

9) China pursued a smart policy of economic integration with the region with a twin objective of reducing the salience of the US in Asian affairs as also a policy to create economic interdependence of the region with China, making it difficult for the region to split should they run into political and strategic trouble with Beijing. The region also adopted a "wait and watch" approach hoping that China would rise as a more benign and accommodative power and also given that China is a neighbour that they need to live with. There was also a sense of fear among the Asian nations that the US may overplay the China card and spoil the relations for the region.

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## Sino-Japanese Conflict and Reconciliation in the East China Sea



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**Abstract:** This presentation considers the rise of tensions between China and Japan in the East China Sea, especially over the Senkaku / Diaoyu islands, tensions that have come to predominate in this vitally important bilateral relationship since 2010. It explores how these tensions arose in 2010, and how they have transformed both public and elite Japanese perceptions of China. This article proposes a means for resolving these tensions through mutual concessions. To resolve the longer term conflict over these islands and the demarcation of these two countries' respective Exclusive Economic Zones, it proposes that the Svalbard model for dividing sovereignty and resource exploitation between contending parties and the Norwegian-Russian 2010 agreement on delimiting their respective Exclusive Economic Zone borders in the Barents Sea can serve as useful models.

## Introduction

The past two decades have witnessed growing obsession over the Senkaku/Diaoyu islands in both China and Japan. This trend has been especially pronounced in Japan since September 2010. To outsiders this dispute is especially striking given that these islands appear to be essentially barren rocks. This growing obsession appears to be a nationalist reaction on both sides. Although Japanese public opinion remains very opposed to using military force overseas, there is a broad consensus that military power has utility and is appropriate to use to defend national territory, (Midford 2011a) and Japanese overwhelmingly see the Senkakus as Japanese territory.

The rest of this article is divided into seven sections. The next section looks at how a September 2010 confrontation became a turning point in the bilateral relationship and especially the territorial and EEZ conflicts between the two countries in the East China Sea. The following section looks at how the 2010 confrontation affected mass and elite opinion in Japan, and Japan's defense strategy. The section after that looks at how the conflict reemerged and reached a new level of intensity in 2012, with this confrontation still ongoing at the time of writing. The following section looks at the role of Western international law in exacerbating the conflict over these islands. The following two sections after that outline proposals for short-term conflict de-escalation and long-term conflict resolution of both the Senkaku Diaoyu dispute and the related EEZ dispute. The concluding section reviews both the causes and possible solutions to these disputes.

## September 2010 as a turning point

Traditionally, both China and Japan have worked to keep bilateral tensions over the Senkaku/Diaoyu islands from damaging overall bilateral relations, especially economic relations.<sup>1)</sup> When the issue flares up, both countries have acted to quickly tamp down tensions and insulate the rest of the relationship. For example, bilateral fisheries cooperation was traditionally insulated from the bilateral territorial dispute; fishing around the islands was defined as a fisheries issue, not a territorial one. (Green 2003)

This all changed as a result of a September 2010 altercation between patrol vessels of Japan's Maritime Safety Agency (MSA) and a Chinese fishing boat. This incident had profound implications on Sino-Japanese relations, and especially on Japanese perceptions of China. Most fundamentally, this incident raised the Senkaku/Diaoyu island dispute to the top of the bilateral agenda, despite previous attempts by both sides to prevent this dispute from disrupting the extremely important bilateral relationship.

On September 7 this fishing boat collided with two MSA (coast guard) vessels that were attempting to make the Chinese boat leave Japanese territorial waters near the Senkaku islands, causing minor damage to each. In response the Japanese coast guard vessels seized control of the Chinese boat and took it to Ishigaki island, where the captain was arrested on suspicion of obstructing the official duties of MSA personnel, a crime that carries a maximum sentence of up to 3 years in jail. On September 10 an Okinawan court granted Ishigaki prosecutors' request to extend the captain's detention for ten days in order to prepare for possibly filing criminal charges. (Ito 2010; Japan Times 2010; Kyodo 2010)

The issue quickly escalated into a bilateral confrontation with China demanding that the ship's captain be released, as the crew and the boat had been. China rejected Japan's jurisdiction to indict the captain, citing their own territorial claims to the Senkaku islands, started cancelling bilateral meetings, and began deploying maritime police vessels near the islands. Beijing also suspended rare earth shipments to Japan, and four Japanese company employees were arrested in China on suspicion of videotaping in a restricted military zone. Both developments were widely seen in Japan as an attempt to "bully" Tokyo to release the captain, although whether either development was actually related to the bilateral dispute over captain's arrest (rather than being a coincidence) has been questioned (Hagström 2012).

China appeared to fear that putting the captain on trial would further demonstrate Japan's



effective control over the Senkaku islands, thereby weakening China's claim to the islands under international law. The captain's arrest was the first time that Tokyo had applied domestic Japanese law in waters around the islands. Sino-Japanese fisheries agreements from 1975 and 1997 avoided the territorial issues in these waters by specifying that flag-state jurisdiction (i.e. the country from which the fishing vessel originated) applied. (Gupta 2010) Japan even refrained from applying domestic law to prosecute Chinese activists who had landed on the Senkaku islands in 2004 and destroyed Japanese property there, most notably a Shinto Shrine.<sup>2)</sup> In the 2010 confrontation the DPJ applied domestic Japanese law, apparently unaware of previous LDP governments' policy of not doing so.

On September 25 the prosecutor's office in Ishigaki, citing "the effects on the people of Japan and the future of Japan-China relations" announced the release of the ship's captain without any charges being filed.(Asahi.com 2010a; Asahi.com 2010b) The reaction from opposition parties was vociferous, with the Kan administration being accused of pressuring prosecutors to release the ship's captain. In response to Kan's claim that the decision was made by the prosecutor's office, Itsunori Onodera of the LDP claimed the captain's release was "our nation's biggest foreign policy blunder since the end of World War II."<sup>3)</sup> Meanwhile, Takeo Hiranuma, head of the Sunrise Party, claimed "releasing the captain could be interpreted as Japan implicitly recognizing China's territorial claim." (Asahi.com 2010a; Martin and Ito 2010) Meanwhile Yomiuri Shinbun cited a senior disgruntled DPJ member as claiming that neither Kan nor his ministers "knows anything about diplomacy. They just released the skipper in a flutter after being intimidated by China. China will probably continue to make unreasonable demands on Japan...[because].. of this country's lack of mettle."(Yomiuri 2010)

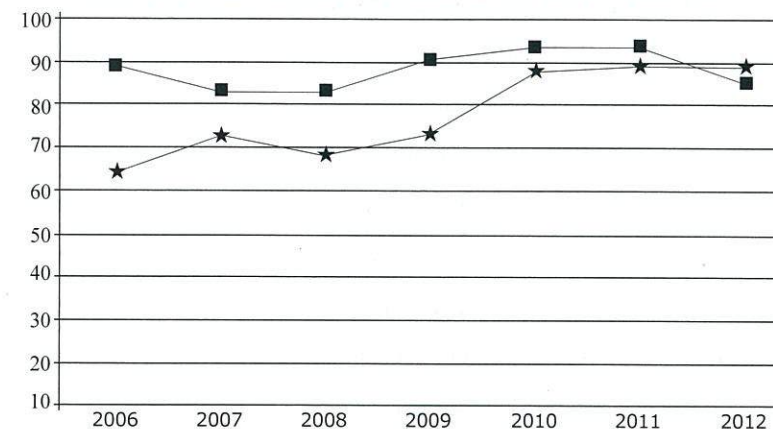
### The Impact of the 2010 Confrontation on Japanese public and elite views of China

The September 2010 conflict over these very small islands had a very big impact on bilateral relations, especially on Japanese perceptions of China. The annual Yomiuri Shinbun poll on Japan's bilateral relations (which is usually conducted in December), showed a big shift in public threat perceptions of China following the September 2010 bilateral confrontation over the ship captain. The results can be seen in Figure 1 below. In short, this poll found that between 2010 and 2012 China overtook North Korea as the most cited potential military threat to Japan.

Given that North Korea had long been considered the leading threat, this shift is significant (it also reflects a subsequent and worse confrontation in 2012, see below).

There was a parallel shift in Japanese elite opinion as well. Before 2010, few Japanese elites had seen China as posing a military threat to Japan. Up to September 2010 Japanese policy makers had growing concerns about China's military modernization, but did not have significant concerns about Chinese conduct.

### Japanese Threat Perceptions of China have overtaken those of North Korea



Source: yomiurishimbun, December polls; 2013 poll conducted in January

Figure 1.

However, following the 2010 fishing boat incident this changed.<sup>4)</sup> Recurring standoffs and tensions around the Senkaku islands are the main reason for why Chinese intentions are increasingly seen as hostile. Consequently, Japanese defense and foreign policies are increasingly refocusing on how to respond to this threat.

The first clear indication of this came with the 2010 National Defense Program Guideline (NDPG, or Bouei Taiko), which has been Japan's most basic defense policy document (up to 2013). Up to 2010 all of Japan's Bouei Taikos (including the 1996 and 2004 NDPGs) were all geared toward responding to a perceived North Korean threat, or, in the case of the 2004 NDPG, non-traditional threats such as terrorism; none of them was targeted at China. The 2010 NDPG



was the first one to focus on China. Most notably, it called for strengthening the defense of the southern Ryukyu Islands (or Sakishima islands) near the Senkakus and Taiwan, a region that currently has no Japanese military bases (except for a radar and listening post on Miyakojima island) and has been called a “security vacuum” by Japanese defense officials. With the Democratic Party of Japan’s (DPJ) 2010 Bouei Taiko Japanese officials began planning to place a small Ground Self-Defense Forces (GSDF) unit on Yonaguni, the island closest to Taiwan and the Senkakus, ostensibly for enhancing intelligence, surveillance, and reconnaissance (ISR) in the area (including the Senkakus) with a maritime radar, but one that might theoretically be able to act as a first responder to a crisis in the Senkaku islands, as it will be the nearest SDF unit. (Midford 2011b) There have also been discussions about deploying some F-15s just off nearby Ishigaki island. At the same time Japan is developing its first amphibious assault unit in the GSDF, with help from the US Marine Corp, to enhance its ability to retake remote islands. Finally, the 2010 NDPG called for Japan to increase its submarine force by over one third, from 16 to 22, the largest single buildup in the force in the post-war era, and a buildup that is clearly aimed at China. The submarine buildup gives Japan greater abilities to quietly monitor and control the seas around the Senkakus and Japan’s other remote islands, and to exploit one of the China’s navy’s largest vulnerabilities, namely its paucity of ASW capabilities, while avoiding the threat posed by China’s new anti-ship ballistic missile (which cannot target submarines).<sup>5)</sup>

Undoubtedly the scenario that keeps Japanese defense planners and DPJ politicians awake at night is awaking the next morning to discover that Chinese troops had landed undetected on the Senkaku islands (Diaoyu islands in Chinese), thus presenting Japan with the unpalatable choice of accepting this fait accompli, or under-taking major combat with the risk of escalation into war, to retake the islands. Essentially, this is the strategy China used in 1995 when it seized Mischief Reef from the Philippines in the South China Sea when Manila’s navy was not watching. The focus of the 2010 Bouei Taiko on filling the “vacuum” in the Southern Ryukyu islands, and the new ‘Dynamic Defense’ defense concept, which calls for maintaining the SDF at a heightened state of readiness with enhanced mobility, information gathering capabilities, sustainability, and versatility, are aimed at preventing a Mischief Reef type scenario on the Senkaku islands. (Midford 2011b)

## 2012: The Conflict Escalates

In April 2012 nationalist governor Ishihara Shintarou effectively provoked a new crisis over the Senkaku territorial dispute, which had been largely quiet since fall of 2010, by proposing to buy the islands from their private Japanese owner. For years the Japanese government had been renting part of the islands from this owner and using this as the basis to forbid Japanese from landing on the islands, and preventing development of these islands. Ishihara proposed to buy the islands and develop them, and justified this initiative by claiming that the DPJ was not doing enough to ensure effective Japanese control of the islands. Ishihara’s proposal promised to overturn the status quo of Japanese control but non-occupation of the Senkaku islands, a development that would be exceptionally provocative for China. The Noda cabinet responded by announcing that it was considering purchasing the islands instead. A May Nippon TV poll found that 65% of respondents thought the central government should purchase the islands, versus 17% who thought Tokyo or the city of Ishigaki (the islands are included within its city limits) should buy the islands, and 9% who wanted to maintain the status quo of the government renting the islands from the private owner.<sup>6)</sup> In July the Noda cabinet formally decided to buy the islands, and the purchase was made in September.

Although the Noda cabinet’s decision was well supported by the Japanese public, it provoked China, which saw the purchase as another attempt by Japan to overturn the status quo by exercising effective control over the islands. In early September China took the unprecedented step of sending six maritime patrol vessels beyond the contiguous waters near the island and directly into the territorial waters of the Senkaku islands, a move Beijing justified as enforcing “China’s jurisdiction over the Diaoyu Islands and its affiliated islets and ensure the country’s maritime interests.” After a confrontation with the Japanese coast guard lasting several hours the Chinese ships departed. (Kyodo 2012a; Harlan 2012) The next day the largest anti-Japanese protests since bilateral relations were normalized swept through 50 cities in China. For the first time Japanese owned factories were attacked and damaged. (Kyodo 2012b; Asahi.com 2012)

## Western International Law as a Cause of the Current Confrontation

The beginning of wisdom for managing the current Sino-Japanese tensions over the Diaoyu/Senkaku islands is to understand that the application of Western international law, especially its traditional ideas of sovereignty, has been a curse, both for this dispute, and for other



territorial disputes in East Asia. The reason is that the Westphalian inter-state system has a very different conception of sovereignty and territoriality than that of the Sino-Centric tributary system, the system of international relations that governed East Asian until the mid-19<sup>th</sup> century. Borders and border regions in the Sino-Centric tributary system were fuzzy and not very clearly defined. By contrast, the traditional emphasis in Western (European) international law has been on very precise delineation of borders and the absolute exercise of sovereignty within those borders.

The “curse” of Western international law has been exacerbated by regional “add ons,” such as the concept of “inherent territory.” China, Japan, and Korea often use the concept of “inherent territory” and synonyms to claim that a disputed territory has always been theirs based on historical record, and that the geography, flora, fauna, and other attributes of the territory in question make it a “natural” part of that nation’s territory. This concept also discourages the claimants from considering using the International Court of Justice to settle their disputes, and most perversely, encourages the party with effective control over the territory in question to deny the existence of any territorial dispute, thereby foreclosing negotiations as well as ICJ mediation.

The regional add on of “inherent territory” to western international law ignores the fact that in the Westphalian inter-state system borders have in fact been quite changeable. It’s impossible to claim, for example, that Alsace-Lorraine, is “inherently” French territory, German territory, or something else, as this region, now a part of France, has changed hands more than once even during the past two hundred years as a result of war. Ultimately, “the problems of territorial claims are political and military problems, not historical, geographical, or anthropological. The resolution of such territorial disputes can only be achieved through diplomacy in times of peace, that is to say by a freely agreed compromise, or indeed in war (Nanta and Nespoulous 2013: 49).

The Western international law concept of “effective control,” which is one important standard for determining sovereignty, has perhaps been the biggest curse for China and Japan regarding the Senkaku islands. According to this standard the party that can demonstrate effective control of a territory has its claims to sovereignty over that territory significantly advantaged. Physical control is the primary measure of effective control; demonstrating the effective application of national laws on the territory is another. Japan has had physical control of the Senkaku islands since the US returned them to Japanese control in 1972. Beginning in 2010 Japan started applying Japanese domestic law to the waters around the island by beginning the process of indicting the captain of the Chinese fishing boat that collided (or deliberately rammed) two Japanese coast guard vessels. China’s apparent intense pressure caused Japanese prosecutors on Ishigaki island

to eventually release the captain uncharged, arguably interrupting the application of Japanese domestic law. In 2012 the DPJ Noda cabinet’s decision to purchase the portion of the islands held by a private land-owner, effectively nationalizing the islands, also appeared to be an attempt to extend Japanese domestic law to the islands, prompting China to begin regularly sending its coast guard ships through the territorial waters of the Senkakus in an attempt to challenge Japan’s claim of effective territorial control. In response Japan has begun permanently stationing a fleet of MSA patrol ships around the Senkaku islands. The action reaction spiral of tension that has arisen on the Senkakus has been caused by the International legal concept of “effective control” as Japan attempts to demonstrate effective control, and China attempts to disrupt that control.

### **Proposals for Managing Current Tensions, Medium and Longer Term Conflict Resolution**

Recognizing the role of Western inter-national law, and especially the concept of effective control in the action-reaction spiral that China and Japan are currently locked into over the Senkaku/Diaoyu islands indicates that the way to deescalate these tensions involves mutual concessions that do not undermine either country’s claims to these islands. Conflict resolution must include short-term measures to prevent current tensions from turning into an armed conflict that could easily escalate into a great power war, and longer term measures to resolve the underlying conflict. Initial short-term measures should include Confidence Building Measures (CBMs) and transparency measures to reduce the risk of miscalculation. First, the two sides should establish a bilateral hotline between the coast guard authorities of the countries, and another naval hotline linking the MSDF and the PLAN. The two sides should also publicly affirm their implicit agreement not to send naval vessels into waters surrounding the Senkaku (Diaoyu) islands. This agreement should be extended to include ASDF and PLAAF flights over the islands.

Beyond these CBM and transparency measures China and Japan should negotiate a short-term end to the current stand-off over the Senkakus/Diaoyu islands, one that involves a significant concession from each side. The Japanese side needs to acknowledge the existence of a territorial dispute over the Senkaku/Diaoyu islands. It should be noted that a number of retired Japanese diplomats such as Togo Kazuhiko and Kuriyama Takakazu have been calling for Tokyo to recognize the existence of a territorial dispute. (Togo 2010, 2013: 43-46.)<sup>7)</sup> Also, admitting



the existence of a territorial dispute does not reduce the validity of Japan's claim under Western international law, as Russia's admission of a territorial dispute with Japan over the Southern Kuriles/Northern Territories (Hoppo ryodo) indicate.<sup>8)</sup> In exchange, the Chinese side should agree to stop sending its coast guard vessels through the territorial waters of these islands. With Tokyo agreeing to admit the existence of a territorial dispute, and Beijing already having challenged its control, the two sides with these mutual concessions should be able to end the current stand-off between their respective coast guards. This would also set the stage for wide-ranging talks between China and Japan regarding these islands. (Togo 2010, 2013)

### A Proposal for a Longer-term Conflict Resolution

Once the current stand-off between the coast guards in the waters around the disputed islands has been resolved and two sides open talks, what should they talk about? Apart from short-term conflict management to prevent the dispute from again flaring up the two sides need to begin working on longer term resolution of the conflict, even though this will be a very lengthy process.<sup>9)</sup> Ultimately, no solution that produces a clear winner and a clear loser will be successful. As with resolving the short-term confrontation, a final solution to the territorial dispute will require compromise on both sides. This in turn will require both sides to back away from 19<sup>th</sup> century Western absolutist definitions of sovereignty and explore solutions that involve compromised or shared sovereignty over the Senkaku/Diaoyu islands between the two countries.

One model with potential relevance for the Senkaku/Diaoyu dispute is the Svalbard Treaty of 1920 between Norway and Russia, which covered the Svalbard (Spitsbergen) islands, which is the closest inhabited land from the North Pole (Russia's Franz Joseph islands are closer, but are essentially uninhabitable as they are covered with ice). Article 1 of the treaty, which came into force in 1925, assigns sovereignty over the islands to Norway. Norway also received the right to administer these islands. The demilitarization of the islands is also guaranteed. However, the treaty gave the Soviet Union equal access to the natural resources of Svalbard, and thus effectively separated resource exploitation from the issue of sovereignty. As such, the treaty gave Soviet citizens the right to freely travel and reside on the Svalbard islands without requiring a visa. (University of Oslo 2014)

Although Article 1 of the treaty uses the term "absolute sovereignty," and although Norway thereby does not interpret the treaty as a compromised form of sovereignty, the Soviet Union (now Russia), and others have in fact seen the equal access to resources clause as constituting a form of compromised sovereignty. This differing interpretation is currently at the root of a dispute over whether the Svalbard islands are entitled to have their own EEZ under UNCLOS, with Norway asserting that they are entitled, and Russia and others disagreeing. (Churchill and Ulfstein 2010: 551, 561-564) Thus, although the conception of compromised or joint sovereignty is not a part of the Svalbard Treaty per se, many see it as implicitly present. The separation of resources exploitation from sovereignty would certainly represent a step away from absolutist concepts of sovereignty of the 19<sup>th</sup> century, and as perhaps even foreshadowing the development of more flexible and limited concepts of national sovereignty in Western Europe after 1945.

A final key characteristic of the Svalbard model is the inclusion of a multilateral component. Articles 2 and 3 of the Svalbard treaty allow other countries beside Norway and Russia who sign the Svalbard treaty to thereby receive the same rights to exploit the archipelago's resources and for their citizens to reside on these islands visa-free. A wide range of countries have signed, including China and Japan. This multilateral aspect of the Svalbard model has the advantage of giving many states a stake in the treaty's faithful implementation, and can thus be especially advantageous for the weaker party (in this case Norway). (University of Oslo 2014)

The implications of the Svalbard model for the Senkaku/Diaoyu dispute are clear. The first implication is that resource exploitation and sovereignty should be separated, allowing both countries to exploit the resources of the islands and their territorial waters. This would help to deflate nationalists on both sides who seek to rationalize their obsessions over these islands by claiming that they are supposedly a "treasure chest" of energy resources. Second, the islands should be demilitarized, which has in fact been the case since the US returned them to Japan in 1972. Third, a compromised or joint conception of sovereignty, whether implicitly as in the case of Svalbard, or formally, should be devised. If done formally the most viable outcome would be joint sovereignty, which would also require an agreement on how the islands are to be administered. If joint sovereignty is agreed to, then a type of joint administration would be the likely outcome as it would be seen as the outcome most consistent with joint sovereignty.

Finally, it might make sense to consider adding a multilateral component to a Senkaku/Diaoyu settlement. This would involve allowing third parties to sign the Svalbard treaty, and



thereby gain equal, or perhaps only partial access, to the resources of these islands and surrounding waters. Another question would be whether any country signing the treaty could obtain access, as is the case with the Svalbard treaty, or whether China and Japan would want to reserve the right to prevent some countries from joining the treaty. Another question would concern the conditions for access to the islands and surrounding waters. Currently, the islands themselves are unoccupied, and the Japanese government even forbids ordinary Japanese citizens from landing there. Whether access, especially for third country nationals, would be limited to the surrounding waters, or whether the islands themselves would be opened up for development, would be another issue the two sides would have to decide. For Japan, as ostensibly the weaker party, it would make sense to make a treaty settling the Senkaku/Diaoyu dispute as multilateral as possible, as the participation of a wide range of nations would make it harder for China to ignore the terms of the treaty or seek its revision.

### **The Barents Sea Model and the East China Sea**

Although less distinctive than the Svalbard model, the Barents Sea model for settling an EEZ dispute might also be useful for Beijing and Tokyo to consider as they seek to settle their East China Sea tensions, not only over the Senkaku/Diaoyu islands, but also over their overlapping EEZ claims. Norway and the Soviet Union, and then Russia, had a long standing dispute over their overlapping EEZ claims in the Barents Sea, an overlap that was approximately the size of the land area of Iceland. Although tensions between the two countries continued for a long time, and were noticeable as recently as 2008, in 2009-2010 Moscow and Oslo managed to quickly and successfully resolve their EEZ dispute. The settlement that was reached mandated a nearly equal division of the disputed zone, a remarkable outcome given the physical power disparities between Russia and Norway.

The reasons for the settlement being reached were in no small part driven by the desire of both parties, but perhaps especially the Russians, to attract foreign direct investment in the energy resources of the Barents Sea from global energy companies. Their investment, and especially their technology and human capital are especially important for exploiting the energy resources of the Barents, with its harsh climate and remoteness. International oil companies do not invest in contested waters, hence the need to settle the dispute. Another underlying reason

for successful resolution of the Barents Sea EEZ dispute is that it facilitated bilateral cooperation between Norway and Russia in exploiting the natural resources in their respective EEZs, especially Norwegian logistical and technological support for Russian exploration of its zone.

Again, the implications for the East China Sea EEZ dispute between China and Japan are reasonably clear. Although UN and Japanese studies in the late 1960s indicated the possibility of large oil and gas deposits in the East China Sea, especially near the Senkaku/Diaoyu islands, once it became evident that a territorial dispute existed, the interest of international oil companies dried up, leaving the studies from the late 1960s largely unconfirmed. Resolving the dispute, perhaps in something approaching an equal division, would give Beijing and Tokyo the opportunity to involve international oil companies in the development of these resources. For China, it would be able to contract with Japanese companies and benefit from their technical expertise.

For Japan, it would be able to receive logistical assistance from China to exploit the oil and gas resources in the southern portion of its EEZ claim, near the Senkaku/Diaoyu islands. This is important because the Okinawa trench, which lies to the west of the Ryukyu islands, and is approximately 3000 meters in depth, effectively precludes Japan from constructing a pipeline from the southern portions of its East China Sea EEZ claimed zone to the Ryukyu islands. Current pipelines run no deeper than 2000 meters, and floating pipeline terminals also remain a technological challenge. Even if these technological hurdles could be cleared, they would nonetheless make it extremely expensive for Japan to directly tap gas from its zone. A far less expensive and more rational approach is to build pipelines to the Chinese coast.

### **Conclusions**

Without de-escalation of the current standoff over the Senkaku/Diaoyu islands Sino-Japanese relations will not improve, the confrontation cannot be side-stepped as tensions over these islands had been in the past. To de-escalate in the short term the two sides need to stop their competition over “demonstrating effective control” in the Senkakus/Diaoyu.

To solve the East China Sea tensions that plague Sino-Japanese relations in the longer term, the two sides will need to come up with conceptions of sovereignty that are more flexible than traditional Western concepts, especially as most Western nations (mostly European nations, but not so much the United States) have been moving to toward more flexible conceptions of



sovereignty in any case. Solving East China Sea tensions will require China and Japan to both make significant compromises, above all regarding sovereignty of the Senkaku/Diaoyu islands, but also regarding their respective claims in the East China Sea. Clear win-lose outcomes cannot be viable.

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[注]

- 1) Regarding the history of this dispute, see Suganuma 2000, and Hara 2005.
- 2) *Asahi Shimbun*, 26 March 2004, as cited by O'Shea 2012: 21.
- 3) *Yomiuri Shinbun*, October 4, 2010:p.9.
- 4) In a series of interviews the author conducted in 2013 with foreign policy elites, only one claimed to have seen China as a military threat before 2010.
- 5) Cabinet of Kan Naoto, *National Defense Program Guidelines*, approved December 17, 2010,p.20.
- 6) NTV, May 2012: <http://www.ntv.co.jp/yoron/201205/index.html>
- 7) More precisely, Togo says that Japan should stop saying that "no territorial dispute exists."
- 8) Arguably, Russia's admission of a territorial dispute has given it additional influence over Tokyo, as it has repeatedly used offers of talks over these islands as a way to gain concessions from Tokyo, even as the talks themselves produce no real progress toward Japan's goal of recovering these islands from Russia).
- 9) The Russo-Japanese talks on the Northern Territories have held on an off-and-on basis for the past twenty years.

## China's Rise and Asia's Response: Settling Maritime Disputes Peacefully\*



Shen Dingli (沈丁立)



## China's Rapid Rise

China's rapid rise since it launched reform and opening has been phenomenal. In 1979, China's per capita GDP was merely RMB 200 yuans, or US\$125 (or 1/150 of the US). By 2012, however, it has reached US\$6300, or 1/9 of the US, amounting to US\$8.26b in total, or 52% of the US, making it 2nd biggest economy in the world. In 2010, China's GDP overtook Japan; by 2012, China surpassed Japan by one third.

From 2000-2012, China's GDP rose from US\$1.07t to US\$8.26t, increasing nearly by three folds, or doubling every four years three times consecutively. If this could sustain, by 2016 China could be on a par with the US. Though China's economic rise is now slowing, it still grows at some 8% per year, which renders Beijing the chance to catch up with the US by 2030. In terms of purchasing power parity, China would attain this much early than 2030. In 2012, the US National Intelligence Council predicted in its 2030 Global Trend report that "by 2030, the US would not be the sole superpower of the world."

Defense wise, China hikes up similarly. In 2001, Chinese defense spending was mere US\$15b, or less than 1/18 of the US; by 2013, it is close to US\$120b, or 1/5 of the US at the same time, increasing also nearly by three folds in 12 years, or doubling every four years for three times consecutively. Projecting linearly (and theoretically), by around 2020, China's military expenditure could reach some US\$500b, much close to the US, if America would stick to its sequestration by cutting defense spending by US\$1t in total for the next nine years since 2013, comparing with its level of 2012.

Already, China's defense spending has doubled that of Japan, and quadrupled that of India. With much increased economic and defense resources available, China is now able to send Chinanauts to space and aspire to place its first operational space station in orbit around 2020, possibly the only such functioning station of humankind. It has launched its own regional navigation and positioning system, BeiDou Navigation Satellite System, or BDS, and will make it global shortly. It has demonstrated both its missile defense and anti-satellite capability, with fast modernization of air force, navy and space capacity. In conjunction with its precision missile prowess, China is believed to have acquired certain area denial capability.

Meantime, it is improving its land fast transportation and overseas lifting capacity.

## Complexity of China growth

China's rapid rise has not been without concerns. First, accompanying with its economic rise, China's natural environment has been deteriorating speedily, with vast ecologic impact. With China's fast industrialization, its air, water and soil systems have been significantly eroded, leaving huge challenges to public health and sustainability. Second, China's economic growth mode has approached to its limit. Its labor intensive growth model has to be transformed toward a capital and technology intensive one to allow much value added innovation. Especially, it has to reform its state-controlled financial system, so as to push for deeper economic reform and global competence. Last and most importantly, China's political civilization has to keep apace with its economic liberalization. Otherwise, its present rampant corruption can hardly be cured, posing serious threat to social stability and regime survival.

Ill use of natural resources has much restrained China's further rise. China is not a natural resource scarce country, its per capita resource endowment being richer than a number of developed economies. China's challenge is its culture of resource spending – its way to view and use resources. Though China has huge coal reserve, it has one of the least efficient systems to utilize it. Due to China's malfunctioning planned economy and "socialist" system, it has long employed a state welfare institution, for instance, providing centralized heating with subsidy to Northern China in the winter. China has done so through burning coal, neither cleaning it before burning it nor sequestering carbon dioxide from burning it, releasing vast amount of pollutants and global warming gas, impairing its own future and potentially creating international dispute. With 19% of world population, China now generates at least 21% of global CO2 with only 11% of world wealth produced.

Despite China's overall fast development, its per capita income remains in the lower part of the world. Meantime, it has become the 2nd biggest economy, with increasingly amount of wealth generated already. Due to its greedy market economy and unfair redistribution system of social wealth, its disposable income disparity, measured by Gini coefficient, has reached 0.47



as reported by the government (actually data could be higher), making it one of the least fair among major economies. If this could not be reversed effectively, China could hardly sustain its growth under growing stress.

Behind all these imbalances is China's lack of political modernization comparable to its economic opening. China is a major country which doesn't require its high officials to make their personal and family income as well as total asset transparent to the public. Its lack of interest and/or will to do so has demanded it to compromise with the general public in economic return, despite the vast environmental cost. After three decades of fast economic growth, however, China has approached to the limit of its current development model, and has to revamp its growth mode to promote knowledge and innovation-based development and a more open institution. Otherwise, China is unlikely to sustain its growth to allow its further progress as projected as aforementioned. Should various negative trends not be reversed, it could face rather grim implosion.

### Regional Impact

Despite various domestic restraints, China has acquired more capacity and has more clearly uttered its "core" national interests. Apparently, after "biding time" for three decades, China is lifting its approach to defending its sovereign rights in regard to its territory, territorial water and economic expansion toward international water.

It is noticeable that China is having sovereign disputes with almost all its maritime neighbors, in South China Sea, East China Sea, and Yellow Sea areas. In South China Sea, China is disputing with all its maritime neighbors there, including Vietnam, The Philippines, Malaysia, Brunei and Indonesia. China has both island/islet and water disputes with Vietnam, The Philippines, and Malaysia, and has water disputes with Brunei and Indonesia. In East China Sea area, China has disputes with Japan concerning both Diaoyu Islands (Senkakus) and demarcation of Exclusive Economic Zone (EEZ). In Yellow Sea, China has yet to officially settle its disputes with both ROK and the DPRK on partitioning the sea for their respective EEZs.

China may have reasons that all the island/islets/reefs in the entire South China Sea belong to it. It has quite some historical evidences to support its claims over Xisha (Paracel), Nansha (Spratly), Dongsha (Pratas) and Zhongsha Islands. In particular, in 1930s China argued officially for the first time, vis-à-vis the French Vietnam, that Nansha Islands belong to it. In 1947, for the first time, China claimed openly that all island/islet/reefs in South China Sea belong to it. Along with this, China shall also be entitled to sovereign water, initially 3nm, and 12nm since 1958, in connection with such rock features. Some of these islands become entitled to 200nm EEZ from 1982 with the making of UN Convention on the Law of the Sea (UNCLOS).

With the same UNCLOS, China's ASEAN maritime neighbors have also been entitled to their respective EEZs. Certainly, immediate neighbors' EEZs could overlap, but the 9-dashed-lines (initially 11-dashed-lines) as drawn by China in 1947 overlap with the EEZs of all China's ASEAN maritime neighbors. Arguably China's dashed-lines of 1947 didn't indicate China's permanent fishery and other economic rights in the entire area encircled by the lines, but only its rights over all the rock features on Chinese side of these lines. Prior to 1982, Chinese could fish both inside and outside of the area defined by the lines, as long as Chinese would not access to other's territorial water. But after 1982, each littoral country is entitled to its own 200nm of EEZ. When China becomes entitled to its own privilege of such, its ASEAN neighbors would expect it to handle with reciprocity. However, this reciprocity has not happen. Instead, China has argued with historical rights and insisted to enter others' EEZ for fishery activities. Such actions have been strengthened lately, especially with the backing of Chinese government.

### Asia's response

China's unwillingness to fully abide by UNCLOS by citing its historical privilege has invited controversy. Even if China is entitled to all 9-dashed-lines encircled rock features on the Chinese side, it has just limited rights over water immediately adjacent to the rocks, but not the entire ocean. Even if China published dashed-lines 66 years ago, it drew the line in 1947 in high sea and didn't change the nature of such sea. Even after drawing these lines, China didn't disallow other countries to fish inside South China Sea, as long as they would



not intrude into China's territorial water. Such understanding has minimized the chance of maritime disputes. Then since 1982, all littoral countries become entitled to 200nm EEZ. Consequently, China would be expected to reconcile its dashed-lines with its ASEAN maritime neighbors.

As China is rapidly rising and more prone to protect its maritime economic activities inside others' EEZ, especially with its government backing, there has been increasing amount of apprehension among some ASEAN members, particularly those direct counter-claimants. They have asked to talk to China multilaterally, or to seek the US understanding and intervention, or to sue China directly at International Tribunal for the Law of the Sea (ITLOS). These have challenged Beijing.

Not all ASEAN countries have responded this way. Some ASEAN countries, Cambodia, Laos, Thailand and Myanmar for example, have been calm, with Cambodia etc. opposing to a multilateral approach to such maritime dispute. Some claimants such as Brunei and Indonesia have preferred a more cooperative approach to engage China, though they both differ from China pervasive claim.

America has taken a controversial position. On the one hand, all those rock features under disputes are not America's. On the other, the US understands that all these features defined by dashed-lines belong to China, as other claimants have long accepted China's claims, either tacitly or explicitly since 1947. Nevertheless, the US has ignored the facts that dozens of these features have been seized by some ASEAN claimants already, despite their previous support or non-opposition to China's comprehensive claim over rock features. Washington has taken so called "pivoting" or "back in Asia" or "rebalancing" policies, with an eye on China. Instead of balancing between ASEAN claimants' seizure of China's rock features and Chinese fishing inside other's EEZ, the Obama administration has been acting selectively – it only addresses China's claim over economic rights in the overlapping area between China's dashed-line and others' EEZ line.

The US partial position on China-Japan dispute over Diaoyu (Senkakus) has been another case. The cause of this case has been long and complicated, and since 1972 China

has committed to shelving the dispute and co-developing this area peacefully with Japan, as long as the latter is willing to do the same. However, given Japan's action in September 11, 2012 to nationalize three main islands in Diaoyu area, China could no longer stay with its previous position. Such action-reaction cycling adds to the chance of incidental collision, much destabilizing bilateral bond and regional situation. Instead of helping reconcile Beijing-Tokyo relations, the US tilted position toward defending Japan on this case has flared up the tension.

### Asia's co-development and common security

China's rise has been an outcome of its own strategic choice. It also grows out of regional and international cooperation. As competition goes with cooperation, China's rise adds to its capability to revise regional order in its favor. In Beijing's eye, it has legitimate reasons to claim over Taiwan, Senkakus and all rock features in South China Sea encircled by the dashed-lines. Some other countries, however, may not be interested in a revised regional order simply because China has reasons and forces to make it. Then, pursuing China's logic simplistically at a time of its rise may generate more tensions in East Asia, which is in nobody's interest.

Even though China's reasons over all abovementioned rocks make sense, its pervasive claims over economic rights within entire South China Sea defined by dashed-line has been controversial. Though China has historical evidences to claim all rock features, it could only be entitled to very limited water area close to the rock. Most of the ocean on the Chinese side of the dashed-lines was high sea, to which China could never deny other's access. When some of these become EEZ of littoral states, other countries have to yield their economic rights, per the UNCLOS.

Two questions are at stake. First, at the time of China's rise, it will be wise if China would stick to non-confrontational approach to settling disputes over rights with its neighbors. When China was weak, it may have to take a low-key position as a virtue; but when it is strong and has real option not to bide time, it would truly demonstrate its Confucianism virtue by sticking to peaceful settlement of disputes. Second, China's rise



has also to be embodied in its leadership. Beijing shall not only be able to say no to others, but also able to make others to say yes to its own proposals. For complex rights disputes combining both rock feature and economic access to EEZ, China shall present attractive and balanced plan to allow Asia's co-development and common security.

[注]

\*)For International Symposium Commemorating the 90th Anniversary of Daito Bunka University, November 6-7, 2013, Tokyo

为2013年11月6-7日在日本东京举行的大东文化大学纪念建校90周年国际研讨会所作。

## あとがき



国際学術会議実行委員会

本特別号に収録されているのは、2013年11月に行なわれた大東文化大学創立90周年記念国際シンポジウム国際関係学部分科会における講演者の論文である。本号の上梓にあたって、会議の実行委員会として同分科会開催および論文集出版までの経緯をまとめておきたい。

### 1. テーマと目的

1980年代以降の中国の急速な経済成長と積極的な対外政策の展開により、アジアの国際秩序は大きく変わりつつある。中国のプレゼンスの増大自体は、世界が受け入れざるを得ない事実となっている。しかし、強大な経済力と軍事力を背景にした近年の中国の行動の中には、諸外国の目には強権的に映るものや、真意が見えにくいものもあり、周辺諸国の不安や反発を招いている。

このような背景を踏まえて、2011年、大学院アジア地域研究科は、「台頭する中国と



アジアの新秩序」をテーマとする国際学術会議の開催を提案した。その目的は、中国および周辺諸国の専門家との報告と討論を通して、いたずらに感情論や表層的な事件などにまどわされることなく、中国の台頭とアジアの秩序再編に関する本質的な共通認識を形成することにある。

## 2. 講演者の選定と事前準備

上記のアジア地域研究科の提案は、2012年4月に国際関係学部と現代アジア研究所の賛同を得た。そして、アジア地域研究科と国際関係学部、現代アジア研究所の共催により、大東文化大学創立90周年記念の一環として、2013年11月に国際シンポジウムを実施することが決定した。これを契機に、6名の委員による国際学術会議実行委員会が組織され、同月から活動をスタートした。

会議の開催に至るまでの19カ月の間に、実行委員会は十数回にわたる準備会議を開き、発表者の人選やシンポジウムの開催方法などを中心に検討を重ねた。その結果、人選については、国際関係学部内部の講演者は公募によって3名が確定し、海外の講演者に関しては、シンポジウムの趣旨に沿って次の方々を招聘することにした。すなわち、中国の沈丁立 (Shen Dingli) 氏 (復旦大学教授、同国際問題研究院副院長)、邵建国 (Shao Jianguo) 氏 (北京外国語大学教授、同日本語学部長)、ベトナムのド・ティエン・サム (Đỗ Tiễn Sâm) 氏 (ベトナム社会科学研究院研究員、同中国研究所所長)、インドのラジェスワリ・ピライ・ラジャゴパラン (Rajeswari Pillai Rajagopalan) 氏 (インドオブザーバー研究財団上級研究員)、米国のポール・ミッドフォード (Paul Midford) 氏 (ノルウェー科学技術大学教授)、である。

また、会議の開催方法については、教員はもちろん、学問的な視野を広げるために大学院生と学部生にも参加を呼びかけることで一致した。そのため、実行委員会は、海外の各招聘者との連絡役を分担するとともに、学部生向けの事前勉強会も準備した。この勉強会は、2013年10月31日に行なわれ、実行委員会の各委員が会議の論点を整理し、国際情勢や歴史的背景について学生に説明を行なった。

## 3. 国際シンポジウムの実施

2013年11月7日、本会議は以下のようなスケジュールで行われた。

10:30 - 10:50 開会式

## 10:55 - 12:25 第1セッション

司会兼論評：松本弘教授

講演：

岡本信広教授： 中国の都市化とその課題

邵建国教授： 価値観外交の虚像と実像

鹿錫俊教授： 台頭する中国の光と影——多角的検証から見る対中認識のあり方

## 13:15 - 14:45 第2セッション

司会兼論評：小林啓志准教授

講演：

ラジェスワリ・ピライ・ラジャゴパラン研究員： 中国の台頭と勃興するアジアの  
戦略的秩序——インドの見解

ド・ティエン・サム所長： 台頭する中国とASEAN・中国関係

## 15:00 - 16:30 第3セッション

司会兼論評： 新里孝一教授

講演：

沈丁立教授： 中国の台頭とアジアの対応——海洋紛争の平和的解決

ポール・ミッドフォード教授： 東シナ海における日中の対立と和解

中野亜里教授： 中国の「南進」と東南アジア諸国の対応

## 16:30 - 17:00 閉会式

総括および補足討論

## 17:00 - 18:45 懇親会

## 4. 評価と反省

シンポジウム当日は、時間の制約に加えて、教員と大学院生、学部生らが総勢二百数十名も出席したため、より多くの人に議論の機会を与えるよう、講演時間は1人当たり20分という制限を設けざるを得なかった。にもかかわらず、シンポジウムの終了後、各講演者は会場からの質疑と討論を踏まえて、2014年夏頃には論文をまとめ、本誌に寄稿してくださった。この貴重な成果を世に残すため、国際学術会議実行委員会は通常の教育業務をこなす傍ら、論文集の編集に努力し、このたびの出版に漕ぎ着けた。

今回の国際シンポジウムは、中国の台頭をどのように認識するか、それによって形成されたアジアの秩序とはどのようなものか、また今後はどのような秩序が形成されるべ



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きなのか、それに平和裏に移行するためには何が必要なのか、といった問題に関し、認識の共有をはかるものであった。本号に収録されたものは、いずれもそれぞれの視点から、この目的に寄与するものと思われる。

この特別号により、日本だけでなく、中国、ベトナム、インド、アメリカなど、アジア・太平洋諸国のそれぞれの立場に対する理解が促されることを願ってやまない。

## 5. おわりに

本特別号の出版を最後に、国際学術会議実行委員会は解散することになるが、2012年4月以来の3年間の歳月を振り返って、実行委員一同は、任務をやり遂げたことに大きな喜びを感じる。ご多忙にもかかわらずシンポジウムに参加するため来日し、また論文を寄せていただいた5人の海外講演者をはじめ、これまで応援していただいた国際関係学部の教員の方々、事務職員の方々、および国際交流センターをはじめ関係各部署の方々に心より感謝を申し上げたい。

国際関係学部国際学術会議実行委員会委員：小林啓志 須田敏彦 中野亜里  
松本弘 ギャレン・ムロイ  
鹿錫俊（委員長）

2015年3月吉日

## 附記：

1. 本特別号の写真は国際学術会議実行委員会および国際関係学部事務室による撮影である。
2. 表紙のデザインは隋佳杰氏によるものである。無償で立派に作成していただいたことに、関係者一同厚くお礼申し上げたい。

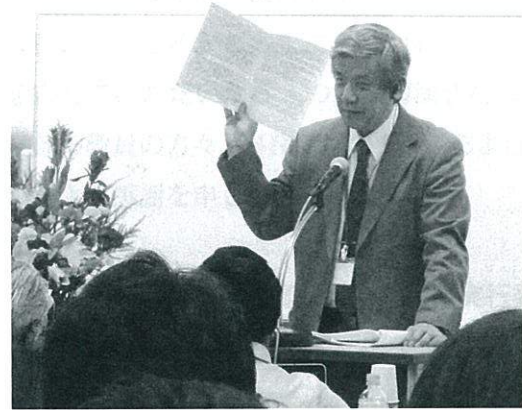




学生向け事前勉強会での須田 敏彦 先生



松本 弘 先生 (第1セッション司会兼論評)



小林 啓志 先生 (第2セッション司会兼論評)



新里 孝一 先生 (第3セッション司会兼論評)



懇親会で挨拶している篠田 隆 先生 (アジア地域研究科委員長)



会場の様子



発言に聴き入る参加者達



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