

Reducing Russia-NATO Tensions: Codes for Unplanned Encounters at Sea

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SUNE LUND, COMMANDER, ROYAL DANISH NAVY



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Cover: A Russian Army Baltic Fleet Sukhoi Su-27 jet fighter escorting an aircraft carrying Russia's Minister of Defense Sergei Shoigu over neutral waters of the Baltic Sea. A NATO F-18 jet fighter attempted an approach to identify the aircraft and was forced away by the Russian escort jet fighters, triggering mutual accusations of unsafe piloting maneuvers. (Vadim Savitsky\TASS via Getty Images)

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ABSTRACT

In the South China Sea, navies and air forces use codes for unplanned encounters as communication tools. These instruments lower the risk of the unintended use of force by introducing elements of reassurance into an environment characterized by conflicting strategic objectives and fundamental differences of interest. The report argues that

the same characteristics apply to NATO-Russian relations in the Euro-Atlantic area. The adoption of a code for unplanned encounters there would not directly influence conflicts of interest, but it could reintroduce positive aspects to relations and reduce the risk that unintended incidents result in the use of force.

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INTRODUCTION

On June 26, 2020, outgoing commander of US naval forces in Europe, Admiral James Foggo, highlighted the need for more communication at sea in order to avoid escalations. Specifically, he argued for a set of codes that would give regional navies and coast guards a script for how to identify themselves and announce their intentions clearly during unplanned encounters with non-allied navies—a tool that would “eliminate any ambiguity and therefore hopefully eliminate any untoward incidents that may take place.”¹ In the interview, Adm. Foggo advocated for a Euro-Atlantic dialogue with Russia on the establishment of such codes for unplanned encounters, as increasing military and commercial traffic enhances the risk of miscalculations and hence the use of deadly force between strategic opponents that are increasingly testing each other’s red lines in the Euro-Atlantic area. Maritime regions like the Baltic Sea, the High North, the Eastern Mediterranean, and the Black Sea promise to be main arenas for such encounters, as they continue to form

the frontlines between the forces of the North Atlantic Treaty Organization (NATO) and Russia.

Moscow has repeatedly voiced concerns over the deployment of NATO forces near Russian borders, describing it as a threat to its security. In addition, Russia and NATO continue to blame each other for conducting destabilizing exercises near their mutual borders. In June 2020, when NATO conducted the annual BALTOPS exercise in the Baltic Sea, Russian combat jets flew training missions in parallel. Russia’s Baltic Fleet proclaimed that a dozen of its Su-24, Su-27, and Su-30 aircraft practiced strikes against maritime targets in the Baltic Sea at the time of the BALTOPS maneuver. Consequently, the United States and

Photo Caption: Sailors observe a Russian Beriev Be-12 surveillance aircraft as it flies past France’s Marine Nationale ship Commandant Birot at low altitude off the Strait of Kerch, in the Black Sea, on November 28, 2019. (FABIEN ZAMORA/AFP via Getty Images)

its allies complained that Russian fighter jets performed unsafe maneuvers while shadowing their planes, accusations that Russia's military has rejected.²

This is only one of numerous incidents occurring in the Baltic Sea and the wider Euro-Atlantic area. These involve both military aircraft and naval vessels and at times civilian aircraft. In the South China Sea, similar incidents have occurred. This report demonstrates that both the South China Sea and the Euro-Atlantic area are characterized by interaction between states and alliances engaged in strategic rivalry due to fundamental differences of national interest. As a result, they pursue defense policies of mutual deterrence at the strategic level, creating the risk of escalation spirals at the tactical level, thereby engendering incidents that might escalate to the use of force and run counter to both sides' national interests.

We argue that to enhance stability, both regions need instruments of reassurance that assist communication during unplanned encounters. We investigate the measures that Western countries and China have already agreed to apply in the South China Sea and discuss the possibility for adopting similar measures to lower tension levels between Western countries and Russia in the Euro-Atlantic area. A similar idea, focusing on the Baltic Sea, was discussed in a 2015 paper by the Task Force on Cooperation in Greater Europe, made up of senior policy stakeholders from Russia and Europe.³ The idea, however, was not pursued at the time because the European side was concerned that such measures would potentially undermine NATO's freedom of action and weaken its ability to counter Russia's advances in the Baltic Sea.⁴ However, a growing number of serious incidents between Western countries and Russia in a regional environment of mutual deterrence makes it worth reconsidering. Codes for unplanned encounters have now been in place in the South China Sea for a few years, making it possible to assess the advantages and drawbacks of this instrument and its potential usefulness in other regions marked by strategic rivalry.

The literature on the South China Sea and on Russia's behavior in its neighborhood usually points to the conflict potential in these regions due to China's and Russia's use of tactics and policies that stretch the global rules on legitimate conduct beyond what is acceptable to the US and its allies. Examples include using paramilitary forces concealed as civilians to coerce other states and governments, applying interpretations of international law that deviate from standard interpretations used by Western states, and using offensive force against the non-offensive deterrence actions of their strategic opponents.⁵ Acknowledging the inherent challenges in these situations, this report attempts to add a positive perspective on interaction with China and Russia by focusing on the need for reassurance in environments of mutual deterrence to preserve peace and stability.

To lower the risk of incidents in the South China Sea that might unintentionally engender the use of force, in 2014 the member states of the Western Pacific Naval Symposium (WPNS) agreed on the Code for Unplanned Encounters at Sea (CUES).⁶ This agreement formed the basis of the US-Chinese bilateral Memorandum of Understanding (MoU) on the Rules of Behavior for the Safety of Air and Maritime Encounters that same year.

These agreements have not changed the underlying power struggle in the South China Sea. Conflicting strategic objectives, fundamental differences of interest, and divergent concepts of deterrence continue to characterize Western-Chinese relations and influence interaction in the South China Sea. Interaction can be unpredictable due to conflicting views on regional order and on the principles of right and wrong conduct. However, war remains avoidable. Codes for unplanned encounters can add elements of reassurance to a strategic environment characterized by mutual deterrence and can allay mutual concerns about strategic intentions.⁷ They are a very limited form of reassurance intended to communicate to an opponent that force used for deterrence does not constitute a threat, and will not be used against the opponent unless deterrence fails.

Debates on deterrence and strategic reassurance in Asia emerged in the post-Cold War era as it became clear that the US and China were strategic opponents with fundamental differences of interest that risked engendering the use of force. Between Washington and Beijing, an unbalanced perception of the threat posed by the other fueled an escalatory cycle of provocation and reaction.⁸ Western countries such as France, the UK, Australia, and New Zealand, who subscribe to the same fundamental understanding of world order as the US, have become increasingly engaged in the strategic rivalry in the South China Sea. The principal challenge for all powers involved is to reassure the other side of one's strategic intentions without appearing overly weak or conciliatory in the process.⁹ Discovering how to reduce the security dilemma without undermining the credibility of the deterrent threat is the goal of the coercive diplomacy undertaken in the South China Sea.¹⁰

Deterrence remains possible despite an increasingly intense great power rivalry, fueled by Chinese revisionism. CUES are instruments designed to reduce the risk that unplanned encounters escalate into unsafe and highly provocative incidents in theaters where the core interests of great powers clash. In the South China Sea, the US and its allies and partners conduct freedom-of-navigation operations in an environment where China's navy and air force are gradually increasing counter-pressure and will continue to do so in the future. This enhanced strategic rivalry makes it necessary to consider how both sides can implement their interpretation of international law without fueling tensions.¹¹ CUES help meet this objective by reducing the risk that unplanned encounters spiral out of control, engendering unintended use of force and jeopardizing peace and stability.

Precursors exist to the 2014 WPNS CUES agreement and the US-Chinese MoU. In 1972, the US and the Soviet Union signed an agreement on the prevention of incidents on and over the high seas.¹² This agreement was designed to reduce the possibility of conflict by accident, miscalculation, or lack of communication without directly affecting the size, weaponry, or force structure

of the parties. Moreover, it was intended to enhance mutual knowledge and understanding of military activities and increase stability. The 1972 agreement, which was part of the Nixon-Brezhnev agreement on basic principles of coexistence, went beyond CUES by regulating behavior rather than merely suggesting communication protocols for signatory states and recommending a set of actions to avoid in the event of unplanned encounters.¹³

The basic principles did not help address the underlying conflicts of interest and ideology that characterized US-Soviet relations. Like the US-Soviet Strategic Arms Limitation Talks, they had the effect of papering over some of the cracks, but there was no meeting of minds between Washington and Moscow on managing spheres of influence.¹⁴ However, they did help avoid and control crises involving the risk of great power war to preserve the existing world order, in which Washington and Moscow enjoyed a privileged position.¹⁵ According to then-US Secretary of the Navy John Lehman, by 1985 the frequency of incidents between the US and the Soviet navy was way down from what it was in the 1960s and early 1970s.¹⁶

This report first analyzes the use of CUES in the South China Sea, which is the region they initially were designed for as an instrument to prevent unwanted escalation. In what sense have CUES in the South China Sea set a precedent for reassurance measures in other regions? Second, we discuss whether CUES could be useful to lower tension levels between Russia and NATO in their ongoing conflicts over spheres of interest, strategic space, and appropriate deterrence measures in maritime Europe.

The analysis draws on the first-hand experiences of personnel engaged in implementing the CUES. This allows us to go beyond rhetorical announcements of intention and understand how de-escalation instruments are used at the level of implementation and whether they have any effect. Third, we conclude by discussing the caveats to and advantages of adopting CUES in the Euro-Atlantic area and how they should be designed to take the specific strategic context of this area into account.



CUES IN THE SOUTH CHINA SEA: THE CONTEXT AND CONSEQUENCES

With the rise of a revisionist China on the international stage vis-à-vis the US, the South China Sea is increasingly seen as an area where the core interests of great powers collide. Here, US interests in the freedom of the global commons and the right of military vessels and aircraft to pass through the exclusive economic zones of other states run counter to China's demands that the US refrain from treating China's disputed exclusive economic zones and territorial waters as international waters, where military vessels and aircraft can move around freely. Moreover, the US presence in the South China Sea collides with China's objective of expanding its strategic presence in Southeast Asia. The US's extended deterrence with allies and strategic partnerships throughout Southeast Asia, designed to deter the use of force by a strong defense, are seen by China as a means to encircle and contain it. China's concept of deterrence involves responding to non-military threats with the use of offensive force, if necessary, to defend Chinese core values. This only confirms US perceptions that China is waiting for an excuse to expand its presence in the South China Sea.

Identity issues, coercion, and deterrence elements influence Western-Chinese interaction in the South China Sea. The US and China have different interpretations of the legal rights of military vessels and aircraft in areas not defined by China as international waters. China's long-term aspiration is to restore what it considers the historic Chinese motherland in the South China Sea. However, the extent and legal basis of China's claim has yet to be clarified.¹⁷ The US, its allies, and strategic partners consider the parts of the South China Sea not detailed as territorial water to be international waters and airspace, in accordance with the United Nations Convention on the Law of the Sea (UNCLOS). The US regularly conducts freedom-of-navigation operations and overflights to demonstrate that it can navigate freely and unannounced up to 12 nautical miles from mainland China's coastline. Accordingly, in the South China

Photo Caption: Two Chinese jet fighters during a military drill in the South China Sea near China's Hainan Island in an undated photo. (STR/AFP via Getty Images)

Sea, American freedom-of-navigation operations at times come within 12 nautical miles from disputed features, thereby signaling the US interpretation of the legal rights of military vessels.¹⁸ China responds by requesting the US to leave, issuing official protests, and at times intercepting US vessels and aircraft or temporarily confiscating US assets, such as drones, to demonstrate that in China's view, the US is violating Chinese sovereignty and constitutes a security risk.

In an effort to counter China's assertiveness in the South China Sea, US allies and strategic partners are increasingly playing a central role, showing that Western rather than US-specific interests and values are at stake and being defended. France, the UK, Australia, and New Zealand conduct naval operations in the South China Sea, generally refraining from sailing within 12 nautical miles from disputed features in the area.¹⁹

Disagreements about legal entitlement and the rights of passage in the South China Sea are not the only reason for applying coercive measures. The West's priority to preserve the rules of the international order that underpin the alliance system and the global commons, and China's priority to expand its strategic influence in its neighborhood, are a central reason for their different interpretations of international law. Underlying strategic disagreements preserve a situation of permanently testing each other's red lines. China seeks to carve out space for itself alongside the US presence in the South China Sea and will not allow other actors to challenge its unsubstantiated territorial and maritime claims.²⁰ Beijing's frequent deployment of combined civilian and paramilitary forces is seen by Washington as a challenge aimed at pushing back the US alliance system, making it hard for the US and its partners to respond in a lawful and proportional manner.²¹ Moreover, these Chinese civilian and paramilitary forces tend to be backed up by regular naval forces, ensuring leverage if a situation moves in an unintended direction.²² This only amplifies the concerns of the US and its allies.

In addition to conflicting strategic objectives, the US and China do not have the same deterrence doctrines and traditions.

China views its deterrence posture—which involves a military build-up and fortification of maritime features in the South China Sea and the use of law enforcement capabilities to defend alleged sovereign rights—as self-defensive in nature, aimed at dissuading instead of coercing an opponent from taking specific actions. However, the US sees this behavior as flaunting the rules of the global commons and jeopardizing its fundamental interests and values.²³ In the US view, any strengthening of its forward military presence in the vicinity of the South China Sea is intended to deter China from undermining the US alliance system and the rules of the global commons. The US cooperates with its network of allies and strategic partners on patrolling in the South China Sea to demonstrate that international waters cannot be turned into national territorial waters by means of land reclamation and historical claims. China argues that the US has no right to exercise offshore deterrence in waters and airspace that Beijing considers to be within its jurisdiction.²⁴ Consequently, China pushes back at what it views as containment intended to prevent it from increasing strategic space in its neighborhood.

These legal, strategic, and tactical conflicting interpretations engender increased risks of unplanned encounters at sea and in the air escalating into unsafe situations or unintended armed conflict. It is against this background that the WPNS Symposium in 2014 issued a CUES agreement to develop better communication channels between navies. Twenty-four countries have joined the agreement, including countries that undertake actions upholding freedom of navigation in the South China Sea, such as Australia, France, New Zealand, and the US, as well as China and Russia. One drawback of the agreement is that it does not involve any formal meeting where the usefulness of the rules would be evaluated with a view to improve implementation or revise the agreement. Unlike the US-Soviet CUES agreement, the instrument is not bilateral, but rather a multilateral agreement with numerous countries applying it on a daily basis. The 2014 CUES agreement is essentially a confirmation that signatory countries intend to respect ordinary rules for proper conduct at sea and in the air. The communication codes are used to lower

the risk of unplanned encounters spinning out of control due to misunderstandings. To cite just one example, when a French navy vessel encountered a Chinese ship during its actions to uphold freedom of navigation in the Spratly Islands in the South China Sea in April 2017, the French navy used the CUES to avoid an incident. Even countries that are not signatory states to the agreement use them. For example, when a Chinese naval task group visited Europe in 2017, not only France but also Denmark conducted drills with the Chinese task group using the CUES.

The US-China MoU recognizes the CUES agreement and establishes a specific annex for air-to-air encounters, which for the past two decades have given rise to a number of serious incidents between the two countries. Moreover, Washington and Beijing have held assessment meetings with the purpose of revising the rules.²⁵ The main consequence of the CUES for US-China relations is that it establishes mutual agreement on a specific set of rules and procedures for communicating, which makes dialogue on thorny issues easier. In this sense, the CUES agreement is a confidence-building measure with broader implications for bilateral relations. For example, before the CUES agreement the US and China used translators, but now there is mutual agreement that the language of communication is English. This testifies to the usefulness of the CUES agreement as an instrument to de-conflict relations.²⁶

One caveat to the CUES agreements is that they only regulate interaction between navies and not between law enforcement agencies such as coast guards, despite the fact that most of the incidents occurring in the South China Sea involve this type of governmental maritime institution. Accordingly, some European active duty officers in the South China Sea argue that CUES have not had an effect on the level of incidents.²⁷ Furthermore, the CUES agreement does not cover underwater activity, despite the fact that many countries in the South China Sea, such as China, Indonesia, and Vietnam, are quickly expanding their submarine fleets, and the US and Japan are

increasing their underwater activities in the area. On the other hand, including underwater activities into the CUES would run counter to the inherent characteristics of submarines and the way they deploy, which is based on stealth. Such a restraint on the ability to use underwater capabilities would likely discourage some nations from joining the agreement, or undercut the value of the CUES because navies would not adhere to the rules. But because there are these gaps in the agreement, the risk that unplanned encounters engender the unintended use of force remains high.

Moreover, the agreements do not apply to territorial waters.²⁸ Since China and the US, as well as other claimant states in the area, disagree on the location of territorial waters in the South China Sea, it is unclear where the communication protocols apply. The agreements do, however, acknowledge that different policy perspectives exist concerning the conduct of military activities in the exclusive economic zone, thereby seeking to negate the effects of disagreement regarding the interpretation of international law and potentially elevating the implementation of the agreements above such differences.

Furthermore, the 2014 CUES agreement and the US-China MoU are not legally binding documents. This means that only if used consistently by numerous countries over a longer period does the code have the potential of becoming legally binding state practice.²⁹ Consequently, nations have to actively commit to the rules because they have an interest in adhering to them. The fact that even countries outside of the formal agreement commit to respecting the CUES in practice is a sign that they are considered useful.³⁰

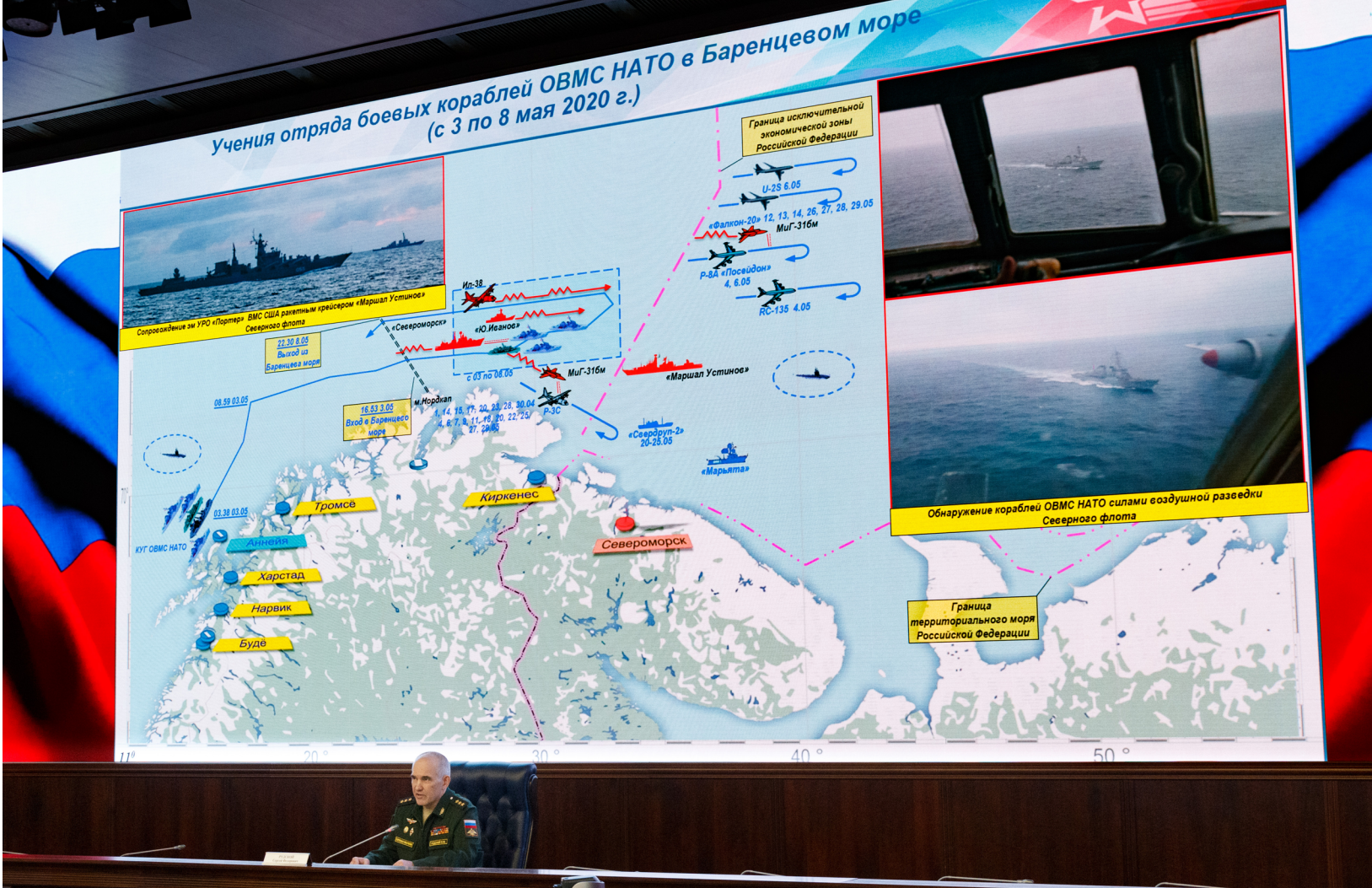
Another caveat to the agreements is that they do not regulate all types of encounters and they do not regulate behavior. They merely recommend certain actions that should be avoided. Vessels and aircraft can therefore continue to spark dangerous incidents, for example, by sailing close to other vessels or with threatening behavior, even though they use the communication

signals in the agreements. The upside to the lack of behavioral regulation is that more countries will be willing to sign on to the agreement because they are not restricted in their actions at sea, but merely in the methods used to communicate their actions. This is important in theaters such as the South China Sea, where incidents occur between numerous states with different interests. It seems more important to have a large number of states on board, demonstrating respect for the rules through their communication, than it is to have an ambitious set of rules that only a few states will respect. China and the ASEAN countries are currently in the process of negotiating a code of conduct for the South China Sea aimed at addressing the issue of regulating behavior. While the exact nature of such a code is unknown, it is not likely to be viewed as legally binding by non-regional actors unless it is based on international law and the provisions set down in the UNCLOS. Western freedom-of-navigation actions in the South China Sea will likely increase in coming years if such a code of conduct is approved, in order to demonstrate that regional codes will not be allowed to restrict the freedom of navigation and overflight of states outside the region.³¹ This demonstrates that attempts at behavioral regulation may increase tension levels and jeopardize the fragile set of rules already in place.

A final caveat is that China, in contrast to Western signatory states, has been slow to use the CUES in practice. When Europe conducts actions upholding freedom of navigation, they use the CUES. For example, in 2014 when a European frigate sent off a helicopter in the Spratlys, it used the CUES for communication purposes when contacted by the Chinese South Sea Fleet that escorted it. The Chinese navy officers understood the CUES, but they did not use them to answer. Similarly, in a non-sensitive part of the South China Sea, the same frigate conducted a firing

exercise using the CUES. The Chinese did not protest, and when the Chinese escort was asked to move, it adhered to the request, allowing the exercise to take place unhindered. After the European frigate left the South China Sea and passed through the Taiwan Strait, escorted by the Chinese and the Taiwanese navy on either side, it tested the CUES in the East China Sea. However, China's East Sea Fleet did not respond and appeared to have no understanding of the CUES. Furthermore, China has declined recent invitations by the US to practice the use of CUES in the South China Sea, signaling a limited interest in any efforts to reduce tensions in the current environment.³² It is unusual that CUES continue not to be used by all signatory states as standard tools of communication.³³ The Chinese navy's limited use of CUES indicates that in the event of real incidents, the CUES are not likely to be used, at least not in the short term.

Through a legally non-binding agreement, CUES contribute to preventing unplanned encounters from escalating into graver incidents. The CUES describe actions to avoid and detail methods of communication for naval vessels and aircraft caught in unplanned encounters beyond territorial waters. Even if CUES do not contribute to decreasing the number of incidents, they are important de-escalation tools for countries with different perceptions of proper conduct, fundamental conflicts of national interest, and opposed strategic concepts. Recommendations and communication protocols do not solve these underlying issues, but they do prevent incidents from getting out of hand by lowering the risk of unintended use of force. As tension levels rise between Russia and the West in the Euro-Atlantic area due to identity issues, coercive behavior, and different interpretations of deterrence, it is worth considering whether CUES might help prevent conflict and build confidence in this part of the world.



NATO-RUSSIAN STRATEGIC RIVALRY IN THE EURO-ATLANTIC AREA: DETERRENCE WITHOUT REASSURANCE

Since the 16th century, Russia has sought to expand, but the conflicting interests of other great powers during long periods of history made this objective difficult to meet. Russian influence in the European maritime theaters peaked after the Second World War, but it was balanced by NATO's control over key choke points and strong naval posture. The retreat of Russia to a strip of the shorelines in the Baltic Sea and the Black Sea following the Soviet implosion in 1991—and NATO's expansion to encompass the Baltic states in 2004—left Russia in a position of insecurity. Seen from Moscow's perspective, Russia was left with very limited strategic access to the main waterways in its Western hemisphere.³⁴ This restricts Russia's options in the maritime realm in the event of a crisis, as the straits in the Baltic

Sea and the Bosphorus Strait are controlled by NATO. The Arctic ports are situated near a NATO member state, Norway, and are somewhat operationally restricted by ice for most of the year.

Russia's 2015 maritime doctrine states that Moscow's focus on the Atlantic is a result of NATO's active development and expansion along Russia's borders.³⁵ To counter what it sees as Western security threats, Russia has gradually sought to

Photo Caption: Sergei Rudskoi, chief of the Main Operational Directorate of the General Staff of the Russian Armed Forces, holds a briefing on the deployment of NATO ships in the Baltic and Black Seas on June 1, 2020. (Vadim Savitsky/TASS via Getty Images)

expand its influence in the post-Soviet sphere from the Arctic all the way down to the Black Sea and the Mediterranean. Seen from a Russian perspective, its basic security needs necessitate attempting to minimize NATO's influence in its near abroad in the Euro-Atlantic area. NATO's growing influence is, in the Russian mindset, the continuation of a historic zero-sum game between Russia and other great powers, which concerns Russia's core interest in ensuring a security buffer against the expansionary objectives of potentially hostile opponents. But as seen from the West, the Soviet occupation of Eastern Europe and the Baltic states was a misconceived break with the historical status of the region as a Western sphere of influence. In NATO's view, Eastern Europe and the Baltic Sea region constitute a first line of defense against an increasingly threatening Russia that since 2008 has demonstrated a willingness to use hard power to annex territory and rebuild the post-Soviet borderlands as a Russian sphere of interest.³⁶

Divergent views on this historical identity are magnified by conflicting strategic objectives. Russia and NATO have opposing views on the status quo, and both sides are committed to using military deployments more actively to manifest what they see as the status quo and what the other side sees as revisionism. This is a recipe for a gradual increase in tension levels and in the number of incidents between Russia and NATO. In Moscow's view, the Arctic Sea, Baltic Sea, and Black Sea allow it ocean access.³⁷ To prevent NATO and its partners from expanding their influence and denying Russia access, Moscow is trying to question NATO's presence and undermine its influence in what it sees as a Russian sphere of influence. This does not necessarily imply that Russia intends to annex the Baltic states or directly threaten any other allied nation. Rather, it means that Russia is increasing its military and paramilitary presence in these regions, improving its ability to challenge NATO's freedom of movement in the event of a crisis. In doing so, Moscow creates a sphere of uncertainty that challenges NATO's internal cohesion. When combined with Russia's mistrust of NATO and its willingness to confront NATO by forceful measures, the potential for the use of force due to misunderstandings is high.

Moscow is searching for weak links in the West's resolve to maintain a forward military presence in its alleged sphere of influence. Since 2014, Russia has tested NATO and its partners, Finland and Sweden, with increased air and naval activity. Russia's naval forces are not a match for NATO's fleet, so it predominantly uses its air force for testing purposes, combined with other non-kinetic activities such as cyberattacks and propaganda. Dangerous unplanned encounters in the air occur regularly when Russia turns off its transponders to remain unidentified, resulting in risks of air collision with commercial and military planes. In 2019, allied aircraft took to the skies 290 times in response to Russian military aircrafts across Europe,³⁸ with a number of high-risk or serious incidents characterizing the period since 2014. For example, in 2016 a Russian plane flew close to a US naval vessel and a Polish helicopter in the Baltic Sea, risking collision. In January 2019, three Russian military aircraft entered the airspace of Sweden, a strategic partner of NATO.³⁹ Russia has suggested a technical agreement concerning the use of transponders. However, the form and substance of the proposed deal was reported by NATO sources to be inherently impractical to implement and placed too many limits on NATO's ability to employ its forces freely.⁴⁰

In NATO's view, the Euro-Atlantic area has yet again become a contested arena due to Moscow's aggression in areas such as Georgia, Ukraine, and Syria. NATO intends to maintain a robust posture toward any challenge against internal cohesion in its near abroad. In July 2016, NATO announced that Russia was undermining the rules-based order in Europe and that NATO would increase its defense and deterrence capabilities and do more to project stability beyond its borders.⁴¹ This is sought through forward deployments of NATO troops in the Baltic states and Poland, and by a robust reaction against unannounced military passages in the vicinity of NATO and NATO partners' sovereign maritime, air, and territorial space. Between June 15-19, 2019 alone, NATO Baltic Air Policing intercepted ten Russian aircraft nearing allied airspace.⁴²

Russia's strategic deterrence encompasses a mix of nuclear and conventional weapons. Internally, this is considered a defensive strategy that seeks to prevent conflict and control escalation if a conflict breaks out. The concept includes the possibility of deliberate escalation, which involves the risk of unintended initiation of military conflict, as it may be interpreted as offensive use of force without provocation. In the Arctic, Baltic, and Black Sea regions, Russia's strategic deterrence is based on an anti-access/area-denial approach. The air defense system missiles, the nuclear-capable ISKANDER missiles, and the long-range coastal-defense missiles, Bastion, could allow Russia to seriously restrict or deny allied ships and planes the operational use of these strategic regions during a potential conflict. Russia plans to control escalation by using conventional missile systems on the opponent's military and economic targets, which risks being interpreted as an offensive attack by NATO, especially when employed alongside cyber and electronic warfare capabilities.⁴³ In addition, Russia's use of paramilitary forces in what is generally known as "hybrid warfare" continues to constitute a challenge to NATO, while such actions in its near-abroad aimed at increasing its political-strategic influence are designed to be non-attributional and below NATO's Article 5 threshold. For example, numerous Russian surveillance vessels are paramilitary. As tension levels rise, Russia is likely to increase the use of paramilitary capabilities to avoid triggering NATO's collective defense commitment.

According to a RAND study, NATO and its partners' current deterrence posture is unable to defend the alliance's Eastern flank, i.e., the Baltic states, in the event of a conventional attack from Russia. NATO's air and sea defenses are sufficiently strong to deter a Russian attack beyond the Baltic states. However, the geographical position of the three Baltic states leaves them vulnerable to Russian threats of using paramilitary and military force.⁴⁴ These realities have forced NATO to increase its deterrence posture, using forward-deployed NATO battalions in each of the Baltic states and Poland. While such a deterrence posture can be seen as extremely defensive, it

is an acknowledgement of the overall strength of NATO, which will be mobilized if these tripwire deployments were to be threatened by Russian forces. NATO thereby seeks to send a signal to Russia that any actions—above or below the threshold of Article 5—toward any of the Baltic states or Poland would be an action against all of NATO. At the same time, this approach is designed to reassure the Eastern allies that NATO is committed to their defense. NATO sees the increased focus on deterrence as purely defensive and caused by an increasingly provocative and substantial military Russian presence along NATO's borders. However, NATO's increased troop levels near the Russian border in areas perceived by Moscow as parts of its sphere of influence are seen as aggressive infringements on Russian borders.

Increased tension levels and mutual deterrence occur in a context of little reassurance between the two adversaries. Russia is no longer a NATO Partnership for Peace partner; indeed, NATO and its partners have adopted sanctions against Russia since 2014 to demonstrate their disapproval of Russia's annexation of Crimea. Furthermore, both parties increasingly conduct exercises in which reactions to the opponent's potential war plans are tested. This behavior reflects a climate deprived of trust due to enhanced underlying conflicts of interest between Russia and NATO. In such an environment, encounters at the tactical and sub-tactical levels have the potential to spiral out of control.

Mutual deterrence is a risky strategy for keeping the opponent at bay, especially when identity issues, strategic perceptions and interests, and deterrence concepts are as fraught with conflict potential as is the case between Russia and NATO and its partners. The introduction of CUES would be a practical way of reducing the risk that incidents escalate and ultimately result in further deterioration of the underlying conflicts of interest. Compared to the South China Sea, tension levels remain low between Russia and NATO. There is time to put a positive spin on relations by introducing elements of reassurance. Discussing

CUES is not likely to be an effective conflict resolution tool, but it is an effective instrument to avoid escalation.⁴⁵ The introduction of CUES in the Euro-Atlantic area would not directly influence the underlying conflicts of interest between Russia and NATO.

However, discussion of a CUES agreement could be a way of reintroducing positive aspects in relations between Russia and NATO and its partners, sending a clear signal that all parties realize the dangers involved in an evolving security dilemma.



CONCLUSION: CUES CAN CONTRIBUTE TO LOWERING EURO-ATLANTIC TENSIONS

The security dilemmas and deteriorating security situations in the South China Sea and the Euro-Atlantic area reflect a wider tendency in Western relations with China and Russia. Relations are increasingly characterized by geostrategic rivalry that engenders a resurrection of mutual conventional and nuclear deterrence with inadequate reassurance elements, thereby enhancing the risk of unplanned use of force and, at worst, war. Other areas with a similar pattern of interaction include the Korean Peninsula, the East China Sea, and the Taiwan Strait in Asia. In Asia, numerous states have already subscribed to CUES as a preliminary step toward preventing the unplanned use of force.

As geostrategic rivalry and mutual deterrence increasingly mar Western-Russian relations, Europe is also witnessing growing

Chinese activity, including joint exercises and operations in maritime Europe. China and Russia have held joint naval drills since 2012. These take place in maritime Asia or maritime Europe in areas such as the South and East China Sea, the Mediterranean and, in July 2017, the Baltic Sea. In September 2018, Russia and China conducted a large military exercise in Eastern Siberia, in July 2019 they conducted a joint strategic

Photo Caption: Crews are seen on Italian frigate Carabiniere (F593) during NATO's joint "Dynamic Manta 2020" drill to increase the cooperation and level of preparedness of naval forces from nine member countries Turkey, Canada, France, Spain, US, Germany, Greece, Italy, Spain, and England on February 24, 2020 in Sicily, Italy. (Baris Seckin/Anadolu Agency via Getty Images)

bomber patrol, and in December 2019 they conducted their first joint naval drill with Iran in the Gulf of Oman. These activities signal that Beijing and Moscow support each other against what they perceive as an increasingly threatening West. So far, this support is principally political, but it is underpinned by major Russian arms sales to China, growing military transparency and cooperation between the two, and compatible geostrategic interests in pushing back the US alliance system in what they see as their natural spheres of interest in Asia and Europe, respectively.

Both China and Russia are signatory states to the 2014 CUES agreement, and numerous European nations describe the agreement as successfully introducing elements of reassurance into an otherwise increasingly threat-based interaction pattern between the West and China in China's neighborhood. The tendency for the maritime theaters of Asia and Europe to become increasingly connected in a strategic sense implies that introducing a CUES-type of code to Western-Russian relations might be potentially helpful in mitigating rising tension levels.

However, significant differences characterize the strategic environments in the South China Sea and Asia on the one hand and the Euro-Atlantic area on the other. In the future, the Euro-Atlantic area is likely to be a more fertile breeding ground for conflict. One reason is that Russia is more prone to demonstrate resolve by using force than is China, which relies mainly on translating economic influence into political-strategic influence. However, the first arena of opposition toward the Western-based current world order was Asia, where significant conflicts of interest began to fuel geostrategic rivalry from 1995 with the third US-Chinese Taiwan Strait crisis.

Tensions on the European continent did not begin to deteriorate until 2006, when Russia's diplomatic row with Georgia began to spiral out of control. As tension levels in Europe continue to rise, it is advisable to consider reassurance mechanisms that might help keep rivalry at manageable levels. In addition, actions

upholding freedom of navigation very rarely take place in Europe because the region is not wrought by similar disputes over sovereignty, maritime jurisdiction, and rules of behavior within maritime zones. With regard to Taiwan and most of the South and East China Seas, any Western interference and presence not endorsed by China is defined by Beijing as a violation of international law and hence a provocation.

The few disputes over sovereignty and jurisdiction in Europe may make the suggestion of introducing CUES seem less relevant. However, Russia and the West do have a common interest in avoiding unplanned encounters that escalate into the use of force. A European version of the CUES agreement could be a way to put a positive spin on the dialogue over incidents between the two sides' militaries. Debating CUES may also help avoid a further deepening of the underlying conflicts of interest by reopening broader and more strategic conversations on mutually beneficial instruments of order.

Not all regions in the Euro-Atlantic area are experiencing the same level of Russian incidents as the Baltic Sea, for example. However, a regional focus within the Euro-Atlantic area should be avoided in favor of a CUES agreement that encompasses the Euro-Atlantic area as a whole. Such an agreement should seek to encompass the obvious weaknesses in the WPNS CUES, such as including non-naval entities like coast guards and border control agencies. Furthermore, a balanced approach should be used regarding the regulatory character of CUES vis-à-vis the 1972 agreement between the US and the Soviet Union. By agreeing to refrain from using a defined set of the most provocative and risky actions and at the same time providing recommendations regarding the less confrontational actions, Russia and NATO could decrease the risk of unplanned encounters evolving into unsafe situations or escalating into the use of force.

In order to reach common ground, the Organization for Security and Cooperation in Europe (OSCE) might provide the best framework for a future agreement. Such an approach

would echo the one used in the Pacific, which provided a regional framework instead of a framework based on the global order backed by the West. However, the OSCE remains the only security organization in which Russia and the West meet

regularly, making it the only viable forum for such discussions. Furthermore, the OSCE has historically been the organizing forum for many confidence-building measures that underpin the current regional order in Europe.

ENDNOTES

- 1 Megan Eckstein, "Foggo: Changing Conditions Require New Arctic Strategy, International Code of Conduct," *USNI News*, June 26, 2020, <https://news.usni.org/2020/06/26/foggo-changing-conditions-require-new-arctic-strategy-international-code-of-conduct>.
- 2 The Associated Press, "Russia, NATO conduct parallel wargames over Baltic Sea," *Military Times*, June 11, 2020, <https://www.militarytimes.com/news/your-military/2020/06/11/russia-nato-conduct-parallel-wargames-over-baltic-sea/>.
- 3 Ian Kearns, "Avoiding War in Europe: The Risks From NATO-Russian Close Military Encounters," *Arms Control Today* (November 2015), www.armscontrol.org/ACT/2015_11/Features/Avoiding-War-in-Europe-The-Risks-From-NATO-Russian-Close-Military-Encounters.
- 4 Interview with European naval officer in NATO, November 2017.
- 5 On China, see for example Bill Hayton, "Denounce but Comply: China's Response to the South China Sea Arbitration Ruling," *Georgetown Journal of International Affairs*, 18:2 (Summer/Fall 2017): 104-11; Hal Brands and Zack Cooper, "Getting Serious About Strategy in the South China Sea," *Naval War College Review*, 71:1 (Winter 2018): 13-32; Hongzhou Zhang and Sam Bateman, "Fishing Militia, the Securitization of Fishery and the South China Sea Dispute," *Contemporary Southeast Asia*, 39:2 (August 2017): 288-314; James R. Holmes and Toshi Yoshihara, "Deterring China in the 'Gray Zone': Lessons of the South China Sea for US Alliances," *Orbis*, 61:3 (2017): 322-39. On Russia, see for example Jesse Driscoll and Daniel Maliniak, "With Friends Like These: Brinkmanship and Chain-Ganging in Russia's Near Abroad," *Security Studies*, 25:4 (2016): 585-607; Ivo H. Daalder, "Responding to Russia's Resurgence," *Foreign Affairs*, 96:6 (November/December 2017): 30-38; Martin Kragh and Sebastian Åsberg, "Russia's strategy for influence through public diplomacy and active measures: the Swedish case," *Journal of Strategic Studies*, 40:6 (October 2017): 773-816; Matthew Sussex, "The triumph of Russian national security policy? Russia's rapid rebound," *Australian Journal of International Affairs*, 71:5 (October 2017): 499-515.
- 6 WPNS member states are Australia, Bahrain, Brunei, Cambodia, Canada, Chile, China, Djibouti, Germany, India, Indonesia, Malaysia, New Zealand, Oman, Papua New Guinea, South Korea, Saudi Arabia, Singapore, Sri Lanka, Thailand, Turkey, the UK, the US and Vietnam.
- 7 James Steinberg and Michael O'Hanlon, *Strategic Reassurance and Resolve: US-China Relations in the Twenty-First Century* (Princeton: Princeton University Press, 2014), 5-14.
- 8 Robert Jervis, *Perception and Misperception in International Politics* (Princeton: Princeton University Press, 1976).
- 9 Thomas J. Christensen, *The China Challenge: Shaping the Choices of a Rising Power* (New York: W.W. Norton, 2015), 251-66, 296.
- 10 Thomas J. Christensen, "The Contemporary Security Dilemma: Deterring a Taiwan Conflict," *The Washington Quarterly*, 25:4 (Autumn 2002): 7-21.
- 11 Interview with European naval officer with current operational experience in Asia and Europe, October 2017.
- 12 US Department of State, *Agreement Between the Government of The 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*, Moscow, May 25, 1972, <https://www.state.gov/t/isn/4791.htm>.
- 13 Richard Nixon, *Text of the Basic Principles of Relations between the United States of America and the Union of Soviet Socialist Republics*, Moscow, May 29, 1972, University of California at Santa Barbara, The American Presidency Project, <https://www.presidency.ucsb.edu/documents/joint-communiqué-following-discussions-with-soviet-leaders>.
- 14 John Lewis Gaddis, *The Cold War* (London: Allen Lane, 2006), 203.
- 15 Hedley Bull, *The Anarchical Society: A Study of Order in World Politics*, 3rd ed. (New York: Columbia University Press, 2002), 194-222.
- 16 US Department of State, *Agreement on the Prevention of Incidents On and Over the High Seas*.
- 17 Liselotte Odgaard, "China's Dangerous Ambiguity in the South China Sea," *New York Times*, December 10, 2015, <http://www.nytimes.com/2015/12/11/opinion/chinas-dangerous-ambiguity.html?ref=international>.
- 18 Franz-Stefan Gady, "South China Sea: US Navy Conducts Freedom of Navigation Operation," *The Diplomat*, August 20, 2017, <https://thediplomat.com/2017/08/south-china-sea-us-navy-conducts-freedom-of-navigation-operation/>.
- 19 Interview with European naval officer with current operational experience in Asia and Europe, October 2017.
- 20 A similar pattern can be found in the East China Sea. See Liselotte Odgaard, "Maritime Security in East Asia: Peaceful Coexistence and Active Defense in China's Diaoyu/Senkaku Policy," *Journal of Contemporary China*, 26:103 (January 2017): 118-33.
- 21 Thomas J. Christensen, *The China Challenge: Shaping the Choices of a Rising Power* (New York: W.W. Norton, 2015), 257-66.
- 22 Joshua Kurlantzick, "A China-Vietnam Military Clash," Council on Foreign Relations, September 23, 2015, <https://www.cfr.org/report/china-vietnam-military-clash>.
- 23 Peng Guangqian and Yao Youzhi, *The Science of Military Strategy*, 2005 English ed. (Beijing: Military Science Publishing House, 2001), 216-17; Thomas J. Christensen, "The Contemporary Security Dilemma: Deterring a Taiwan Conflict," *The Washington Quarterly*, 25:4 (Autumn 2002): 18. Christensen calls the Chinese tradition coercion rather than deterrence.
- 24 The State Council Information Office of the People's Republic of China, *China's Military Strategy*, May 2015, available at <http://>

eng.mod.gov.cn/Database/WhitePapers/2015-05/26/content_4586688.htm.

- 25 *Memorandum of Understanding Between the Department of Defense of the United States of America and the Ministry of National Defense of the People's Republic of China Regarding the Rules of Behavior for Safety of Air and Maritime Encounters*, Washington, Beijing, November 9-10, 2014, <https://digital.library.unt.edu/ark:/67531/metadc949788/m1/4/>.
- 26 Authors' interview with Admiral James Foggo, head of US Naval Forces in Europe, July 2, 2020.
- 27 Interview with European naval officer with current operational experience in Asia and Europe, October 2017.
- 28 Christian Le Mièrre, "Managing unplanned encounters at sea," *Military Balance Blog: International Institute for Strategic Studies*, May 1, 2014, <http://www.iiss.org/en/militarybalanceblog/blog-sections/2014-3bea/april-7347/managing-unplanned-encounters-at-sea-087b>
- 29 Western Pacific Naval Symposium, *Code for Unplanned Encounters at Sea: Version 1.0*, Para 1.6.2, Qingdao, People's Republic of China, April 22, 2014.
- 30 Interview with Brigadier Carsten Rasmussen, Danish defense attaché to the People's Republic of China, October 9, 2017.
- 31 Interview with European naval officer with current operational experience in Asia and Europe, October 2017.
- 32 Authors' interview with Admiral James Foggo, head of US Naval Forces in Europe, July 2, 2020.
- 33 Ibid.
- 34 Richard Connolly, *Towards a Dual Fleet? The Maritime Doctrine of the Russian Federation and the Modernisation of Russian Naval Capabilities*, NATO Defense College, June 2017, <https://ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-security-studies/resources/docs/NDC-Towards%20a%20Dual%20Fleet.pdf>.
- 35 "Russia's new maritime doctrine 'to counter NATO's expansion', focuses on Crimea and Arctic," *Reuters*, July 26, 2015, <https://www.rt.com/news/310802-russia-maritime-doctrine-nato/>.
- 36 Franklin D. Kramer and Magnus Nordenman, *A Maritime Framework for the Baltic Sea Region*, Atlantic Council Issue Brief, March 2016, https://www.files.ethz.ch/isn/196510/Maritime_Framework_Baltic_Sea_0405_web.pdf.
- 37 "Russia's new maritime doctrine 'to counter NATO's expansion', focuses on Crimea and Arctic," *Reuters*, July 26, 2015, <https://www.rt.com/news/310802-russia-maritime-doctrine-nato/>.
- 38 Ivan Bedrov, "NATO Official Says Jets Intercepted Russian Aircraft in European Airspace Nearly 300 Times in 2019," *Radio Free Europe*, May 23, 2020, <https://www.rferl.org/a/nato-official-says-jets-intercepted-russian-aircraft-in-european-airspace-nearly-300-times-in-2019/30630161.html>.
- 39 Warsaw Institute, "From the Baltic to Alaska: More Russian Air Provocations Reported," January 30, 2019, <https://warsawinstitute.org/baltic-alaska-russian-air-provocations-reported>.
- 40 Interview with European naval officer in NATO, November 2017.
- 41 North Atlantic Treaty Organization, *The Warsaw declaration on Transatlantic Security*, July 9, 2016, http://www.nato.int/cps/en/natohq/official_texts_133168.htm.
- 42 EER News, "NATO Baltic jets respond to 10 Russian planes in 5 incidents, June 15-19," June 22, 2020, <https://news.err.ee/1105145/nato-baltic-jets-respond-to-10-russian-planes-in-5-incidents-june-15-19>.
- 43 Anya Loukianova Fink, "The Evolving Russian Concept of Strategic Deterrence: Risks and Responses," *Arms Control Today* (July/August 2017), <https://www.armscontrol.org/act/2017-07/features/evolving-russian-concept-strategic-deterrence-risks-responses>.
- 44 David A. Shlapak and Michael W. Johnson, "Reinforcing Deterrence On NATO's Eastern Flank: Wargaming the Defense of the Baltics," RAND Corporation, 2015, https://www.rand.org/content/dam/rand/pubs/research_reports/RR1200/RR1253/RAND_RR1253.pdf.
- 45 Authors' interview with Admiral James Foggo, head of US Naval Forces in Europe, July 2, 2020.

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