



FORCE BUILD-UP IN THE SOUTH CHINA SEA

Will grey-zone strategy paint a bright future?

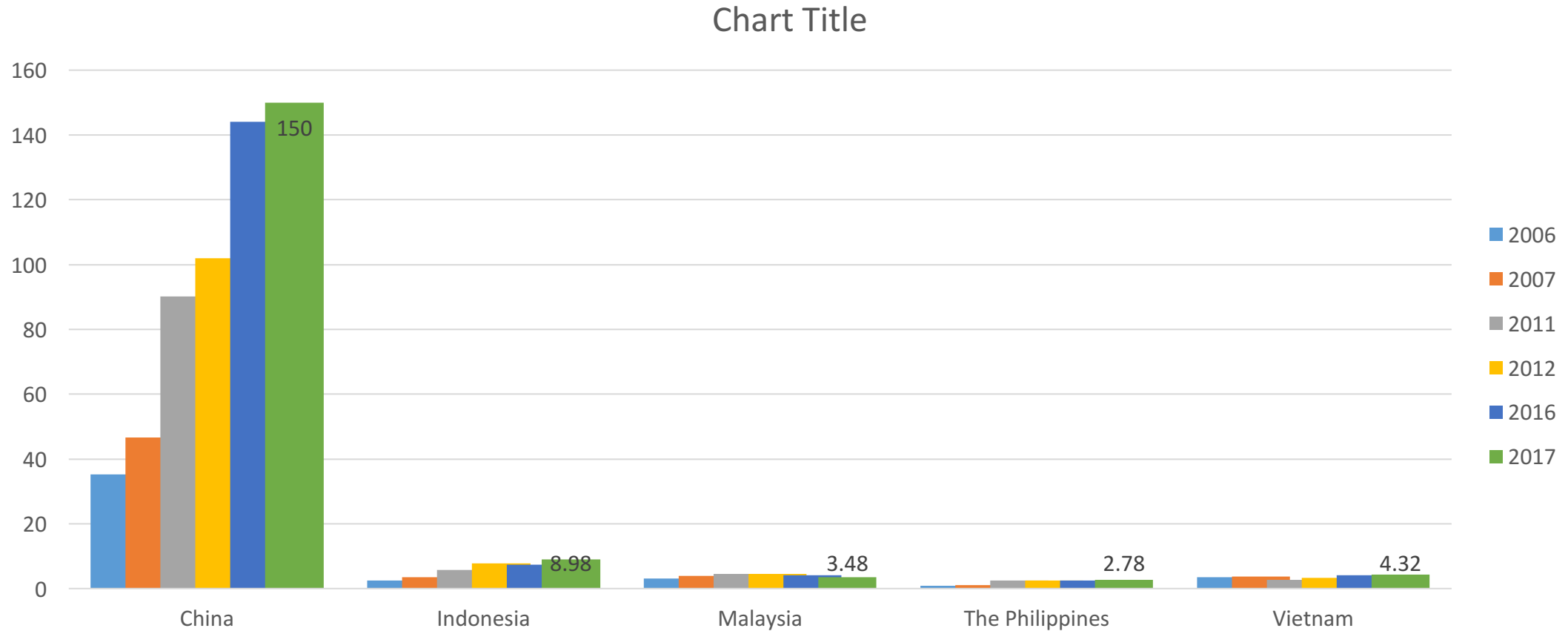
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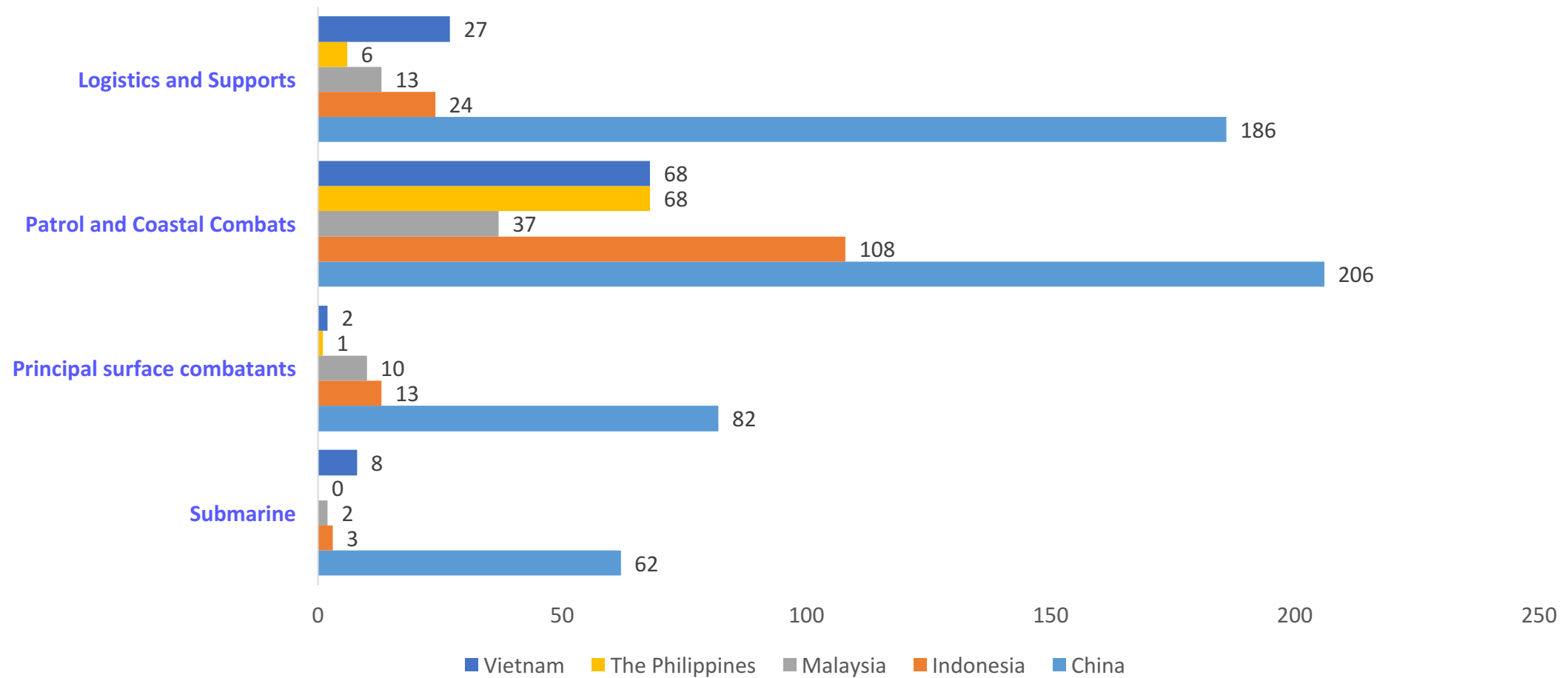
What's the problem?

1. Force Build-up: An overview



Source: Compile from The Military Balance (SIIS) 2008, 2013, 2018

2. Naval build-up: Key components



3. Naval build-up



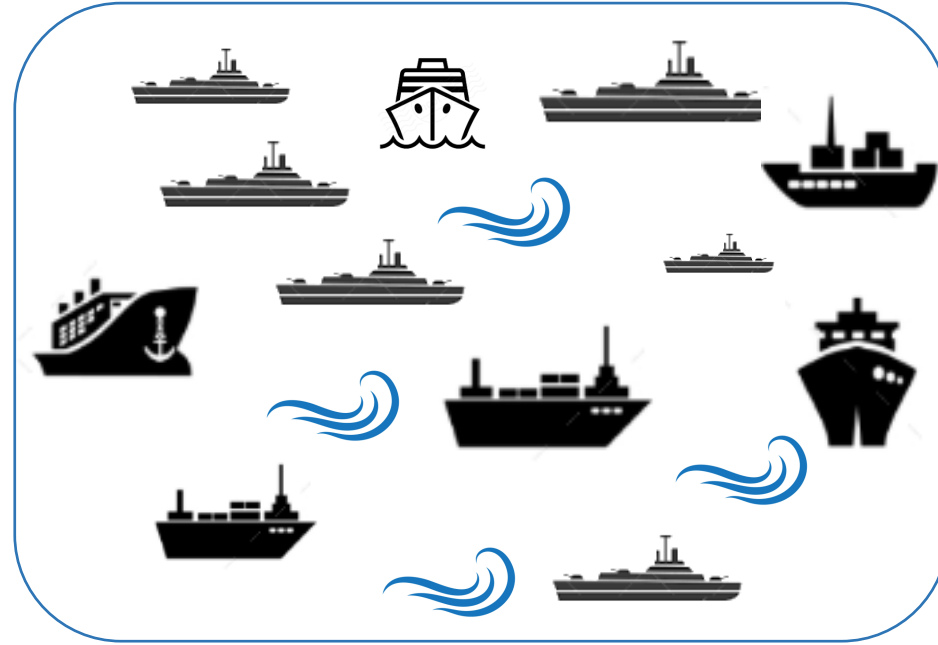
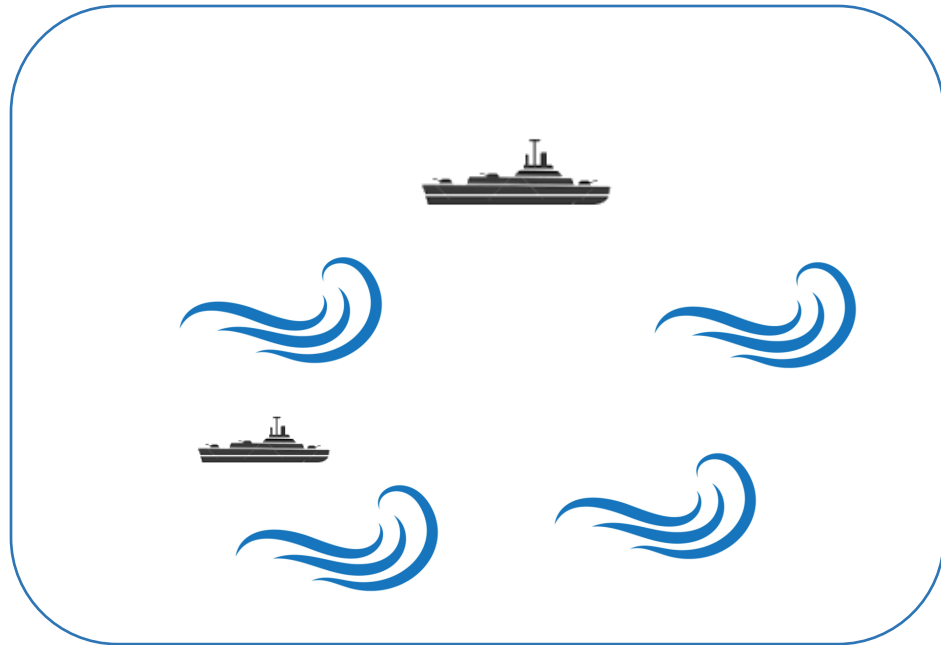
Other areas:

- Force expansion plus force modernization
- Artificial island buildings and military equipments (China)
- Air-craft carriers buildings (China)
- Satellite systems (Beidu and Yaogan – China)
- Mobile anti-ship missile systems DongFeng (China)
- Aircraft refuel technology (China)
- Increasing naval exercises and patrol (China)

4. Key features

- China's rapid military modernization and expansion.
- China's naval dominance in the South China Sea.
- China's increased presence in the SCS.

5. Logical inference

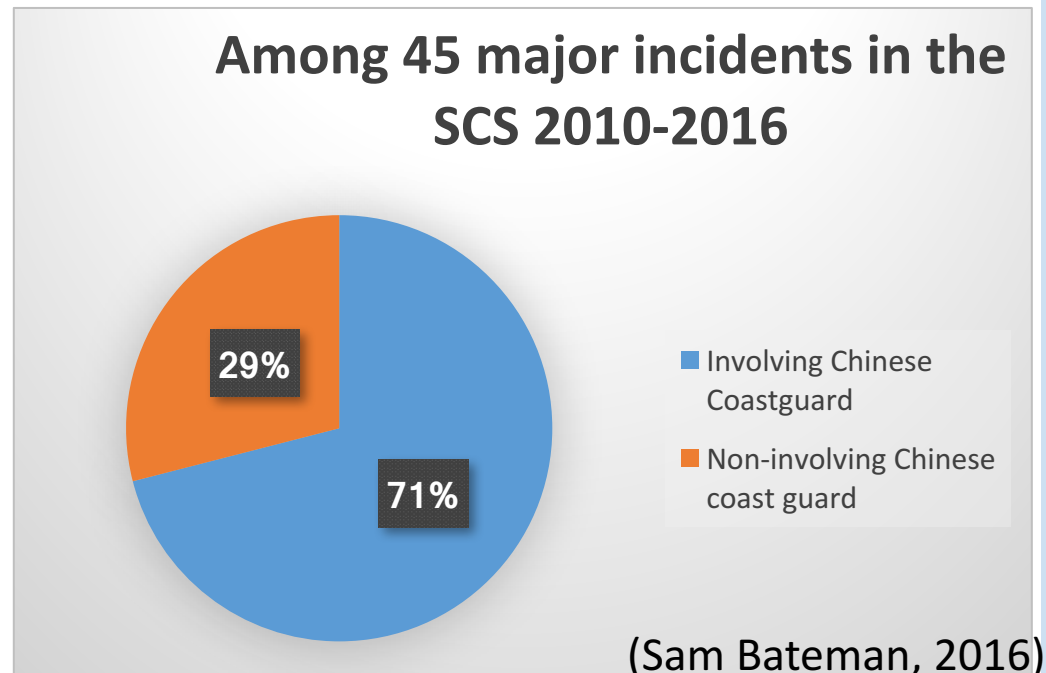


Increasing risk of encounters at sea between navies

6. Reality

Some major incidents on the ground in the South China Sea in the past decades

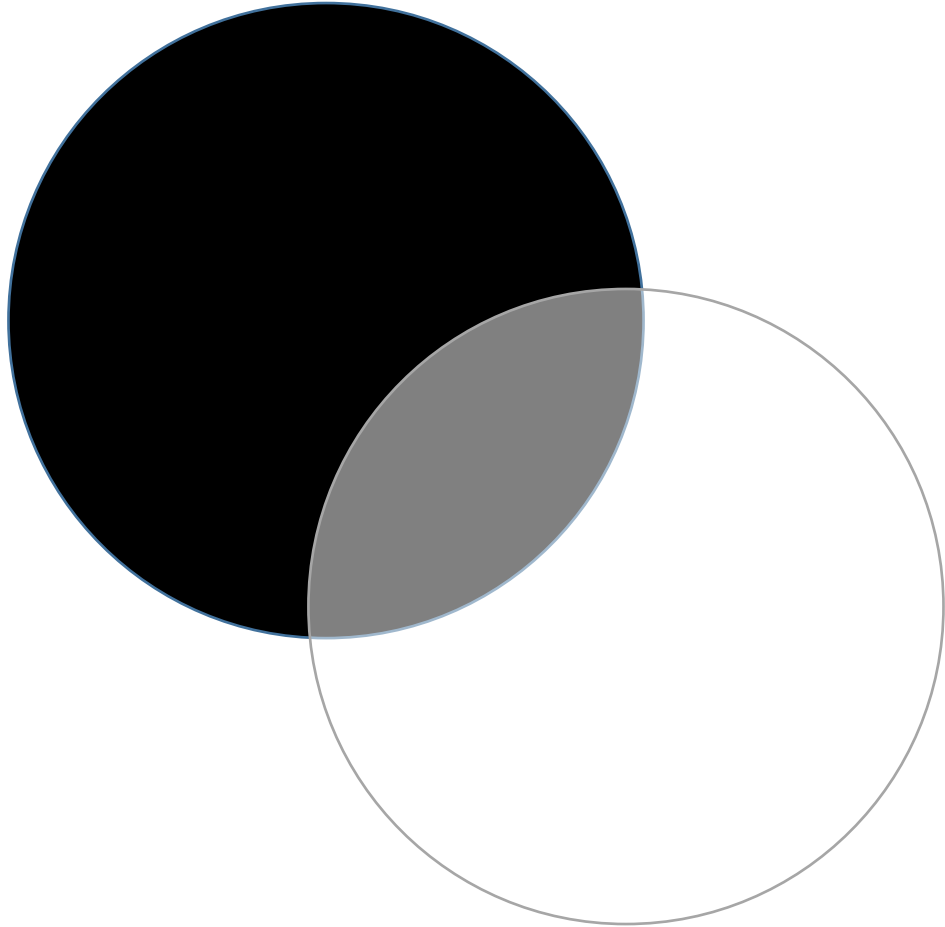
- 2009 Impeccable Incident (China-US)
- 2011 petroleum vessels cable cutting incidents (China-VN)
- 2012 Scarborough Shoal stand-off (China-PLP)
- 2014 oil-rig incident (China-VN)
- 2016 Vessel encounters within Natuna water (China-Indonesia).



<http://www.eastasiaforum.org/2016/10/07/cues-and-coast-guards/>

- **Vast majority of incidents in the South China Sea involving China's MLEAs.**
- **Chinese MLEAs are increasingly used to protect China's national sovereignty and sovereign rights claims.**

7. “Grey-zone” strategy

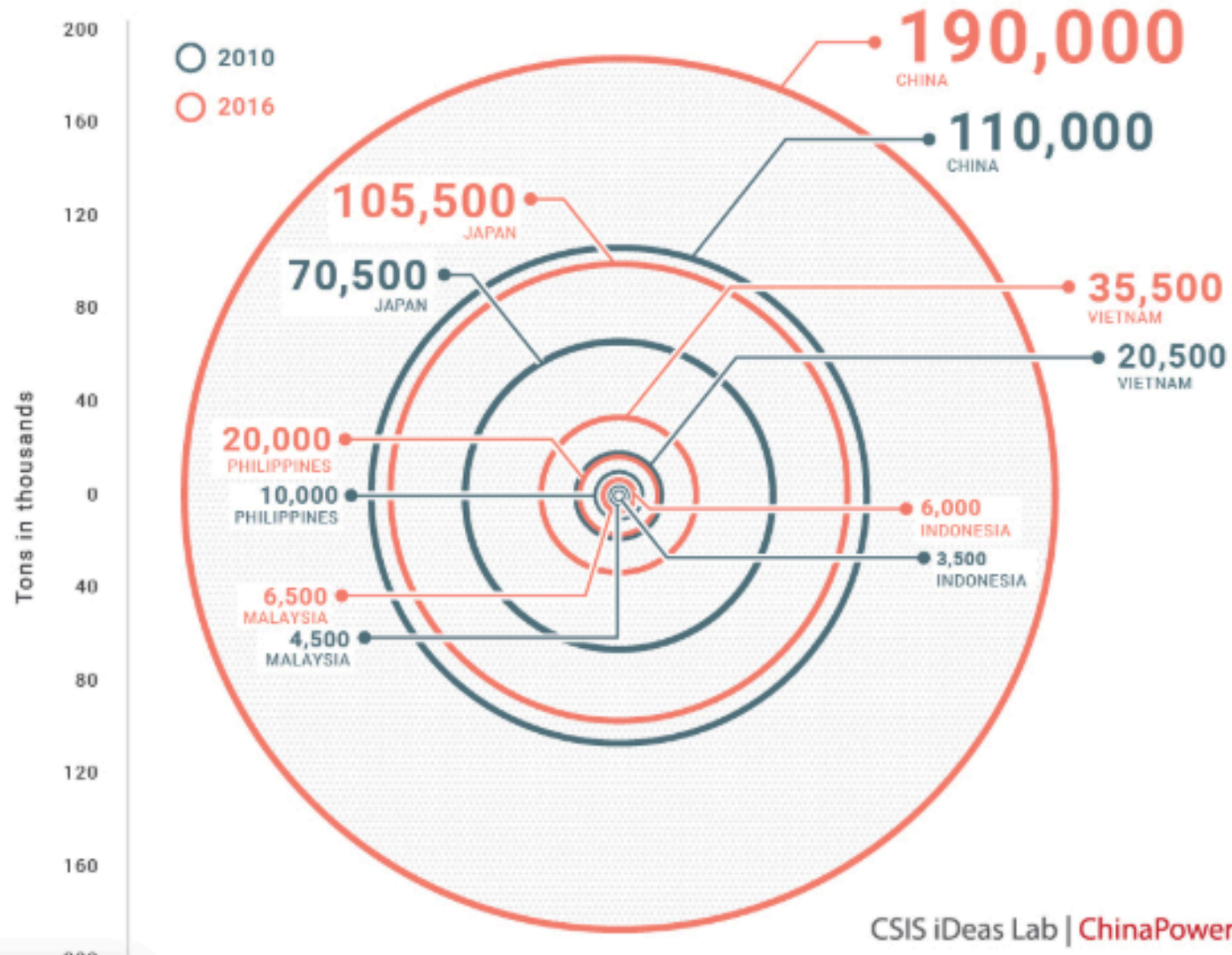


- “The ‘zone’ essentially represents an operating environment in which aggressors use ambiguity, and leverage non-attribution to achieve strategic objectives while limiting counter-actions by other nation states.” (Abhijit Singh, 2018).

8. China Maritime Law Enforcement Agencies: actual development

- **Now belongs to PLA and under direction of CMC**
- 16,000 personnel, over 1.275 ships
- CCGA ships armed with “more powerful small-diameter cannons” instead of water cannons. Crews aboard patrol vessels could be authorized to “carry firearms.”
- Some vessels with shipborne helicopters
- Type 053H2G multi-role frigates capable of launching anti-ship/aircraft missiles

Total Coast Guard Tonnage of Selected Countries 2010 & 2016



CSIS iDeas Lab | ChinaPower

Expansion of
coastguard in
regional countries

Prediction

- **The use of Coast Guards and other MLEAs will become even more popular in the coming years.**



So what?

1. International Laws concerning MLEAs

- **UNCLOS 1982:**

- A coastal state is entitled certain rights in certain bodies of water around it.
 - Example: In the EEZ, the coastal state has sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources (*Article 56*).
- In order to exercise these sovereign rights, state's MLEAs is used.
 - Example: On hot pursuit: “The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State.” (*Article 111*).

Common understanding

The use of MLEAs is to avoid escalation of conflicts

Malaysia Maritime Law Enforcement Agencies

- **Malaysian Maritime Enforcement Agency Act No. 633 of 2004.**
 - “... (a) to enforce law and order under any federal law...”
 - “...the functions of the Agency shall be performed within the Malaysian Maritime Zone.”

Philippines Maritime Law Enforcement Agencies

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SEC. 3. *Specific Functions.*—The Philippine Coast Guard shall perform the following functions:

(a) To prevent and suppress illegal entry, smuggling, other customs frauds and violations of other maritime laws that may be committed within the waters subject to the jurisdiction of the Republic of the Philippines, and for this purpose surveillance by the Philippine Coast Guard may be made on vessels entering and/or leaving Philippine territory;

Philippines Maritime Law Enforcement Agencies

Republic Act No. 9993 (known as the "Philippines Coast Guard Law of 2009")

Structure: Under Ministry of Department of Transportation and Communication

Section 3. Powers and Functions. - The PCG shall have the following powers and functions:

(a) To enforce regulations in accordance with all relevant maritime international conventions, treaties or instruments and national laws for the promotion of safety of life property at sea within the maritime jurisdiction of the Philippines and conduct port state control implementation;

(l) To assist in the enforcement of laws on fisheries, immigration, tariff and customs, forestry, firearms and explosives, human trafficking, dangerous drugs and controlled chemicals, transnational crimes and other applicable laws within the maritime jurisdiction of the Philippines;

(m) To board and inspect all types of merchant ships and watercrafts in the performance of this functions;

(n) To enforce laws and promulgated and administer rules and regulations for the protection of marine environment and resources from offshore sources or pollution within the maritime jurisdiction of the Philippines;

Vietnam Maritime Law Enforcement Agencies

- **1998 Ordinance No. 03/2008/PL-UBTVQH on Vietnam Coast Guard**
- **2018 Draft of Law on Vietnamese Coast Guard**
 - VCG operates inside Vietnamese waters (article 11).
 - Has the right to chase, capture (people and ships), use weapons to enforce law (article 10).

<https://www.mmea.gov.my/eng/index.php/en/>

Indonesian Coast Guard (Bakamla)

- **Law No. 32/2014 on maritime affairs**
- The BAKAMLA is a civil agency and its mandate is to enforce the law at sea.

<https://www.shephardmedia.com/news/imps-news/adecs-2018-indonesian-coast-guard-growth-mode/>

China Maritime Law Enforcement Agencies

- **Structure:**

- Before 2013: Fisheries Law Enforcement Command (FLEC) 1958; China Maritime Surveillance (CMS) 1998;
- 2013-2018: China Coastguard (CCGA) under State Oceanic Administration
- 2018-: CCGA under China Military Commission

- **Mission:**

- Before 2013: Dual leadership (SOA and MPS). Administrative and policing duties

- **Functions:**

- Protect Chinas' maritime rights (along with PLA and MSA)

Navy and MLEAs in comparison

| Navy | MLEAs |
|---|--|
| Military | Non-military Civilian |
| More powerful weapons | Less powerful weapons |
| Foreign enemy (“professional” combatants) | Civilian law offenders |
| Rule of engagement <i>(Unintended Encounter)</i> | Rule enforcement <i>(Intended Encounter, hot pursuit doctrine)</i> |
| Defending national sovereignty | Protecting domestic and international law <i>(take sovereignty and sovereign rights in the area as given)</i> |

Is the use of MLEAs in disputes an effort to prevent escalation of conflict?



What can we do?

Existing mechanisms

- HACGAM (Heads of Asian-Coast Guard Meeting) established 2004.
 - search and rescue,
 - environmental protection,
 - preventing and controlling unlawful acts at sea
 - capacity building
 - CUES adopted in 2014 by Navies
 - Extended-CUES?
 - CUES-like documents applicable to Coast Guard?
 - ASEAN Maritime Coast Guards Forum
- **No official cooperation of coastguards of ASEAN countries and China**

Continuing efforts

- HD's COPs

The Common Operating Principles

Principle of transparency and communication

- Always be ready to acknowledge and respond by any means available
- Always be ready to share intentions

Principle of do no harm

- Actions taken by Parties must always demonstrate the highest regard for the preservation of life at sea
- Non-violent methods to exact compliance or for mission accomplishment should be applied before resorting to any use of force
- Force should only be applied when other methods have proved ineffective or when it is reasonably judged that there is no realistic prospect of achieving the lawful objective identified without force
- When using force, only reasonable and necessary force should be used
- Use of force for exacting compliance or for mission accomplishment should avoid the use of lethal force

Principle of due regard for good order and preservation of life at Sea

- Respect for and adherence to the United Nations Convention on the Law of the Sea (UNCLOS)
- Respect for and adherence to the International Convention for the Safety of Life at Sea (SOLAS) and the International Regulations for Preventing Collisions at Sea (COLREGS)
- Respect for and adherence to other relevant international conventions to which the countries are Parties

Initiative

Initiative

Initiative