

The Japan-China Maritime and Air Communication Mechanism: Operational and Strategic Considerations

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Introduction

On January 12, 2015, Japan and China reestablished discussions on a maritime communication mechanism (MCM) to improve communication and crisis management and serve as a confidence building mechanism. The last round of talks occurred in June 2012, but the discussions had been stalled since September 2012 when the Government of Japan obtained ownership of three of the Senkaku Islands. The negotiations in January were the fourth round, and officials expect to have one more round to cement the agreement.ⁱ

Restarting negotiations on this mechanism has been a priority for Prime Minister Abe's government, evidenced by the attention PM Abe gave the issue at his November 2014 summit meeting with Chinese President Xi Jinping. The 2014 Defense of Japan white paper noted that establishing a Maritime Communication Mechanism was an "urgent matter," in that it would help "avoid unexpected collisions and prevent unforeseen consequences in waters and airspace from escalating into military clashes or political problems, as well as increasing mutual understanding and relationships of trust, and enhancing defense cooperation."ⁱⁱ

However, since the negotiations began three years ago, the operational environment in the East China Sea and around the Senkaku Islands has changed significantly. Maritime and air operations by Chinese forces have increased, resulting in increased reliance upon the Japanese Coast Guard to monitor the waters and near daily scrambles by Japanese aircraft to respond to aircraft approaching Japanese air space. Increased activity has contributed to a number of incidents between Japanese and Chinese actors, including an encounter in January 2013 in which a Chinese frigate directed fire-control radar on a Japanese destroyer situated north of the Senkaku Islands.ⁱⁱⁱ

Given that the risk of an unplanned incident or collision between Japan and China has increased, the restart of negotiations provides a timely opportunity to reassess the value of the MCM and its ability to prevent collisions, reduce the risk of escalation, and serve as a confidence building mechanism.

This paper reviews existing maritime communication mechanisms between the United States and Soviet Union and the United States and China, and raises operational and strategic considerations for Japan in its negotiation of a similar mechanism with China. The paper argues that the MCM will marginally improve an already tense operational environment. While it may provide an avenue for dialogue, the MCM does not contain the tools needed to prevent the type of behavior that has resulted in incidents and promoted mistrust. Moreover, the mechanism, as envisioned, does not create a common political commitment to refrain from provocative behavior and does not address China's strategy to challenge Japan's administration of the Senkaku Islands. Furthermore, the MCM may constrain Japan from responding to incursions because of the expectation that it will adhere to the mechanism and refrain from escalation.

Maritime Communication Mechanisms

The MCM is purportedly modeled after the United States-China Military Maritime Consultative Agreement (MMCA), signed in 1998. The MMCA, in turn, grew out of the concept of the 1972 Incidents at Sea Agreement (INCSEA) between the United States and Soviet Union during the Cold War. During the Cold War, maritime competition between the United States and Soviet Union flourished as both sought to establish a strategic presence in each other's sphere of influence, gather intelligence, and reinforce claims of sovereignty. Both powers became accustomed to encountering each other on the high seas, resulting in confrontations, some collisions, and overall risky behavior. The two countries entered into negotiations on a safety-at-sea agreement and concluded the agreement in 1972.

INCSEA called on the two navies to cease aggressive behavior when in close proximity, and instructed commanders to “observe strictly the letter and spirit of International Regulations for Preventing Collisions at Sea.”^{iv} It also required a set of flag signals for navy-to-navy communications, and established an annual meeting to review incidents.^v The agreement relied on the self-control of ship commanders to refrain from behavior that could cause misunderstanding and miscalculation, and also provided a channel for creating a common understanding. Both navies determined that it was in their mutual interest to do so.

In 1998, China agreed to the MMCA with the United States, reflecting a new status of maritime power—in essence, China’s coming of age. Unlike INCSEA, however, the MMCA only established channel of communication to discuss maritime activities “for the purpose of promoting common understandings regarding activities undertaken by their respective maritime and air forces when operating in accordance with international law.”^{vi} The two parties conduct annual dialogues, hold an expert working group, and when necessary, convene meetings following a specific incident.^{vii}

In practice, the MMCA has done little to prevent incidents at sea from occurring.^{viii} The agreement does not include a commitment by the two navies to refrain from risky behavior. Instead, it is primarily a political tool to create a reliable opportunity for discussion between the U.S. and Chinese militaries, and to put forward their respective viewpoints. However, the meetings are marginally effective. The U.S. side tends to speak in specifics—specific operations or tactics by the Chinese forces that need clarification, but the Chinese side tends to speak about sovereignty—arguing that Chinese forces acted because of U.S. operations in its Exclusive Economic Zone (EEZ).^{ix} Unlike the INCSEA meetings, when either side could admit fault, discuss specific tactical behavior, and move forward with the relationship, the MMCA meetings appear more limited in utility.

This observation does not imply that the MMCA should not remain in effect, or that it has no value. The MMCA serves a useful purpose in providing regular contact between the U.S. and Chinese militaries, but the MMCA is significantly different from the INCSEA agreement in both design and function. If the purpose of a communications mechanism is to prevent collisions and increase the safety of navigation by maritime and air vessels, then that mechanism should be designed to do just that. Thus, basing the MCM between Japan and China on the MMCA raises questions as to whether it can be an effective tool.

The Japan-China Maritime Communication Mechanism

At the last meeting in June 2012, the Japan-China Joint Working Group agreed in principle to establish the MCM with three main components: 1) annual meetings; 2) a hotline between the two countries; and 3) an agreement on common radio frequencies for use between military vessels and aircraft.^x In January 2015, the two sides also agreed to change the name of the mechanism to a “Maritime and Air Communication Mechanism,” reflecting the need to clearly indicate that air activities as well as maritime behavior are covered by the mechanism. It does not apply to a collision within territorial waters or airspace, an incident tantamount to an act of war. Both sides envision the mechanism being used during situations in their respective EEZs, the open seas, and air defense identification zones (ADIZs).^{xi}

Looking at the structure of the mechanism, it appears similar to the U.S. arrangement with China. The MMCA established annual meetings, and in 2014, the United States and China agreed to set-up a secure link for video conferencing in the case of a crisis—likened to a modern-day hotline.^{xii}

The third component of the mechanism, an agreement to communicate in English via VHF radio channel 16 or by international signal flags if in sight of the other vessel, is already the international standard for at-sea behavior. This component codifies the use of common communication signals in a bilateral mechanism, but in practice would be expected to have little effect on behavior at-sea. Japan and China are both signatories to the International Regulations for Preventing Collisions at Sea (COLREGS) and the Code for Unplanned Encounters at Sea (CUES) agreement. According to these agreements, their respective naval forces should already be operating at-sea using channel 16 to communicate with other vessels in English, or using international signal flags.

Operational Considerations for the MCM

Establishing the MCM with China poses several operational questions, both in arranging the details of the mechanism and in regulating at-sea or in-air behavior.

First, as noted above, the U.S. experience with the MMCA annual discussions has not been as productive as officials would have hoped, given that both sides largely talked past each other. To improve upon the U.S. experience, Japan could consider pressing for an agreement in the MCM to set aside discussion on sovereignty-related matters during the annual meetings and focus only on specific incidents that occurred, and how to improve the safety of Japanese and Chinese vessels and aircraft. Additionally, given that past incidents in the East China Sea involved non-military actors, the annual meetings could benefit by having a whole-of-government approach with the full range of naval and air organizations represented at the meetings. This could include maritime law enforcement, fishing ministries, and possibly civil aviation in addition to the respective military forces from each country.

Second, given that technological advancements have rendered traditional hotlines nearly obsolete, Japan may benefit from a more technologically savvy hotline mechanism with China, similar to the video teleconferencing link arranged between the United States and China. Given that the political structure in China is significantly different from that of Japan, it will be important to find the right interlocutor in China who can speak with authority and who has access across governmental, party, and military structures. A video link facilitating a face-to-face discussion in a time a crisis could yield a more productive discussion.

As noted above, the third component of the mechanism, establishing a common language for communication at-sea and common radio frequency, is already the international standard—especially since China removed its opposition to CUES last year in April.^{xiii} However, CUES does not apply to air activities. Given the regular scrambles of military aircraft and frequent interaction in the airspace above the East China Sea, more consideration may be needed to strengthen the incorporation of air activities into the mechanism.

Japan could also increase the benefit of this component by encouraging China to agree to regular communications practice using CUES between their respective naval, maritime law enforcement, and air forces. As the two armed forces become more accustomed to communicating with each other on an operational level, this may help reduce tensions in the event of an unplanned encounter at-sea or in the air.

Strategic Considerations for the MCM

From a strategic perspective, China may believe that Japan is more committed to following both the letter and spirit of the agreement. The perception is that Japan wants this agreement more than China does. Over the years, Japan has repeatedly raised the mechanism in its bilateral engagement with China, and pushed for the resumption of negotiations after 2012. Therefore, China could use this agreement to constrain Japanese responses to Chinese actions around the Senkaku Islands. Chinese forces, themselves, could be further emboldened to challenge Japan's control waters around the Senkaku Islands because of their confidence that Japan will rely on the mechanism to diffuse escalation in the EEZ and that its primary objective is conflict avoidance. China would face little repercussion for aggressive maneuvers, as long as they occurred outside of 12 nautical miles from the coastline.

Signing the MCM may also diminish the likelihood of U.S. involvement in a Senkakus crisis scenario. If a crisis occurred, the United States could cite Japan's engagement with China through the mechanism as a reason for deferring a response. This may also diminish the value of the U.S. deterrent on Chinese actions. Japan's relationship with the United States serves as a deterrent to confrontation over the Senkaku Islands, especially as the United States has repeatedly stated that Article 5 of the U.S.-Japan Security Treaty applies to the territories of the Senkaku Islands. However, if Japan commits to prevent military escalation with this mechanism, then the U.S. deterrent is

neutralized. In essence, China may perceive that escalation by Japan and U.S. involvement over an incident in the EEZ is taken off the table.

Although the two sides have agreed to set aside China's territorial claims to the Senkaku Islands in order to establish the mechanism, the mechanism itself may allow China to reinforce its claims by justifying certain tactical operations. For example, during annual meetings or meetings during a crisis, China may point to its claims or enforcement of its Air Defense Identification Zone (ADIZ) in the East China Sea as a justification for its actions. This provides one more venue for China to argue its political position and establish precedent for its behavior. Thus, if an incident occurs, it will be important for Japan to get ahead of China's interpretation of the incident and utilize public diplomacy to broadcast its own understanding of what transpired and where the fault lies—before any meetings between the two sides. In many respects, public attention to an incident and documentation of it could have a greater effect on Chinese behavior than a military response.

In reality, however, a collision is unlikely to occur with air or naval operators from professional, modern militaries unless one of the parties is engaged in behavior contrary to internationally accepted Rules of the Road—either by negligence or intent. In most cases, the avoidance of a collision is largely a political problem. Either within this mechanism, or alongside it, Japan would benefit from finding a way to address China's underlying political will to use force to resolve its claim. In this case, it is important to consider the quality and context of the commitment, as officials in Japan seem much more focused now on establishing the process. Without a political commitment to avoid collisions and support crisis management, the process established by the MCM risks being derailed every time political tensions between Japan and China flare up.

One possibility would be to include in the bilateral agreement a commitment to refrain from the use of force or provocative behavior. The INCSEA agreement provides a useful reference for such a commitment. In particular, Article III (1) states, "In all cases ships operating in proximity to each other, except when required to maintain course and speed under the Rules of the Road, shall remain well clear to avoid risk of collision;" and Article IV, states, "Commanders of aircraft of the Parties shall use the greatest caution and prudence in approaching aircraft and ships of the other Party operating on and over the high seas, in particular, ships engaged in launching or landing aircraft, and in the interest of mutual safety shall not permit: simulated attacks by the simulated use of weapons against aircraft and ships, or performance of various aerobatics over ships, or dropping various objects near them in such a manner as to be hazardous to ships or to constitute a hazard to navigation."^{xiv}

Given political realities, it is unlikely that China would agree to such language in the MCM, but perhaps Japan could negotiate a political statement to be released in conjunction with the MCM agreement that committed to preventing collisions. In the November 2014 statement, "Regarding Discussions on Improving Japan-China Relations," both parties "shared the view that, through dialogue and consultation, they would prevent the deterioration of the situation."^{xv} Japan could press for a more explicit commitment by both parties agree to refrain from air and maritime tactics that could result in a collision and crisis. Going one step further, Japan could negotiate a political commitment from China to refrain from using force within overlapping areas of the Exclusive Economic Zone claimed by each country.

A more likely scenario is that a collision would involve non-military vessels—law enforcement or privately-owned—and perhaps operating outside of government direction but in an effort to assert a national agenda. With this scenario, if Japanese Coast Guard, Chinese maritime law enforcement vessels, or other non-military actors are involved, the mechanism will not be triggered. A Japanese defense official noted, in particular, that the hotline would not be used if a collision occurred between non-military vessels and that the Ministry of Foreign Affairs would be responsible for responding in that case.^{xvi} This is concerning because the Japanese Coast Guard bears primary responsibility for responding to incursions in the territorial seas and are likely to be the first vessels engaged in an incident. Limiting the mechanism to exclude the Coast Guard complicates the ability of the Japanese government to respond in a timely way to a collision, especially if one party is military and the other is not. Therefore, it is important to consider how the mechanism can be flexible enough to respond to

incidents involving non-military parties, and what tools alongside the MCM can be established to promote communication between Japan and China's law enforcement agencies.

Conclusion

The efforts of Japan and China to conclude a Maritime and Air Communication Mechanism are laudable, particularly if it represents a shift in the Chinese attitude toward managing crisis in the East China Sea. Operationally, the mechanism may have little impact on how the respective maritime and air forces maneuver in the East China Sea, but politically, this represents one avenue of cooperation between Japan and China during lingering tensions, especially with the approaching 70th anniversary of the end of World War II.

A number of changes in the past few years, however, raise concerns that China may be utilizing these negotiations to neutralize a Japanese response to an incident and bind the Japanese military to a less than proportional response. Thus, while establishing the process of the MCM is an important diplomatic endeavor, it is just as important to think ahead about the operational and strategic considerations laid forth in this paper so that the content and quality of the mechanism can be strengthened in the years to come. In particular, creating an effective hotline and a mechanism that can address non-military incidents in the East China Sea will be a significant factor. Moreover, the processes established by the mechanism can only promote confidence if they are accompanied by a political commitment from both sides to avoid the risk of collision.

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ⁱ Interview, February 24, 2015.

ⁱⁱ Ministry of Defense, *Defense of Japan 2014*, p. 284.

http://www.mod.go.jp/e/publ/w_paper/pdf/2014/DOJ2014_3-3-2_web_1031.pdf

ⁱⁱⁱ "Chinese officials admit to MSDF radar-lock allegations," *The Japan Times*, March 18, 2013.

^{iv} *Agreement between the Government of 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*, May 25, 1972.

<http://www.state.gov/t/isn/4791.htm>

^v David F. Winkler, "The Evolution and Significance of the 1972 Incidents at Sea Agreement," *Journal of Strategic Studies*, 28:2, April 2005, p. 369

^{vi} *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*, January 19, 1998. <http://fas.org/nuke/control/sea/text/us-china98.htm>

^{vii} Interview, January 21, 2016.

^{viii} David Griffiths, "U.S.-China Maritime Confidence Building: Paradigms, Precedents, and Prospects," *China Maritime Studies Institute, U.S. Naval War College*, No. 6, p. 2.

^{ix} Interview, January 21, 2016. James Przystup, John Bradford, and James Manicom, "Japan-China Maritime Confidence Building and Communications Mechanisms," *PacNet*, No. 67, August 20, 2013.

^x Ministry of Defense, *Defense of Japan 2014*, p. 284.

http://www.mod.go.jp/e/publ/w_paper/pdf/2014/DOJ2014_3-3-2_web_1031.pdf

^{xi} "Senkakus off Japan-China liaison plan," *The Japan News*, June 15, 2015. <http://the-japan-news.com/news/article0002221507>.

^{xii} Colin Clark, "US-China to Set Up Video Hotline, Talk of Joint Exercises," *Breaking Defense*, May 15, 2014. <http://breakingdefense.com/2014/05/us-china-to-set-up-video-hotline-talk-of-joint-exercises/>

^{xiii} Shannon Tiezzi, "Small but Positive Signs at Western Pacific Naval Symposium," *The Diplomat*, April 24, 2014. <http://thediplomat.com/2014/04/small-but-positive-signs-at-western-pacific-naval-symposium/>

^{xiv} *Agreement between the Government of 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*, May 25, 1972.

<http://www.state.gov/t/isn/4791.htm>

^{xv} Ministry of Foreign Affairs of Japan, “Regarding Discussions toward Improving China-Japan Relations,” November 7, 2014. http://www.mofa.go.jp/a_o/c_m1/cn/page4e_000150.html

^{xvi} Interview, February 24, 2015.