total Coast Guard Tonnage of Selected Countries 2010-2016

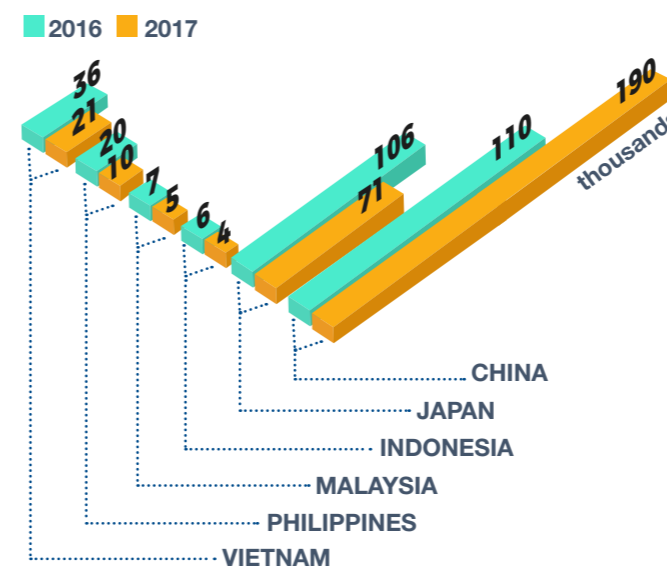


Figure 1 Total Coast Guard Tonnage of Selected Countries 2010-2016. Source: Lyle J. Morris, "Blunt Defenders of Sovereignty: The Rise of Coast Guards in East and Southeast Asia," *Naval War College Review* 70, no. 2 (2017) and China Power Team, "Are Maritime Law Enforcement Forces Destablizing Asia?," *China Power*, 2017, <https://chinapower.csis.org/maritime-forces-destablizing-asia/>.

to marine resource protection, a range of illegal activities at sea such as piracy and terrorism have put more pressure on coastal states in the region to increase its capability to patrol and conduct maritime surveillance and enforcement of national laws in their respective maritime zones.

In the past, most Southeast Asian countries mostly relied on their navies to carry out these missions. While policing or constabulary roles, in addition to war-fighting and diplomacy, has been traditionally considered part of a navy's responsibilities, the military-grade equipment of warships are more suitable for high-kinetic environments and not always appropriate for maritime law enforcement tasks. The expansion of coastal states' maritime jurisdiction, increased reliance on marine resources, and increased illegal activity at sea, therefore, has forced many countries in the region to establish or develop separate civilian maritime law enforcement agencies. As one scholar notes, "navies and warships are designed to fight wars and combat military threats, while coast guards are primarily concerned with criminal, resource, and environmental threats".⁵

Regional Coast Guards Expansion

Of all the countries in the region, some have developed maritime law enforcement capabilities more significantly than the others. These countries are China, Indonesia, Malaysia, the Philippines, and Vietnam. All except Indonesia are claimant states in the territorial disputes in the South China Sea. Indonesia, while maintaining its diplomatic position as a non-claimant, is fully aware about the China's nine-dashed line and how it overlaps with Indonesia's EEZ in the Natuna Sea. These countries, therefore, are worth a deeper analysis as far as the nature and consequences of their respective coast guard expansion are concerned.

China expectedly leads the growth of coast guard in the region both in qualitative and quantitative terms. In 2013, the Chinese government decided to centralize bureaucratic control over its maritime law enforcement agencies under the State Oceanic Administration (SOA). The reform, one scholar notes, aims at enhancing China's maritime law enforcement capacities in a more controlled and coordinated manner.⁶ Through this reform, China might be able to better pursue its national objectives with a unified force of coast guard while reducing the chance that uncoordinated actions by separate commanders trigger unintended escalation and conflict at sea.⁷ Over the past five years, China has allocated US\$1.74 billion on average for its coast guard.⁸ In terms of capability, China's Coast Guard (CCG) also trumps other coast guards in the region. Per 2017, CCG operates 448 patrol and coastal combatants including around 250 offshore-capable patrol vessels, 130 coastal patrol crafts, 200 fast patrol boats, 21 logistics and support ships, and a couple of maritime patrol aircrafts and helicopters.⁹ CCG put to the sea Haijing 2901 and Haijing 3901 in May 2015 and January 2016 respectively. Weighted 12,000-ton, Haijing 2901 and Haijing 3901 are the world's largest coast guard vessel.¹⁰ The heavy armament also sets them apart from other coast guard vessels. This include 76 millimeter rapid fire guns, two auxiliary guns, two anti-aircraft machine guns, a platform and hangar that can accommodate helicopter or unmanned aerial vehicles (UAVs).¹¹ The CCG

has commissioned over a hundred vessels since 2012.¹² With the mentioned institutional reform and capability expansion, China now operates the largest coast guard fleet in the world.¹³

In 2013, the Vietnam Marine Police was officially renamed Vietnam Coast Guard (VCG). Currently, the VCG operates more than 50 vessels of different classes, including four 2000-tonne DN-2000 Offshore Patrol Vessels (OPV). More vessels of this class are planned to be built in the near future.¹⁴ A new class of vessel, codenamed DN-4000 which will probably be the largest coast guard vessel in Southeast Asia is also planned to be built.¹⁵ A Vietnamese scholar notes that in addition to the rise of non-traditional security threats like piracy that require the presence of a robust, effective and modern coast guard, greater focus given by the Vietnamese government to coast guard capability can also be seen as a direct response to intrusive China's behavior in the South China Sea.¹⁶

On April 2017, the Malaysian Maritime Enforcement Agency (MMEA) was renamed Malaysia Coast Guard. MMEA was established in 2005 against the backdrop of the widening maritime security challenges facing Malaysia including smuggling, piracy, illegal fishing, and militancy.¹⁷ It started with a modest capability with just 59 vessels and later boosted to reach the number of 255 ships.¹⁸ The capability development also continues with the commission of the first New Generation Patrol Craft (NGPC) in March 2017, the largest, fastest, and most sophisticated vessel to enter its fleet.¹⁹ The Malaysian government has also committed to allocate more funding for the coast guard to build three Offshore Patrol Vessels (OPVs), in addition to two OPVs offered by the Japanese government.²⁰

Coast guard modernisation has also been undertaken in the Philippines. Substantial increase of funding allocated by President Duterte's administration has allowed the Philippines Coast Guard (PCG) to acquire new equipment especially from Japan. In November 2017, PCG commissioned three 44-meter vessels, adding to the three already received from Japan. Four more ships of this class will be delivered by the end of 2018 to complete the total ten ships ordered by the Philippine government.²¹ In addition to that, PCG is also receiving ten 7-meter rigid hull inflatable boats and two 92-meter ships from Japan.²² The



modernizing PCG has proven to be instrumental amidst the vast array of maritime security concerns of the Philippines. PCG, for instance, played a significant role during the security operations in Mindanao in which the PCG was given the authority to take over all security operations for all seaports from the Maritime Industry Authority and the Philippine Ports Authority under an order issued by the Department of Transportation.²³ In order to further secure the sea lanes near Marawi, the PCG has also established a Recommended Transit Corridor (RTC) between the Moro Gulf and the Basilan Strait which could be monitored heavily by nearby law enforcement units.²⁴

The biggest archipelagic country in Southeast Asia, Indonesia has also stepped up its effort to utilize coast guard in safeguarding its vast waters and maritime jurisdiction. Amidst the country's maritime security governance that has long been dominated by the Navy, the Indonesian government decided to establish a dedicated civilian maritime law enforcement agency in the form of BAKAMLA (*Badan Keamanan Laut/ Maritime Security Agency*) in 2014. The continued resistance of the Navy and the competing paradigm of maritime security governance notwithstanding, the establishment of BAKAMLA marks a new development in Indonesia's efforts to organize its multi-agency maritime security governance and effectively secure its maritime jurisdiction.²⁵ In addition to institutional reorganization, the Indonesian coast guard has also been allocated funding to increase its capability. BAKAMLA is currently operating 6 48-meter vessels and 18 interceptor ships. In November 2017, BAKAMLA

commissioned its first 110-meter OPV. The ship is the largest yet to be operated by BAKAMLA, signaling Indonesia's intention to have a stronger presence in the country's waters.²⁶ It is expected that another 110-meter OPV, in addition to 3 80-meter vessels (out of 12 ordered), will join this year. A maritime patrol aircraft is also in the list to join BAKAMLA in 2018.

Coast Guard and Conflict Escalation

The expansion of coast guard in Southeast Asia can have two possible opposing consequences for regional stability. On the one hand, coast guard ~~expansion can prove to be a destabilizing force~~ by increasing the risk of clash between regional coast guards and, hence, conflict escalation. On the other hand, the utilization of coast guard, instead of navy, by regional countries promises an opportunity for the conflicting states to pursue cooperative relationship within the broader framework of preventive diplomacy.

The prospect of coast guard expansion to be the source of regional instability is related to a number of factors. First of all, recent development shows that some countries in the region apparently do not utilize coast guard in the way it was designed to or traditionally used. As noted above, the rationale of establishing coast guard was initially to conduct law enforcement especially in the coastal waters. The nature of threats it is designed to confront –marine safety, maritime law enforcement, and marine environmental protection - do not require coast guard to apply maximum force as in the case with navy. This characteristic of coast guard leads to a conventional wisdom that coast guard ought to constitute a stabilizing force as it does not convey the overtly militaristic, war-fighting impression as regular naval forces.²⁷ Some of the countries mentioned in this paper, however, have not employed coast guard in such manner.

One study notes that some countries in the region - China, Japan, Vietnam, and the Philippines-increasingly relies on its coast guard, instead of navy, as the primary instrument to assert sovereignty claims far beyond its coastal jurisdictional waters.²⁸ This is especially the case

in the disputed territories in the South China Sea. Coast guards deployed in the disputed areas in the South China Sea operate under the assumption that they are operating within their respective maritime jurisdictions and, hence, have full authority to exercise domestic laws in those areas. In the case of China, the employment of coast guard serves its interest to demilitarize territorial disputes and to show to its rival claimants that China views these disputed areas as sovereign Chinese territories subject to domestic laws and regulations.²⁹ A data collected by the Center for Strategic & International Studies' China Power shows that of 53 major incidents identified in the South China Sea from 2010 until 2017, at least one CCG (or other Chinese maritime law enforcement) vessel or Chinese naval vessels acting in maritime law enforcement capacity were involved in 83 percent of incidents.³⁰

Southeast Asian countries that are involved in the South China Sea disputes have also tasked their coast guards with sovereignty protection missions traditionally carried out by the navies. The Vietnam Coast Guard, for instance, has seen protection of national sovereignty listed as one of its main tasks.³¹ This fact highlights the priority the Vietnamese government, as one of the firmest ASEAN claimant states, gives to the protection of its territorial integrity in the South China Sea.

Meanwhile, the Philippine government, which previously relied on its navy for sovereignty assertion, has recently given more authority to the coast guard. The incident in Scarborough Shoal in 2012 in which PCG vessels were involved in a standoff with the Chinese coast guard has resulted in the realization among Philippine policy-makers that the PCG should be tasked as the primary enforcer of Philippine maritime rights and interests in the country's EEZ.³² As the Philippine Navy is obviously outnumbered by the Chinese PLA Navy and the increased presence of CCG in the South China Sea, it is in the interest of the Philippine government to employ a "white to white, gray to gray" approach when dealing with foreign government vessels.³³

In the case of Indonesia, in which territorial sovereignty and food security have been specific focus of Joko Widodo's presidency, there has

been a stronger presence of navy and maritime law enforcement forces in vulnerable areas.³⁴ In the Natuna Sea, around which Indonesia's EEZ overlaps with China's territorial claims, a number of standoff between CCG vessels, who guarded Chinese fishermen, and the Indonesian authorities has alerted BAKAMLA to step up its patrol in the area. More BAKAMLA vessels are also planned to be deployed in the area.

Finally, Malaysia, while retaining its "playing-it-safe" approach in the South China Sea, has also stepped up the presence of its coast guard in the eastern part of the country.³⁵ The near-constant presence of Chinese coast guard around reefs claimed by Malaysia in this area is cited as the reason for this measure.³⁶

As noted above, as civilian maritime law enforcement agencies, coast guards operate under the assumption that they are operating within their respective maritime jurisdictions, or at least what their respective countries claim as their maritime jurisdictions, and, hence, have full authority to exercise domestic laws in that areas. In the South China Sea, where overlapping claims of territory of a number of countries overlap, the chance of encounter between coast guard vessels of different claimants is considerably high. In fact, as noted before, such incidents have occurred in the past that resulted in diplomatic standoffs between the participating countries. The conflicting governments might also be pressured to order their respective coast guards to hold firm to avoid losing face and maintain the diplomatic upper hand. This could inadvertently result in conflict between the coast guards. In these scenarios, self-restraint and communication would be extremely needed in order to avoid miscalculation.

The perception that coast guard carries minimal military and political cost might lead to further utilization of coast guard in asserting state's sovereignty in the contested areas. In other words, using coast guards rather than navies in disputed areas may "lower the barriers to confrontation and more incidents may occur because the participants have less fear of escalation".³⁷ In other words, aggressive tactics and increasingly formidable armaments on many newer coast

guard cutters have blurred the lines between platforms and missions traditionally associated with "law enforcement" and those of "national defense" during peacetime.³⁸

Finally, unlike the case with a navy, there is a lack of governing principles or code of conduct between coast guards. In recent years, for instance, there has been discussion among ASEAN member states and China on the utilization of the Code for Unplanned Encounter at Sea (CUES). A non-binding agreement that provides safety procedures as well as basic communication and maneuvering instructions for naval ships and aircraft to follow during unplanned encounters at sea, the joint commitment of ASEAN member states and China to implement CUES, as stated in a number of official joint statements, has raised expectation about managing conflict potentials in the South China Sea. There have been calls, therefore, that CUES be extended to cover civilian maritime law enforcement agencies or, alternatively, for the development of a CUES-like document that could provide technical guidance for the coast guards during unplanned encounters at sea.

In 2016, the Singaporean government made a proposal that CUES should be expanded to cover both naval vessels and coast guards. The positive signal of the commitment of ASEAN member state and China to prevent loss of assets and lives, and ensuring peace and stability in the South China Sea is cited as the motivation for this measure.³⁹ As some countries, namely China and the U.S., have agreed on protocols for unplanned encounters both at sea and the air, there was no reason, the



argument goes, that CUES cannot be expanded to cover coast guard vessels.⁴⁰

Coast Guard and Preventive Diplomacy

Having noted the prospect of conflict escalation from unplanned encounter between coast guards in the South China Sea, there is still good news on the horizon. The utilization of coast guard by regional players offers a promising avenue for increased cooperation within the broader effort of preventive diplomacy.

As noted before, in normal circumstances coast guard is considered less escalatory and possesses limited war-fighting capabilities compared to navy. The fact that some countries employ their coast guards in non-traditional ways as a blunt instrument to assert state power does give concern. However, it does not negate the fact that by deploying coast guard instead of navy in the disputed waters, regional countries, at the very least, are being cautious about not escalating tensions and the resulting large-scale conflict. By deploying coast guards, in other words, regional countries expect to pursue their respective interests without having to go all the way down the path of escalating the conflict by deploying their naval power. It is not in the interests of any country in the region, claimant or non-claimant to have disputes in the South China Sea escalated into a large-scale conflict.

In the last couple of decades, there has also been discussion, both in official and academic settings, on diplomatic measures to be taken in order to prevent the rise and spread of armed conflict from existing disputes in the region. The so-called preventive diplomacy is defined as "action to prevent disputes from arising between the parties, to prevent existing disputes from escalating into conflicts and limit the spread of the latter when they occur".⁴¹ The concepts of confidence-building measures and preventive diplomacy within the regional context were later developed in the three-stage approach of conflict management, with conflict resolution the final stage, by ASEAN Regional Forum (ARF).

Preventive diplomacy as pre-crisis preparations may include following measures: (1) confidence-building efforts including transparency and information exchanges on military exercises and arms purchases, (2) institution-building including formal and informal institutions for consultation, exchange and interaction among personnel, (3) norm-building including the formulation of commonly accepted codes or norms of behavior, and (4) early warning systems including monitoring of developments in political, military and other areas that may lead to the breach of peace of the need for humanitarian action.⁴²

In the maritime security areas, a number of initiatives taken by regional countries have been cited as examples of successful preventive diplomacy. The upsurge of piracy and sea robbery threats in the Strait of Malacca in early 2000s, and the worry that the security of the strait was to be "internationalized", Indonesia, Malaysia and Singapore launched the Malacca Strait Sea Patrols (MSSP) in 2014. In addition to significantly reducing the number of piracy attacks in one of the world's busiest sea lanes, MSSP has provided a platform for regularized interaction between the navies of the three coastal states. In fact the MSSP remains one of the most successful multilateral joint maritime operations ever conducted.⁴³ In 2017, Indonesia, Malaysia, and the Philippines launched trilateral coordinated maritime patrol initiative in the porous border of the three countries around Sulu Sea. Similar to MSSP, the trilateral maritime patrol is expected to provide a platform for intensifying interaction, information and intelligence sharing between the three participating countries in order to address common problems.

Policy Recommendations

The utilization of coast guard by regional countries presents both opportunities and challenges. If left unmanaged, the clash between coast guard vessels in the disputed waters of the South China Sea could result in catastrophic conflict escalation between conflicting parties. In light of the analysis presented above, this policy paper

recommends the following prescriptions to be taken by policy-makers in the region:

o **To strengthen coast guard cooperation in the region**

Compared to the navy, the coast guard, as a dedicated maritime law enforcement agency, is well-placed and equipped to address criminal, resource and environmental threats at sea or the so-called non-traditional security concerns. While addressing these threats are important in themselves, multilateral coast guard diplomacy, however, can also be seen as a confidence-building measure between governments through regularized interaction.⁴⁴ Regularized interaction and cooperation among regional states seeking to address non-traditional security concerns could also then pave the way for a de-escalation of regional maritime tensions and reverse the current “trust deficit” afflicting regional relations.

Intensified and frequent interaction between coast guard officers at the strategic level would increase the likelihood of developing confidence and trust among the participating parties. At this level, it might be preferable for the participating parties to refrain from aiming for a legally-binding document and over-institutionalization of the initiative. What is of importance is to reach a consensus or common perception about the role of maritime law enforcement agencies in the disputed waters and possible consequences of their employment if left unmanaged.

Strengthening coast guard cooperation in the region can be done by intensifying the existing forums. For instance, it is important to speed up the preparation for the establishment of the ASEAN Coast Guard Forum. Moreover, the agenda for coast guard cooperation should be given more strategic appreciation by incorporating it into other ASEAN-led forums that discuss broader regional security issues such as ASEAN Defense Ministers Meeting (ADMM), ASEAN Defense Ministers Meeting Plus (ADMM-Plus), ASEAN Maritime Forum (AMF), and Expanded ASEAN Maritime Forum (EAMF). An endorsement at the ASEAN Summit as the highest decision-making body of ASEAN could also help to build up the momentum for strengthening coast guard cooperation in the region.

o **Develop governing principles/norms/code of conduct for coast guard.**

Confidence and trust-building measures among coast guards in the region should be carried out not only at the strategic and political level but also at the operational level. As noted above, the increased chance of unplanned encounter between coast guard vessels of different claimants in the South China Sea makes it necessary for the conflicting parties to develop a safety net in the form of commonly agreed standard operating procedures or code of conduct for coast guards. Open channels of communication and clear actions that all sides agree to take in the event of an incident are critical ingredients to regional peace and stability in the South China Sea.⁴⁵ This is true in the case of unplanned naval and air encounters, and there is no convincing reason why it is not also true for coast guards.

Simply expanding CUES to cover coast guards might not be the best option. As noted above there is a fundamental difference between navy and coast guard which makes CUES, in its current form, less useful in governing coast guards' behavior. In the simplest terms, while the basis of CUES is to prevent the use of force, the function and legal responsibility of coast guards make threat or use of force sometimes necessary. Some of the tactics commonly used by coast guards - such as the simulation of attacks, discharge of weapons, use of water cannons or firing warning shots - are also the ones to be avoided under CUES.

Nonetheless, CUES can still be a useful starting point. A modified version of CUES, perhaps with an Annex that specifically covers coast guard, might be contemplated. Alternatively, regional countries might develop an entirely new document specifically tailored for coast guard, with an awareness of geopolitical context in the region - such as the existence of territorial disputes. The bottom line remains that a commonly agreed standard operating procedures or code of conduct is urgently needed in order to prevent conflict escalation from unplanned encounter between coast guards in the South China Sea.



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