

# SPECIAL REPORT

A S P I

## Grey zone operations and the maritime domain



James Goldrick

October 2018

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AUSTRALIAN  
STRATEGIC  
POLICY  
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**Cover image:** Naval vessels practice sailing in formation while conducting a live-fire gunnery exercise as part of exercise Sea Breeze, 14 July 2017. Sea Breeze is a U.S. and Ukraine co-hosted multinational maritime exercise held in the Black Sea and is designed to enhance interoperability of participating nations and strengthen maritime security within the region. AB Forces news collection/Alamy stock photo.



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# INTRODUCTION

The concept of the 'grey zone' has received much publicity over the past decade as certain nation-states have employed indirect methods to achieve advantage over their opponents without recourse to open kinetic warfare. Grey zones can be an important element of what is now termed 'hybrid warfare'. While the exact definition of hybrid warfare remains subject to debate, inherent in the concept is the idea that covert and unconventional methods, which may include non-kinetic effects, are employed in addition to conventional military force. Grey zone operations are inherently coercive and intended to achieve change, but they seek at the same time to limit an adversary's ability to respond. In most, but not all, circumstances, they're 'deliberately designed to remain below the threshold of conventional military conflict and open interstate war' and 'are meant to achieve ... gains *without* escalating to overt warfare, *without* crossing established red-lines, and thus *without* exposing the practitioner to the penalties and risks that such escalation might bring'.<sup>1</sup> While a substantial proportion of such operations have occurred purely within the land environment in recent years, such as the Russian-sponsored campaigns in Georgia and Ukraine, they have also been used at sea and to key strategic effect in the East and South China seas, in particular. The prospect is this will continue.

This study seeks to understand the way in which the grey zone has been employed in the maritime domain and how the intended subjects of such coercion have responded. By analysing the successes and failures of selected grey zone campaigns, it provides a basis for understanding the likely trends of such conflicts, as well as both the general implications for maritime states and the particular concerns for Australia. It concludes with recommendations for policies to manage the challenge of grey zone aggression.



# DEFINING THE GREY ZONE AT SEA

Maritime grey zone campaigns almost always relate to claims of sovereignty or sovereign rights over geographical features or areas of water.<sup>2</sup> However, grey zone activities in the maritime environment may have ulterior causes, sometimes being employed more as a means of creating additional pressure on a country rather than seeking a solution specific to the maritime issue involved. Conversely, a campaign to achieve a maritime result may well involve additional, non-maritime forms of grey zone pressure.

Maritime grey zone operations can be employed by a weaker power against a stronger power, but also by a stronger power against a weaker power or powers. In the latter case, and as an important exception to the rule that escalation into kinetic exchanges is avoided in the grey zone, a stronger power may be willing to provoke a military response by the weaker power to make the latter appear to be the aggressor in a conflict it can then only lose. In these circumstances, and both Russia and China are recent examples, the stronger power may employ a much higher level of coercion at sea than it would risk using against a peer or even, to use the Singaporean metaphor, against a 'poisoned shrimp'.

In the case of marine resource exploitation or the movement of shipping, it is important to understand that grey zone operations need only be sufficient, not absolute, in their effect to undermine the viability of another state's control, to stop economic exploitation of maritime areas or bar the use of the sea for passage by ships. Given the costs and pre-existing risks of offshore petroleum exploration and development, those activities are particularly susceptible to interference—but fisheries and merchant vessels are also vulnerable to measures that reduce their profitability. In the case of merchant vessels, increases to insurance premiums or the requirement to make longer passages to avoid areas of conflict can have serious consequences for the cost of delivering the materials that they carry. This can be particularly significant for a nation such as Australia: our geography creates a 'tyranny of distance' overcome only by the combination of low production costs for our exports with highly cost-effective seaborne transport. Threaten that cost-effectiveness and our competitive advantage could be destroyed.



# MARITIME GREY ZONE ACTIVITIES HAVE A LONG HISTORY

Grey zone activities arguably have a history almost as long as organised activity at sea. They include, for example, the 17th century English Royal Navy extorting payments from Dutch fishing boats under the label of ‘licence fees’ in order to claim a share of the immensely profitable ‘Great Herring Fishery’ in the North Sea.<sup>3</sup> During the Napoleonic wars, the more-or-less temporary detention of merchant vessels and their cargoes and threats to impound any neutral merchant ships that didn’t have a licence from the protagonist concerned were common techniques to create pressure on other nations without recourse to armed conflict.<sup>4</sup>

The evolution of the international law of the sea in the latter half of the 20th century created a new context for such operations. Not only did the areas of the maritime domain subject to individual nation-states’ jurisdictions increase exponentially, but the evolving technology of resource exploitation meant that sea areas had new value and significance—and thus became a new vulnerability and interest for coastal states. The discussion that follows focuses on this ‘post-modern’ period, first from 1958 to the 1982 Third UN Convention on the Law of the Sea (UNCLOS 3) and then after its signing.<sup>5</sup>

## Incidents at sea

One important caveat needs to be made about close encounters between military units at sea and their role in grey zone operations. As will be shown, these can be central elements of a maritime grey zone campaign, but it is also clear that a significant proportion of close encounters may be the result of local misjudgements and—particularly—inexperience. This, as is apparent from analysis of the US–USSR experience in the Cold War, can still sometimes be the case even when there are international agreements, such as the INCSEA (Incidents at Sea Agreement) between the US Navy and the Soviet Navy and mature operational guidance.<sup>6</sup>

A proportion of the recent incidents at sea and in the air involving both Russian and Chinese units (Table 1) are more likely to derive from the poor judgements of overenthusiastic junior officers than from higher direction,<sup>7</sup> even if the later management of the narrative has required senior commanders to endorse their actions in public.<sup>8</sup> A close encounter between a US Navy P8 maritime patrol aircraft and a Chinese jet fighter in August 2014 became the subject of controversy after the Americans publicly complained of the dangerous manoeuvres of the Chinese pilot. Their protest was backed up by photographic evidence. China rejected the claim,<sup>9</sup> but, significantly, soon agreed to new protocols for encounters at sea and in the air. Its negotiators also gave private assurances that the incident, which had become known as the ‘Top Gun’ encounter, wouldn’t be repeated.<sup>10</sup> Since 2015, it’s been notable that, outside responses to US freedom of navigation operations and other direct confrontations in the vicinity of Chinese claims, there have been relatively few reports of dangerous behaviour by Chinese units, and those that have occurred have been in the fast-moving air environment.<sup>11</sup> The implication, of course, is that any future dangerous behaviour by a Chinese ship, whether naval, coast guard or militia, is much more likely than not to be deliberate and part of a new grey zone effort.



Table 1: Recent incidents at sea or in the air over the sea

Date	Incident	Aggressor unit nationality	Respondent unit nationality	Deliberate or local misjudgement	Info ops
February 2017	Overflight of a ship at closer than safe distance	Russia	US	Local misjudgement	No
February 2017	Air-to-air closer than appropriate	China	US	Local misjudgement	No
February 2017	Air-to-air closer than appropriate	China	US	Local misjudgement	No
May 2017	Air-to-air closer than appropriate	China	US	Probably deliberate	No
June 2017	Harassment of merchant ship	Russia	US	Deliberate—ship bringing military cargo to Lithuania	No
July 2017	Air-to-air near miss	China	US	Mix of deliberation and misjudgement	No
January 2018	Air-to-air near-miss	Russia	US	Probably deliberate	No

Note: See David F Winkler, *Incidents at sea: American confrontation and cooperation with Russia and China, 1945–2016*, Naval Institute Press, Annapolis, Maryland, 215–259, for a chronology from 1945 to mid-2017.

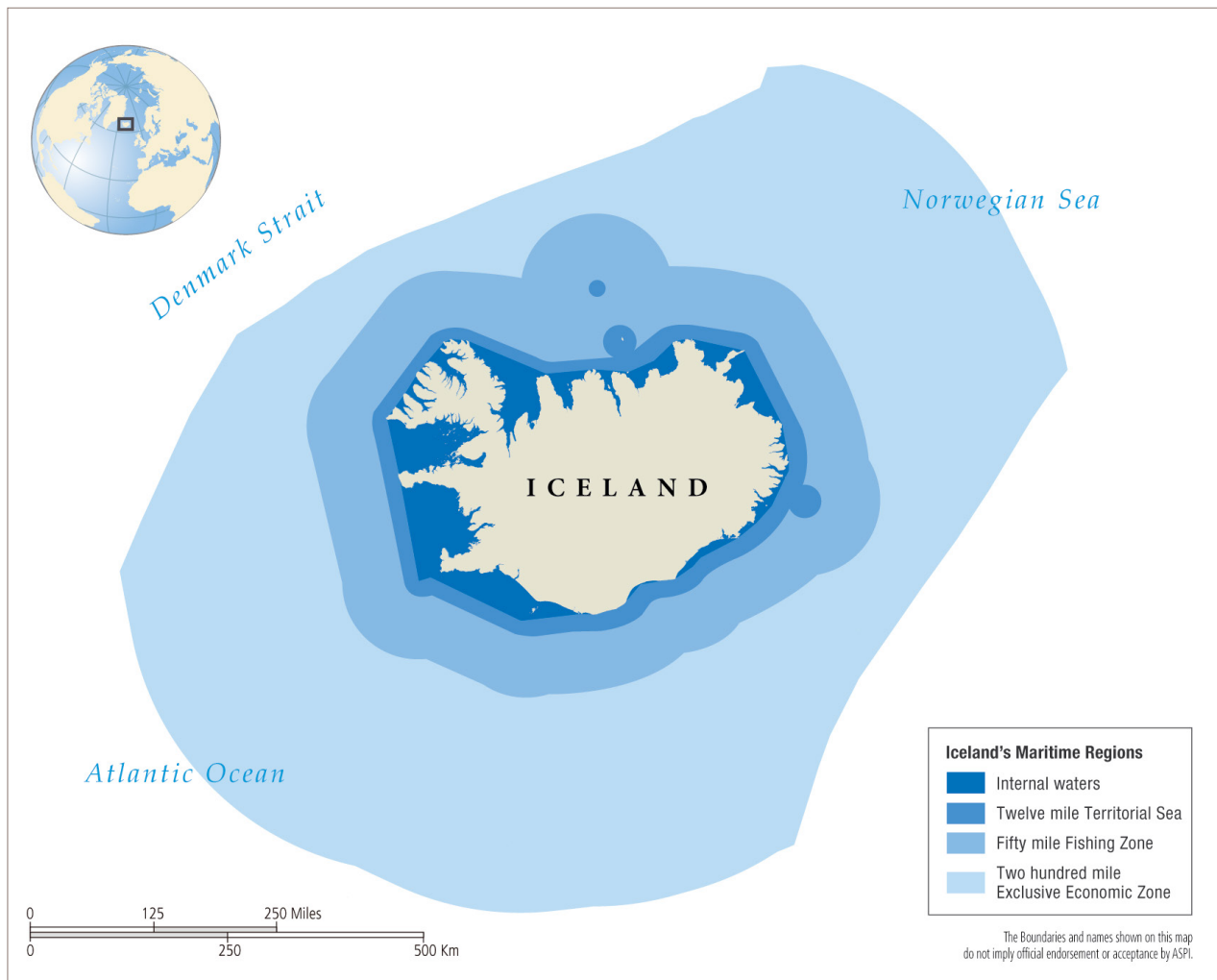


## Two case studies from the period leading to UNCLOS 3

### Case study 1: The Cod Wars—1958 to 1976

The succession of Anglo-Icelandic ‘Cod Wars’ between 1958 and 1976 showed how an apparently much weaker nation can progressively undermine the status quo by a combination of grey zone direct action and political pressure.<sup>12</sup>

Over two decades, Iceland successively extended its maritime claims, first for a territorial sea of 4 nautical miles, rather than 3, then for one of 12 miles, then for a fishing zone of 50 miles and finally for a zone of 200 miles.<sup>13</sup> Icelandic coast guard cutters harassed and arrested British trawlers in an effort to force them out of those areas. The British trawlers, which had been exploiting the cod fishery on Iceland’s continental shelf since the 1890s, found themselves, step by step, excluded from the best fishing grounds.



Iceland's claimed maritime zones 1958-1982

On each occasion, in response to Britain's refusal to accept the Icelandic position and its dispatch of units to protect the fishing fleet, Iceland threatened to remove itself from the Western alliance and strengthen its links with the USSR. As air bases in Iceland were a key element of NATO's defences against a Soviet offensive in the Atlantic, this not only raised concerns in the UK itself but meant that the Americans and other NATO members constantly urged



a settlement in Iceland's favour. This was as important an element in the Icelandic narrative as its claims of being a small nation dependent on fishing grounds that were being plundered by a bullying major power. Iceland's use of its important role in NATO is perhaps the clearest and most successful example of a nation using pressure points separate from the competition at sea to strengthen its position by creating the prospect of unacceptable costs to its adversary's wider national interests.

As the two sides confronted each other at sea, an important associated element of the struggle was information management (perhaps better described as information operations), which has become critical to all later grey zone conflicts. Iceland made much play of the fact that what later became known as 'white hulls' (the popular term for coast guard vessels) working for Iceland were facing warships.<sup>14</sup> This contributed to the Icelandic narrative that the British were escalating the conflict, despite the cause being Iceland's claims and actions.

With the technology of the day, the Icelanders had the advantage that their proximity to port gave the Icelandic Government the ability to issue press releases and release selected still and moving pictures before the British could do so. It thus often had control of the story and was able to portray the British as aggressors. Even when journalists and camera teams were embarked in British units and texts were transmitted by radio (camera footage always had to be landed in a British port), there were often lengthy delays in getting out the other side of the story, which was then a response to an already shaped narrative.

One important learning point for the British was that modern 'thin skinned' warships were resilient, but not sufficiently robust in construction to 'ride off'; that is, to conduct glancing collisions to force away much more heavily built, trawler-type vessels, such as the Icelandic coast guard vessels.<sup>15</sup> On the other hand, it was also apparent that successfully riding off the Icelandic ships was the key to managing the situation. This entailed an aggressive response. Later British fishery protection vessels would be much more strongly constructed, while the British eventually dispatched large ocean-going tugs to help, as well as refitting selected ships with reinforced bows. For the Icelanders' part, they eventually realised that their small numbers of cutters meant they had only a limited capacity to accept serious damage to even a single unit. This proved a serious constraint in their operations.

The British were largely successful in protecting their trawlers, but at a heavy price. Despite the size of the British fleet, the deployments strained the available force. At one point, the Royal Navy was maintaining three surface combatants and two support ships continuously on station, while many vessels suffered damage from collision or weather. To maintain that level of availability, units had to be brought out of reserve or diverted from training duties, both of which placed heavy demands on the Royal Navy's already strained manpower, as well as its operating and maintenance budgets. While the fishery was an extremely valuable one (at its peak, over 400,000 tonnes of cod was harvested by the British each year) and unemployment in the northern fishing ports was an increasingly serious problem, the national cost became too great. Combined with Iceland's intransigence and its significance in the Western alliance, this forced the ostensibly much more powerful nation to give way, eventually, as a matter of policy. After 1976, the Icelanders had everything they wanted. The British had given *de facto* recognition to their claims, and this would become *de jure* recognition with the signing of UNCLOS 3 in 1982.

## Case study 2: The Paracels—1974

China's successful takeover of South Vietnam's claimed islands in the Paracel Islands in the South China Sea in January 1974 is an important example of successful opportunism by a stronger power utilising the grey zone.<sup>16</sup> It should also be a reminder to other nations of China's long-term interest in the South China Sea and its determination to assert its sovereignty over the area.

Establishing a presence in the Paracels had been one of the first operations of the newly formed navy of the Republic of (South) Vietnam (the RVN) in 1955, and small garrisons were maintained in the island group throughout the conflict with North Vietnam. The latter didn't have the capability to do anything about the Paracels, but maintained parallel claims to those of the South. North Vietnam almost certainly took the view that control of the islands would inevitably pass to it after the fall of the regime in South Vietnam. However, both communist China



and Taiwan also claimed sovereignty over the Paracels and established their own outposts in the 1950s and 1960s. South Vietnam had taken a robust attitude to some of these insertions and ejected at least one party of Chinese from Duncan Island during the 1960s—a time when China’s ability to project naval power was at its lowest ebb.

The progressive deterioration of South Vietnam’s strategic situation after 1973 and the accompanying erosion of its naval and military capabilities created an opening for China. The latter also had the benefit of recent rapprochement with the US.

The Chinese Government perceived that careful management of the crisis would ensure that the US wouldn’t intervene on behalf of its ally. South Vietnam had not helped itself in the court of world opinion by its 1973 seizure of a number of islands in the Spratly group, further southeast. In late 1973, Chinese fishing boats began systematic commercial operations around the Paracels. They were then employed to take armed militia from their base at Woody Island to Duncan Island—the island from which the Chinese had been removed in the previous decade. This was followed in January 1974 with the establishment of a primitive seafood processing plant on another island, as well as a formal declaration of China’s claims by the mainland government.

The South Vietnamese immediately sent naval units, which shelled the processing plant and arrested the fishermen, who were taken to Da Nang and forced to make public confessions. In response, the Chinese South Sea Fleet dispatched naval units to the area—the most ambitious and longest ranged deployment that the fleet had undertaken to that date.

Despite the arrival of the People’s Liberation Army—Navy (PLAN) in strength, the RVN put landing parties ashore. They were repulsed after a sharp action with the armed Chinese militia who had entrenched themselves on the islands. Still under tight rules of engagement, the Chinese warships didn’t intervene until they were directly attacked by the now desperate units of the RVN. Close-range combat followed, in which the superior morale and cohesion of the PLAN—despite significant material deficiencies—told over a poorly trained and badly led RVN. The latter suffered the loss of an escort and had to withdraw, although a Chinese minesweeper was so badly damaged that it had to be beached for repairs.

South Vietnam made loud noises about recovering its islands, but the RVN was unwilling to resume the offensive—and probably incapable of doing so—against the massing PLAN taskforce after such a clear demonstration of its own limitations.<sup>17</sup> Over the following days, the Chinese took over all the remaining claimed islands using militia troops conveyed by trawlers.

The incident culminated in open warfare, but because that conflict remained tightly confined it is nevertheless a good example of a calibrated response to a strategic opportunity by the employment of grey zone operations. Although extensive use was made of local military, paramilitary and civilian units normally subject to provincial and even county-level authorities, the Chinese Government took central control of the crisis from the first. While China early on had made the assessment that the US would be unwilling to help South Vietnam, the Chinese Government was also conscious that any misstep might bring American intervention, which the South Vietnamese repeatedly sought. China thus deliberately represented itself as the injured party, even describing the final battle at sea as a ‘counterattack in self-defence’. Its approach of steadily building up pressure and establishing substantial forces on shore was certainly effective in creating near-panic among the RVN’s command teams, pushing them towards the fatal error of firing the first shot at sea.

The use of the government-controlled fishing fleet and its effective integration into the national command and control system were also important elements in maintaining the image of China as the injured party. Despite their provocative actions, the use of civil craft meant that any military response to them could be and was portrayed as an escalation. Whether as transports, as auxiliaries to the PLAN (the damaged minesweeper was assisted by two trawlers) or as demonstrations of national intent in their own right, the fishing vessels were essential at every stage of the crisis.



# HOW HAVE NATIONS EMPLOYED MARITIME GREY ZONE OPERATIONS IN THE YEARS AFTER UNCLOS 3 IN 1982?

## Freedom of navigation operations

The US has itself conducted a form of maritime grey zone operations for many years. Although freedom of navigation operations (FONOPS) have been formally undertaken since at least 1974,<sup>18</sup> US policy has been a declared combination of diplomatic representations and consultations with ‘operational assertions by US military units’ since the signing of UNCLOS 3 in 1982.<sup>19</sup> These usually take the form of transits by US Navy ships through areas that the US doesn’t recognise as being subject to other nations’ claims (such as excessive ‘baselines’ encompassing territorial waters) or unalerted passages through the territorial seas of nations which assert that warships can only transit, even on innocent passage, with prior notification. The operations are reported annually by the US Department of Defense.<sup>20</sup> Other nations can and do engage in FONOPS. A recent example was the transit of the British amphibious ship *Albion* in the vicinity of the Paracel Islands.<sup>21</sup>

In conducting FONOPS in situations that might result in a direct response, the US Navy is usually careful to ensure it sends units that are capable of protecting themselves and that are also ‘covered’ by other forces. It has also been willing in the past to use lethal force when apparently threatened, a key example being the destruction of Libyan fighter aircraft in the Gulf of Sirte in 1981. However, the US has been notably cautious in conducting FONOPS in the South China Sea in recent years, and it’s likely, given the strength of the Chinese presence, that the individual destroyers dispatched to conduct transits would have been able to call on supporting forces in the event of a direct confrontation.<sup>22</sup>



## Spain and Gibraltar

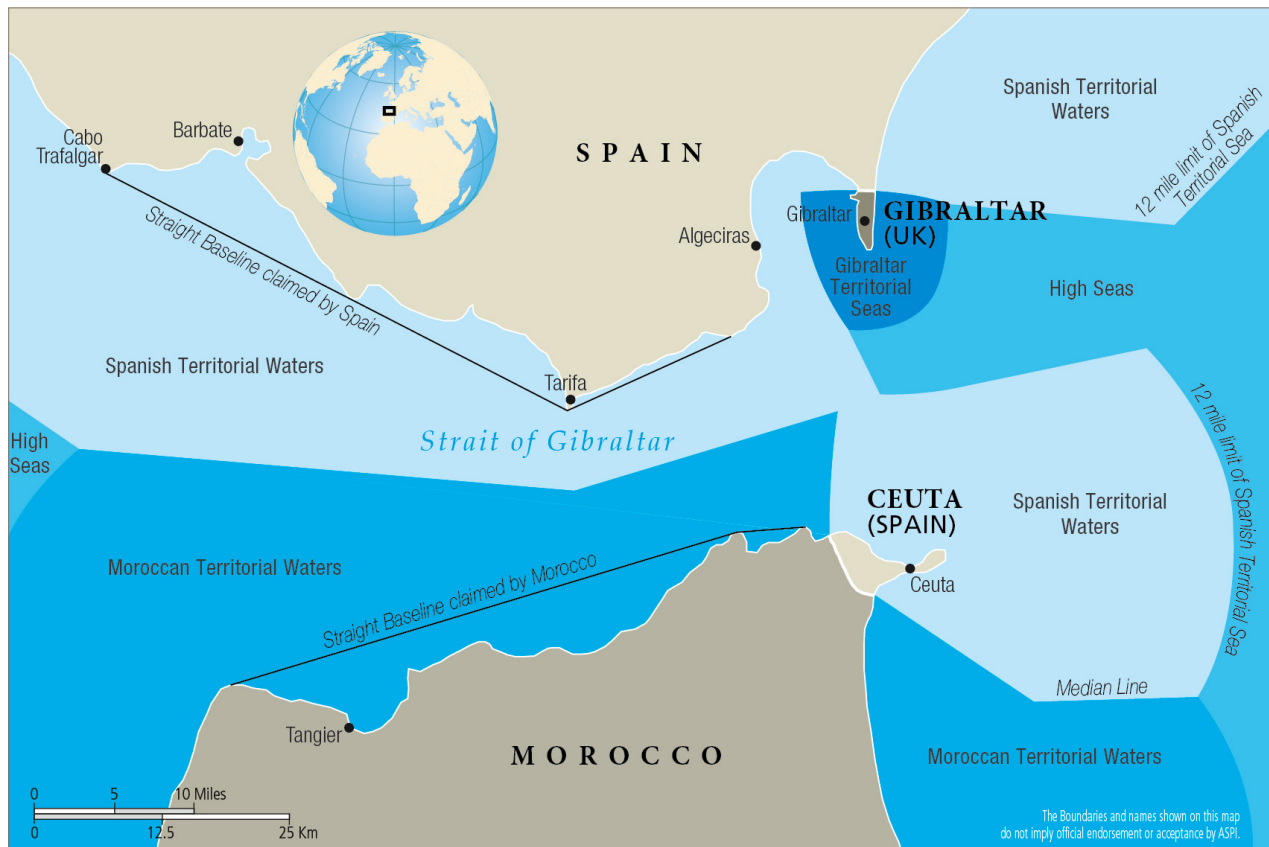
The Anglo-Spanish conflict over British sovereignty in Gibraltar is one of the oldest territorial disputes still current. A key element of the dispute is that Spain not only believes Gibraltar should be returned to Spanish control, but that the 1713 Treaty of Utrecht, which ceded the territory to the British, made no provision for a territorial sea. Thus, any waters outside Gibraltar's harbour allegedly remain Spanish—a position the British do not accept; instead, they claim a 3-mile territorial sea into the Mediterranean and 2 miles in the Bay of Gibraltar.



### Gibraltar claimed territorial waters

At times of heightened tension, both sides have employed maritime grey zone tactics to increase the pressure on their opponent. The law enforcement agencies of the protagonists normally cooperate, but, in 2014 and 2015, during the lead-up to national elections, Spanish vessels attempted to conduct survey and oceanographic operations in Gibraltar's territorial sea,<sup>23</sup> conducted hot pursuits of alleged illegal vessels into Gibraltarian waters without prior notification (or seeking permission) and even tried to arrest small craft within the British-claimed waters.<sup>24</sup> While those operations were arguably driven by wider political aims, in 2013–14 Gibraltar's efforts to establish an artificial reef had resulted in Spain placing additional restrictions on the movement of people and goods across the border in an attempt to get the reef removed—an example of grey zone operations on land being employed to achieve a result at sea.<sup>25</sup> At one point, Spain threatened to stop bunkering (at-sea refuelling) operations by merchant ships in Gibraltar's waters, although any sanctions involved were likely to have been applied only if the ships concerned later entered a Spanish port, rather than at the scene.<sup>26</sup>





Maritime claims in the Strait of Gibraltar

Although Spain's threatened sanctions against merchant ships were apparently never applied, intrusions and close encounters, as well as the use of other pressure points, are likely to continue at irregular intervals, depending on the temperature of the conflict—and on the overall state of Anglo-Spanish relations. In 2017, there were further claims that Spanish police boats and helicopters had been intruding into Gibraltar's zones,<sup>27</sup> possibly in reaction to the emerging complications of Gibraltar's status after Britain's foreshadowed departure from the European Union.



## Russia and Ukraine

The lead-up to the Russian annexation of Crimea in 2014 had some important maritime grey zone dimensions. The Russians were anxious to ensure that the Ukrainian Navy could not intervene. While their hopes that the navy would defect outright were only partly fulfilled (the commander of the Ukrainian Navy and some of his deputies being the most public examples<sup>28</sup>), the Russians took measures to immobilise Ukrainian units without recourse to direct fire. This included taking the old cruiser *Ochakov* out of the scrapyard and sinking the hull across the entrance to Donuzlav Lake in western Crimea, sealing in the Ukrainian ships based inside.<sup>29</sup>

Other operational units were anchored across the entrance to the naval base at Sebastopol, creating a barrier that the Ukrainians could break only by force. With heavily armed Russian units only a few kilometres further out to sea, the Ukrainian Navy was placed in an impossible position. Although some ships escaped to Odessa, with the exception of one minesweeper, *Cherkassy*,<sup>30</sup> the service played no direct part in resisting the Russian takeover.<sup>31</sup> Significantly, however, its one remaining operational frigate succeeded in forcing away a more numerous Russian force operating off the coast of Odessa. The Russians were clearly under orders not to escalate the situation, and the combat-ready Ukrainian unit's clear demonstration of resolve by steaming towards the Russian units was eventually enough to force the Russians' withdrawal.<sup>32</sup>



Maritime claims around Crimea and in the Sea of Azov

In 2018, the status of the Sea of Azov, which Ukraine and Russia share, has created new tensions and the possibility of further Russian grey zone action. In March, Ukrainian authorities arrested a Russian fishing vessel they claimed was operating in their territorial sea, while the following month a Russian dredger berthed in Odessa was impounded on the grounds that it had been illegally working in Crimea. Russian authorities responded to these moves by suggesting that Russia should block the Kerch Strait—the only access from the Black Sea to the Sea of Azov—to Ukrainian naval and merchant ships.<sup>33</sup> According to the US State Department, Russia began a systematic campaign to interfere with merchant shipping in April 2018. By August, ‘hundreds’ of merchant ships had been delayed and 16 prevented outright from continuing their passage to a Ukrainian port.<sup>34</sup>



## China and grey zone operations

China's employment of grey zone strategies has become an increasingly important phenomenon in maritime East Asia since the turn of the century. There have been a number of recent studies of China's campaigns in the maritime domain, of which the effort of Green et al. for the Center for Strategic and International Studies in 2017 is the most comprehensive.<sup>35</sup> The discussion below doesn't attempt to provide a complete analysis, but focuses on significant aspects of the maritime grey zone operations involved.

There have been three major areas of activity:

- responding to US surveillance operations within China's claimed exclusive economic zone (EEZ)
- contesting Japan's claims to islands and maritime zones in the East China Sea
- asserting China's claims to sovereign rights in the South China Sea.

While there are similarities in the lines of operation in each of the three activities, there are also important differences. All, however, have been conducted within a framework that China has termed the 'three warfares' (public opinion warfare, psychological warfare and legal warfare),<sup>36</sup> even if some have their origins in China responding to an event, rather than initiating it. Thus, operations at sea have generally been accompanied by efforts to manage information in the legal and public domains and develop a coherent accompanying national narrative.

### Surveillance operations in the EEZ

China's efforts against US surveillance operations have been based on its view that other nations aren't permitted to conduct intelligence gathering within a coastal state's 200-mile EEZ. The US and other Western maritime nations don't accept this, although it is a subject on which many nations, such as India, share China's assessment. US units have customarily conducted intelligence-gathering and oceanographic survey operations around the East Asian littoral since the end of World War II.

Although it is likely that in 2018 the US Navy is being considerably more circumspect in its operations close to China than in the past, China itself is now facing a dilemma: its interpretation of UNCLOS 3 creates unacceptable constraints on the operations of its own increasingly capable and far-reaching navy. China has breached its own proposed rules on several occasions, including by dispatching an intelligence gatherer into Australia's EEZ to monitor Exercise Talisman Sabre in 2017.<sup>37</sup> As long as this contradiction continues, China's legal case against foreign operations in its EEZ will be weak, reducing its propaganda space in future grey zone efforts.<sup>38</sup>

The most important incident in relation to grey zone EEZ operations was that involving the civilian-crewed but US Navy-owned towed-array surveillance vessel USNS *Impeccable* in March 2009. The affair took place only six weeks after the inauguration of the first Obama administration. While there's uncertainty as to whether the initiation of the confrontation was at the behest of Chinese Communist Party government or regional authorities preoccupied with local security issues (including a PLAN antisubmarine exercise in progress at the time), there's an argument that the timing indicated the desire of the Chinese Government to test the resolve of the new Democrat president. Notably, the incident occurred almost exactly eight years after a similar effort against USNS *Bowditch* at the start of the GW Bush administration.<sup>39</sup>

In March 2009, the *Impeccable* was operating in the South China Sea, approximately 80 miles from Chinese territory and well inside China's declared EEZ. Some days earlier, a sister ship, *Victorious*, had been operating in the Yellow Sea, about 125 miles away from the Chinese coast and thus also within China's EEZ. On 4 March, *Victorious* was illuminated by searchlight by a Chinese Bureau of Fisheries vessel, which afterwards crossed the American ship's bows at a range of 1,400 yards. Although not polite, given that *Victorious* was steaming at slow speed and that her passive sonar towed array was streamed astern, this wasn't in itself a dangerous manoeuvre.<sup>40</sup> On 5 March, a maritime patrol aircraft conducted a dozen runs past *Victorious* at a height of 400 feet, offset by 500 yards. This was in line with the generally accepted stand-off distances that had evolved during the Cold War, although the number of repetitions was more than the usual one or two passes.



On 6 March, however, a PLAN frigate crossed *Impeccable*'s bows at only 100 yards distance. This was an inherently dangerous manoeuvre, and unacceptable under any circumstances short of conflict.<sup>41</sup> It was followed by a series of passes by a Y-12 aircraft, offset by only 100–300 feet, which was unusual although not particularly dangerous, but at the slightly increased height of 600 feet. The frigate afterwards crossed *Impeccable*'s bows again, although this time she kept at 400–500 yards distance. At no time did the frigate indicate her intentions. The following day, a Chinese naval intelligence gatherer (an 'auxiliary general intelligence' ship, or AGI) called *Impeccable* on an international VHF radio frequency and declared that her operations were illegal and that she should leave the area or 'face the consequences'.<sup>42</sup>

On 8 March, five vessels converged on the *Impeccable*. They included the AGI of the previous day, a Bureau of Fisheries patrol vessel, a State Oceanographic Administration vessel and two 'civilian' trawlers that were in fact part of China's paramilitary Maritime Militia. In view of the warning given to *Impeccable* the day before, this suggested that the gathering was preplanned—something confirmed by the presence of ships from multiple agencies.

The Chinese chose daylight and good weather for their intervention. In the series of encounters that followed, the trawlers played a leading role. Although there were several very close interactions and some attempts to cut the American ship's towed array, which was streamed astern, forcing the *Impeccable* to take urgent avoiding measures and employ fire hoses against Chinese personnel on the upper decks of the fishing vessels, neither side suffered damage or casualties. Nevertheless, the *Impeccable* eventually withdrew from the area, returning only once she had USS *Chung-Hoon* as cover (although the Americans tried to downplay the destroyer's presence).

This incident is particularly significant in the development of maritime grey zone operations because the information campaigns for both protagonists were profoundly influenced by the then-new social media. The Chinese seem to have failed to understand that the improvement in connectivity had changed the ground (and water) rules.<sup>43</sup>

Their intent had almost certainly been to justify their actions by reference to their claim that only the 'peaceful use' of their EEZ was permitted to other nations. In the event of a collision, the Chinese would have tried to portray the *Impeccable* as an aggressor, interfering with the lawful business of Chinese fishing vessels in their customary fishing grounds, while they would have also claimed that China's government units were only acting to protect their own nationals.

Before this time, as had been the case during the Cod Wars, there were long delays before moving film could be got ashore, developed and provided to media outlets. What happened in 2009 was that observers onboard the *Impeccable* videoed the close encounters. The videos were quickly uploaded to YouTube and other internet sites, presenting a picture that didn't reflect the Chinese 'line'. The fishing vessels were shown to be manoeuvring aggressively and dangerously in close proximity to a slow moving and unarmed ship, in clear breach of the International Regulations for the Prevention of Collision at Sea (COLREGS) and in ways making it very clear that, whatever they were doing, it was not fishing.<sup>44</sup>

The result was that the Chinese were wrong-footed from the outset. The speed with which the Americans got the story out may have come as a considerable shock. The Chinese reactions to the American protests and the extensive, generally critical international commentary that followed were confused. The first official statement about the incident wasn't made by China's Foreign Ministry until 10 March, and stated only that 'the US claims are gravely in contravention of the facts and confuse black and white and they are totally unacceptable to China'.<sup>45</sup> Although there were several efforts to criticise, in general terms, the behaviour of the US Navy unit and the overall American approach to operations in China's EEZ, it took a week longer before the Chinese made any effort to provide a defence for the actions of the fishing vessels, and the language employed was very much more general than specific.<sup>46</sup> It was clear that the Americans' rapid provision of videos and other information to the media was a powerful influence on international opinion. From this time on, Chinese units would be much more careful in their use of aggressive tactics when in close proximity to adversary ships, usually employing such tactics only when aggression was considered of benefit to the wider campaign in progress.



## The East China Sea

Japan and China's confrontations in the East China Sea are fundamentally different from events in the South China Sea, although there are significant grey zone elements to the story. While there's evidence that China's approach has changed in the last few years, its dealings with Japan were marked for many years by restraint and agreement to maintain the status quo. As recently as 2004, when a party of Chinese nationalists who had attempted to land on one of the Senkaku/Daioyu group were arrested by the Japanese, the focus was on ensuring their release rather than playing up the incident. The result was a covert agreement between China and Japan that the Chinese would seek to prevent their citizens landing on the islands, while the Japanese would simply hand over any Chinese who landed to Chinese authorities without subjecting them to domestic legal action.

The crises of 2010 and 2012 seem not to have been triggered by the central Chinese Government. The conditions for the confrontation in 2010 were created by a sudden upsurge in Chinese fishing activity around the islands, but there was no evidence that either regional or local authorities were acting on their own initiative to further the cause of Chinese sovereignty on the islands as such. Rather, with regional fish stocks under increasing threat, the presence of the Chinese fishing fleet may have been a consequence of its inevitable displacement from depleted fishing grounds in favour of more fruitful areas and a willingness to see how far the Japanese could be pushed to share the fishery.

In 2012, the trigger was a Japanese attempt to control its own nationalist activists—particularly the effort by Tokyo's Governor, Shintaro Ishihara, to purchase the islands for his municipality—by instead buying the islands for Japan. Arguably, China was simply responding to what it viewed as provocations in both cases.

Nevertheless, the grey zone was the key to Chinese actions. In 2010, a rogue Chinese fishing vessel (whose captain may have been intoxicated at the time) rammed two Japan Coast Guard cutters before eventually submitting to arrest. The real problem for China seems to have arisen with the captain being charged, rather than the fishing vessel and its crew being apprehended. Taking such legal action rather than simply deporting the crew to China was viewed as a provocation and a significant step by Japan in asserting its claimed sovereignty, contrary to the existing *modus vivendi*.

Following the arrest, the Chinese Government appears to have dissuaded nationalist groups from embarking in hired fishing vessels for the islands, but it began a systematic program of incursions by maritime security vessels into the contiguous zone around Senkaku/Daioyu (but, significantly, not at this time inside territorial waters).<sup>47</sup>

Although this operation preceded the amalgamation of four of China's maritime security agencies into the China Coast Guard in 2013, it was indicative of both China's increasing capabilities at sea and their improved coordination. China also abandoned negotiations over boundary delineation in the East China Sea and halted a number of other diplomatic, cultural and economic exchanges. The situation was further confused by a nationalist demonstration at sea orchestrated by Taiwan, which maintained parallel claims to those of China. The mainland regime publicly welcomed the Taiwanese intervention as an indication of their shared approach to the sovereignty of the islands. A similar venture from Hong Kong, however, was stopped as it tried to leave harbour.

China also moved to exert pressure in areas with no direct relationship to the maritime domain but which appeared important for Japan, although many of the reductions in Chinese activity may have been more the result of local initiatives rather than central government direction. Tourism and other trade thus suffered during the dispute. What remains uncertain is whether Beijing formally decided to curtail the vital rare earth trade, in which China was at the time practically the global monopoly supplier. Later analysis indicates that the statistics are ambiguous. There were not only formal denials by Chinese officials that they had ever threatened Japan's access to rare earths, but the Japanese Government also never accused China of having done so.



Furthermore, there were other reasons for China to restrict rare earth exports and it was already attempting to do so before the crisis hit. They included the need to control a poorly regulated industry that had expanded rapidly with insufficient regulation, as well as China's desire to develop more local facilities to process the materials. However, the perception was created that China had deliberately reduced the supply of rare earths to Japan, threatening significant elements of Japanese electronic industries and the associated global supply chain, in order to force the return of the fishing vessel's captain. When Japan finally decided to release the man, the accompanying announcement specifically referred to Sino-Japanese relations as part of the justification.

The problem for China was that its apparent willingness to employ such drastic economic weapons in such a dispute created real fears internationally about the future behaviour of the Chinese state. A direct consequence was that rare earth mining and exploration rapidly increased elsewhere around the globe. Indirectly, the affair probably marked the onset of rising international concern about China's intentions and methods.

As for the Japanese authorities, while they may have been caught by surprise by the ferocity of China's response to the arrest, their own handling of the matter was less than adept. Notably, although extensive video showed just how aggressively and deliberately the Chinese fishing vessel had rammed the two Japanese cutters, it wasn't released at the time and only came into the public domain after being leaked to the media two months later.<sup>48</sup>

### The 2012 Senkaku/Daioyu crisis

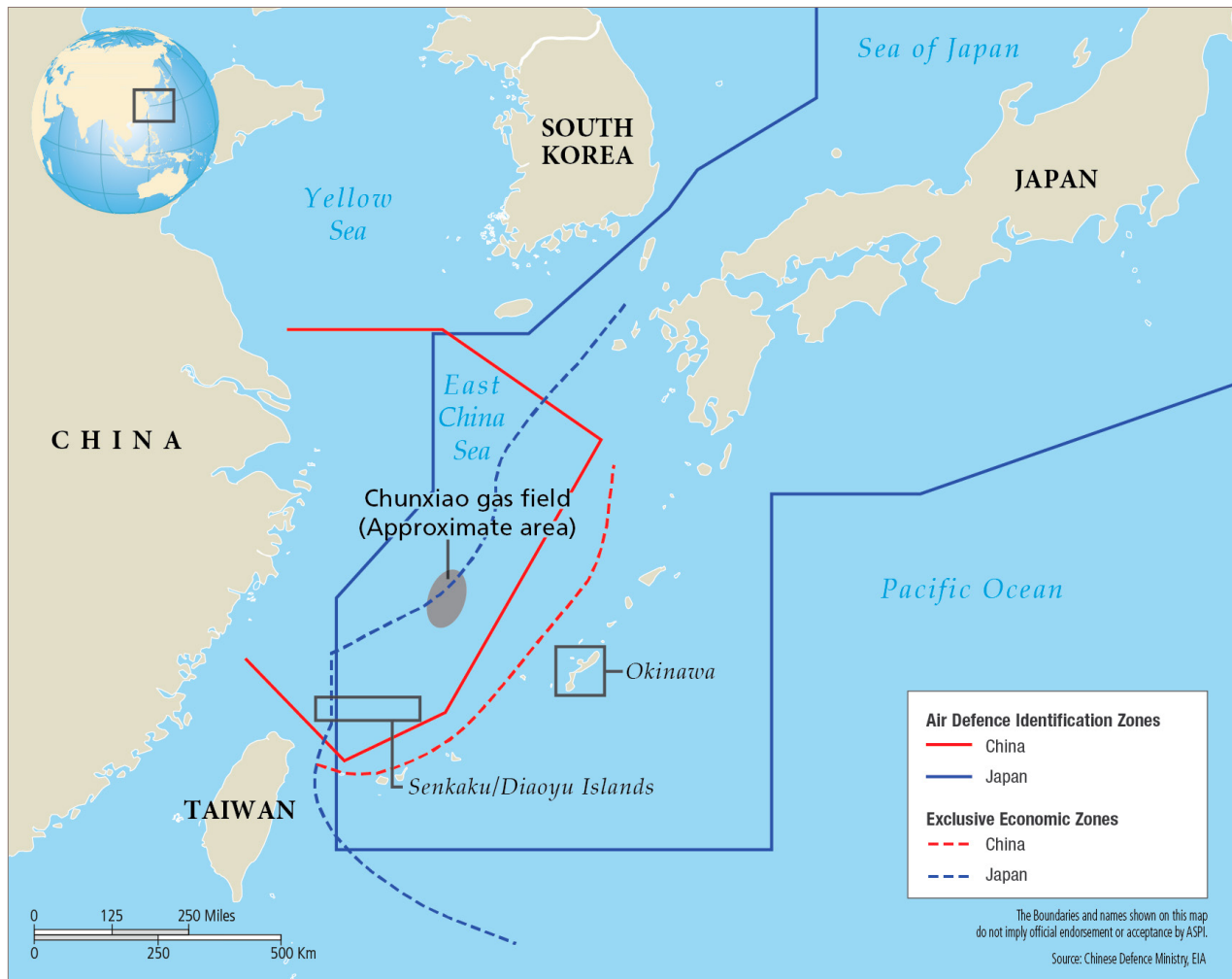
China didn't view the prospect of the central Japanese Government purchasing the lease of the Senkaku/Daioyu group in 2012 with equanimity, despite the fact that the Japanese were trying to prevent the ultranationalist governor of Tokyo securing the islands for his city as a deliberate provocation.

China's grey zone response at sea was to resume incursions by maritime security units into the islands' maritime zones. A group of Chinese nationalists attempted a landing in August, but was apprehended by the Japan Coast Guard and quickly returned to China. Matters weren't helped by the response of Japanese nationalists, who staged their own illegal landing. Ten were arrested by the Japan Coast Guard.

As the September date for the nationalisation of the islands approached, anti-Japanese demonstrations and gestures proliferated in China. That month, Chinese maritime security unit incursions into both the contiguous zone and the territorial sea of the Senkaku/Daioyu group reached a whole new level—there were more than 90. In October, the rate increased again, to over 140, a level that was sustained in November. While the incursions would drop to less than half that figure in later months, it was a stark demonstration of China's increasing strength at sea. Japan responded by assigning coast guard cutters to escort the Chinese units through the claimed zones. There were no direct confrontations, and both sides appear to have used videos of their ships steaming side by side as evidence of their national resolution—but also of their restraint, indicating that both governments had learned lessons from the events of 2008 and 2009.<sup>49</sup>

The Japan Coast Guard had until this time regarded itself as on something of a pedestal as the world's largest and most capable civil coast guard. With half of its operational units committed to maintaining a counter-presence around the islands, it was now facing a new reality against powerful competition.<sup>50</sup>





Maritime claims and air defence identification zones in the East China Sea

Japan didn't dispatch naval units to operate in or near the Senkaku/Daioyu group. While this was a deliberate effort to de-escalate the situation, the Japanese Maritime Self-Defence Force (JMSDF) was also under pressure. China's civil maritime operations were matched by increasing activity, usually (but not always) further distant from the Senkaku/Daioyu group, by units of the PLAN. Significantly, this included transit passages much closer to the Japanese coast than had hitherto been the case, while the number of military air incursions into Japan's 'air defence identification zone' (ADIZ) also increased substantially.<sup>51</sup> Both activities put considerable strain on Japanese naval and air elements.

Demonstrations and anti-Japanese incidents reached a peak in China in October 2012. While much of the popular activity would have been either orchestrated or at least condoned by the Chinese Government, some protests reached a level of intensity that required police intervention. These activities may have helped make clear to the Japanese Government just how seriously China viewed Japan's proposed nationalisation of the islands, but they may have made equally clear to the Chinese Government the risks associated with encouraging nationalist activism during such affairs.



As the Senkaku/Daiyou dispute has continued, so have Chinese Government attempts to increase the pressure. China sent a coast guard unit into the islands' territorial sea in December 2015 and dispatched a PLAN frigate to conduct a patrol in June 2016, but the initiative may have backfired. Until this time, the JMSDF hadn't been authorised to conduct law enforcement operations. The Japanese Government now empowered the military force for such work and declared that it would supplement the Japan Coast Guard with JMSDF units if necessary. The US also confirmed its commitment to the defence of the islands under its alliance arrangements.<sup>52</sup> Occasional repetitions of such Chinese deployments have brought similar responses from Japan.<sup>53</sup>

A much more serious Chinese venture was staged in August 2016, when well over 200 fishing vessels were escorted into Senkaku/Daiyou territorial waters by China Coast Guard units.<sup>54</sup> They remained in close proximity to the islands for several days before withdrawing. No Chinese personnel went ashore and the demonstration appeared confined to actual fishing, but its scale created the prospect of any Japanese enforcement effort being overwhelmed by sheer numbers if the Chinese chose to take the next step. There were suggestions that the Japan Coast Guard later estimated that a significant element of the fishing fleet was in fact maritime militia,<sup>55</sup> but closer analysis has not confirmed this.<sup>56</sup> In September 2018, Japan resumed its complaints that China was increasing the level of military activities in the vicinity of the islands as part of a wider tendency to conduct operations close to Japan.<sup>57</sup>

One associated development, which may have wider implications, was China's declaration of an ADIZ over a substantial part of the East China Sea in November 2013. While Japan and South Korea had already declared ADIZs, which also covered extensive areas of sea, it was apparent that the Chinese move was made at least partially in the context of supporting its maritime claims.

The lack of international governance of the rules for ADIZs made the situation extremely ambiguous. The US, in particular, rejected the idea that an ADIZ could apply to transiting military aircraft. As Japan and South Korea also rejected any prospect of the Chinese ADIZ becoming a 'no-fly' zone for others, a tenuous *modus vivendi* has resulted, in which foreign military aircraft operate freely but may be subject to interception and escort by Chinese units. Nevertheless, China's establishment of the zone can only be considered as an effort to increase pressure on both rival claimants and the US's air and sea operations in the locality.<sup>58</sup>

## The South China Sea

With the stark exception of its violent ejection of the Vietnamese from Johnson Reef in 1988,<sup>59</sup> China's aggressive strategy in the Spratly Islands is a relatively recent development. Although it has long made a claim to the area, China's response to the Philippines' assertion of control over features such as Scarborough Shoal was limited for many years, despite incidents in the 1990s that extended to the sinking of a Chinese fishing vessel by a unit of the Philippine Navy.

The level of Chinese fishing activity grew after 2000, and by 2009 fishermen were being convoyed to and from the area by maritime security units. Developments in 2011 and 2012 that confirmed US support for the Philippines, as well as a potential ASEAN combination against China on the issue of the Spratlys, may have combined with China's recognition of its growing capacity for sustained operations offshore (Scarborough Shoal is just under 700 kilometres from Hainan Island) to encourage a much more robust approach.

Matters began to come to a head in April 2012 after a Philippines Navy unit's boarding of Chinese fishing vessels inside Scarborough's lagoon. The latter's appeals for help brought a response from two China Marine Surveillance vessels, which positioned themselves at the entrance of the lagoon, blocking any new approach by the Filipino ship. The Philippines Government had already done some thinking on the problem of warships facing civil maritime security vessels and evolved a policy of 'white on white, grey on grey'. As a result, the naval ship was withdrawn and a smaller and much more lightly armed coast guard cutter was deployed in its place. Unfortunately for the Philippines, this move coincided with the Chinese reinforcing their units on scene with a more heavily armed Fisheries Law Enforcement cutter. Both sides made efforts to reach a compromise over the following days, although China added to the pressure on the Philippines by the deliberate harassment of a Filipino archaeological survey vessel.





Maritime claims in the South China Sea (Redrawn map courtesy of ANCORS)



In 2013, a confrontation over the South Thomas Shoal confirmed the Chinese model for asserting its claims in the South China Sea. Filipino military and civilian craft were harassed by maritime security vessels at the same time as Chinese fishing vessels worked within the contested areas and naval units conducted demonstrations of strength in the vicinity. The Chinese themselves labelled this as a ‘cabbage strategy’, in which the different activities were separate, but complementary, ‘leaves’ wrapped around the claimed areas.<sup>60</sup>

In 2014, Chinese units prevented Filipino supply vessels from bringing materials to repair the grounded and semi-derelict old landing ship *Sierra Madre*, which served as a station ship at Second Thomas. A resupply effort in March got through, despite harassment, but the Philippines Navy suspected that the Chinese had interfered with its communications and was convinced that they were ‘eavesdropping’.<sup>61</sup> The resupply mission was accompanied by journalists, and it may have been their presence that limited Chinese efforts to prevent the Filipino ship from getting to the *Sierra Madre*.

### Island reclamation

There have been no direct operational confrontations between any of the claimant nations over China’s efforts in 2013 to establish artificial islands over seven claimed features in the Spratly group. In grey zone terms, what’s been most significant has been China’s management of the narrative. As the scale of island building increased and attracted international attention, China shifted from asserting that it was simply improving conditions for the people on its outposts to claiming that it was developing the facilities to improve its search and rescue capabilities, as well as other public goods that it viewed as being part of its international obligations.<sup>62</sup>

The failure to locate the missing Malaysia Airlines Flight MH370 was used as ‘evidence’ of the need for better awareness and response in the South China Sea. National defence was mentioned, but in a way that suggested it had much lower priority than the peaceful purposes listed. After the Americans resumed unaltered freedom of navigation transits, the Chinese argued that the militarisation of the artificial islands would be a logical response to the US ‘provocations’, thus continuing Chinese information operations that seek to create a perception of the Chinese state as the responder to others’ aggressive actions, even in circumstances in which the facts are difficult to stretch to that point.<sup>63</sup>

### Indonesia and the South China Sea

Indonesia has been a victim of Chinese assertiveness within the claimed Indonesian EEZ around the Natuna Islands through the use of other grey zone techniques. In March 2013, an Indonesian patrol vessel impounded a Chinese fishing vessel that had been operating illegally within the Indonesian EEZ and arrested its crew. A Chinese Academy of Fisheries Science vessel soon appeared on scene and demanded the release of the vessel and its crew. Bigger and more powerfully armed than the Indonesian unit, the Chinese patrol vessel clearly represented a significant threat.

The Indonesian commander found that he was unable to talk to his headquarters. It appears that the Chinese unit was jamming the Indonesian communications. As a result, to protect his own people, the Indonesian officer gave way and released both ship and crew. This wasn’t the first such confrontation between Chinese and Indonesian patrol vessels, but it was the first in which the Chinese deliberately sought to cut off Indonesian communications.<sup>64</sup>

### Vietnam and the South China Sea

Not all confrontations in the South China Sea have played out completely to China’s satisfaction. In May 2014, China moved the Hai Yang Shi You 981 drilling platform into a position near the Paracel Islands and inside the EEZ claimed by Vietnam. The rig was moved three times in the next three months, each location being within the area claimed by Vietnam. Vietnam not only protested vigorously, but also dispatched a large number of government vessels to demonstrate its opposition to the rig’s presence. Vietnam appears to have followed Chinese practice and included ‘militia’ fishing vessels in the force.



China certainly employed its ‘cabbage strategy’, using fishing vessels as the outer ring of protection and civil security units behind them. A succession of encounters followed between Chinese and Vietnamese maritime enforcement and maritime militia units, with both sides employing high-pressure water and riding-off tactics. Several collisions resulted, and at least one Vietnamese trawler was sunk. Notably, the continuing confrontations were given a great deal of publicity in Vietnam’s media, as well as in China’s. This contributed to a surge of anti-Chinese protests in Vietnam, which the government had some difficulty controlling, but which may have roused concerns in China that things were getting out of hand.

China withdrew the rig after three months, one month sooner than originally planned. While it was claimed that sufficient data had been gathered, it’s likely that the reaction ashore in Vietnam was a more significant cause, while the confrontations at sea were obviously extremely resource intensive for both sides. Vietnam had strengthened its own naval and civil maritime security forces over the previous decade. While neither organisation could muster anything like the total strength of the Chinese, they were nevertheless strong enough to provide a level of opposition that the Chinese couldn’t ignore.

### Non-state-based grey zone operations

Although grey zone activities are most usually undertaken by nation-states, they can be used by non-state groups, particularly environmental organisations. The efforts of the Sea Shepherd organisation to interfere with Japanese ‘scientific’ whaling operations in the Southern Ocean are the best known example in recent years. Sea Shepherd would deploy its ships to locate and then shadow the Japanese fleet, using a mix of small-craft manoeuvres and riding-off tactics by the group’s major units to harass the Japanese and impede their whale hunt.<sup>65</sup>

However, after nearly a decade of Sea Shepherd operations, there must be some doubt about the organisation’s stated goal of halting the Japanese whaling effort. Instead, it may have been seeking sufficient levels of global attention (and notoriety) to support its fundraising. Very early during the campaign against the Japanese whalers, it became apparent that the campaign was entrenching rather than changing Japanese attitudes towards an activity that had before been of only marginal national interest. This was earlier recognised by Greenpeace, which halted its similar direct actions in favour of establishing a Japanese-staffed office in Tokyo to campaign for change within Japan.<sup>66</sup>

Sea Shepherd cited the excuse that the Japanese were using ‘military technology’ to monitor and avoid the environmental group’s ships when it signalled an end to the campaign in August 2017,<sup>67</sup> but it’s likely that its leadership had finally come to the same realisation as Greenpeace. As in other grey zone campaigns, it was management of the narrative that mattered. In this case, the only narrative that counted (and counts) was that available to the Japanese public.<sup>68</sup>



# WHAT ARE THE OBSERVED TRENDS AND POSSIBLE DEVELOPMENTS IN THE FUTURE USE OF GREY ZONE OPERATIONS?

## Observed trends

The clearest trend has been China's deliberate employment of maritime security and maritime militia units as the front lines of its assertive effort.<sup>69</sup> This has been accompanied by the expansion of those forces in both numbers of ships and their individual capabilities—an expansion that's continuing unabated in 2018.<sup>70</sup> Vietnam has been developing its own maritime militia in response.<sup>71</sup> While the politico-military and commercial relationships involved are probably unique to communist countries, variations on maritime militias may be adopted by other nations. The great advantage of the system is its ability to generate mass effort at sea. The sheer numbers of fishing craft, however unsophisticated, can create immense difficulties for adversary forces, particularly if, in contrast, the adversary's numbers are limited. The better the centralised control of a militia, the more effective it can be.

An associated second trend has been China's increasing assertiveness in warning off the ships and aircraft of other countries, particularly in the South China Sea. While other nations, such as the Philippines and the US, have indicated that their own units provide a 'standard response' and continue their operations,<sup>72</sup> the warnings seem deliberately intended to create a threatening atmosphere, which forces other nations to consider very carefully the risks of venturing into the area concerned and, should they decide on that course, to do so only in strength.

Notably, the Chinese warnings to US units operating in the locality (but not conducting FONOPS) are much more restrained than those sent to Filipino aircraft.<sup>73</sup> Iran's repeated threats to shipping in the Strait of Hormuz may represent another form of such grey zone pressure, particularly if they're viewed as credible—and selective.<sup>74</sup> Such a sustained barrage of threats can have two results, even if the threats are never executed. One, particularly for smaller nations, is that it increases the strain on limited resources. The second is that incursions conducted on a scale sufficient to ensure self-defence can then be labelled as escalatory and provocative, rather than prudent self-protection.

## Some possible developments

Grey zone operations are likely to continue to be employed by nations seeking to extend their authority over claimed maritime zones in ways not approved by extant international law. Given Indonesia's own view of its archipelagic regime, it's possible that a future Indonesian Government might seek to limit the passage of Australian or Australian-bound ships in ways that are unacceptable to Australia, such as preventing east-west or west-east transits or requiring prior notification for warship transits. This could be manifested in the harassment of both merchant vessels and warships in a possible Indonesian version of the Chinese model in which Indonesian Government vessels attempt to interfere with merchant ships and 'civilian' fishing vessels are assigned against warships in the same way as China's maritime militia.



As has already been demonstrated over the East China Sea, grey zone efforts on the sea can be matched by efforts in the air. A maritime zone claim can be indirectly reinforced by declaration of an ADIZ or even air exclusion zones over the areas concerned. This could become an increasing element of maritime boundary conflicts. One possibility is that the concept of an ADIZ will be tied in with that of the EEZ by nations wishing to strengthen their control and sovereign rights. While the sea area between 24 and 200 miles from the coast was declared in UNCLOS 3 to be only an economic zone, that was a compromise at the time, not the final position of a number of major coastal states, some of which felt that 200 miles should be the limit of the territorial sea. The first and most likely area over which an ADIZ will be declared in the near future will be China's possessions and artificial islands in the South China Sea, and the limits of that zone may well indicate just what China's final position on its claims will be.

Another critical indication of the ultimate extent of China's perceived sovereign rights in the South China Sea will be its behaviour in the areas claimed by Indonesia as the EEZ surrounding the Natuna Islands. The robust approach adopted by the Indonesian Government has helped produce a lull in incidents since 2016, but this does not mean that China has given up on claims to 'historic rights' over the area. Given Indonesia's still limited maritime capabilities, its enforcement units and fishermen could well become the subject of renewed grey zone harassment if China were to decide to force the issue.

A possible associated development, particularly in the South China Sea, would be the declaration of mined areas in the waters surrounding claimed territory (natural or artificial). This would immediately present problems for other actors. There's nothing illegal in deploying a minefield in one's own territorial waters, provided it is publicly declared. While mines deployed outside 12 miles have a much more ambiguous status, declared fields that are clear of commercial shipping channels are unlikely to arouse strong feelings outside the protagonist nations, while their clearance would present significant challenges.

The insertion of civilian groups onto uninhabited islands, on the model of the Chinese in the Paracels (and the Argentinians in the South Atlantic in 1982), is likely to remain an option for nations intending to strengthen a claim. The China Maritime Militia hasn't been active in the East China Sea in the same way as in the South China Sea, but Japan continues to worry that 'fake fishermen' could be employed to seize Japanese islands, presenting a *fait accompli* that could only be met by escalation to military force.<sup>75</sup> In the longer term, Australia's offshore possessions in the Indian Ocean, particularly the Cocos group, may be vulnerable to grey zone operations in this way.

Spain's threats to bunkering operations around Gibraltar—and the Chinese approach to 'lawfare'—suggest that domestic law enforcement and port control mechanisms could be employed as a grey zone technique, whether directed specifically against ships wearing the flag of the nation concerned or extended to any merchant ship that is trading with the adversary.

Finally, covert interruptions to or interference with underwater fibre-optic cables may become a grey zone tool in more intense confrontations, particularly if they provide the principal communications links to isolated offshore possessions.



# WHAT RESPONSES, INCLUDING POLICY RESPONSES, ARE AVAILABLE IN THE FACE OF GREY ZONE ACTIVITIES?

The following recommendations focus on the maritime context and Australia's situation.

## **Policy: Ensure that the full context of a grey zone campaign is understood**

Their maritime focus notwithstanding, grey zone operations are not undertaken purely within the maritime world, even when they have a wholly maritime goal. A nation launching a campaign will do so with regard to the other pressures that apply to the protagonists and seek to capitalise on them. A defensive response will be effective only if made with full regard to those other pressures and with a clear understanding of the resulting national priorities. This involves a careful estimate of the resources that will be needed to stage an effective response—and of the pressure points for both sides. Such an estimate, and the resulting plan of action, can only be put together through coordinated efforts on the part of governments with the appropriate involvement of business and industry, in particular.

## **Policy: Reply to a grey zone campaign with resolute and public countermeasures made with full understanding of the risks**

While nations engaged in grey zone operations are unlikely to accept a recourse to international arbitration or openly back away from their goal, the way in which the target nation responds is critical. Grey zone operations carry an inherent risk of overreach. Coercive behaviour against private individuals or commercial organisations can be painted as legitimate law enforcement, but the same actions against another state's law enforcement units or even military craft may come under the prohibition against the use of state-on-state force described in Article 2(4) of the UN Charter.<sup>76</sup> The recent history of maritime grey zone activities suggests that a combination of forward-deployed units and their careful but resolute handling, combined with rapid public information provided through social media and at leadership level, provides a challenge that a grey zone aggressor will find it hard to overcome.

Analysis and acceptance of risk is thus a key element in dealing with grey zone aggression. A weaker nation may need to acquiesce to the demands of a more powerful state, but that should be necessary only if the former cannot force the latter to pay an unacceptably high price. A robust response at sea and in other domains and global fora may well change the calculations of the grey zone aggressor, particularly if it is forced into a larger and more sustained commitment of resources than it had calculated. Having partners in the response, rather than leaving weaker nations exposed to respond bilaterally to a stronger one, can be the key to success.



### **Policy: Maintain civil maritime security forces capable of effectively matching a grey zone campaign without requiring immediate recourse to military assets**

### **Policy: Ensure that civil and military maritime security capabilities are properly coordinated to allow graduated responses in the event of escalation**

The threat of grey zone operations and the problem of escalation confirm the need for a maritime nation to possess civil maritime security forces in addition to naval units and for both services to maintain levels of capability that will make any likely opponent think hard about provoking them, as well as arrangements to ensure that civil and military efforts are properly coordinated.

The lesson from Vietnam on the one hand and the Philippines on the other is that force levels for both ‘white’ and ‘grey’ units need to be enough that the response by the grey zone aggressor can’t be a trivial commitment. In Australia’s case, this calls for a sufficient number of robustly constructed ocean-going civilian units with crews possessing a high level of seamanship and operational skills, including extensive understanding of the legal environment, as well as naval forces configured for and expert in maritime security operations.

As well as its material capabilities, the current arrangements within the Australian Border Force for training seagoing personnel for such work may need review—an effort that would logically be undertaken in conjunction with the Australian Defence Force.

Smaller states will struggle to supply the required white and grey hull numbers, which, as for an earlier recommendation, highlights the need for multinational responses.

### **Policy: Ensure that there’s official awareness of global trends in international maritime law and be nationally agile in responding to them**

Also fundamental to a successful response to maritime grey zone activities is a clear understanding of the international law involved at the highest levels. The claims that such operations are intended to advance must also always be considered in the context of potential global developments.

Maritime international law will continue to evolve from UNCLOS 3, and it is critical that a nation’s position in relation to a particular situation be developed with regard to what lies ahead—not necessarily just the way that a nation-state wants the international legal regime to evolve.

The British consistently failed to do this during the Cod Wars, despite increasing evidence that the Icelandic position on maritime zones reflected a growing global consensus. As a result, their final situation was very much worse than one they might have been able to reach through early compromises with Iceland, worked out in conjunction with NATO partners.

### **Policy: Commanders at all levels must be kept fully aware of national intent and empowered to use their initiative in difficult and ambiguous circumstances**

As the Indonesians found in their confrontation with Chinese fisheries units, in the event of blocks on communications, local commanders must have a clear understanding of their government’s intent and the rules of engagement to allow them to accomplish it. This means there must be an accompanying national narrative.

It’s possible to develop some of this ahead of a contingency, but it is equally likely that arguments will need to be developed on the run. This suggests that not only should standing interagency coordination arrangements be in place but that possible grey zone contingencies need to be gamed and analysed, preferably with sophisticated ‘Red Team’ involvement.



## Policy: Ensure that information management is a central element in the response to a grey zone campaign at all levels

Information management is a vital element of grey zone operations for all the protagonists. The Anglo-Icelandic Cod Wars and the *Impeccable* incident confirmed that the first side to provide hard evidence of coercive behaviour on the part of its opponent gains a critical advantage. The ability of any individual to immediately make a compelling visual record and disseminate it around the world creates the requirement *to be seen* to adhere absolutely to international law if moral advantage is to be retained. This now applies as much to maritime security ships as it does to riot control police in a domestic crisis. In addition to the obvious operational considerations, this means that all units must be organised to record and transmit evidence as quickly as possible and that the command organisations ashore must be equally adept at passing that evidence on to the public without delay.

A key reason for this is that the ability to disseminate video evidence to the globe means that grey zone operations at sea can be managed so that moral advantage, or at least moral ambiguity, is maintained. Conversely, overly aggressive manoeuvres can rapidly undermine a nation's attempts to portray itself as an injured party, and aggression on the part of ostensible civilians or paramilitary forces may convey an image of lawlessness and even banditry.

China may need to guard against employing its coast guard too aggressively, since doing so will undermine the 'white hull' moral advantage that such units have hitherto possessed when matched against 'grey hull' warships in lower intensity confrontations. That moral advantage is probably lessened by the heavy armament of these vessels, which are more akin to naval vessels than coast guards.

In this context, the units to be deployed may need to be selected with a view to the image that they potentially convey—a 12,000-ton China Coast Guard ship may be so much larger and more capable than its opponents that it could appear to be the tool of a bully. Conversely, the technique of 'walling in' the opposition by the mass employment of fishing craft that are really maritime militia creates real difficulties for the target of such grey zone efforts in managing the narrative—as well as the tactical problem of avoiding entanglement in nets and obstructions. Breaking through a cordon could easily be represented as active harassment of innocent fishermen.

Both the information management requirement and the coordination of operations require communication systems that are sufficiently robust to resist interference, whether overt or covert. Conversely, combating a would-be grey zone aggressor at sea should include the consideration of measures to block the information paths of the opponent. This approach carries some risk, potentially creating the conditions for an isolated and inexperienced commander to panic and overreact. Nevertheless, the potential benefits are likely to outweigh the disadvantages. The first priority for both protection and attack must be the high-bandwidth systems that allow the passage of video data, but all communications systems should be considered as valid targets.

Effective information management must extend to any other dimensions of the grey zone campaign that's in progress. If pressure is being exerted in other ways, such as by the imposition of restrictions on imports and exports or the suspension of international activities, or it's assessed that such actions must be taken in response to grey zone aggression, it is vital that the accompanying narrative be coherent and timely.



# CONCLUSION

Responding to a grey zone campaign in the maritime domain will never be easy. Nevertheless, a properly coordinated and resolute response can bring the situation under control, while a demonstration of readiness to maintain such a response can force the aggressor to rethink its plans. Effective management of information flows and domination of the local and global narrative will be key to ensuring a successful outcome, but even more important will be a nation's demonstration of its willingness to stay the course in the event of an extended confrontation, and the support of international partners in such circumstances.



# NOTES

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- 2 This discussion specifically excludes the concept of a 'maritime grey zone' that's described in agreements, such as that between Norway and the Soviet Union in 1978, which set out areas in the Barents Sea, some of which remain subject to dispute, but which the contracting parties have agreed to manage together. See Alex G Oude Elferink, *The Law of Maritime Boundary Delimitation: a case study of the Russian Federation*, Martinus Nijhoff, Dordrecht & Boston, 1994, 247.
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- 5 For an explanation of the 'post-modern' in the maritime domain, see Geoffrey Till, *Seapower: a guide for the twenty-first century*, third edition, Routledge, London, 2013, 27–44.
- 6 For Cold War incidents after INCSEA had gone into force, see David F Winkler, *Incidents at sea: American confrontation and cooperation with Russia and China, 1945–2016*, Naval Institute Press, Annapolis, Maryland, 2017, 232–253.
- 7 Note that agreements such as INCSEA and the more recent Asia–Pacific CUES (Code for Unplanned Encounters at Sea) don't themselves specify matters such as minimum stand-off distances. Those are left to the countries involved to promulgate in their own national guidance.
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- 11 And where they have, as in 2017, the incidents were either unintentional or not nearly as close—at 300 feet—as the earlier encounters of concern. Ryan Browne, 'Chinese and US aircraft in "unsafe" encounter', *CNN Politics*, 10 February 2017, [online](#); Idrees Ali, 'Chinese jets intercept US surveillance plane: US officials', *Reuters*, 24 July 2017, [online](#).
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- 13 'Miles' is used in this report to describe the term 'nautical mile', which equates to 1,852 metres. Imperial/US units of distance are generally employed, as they aren't used only at sea and in the air, but are the form in which the original reports were made.
- 14 Iceland's cutters were and are painted grey.
- 15 An equivalent expression, more commonly used by the US Navy, is to 'shoulder off' another vessel. In general, the hope is that determined manoeuvres will force the adversary unit to turn away before physical contact is made. If it is made, then the hope is that this will be a 'graunch'—a ship's side to ship's side contact on nearly parallel courses that minimises damage and, in particular, doesn't risk one ship getting across another's bow and being cut open.
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- 17 The incident appears to have been the first time that there was active cooperation between the South Seas Fleet and the East Seas Fleet, units of the latter being dispatched south to reinforce the effort in the Spratlys.
- 18 Winkler, *Incidents at sea*, 234.
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- 22 A good survey of the US approach is Lynn Kuok, *The US FON program in the South China Sea: a lawful and necessary response to China's strategic ambiguity*, East Asia policy paper 9, Brookings Institution, June 2016, [online](#).
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- 35 Michael Green, Kathleen Hicks, Zack Cooper, John Schaus, Jake Douglas, *Countering coercion in maritime Asia: the theory and practice of gray zone deterrence*, Center for Strategic and International Studies, Washington DC, May 2017. Unless otherwise indicated, my narrative is drawn from this source.
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# ACRONYMS AND ABBREVIATIONS

ADIZ	air defence identification zone
ASEAN	Association of Southeast Asian Nations
EEZ	exclusive economic zone
FONOPS	freedom of navigation operations
JMSDF	Japan Maritime Self-Defense Force
NATO	North Atlantic Treaty Organization
PLAN	People's Liberation Army—Navy
RVN	Republic of Vietnam Navy
UN	United Nations
UNCLOS 3	Third UN Convention on the Law of the Sea
USSR	Union of Soviet Socialist Republics



## Grey zone operations and the maritime domain