Japan's Territorial Disputes

CNA Maritime Asia Project: Workshop Three

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DCP-2013-U-005049-Final
June 2013

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Approved for distribution: June 2013

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Workshop Overview

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Introduction

As part of its Maritime Asia project, the Center for Naval Analyses (CNA) conducted a workshop focused on Japan's territorial disputes. The purpose of this workshop was to explore the security implications for Japan of its unresolved territorial disputes and the associated consequences for the U.S.-Japan alliance. Since, each of Japan's three unresolved territorial disputes with its near neighbors is usually addressed in isolation from the other two; we convened this workshop to explore the connections among the disputes.

Japan's territorial disputes with China, South Korea, and Russia all find their origins in the 1952 San Francisco Peace Treaty, which ended the U.S. occupation of Japan after World War II. The treaty did not clearly establish Japan's maritime boundaries and was silent on the disposition of disputed territories. As a result, decisions reached by Washington 61 years ago have, in a sense, come back to haunt the United States in two of the three disputes: the Senkaku/Diaoyu Islands dispute, because it raises the possibility of conflict with China; and the Dokdo/Takeshima Islands dispute because it contributes to continued enmity between South Korea and Japan, which are America's two Northeast Asian allies.

While the U.S. cannot resolve Japan's territorial disputes, it has an interest in their stable management or, preferably, their peaceful resolution. At the same time, the U.S.-Japan alliance is central to Japan's security calculus, therefore the U.S. must remain ready to assist in the defense of Japan should it come under attack.

This essay distills the most salient issues discussed during the workshop and addressed in more detail in the panelists' papers compiled in this conference report. We begin by briefly discussing each of Japan's territorial disputes and the U.S. equities therein. Next, we examine the cross-cutting issues among the three disputes including their prospects for resolution. We conclude this overview by laying out the policy options the U.S. has—as Japan's ally—to advocate for the peaceful resolution of Japan's territorial disputes.

Japan's Territorial Disputes

The potential flashpoint: Senkaku/Diaoyu Islands

Japan's dispute with China over the Senkaku/Diaoyu Islands is particularly troublesome for regional security and for U.S. Asia policy. The U.S.-Japan Alliance, which pledges Washington to defend Japan against aggression, applies to territories that are under Japanese administrative control, such as the Senkakus/Diaoyus. Consequently, this Sino-Japanese dispute could lead to U.S. conflict with China.

The United States administered the Senkaku/Diaoyu Islands as part of Okinawa Prefecture until 1972, when it returned them to Japanese administration as part of the Okinawa reversion. The United States, moreover, still leases two of the Senkaku Islands—Kuba and Taisho—which were previously used as bombing ranges but have not been so used since 1978.[1]

While the Senkaku/Diaoyu Islands are covered under Article V of the U.S.-Japan Mutual Security Treaty, the alliance is not a blank check for Japan to behave provocatively or escalate tensions toward China or any of its civilian maritime fleet that regularly operates in the vicinity of the Islands. Were the territorial dispute to become a military conflict, Japan would be expected to lead the defense of its territory before the United States became directly involved.

Since the potential for military conflict involving U.S. forces exists in the Senkaku/Diaoyu Island dispute, the United States has a stake in deterrence and dissuasion of conflict. Both secretaries of state Clinton and Kerry have made it clear that U.S. interests in this dispute are against the use of force or military coercion to unilaterally change the status quo—which in this case means attempts to undermine Japanese administrative control.[2] At the same time, much to the displeasure of the Japanese, the United States still maintains the position of "not taking a position" on the sovereignty dispute.

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[1] Akira Kato, "The United States: the Hidden Actor in the Senkaku Islands," *Asia Pacific Bulletin*, 2 April 2013, p. 1 available online at: http://www.eastwestcenter.org/sites/default/files/private/apb205.pdf, accessed 4 June 2013.

[2] See for example, "Kerry Spells out Policy on Senkaku Islands," *UPI.com*, 15 April 2013, available online at: http://www.upi.com/Top_News/World-News/2013/04/15/Kerry-spells-out-policy-on-Senkaku-Islands/UPI-20751366006285/, accessed 17 June 2013, and "U.S. Secretary of State Sides with Japan on Senkakus," *Japan Update*, 4 March 2013 available online at: http://www.japanupdate.com/2013/03/u-s-secretary-of-state-sides-with-japan-on-senkakus/, accessed 17 June 2013.

An impediment to trilateral U.S.-Japan-South Korea cooperation: the Dokdo/Takeshima Islands

The dispute between Japan and South Korea over the Dokdo/Takeshima Islands contributes to the "historic wedge" between two democratic U.S. treaty allies that otherwise have good reasons to cooperate with one another. It creates a major stumbling block in the Obama administration's desire to forge a closer security relationship between South Korea and Japan. Trilateral cooperation among the U.S., Japan, and South Korea on security issues would present a solid Northeast Asian democratic posture against North Korea, and potentially China.

South Korea has permanently occupied Dokdo/Takeshima since 1954. Over the years, it has improved facilities for a small garrison, and built a pier so that tourist excursion ships can land when weather permits. In order to dislodge South Korea from the islands, Japan would have to do so by military force, however, it is highly unlikely that Japan would ever use force to try to reclaim these islets.

As both Japan and South Korea's ultimate security guarantor, the United States has an interest in a negotiated resolution to the dispute. To this end, it could persistently encourage Japan and South Korea to negotiate a resolution to the dispute. At the very least, it could discourage destructive behavior, such as South Koreans' discussions about using their Navy as a hedge against Japan. Such discussions are unnecessary and do little to improve regional security. Resolving this dispute would improve Japan's bilateral relations with South Korea and consequently provide an opening for increased U.S.-Japan-South Korea trilateral security cooperation which would advance U.S. interests in the region.

An ongoing irritant: the Northern Territories/Southern Kurile Islands

Like the dispute with South Korea over the Dokdo/Takeshima Islands, the dispute with Russia over the Northern Territories/Southern Kurile Islands does not at present seem likely to escalate from disagreements at the political and diplomatic level into outright conflict. Maintaining the status quo, however, is the most attractive option for both Tokyo and Moscow. Any compromise would be likely to have little political benefit for Japanese and Russian leaders and to have very real costs in failing to satisfy the hard liners in both countries. (For years the Japanese position has been "no" to suggestions that they accept a return of the two smaller islands as a way to settle the dispute)

Russia occupied the four islands that constitute the Northern Territories/Southern Kurile Islands in 1945 shortly before the Japanese surrendered, ending World War II, and holds them to this day. Moscow may be willing to return Shikotan and Habomai Islands to Japan in a negotiated settlement, but is unlikely to ever return the two larger islands (Kunashiri and Etorofu).

The Northern Territories/Southern Kurile Islands are the least troubling and have little impact on U.S. interests. Resolution is not out of the question, and the use of force seems extremely unlikely. It is worth remembering that during the Cold War these islands were of strategic import to Russia since they helped guard against access to the Sea of Okhotsk, where Russia was reported to be operating its Pacific Fleet ballistic missile submarines. For Moscow, monitoring access to the Sea of Okhotsk remains an interest. It is also likely that this remote area will gain greater strategic significance in the future as Arctic Sea lanes become commercially important. Merchant traffic from Japan, Korea, Russia, and China will sail north through the Sea of Japan and the Kuriles to the North Pacific. While the United States has an overriding interest in peace, stability, and economic development in the region, at present the dispute over the Northern Territories/Southern Kurile Islands is not a threat to that interest.

Cross-cutting issues in Japan's territorial disputes

While each of Japan's territorial disputes has unique characteristics, we found during this workshop that there are cross-cutting legal, economic, and political dimensions among them. In exploring these cross-cutting issues it became clear during the workshop that resolution to any of Japan's three territorial disputes is unlikely in the near-term.

Nationalism keeps disputes enduring

For each country that is party to a territorial dispute with Japan, national sovereignty over the disputed territory is the core issue which makes progress exceedingly difficult. Japan's territorial disputes are connected to its imperial expansion throughout East Asia in the early decades of the 20th century. Japan annexed the Dokdo/Takeshima Islands in 1905, only a few years before it established colonial rule over Korea in 1910, thus linking the two events in many Koreans' historical memories. For China, Japan's *terra nullius* claim to the Senkaku/Diaoyu Islands in 1895 is tied to China's "century of humiliation," including Japanese colonization of Eastern China. The Northern Territories/Southern Kurile Islands dispute is somewhat different in that it is tied to the post World War II allied victory over Japan rather than directly to Japanese imperial expansion. The Soviet Union occupied the Northern Territories/Southern Kurile Islands in late August 1945.

Japanese counter-claims to each of the disputed territories emphasize neighboring countries' opportunism and Japan's historical settlements in each location. In the Senkaku/Diaoyu Islands, Japanese settlers established a bonito-processing factory which operated there from the 1890s to 1940.[3] Japan argues that China did not show any interest in the Senkaku/Diaoyu Islands until the 1968 UN Economic Commission for Asia and the Far East (ECAFE) report indicated that the continental shelf between Taiwan and Japan may be one of the "most prolific oil reservoirs in the world."[4] In the case of the Northern Territories/Southern Kurile Islands dispute with Russia, Japanese citizens lived in villages on Etorofu and Kunashiri Islands until the Soviet Union forcibly deported them in 1947[5] to Hokkaido—where many former Island residents and their descendants still live. Although Japanese citizens did not settle the Dokdo/Takeshima Islands, Japanese fishermen would like to continue to have access to these fishing grounds.

Although the ECAFE report may have catalyzed China's interest in the Senkaku/Diaoyu Islands in 1971, since that time the nature of the dispute has become more about the islands being part of Taiwan, and hence part of China's sovereign territory that was annexed when China was weak and Japan was strong. Japan, on the other hand, is determined not to give into Chinese bullying tactics, because it worries that a concession would be a slippery slope leading to future Chinese claims to Japan's southern islands. In addition, Japan believes it achieved sovereignty legitimately, following the legal processes in place in 1895.

There seems to be a growing asymmetry in nationalistic attitudes toward Dokdo/Takeshima. They remain fervent in South Korea, but in Japan may be on the wane. Due to demographic changes in Japan, there are fewer fishermen in Shimane prefecture opposite the Dokdo/Takeshima Islands who rely on the fishing grounds around the Islands for their livelihood. Japan, however, is not likely to renounce its claim to the Dokdo/Takeshima Islands because doing so would be a politically untenable concession of territorial sovereignty.

The Northern Territories/Southern Kuriles dispute with Russia may have the greatest possibility for resolution of any of the three disputes because both sides have indicated that they may be open to a negotiated settlement of the dispute. The Russian government has at various times offered to transfer the two southernmost Islands, Shikotan and Habomai,

[3] "Traces of Japanese Activity Remain on Senkaku Islands," *The Asahi Shimbun*, 3 September 2012, available online at: http://ajw.asahi.com/article/behind_news/politics/AJ201209030092, accessed 3 June 2013.

[4] UNECAFE 1968: 39-40.

[5] See Kanako Tanaka, "Nemuro Raid Survivor Longs for Homeland," *Japan Times Online*, September 22, 2007, available online at: http://www.japantimes.co.jp/text/nn20070922wl.html.

and to include Japan in the development of the other two islands, Etorofu and Kunashiri. The Japanese, however, want all four islands back, but have indicated that upon the return of the two northernmost Islands they would allow the Russian population there to remain.[6] While it might be possible to make progress in this territorial dispute in exchange for a closer Russo-Japanese economic relationship in Northeast Asia, the political problems associated with ardent nationalists make progress via a compromise by either side a difficult proposition at best. Both Prime Minister Abe and Russian President Vladimir Putin would have to spend considerable political capital to construct an agreement and convince their respective elites of its merit. Nonetheless, their recent meetings in Moscow suggest that the possibility of some sort of agreement is feasible, although much remains to be done.[7] It is worth noting that in contrast to U.S. positions of neutrality when it comes to disputes over sovereignty of islands and features in East Asia, the United States does take sides in this dispute and supports Japan's claim to sovereignty over the Northern Territories/Southern Kurile Islands.[8]

Economic incentives to solve Japan's disputes

There are economic incentives to resolve each of Japan's territorial disputes; however, in no instance have they been able to trump nationalism. The Senkaku/Diaoyu Islands and the Dokdo/Takeshima Islands may have extensive natural gas deposits in the surrounding seabed. In the case of the Northern Territories/Southern Kurile Islands, the energy resources are further afield—in the vicinity of Sakhalin Island—but no less important for Japan and Russia. Closer bilateral cooperation through either tabling or reaching an agreement on the Northern Territories/Southern Kurile Islands dispute could advance important bilateral cooperation in Russia's Far East.

The prospect of joint development of potential natural gas deposits in the vicinity of the Dokdo/Takeshima Islands and the Senkaku/Diaoyu Islands has existed for

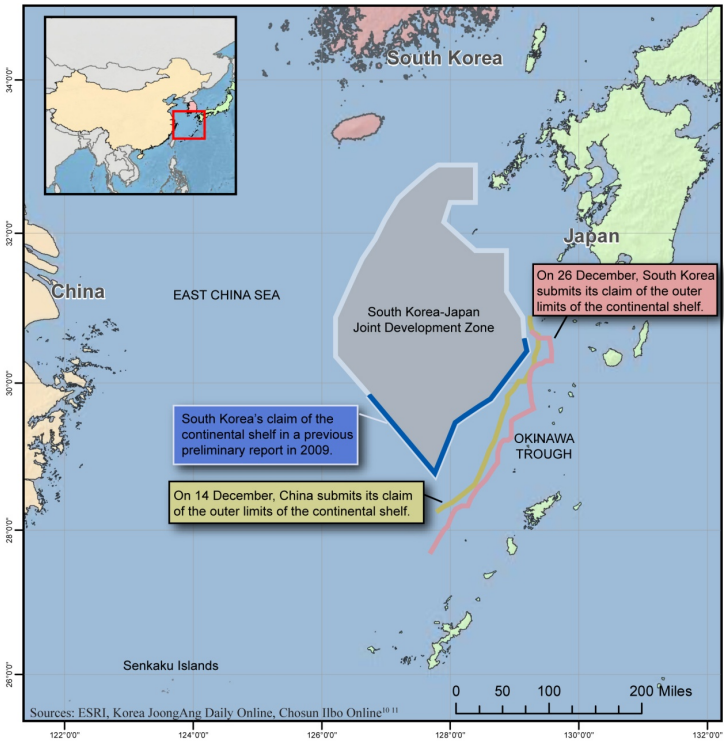
[6] Ministry of Foreign Affairs of Japan, "Overview of the Issue of the Northern Territories," available online at: http://www.mofa.go.jp/region/europe/russia/territory/overview.html.

[7] In a joint statement released after the meeting at the Kremlin, they said they "will respectively instruct their foreign ministries to accelerate negotiations to work out a solution acceptable to both countries over the peace treaty issue" See "Abe, Putin Agree to Revive Isle Talks," *Japan Times Online*, 29 April 2013, available online at: http://www.japantimes.co.jp/news/2013/04/29/national/abe-looking-to-revive-talks-on-russia-isle-row/, accessed 3 June 2013.

[8] Ministry of Foreign Affairs of Japan, "Overview of the Issue of the Northern Territories"

almost 40 years. Japan and Korea established a first-of-its-kind joint development zone (JDZ) in the East China Sea in 1974. But, there has been very little actual development in the JDZ, most of which is arguably part of Japan's EEZ and continental shelf. Figure 1 below shows the Japan-Korea joint development zone in the East China Sea.

Figure 1: Japan-Korea joint development zone



The seabed around the Dokdo/Takeshima Islands, moreover, may contain as much as 600 million tons of gas hydrate, which is potentially a next-generation energy source that could be made into liquid natural gas in the future. While resource sharing is an excellent reason for Japan and South Korea to at least set aside the territorial dispute over the Dokdo/Takeshima Islands and pursue joint exploitation, they have not done so. In 2008, China and Japan agreed to jointly explore four gas fields in the East China Sea and halt development in other contested areas. In early 2010, however, Japan threatened to take China to the International Tribunal for the Law of the Sea if the Chinese began producing from the Chunxiao/Shirakaba gas field in the East China Sea.[9]

[9] U.S. Energy Information Administration, "East China Sea," September 25, 2012. Available online at: http://www.eia.gov/countries/regions-topics.cfm?fips=ECS, accessed 31 May 2013.

In addition to the potential for seabed gas resources, fisheries are both an important economic motivation for and a source of disagreement in Japan's territorial disputes. The Dokdo/Takeshima Islands are surrounded by fertile fishing grounds, which both the Japanese and Korean fishing fleets would like to exploit. To this end, in 1998 and again in 2002, Japan and Korea concluded fisheries agreements. The 2002 agreement provided for annual catches by fishermen from Japan and South Korea.[10] Japanese fishermen in Shimane Prefecture, opposite the islands, however, were not satisfied with the way that the agreements were implemented. This led them to advocate for the establishment of Takeshima Day at the prefectural level. This democratic "protest" had the unfortunate effect of triggering a series of actions and reactions that turned what had been a low-level dispute between Seoul and Tokyo into a major nationalistic cause in both countries. Takeshima Day is now an annual event, to the continued irritation of South Korea.

Japan concluded a fisheries agreement with Taiwan on April 10, 2013, which includes the areas around the Senkaku/Diaoyu Islands and raises the prospect of elevating mutual economic interests as a way to manage the dispute over the Senkaku/Diaoyu Islands in both countries. This agreement expands the areas where Taiwanese fishermen are permitted to fish, but does not allow Taiwan fishing boats to enter the 12 n. mi. territorial waters surrounding the Senkaku/Diaoyu Islands.[11] Taiwan Foreign Minister David Lin observed that while Taipei adhered to its sovereignty claim, it was being set aside for now.[12] While any agreement that reduces the possibility of incidents is welcome—and this agreement is certainly a positive development—the real issue surrounding the Senkakus is between Japan and China; not Japan and Taiwan. Also, there are also reasons to be concerned that this agreement may go the way of the Japan-Korea fisheries agreement and exacerbate tensions between Taiwan and Japan over the Senkaku/Diaoyu Islands.

Despite the potential economic incentives, resource sharing has not been a compelling enough rationale for China, Japan, or South Korea to create lasting and meaningful agreements in the vicinity of the Dokdo/Takeshima Islands and the Senkaku/Diaoyu Islands.

[10] Kunwoo Kim "Korea-Japan Fish Dispute," *Inventory of Conflict & Environment Case Studies*, April 23, 2002. Available online at: http://www.american.edu/TED/ice/korea-japan-islands.htm.

[11] The 12-nautical-mile exclusion around the Senkaku/Diaoyu Islands for Taiwan fishing boats has an obvious potential for violation and thus raises enforcement issues. Close and continued coordination between Japan and Taiwan will be crucial for its successful implementation, which in turn will determine whether the economics of fishing are able to narrow the gap between Japan and Taiwan over the Senkaku/Diaoyu Islands. "Japan Makes Concessions to Taiwan Over Diaoyutai Fishing: Reports," *Taiwan News Online*, April 10, 2013, available online at: http://www.taiwannews.com.tw/etn/news_content.php?id=2192804, accessed 31 May 2013.

[12] Ibid.

There are probably good reasons for this; if a nation is in control of an island's features, why would it share the resources—particularly if doing so would imply that it was compromising its claim to sovereignty? This is especially true if the resources themselves are only deemed "modest" in magnitude. In the case of the gas fields, it may also be that exploitation is not economically attractive.

Prospects for dispute resolution through international courts

Since each of Japan's territorial disputes is bilateral and over relatively small and remote islands, international arbitration is a logical avenue for resolution. The International Court of Justice (ICJ) has adjudicated similar disputes involving contested sovereignty in the maritime domain; examples are the 2009 dispute between Romania and Ukraine over Snake Island and the 2012 dispute between Colombia and Nicaragua concerning zones associated with offshore islands. In the Snake Island case, the court ruled that Snake Island—which is a territory of Ukraine, but is in the Black Sea on the maritime boundary with Romania—would not be given a full exclusive economic zone (EEZ) because that would distort the maritime boundary with Romania. In this way, the court ensured an equitable result of the maritime boundary between Romania and Ukraine. This case and others demonstrate the viability of legal proceedings in the ICJ or the new International Tribunal for the Law of the Sea (ITLOS) as avenues to resolve Japan's territorial disputes.

In reality, however, it is highly unlikely that Japan will resolve any of its territorial disputes through international legal avenues. In the case of the Dokdo/Takeshima Islands, Japan has attempted to take the case to the ICJ on three separate occasions: first in the 1950s; again in 1965; and finally in late 2012 just before the Liberal Democratic Party (LDP) regained a majority in the lower house of the Diet. South Korea did not agree to participate in Japan's first two arbitration attempts—and unless both parties consent to jurisdiction, the court will not hear the case. In the fall of 2012, the incoming prime minister, Shinzo Abe, chose to drop the case in order to improve Japan's relations with South Korea under the newly elected Korean president, Park Geun-hye.[13] According to a legal analysis by a respected American international lawyer, were the ICJ to hear the case, it would "in all probability, award Japan title to the islets."[14]

[13] See for example, "Japan Won't Bring Takeshima Dispute to the ICJ," *The Asahi Shimbun*, 9 January 2013, available online at: http://ajw.asahi.com/article/asia/korean_peninsula/AJ201301090015, accessed 30 May 2013.

[14] Raul (Pete) Pedrozo, "Sovereignty Claims over Liancourt Rocks (Dokdo/Takeshima)," *Chinese (Taiwan) Yearbook of International Law and Affairs*, ed. Ying-jeow Ma, vol. 28, 2010 (London: CMP Publishing 2013), pp 78-98.

This raises an important fact of life when it comes to using third-party legal arbitration to settle Japan's maritime disputes: the country in possession of the disputed territory has nothing to gain and everything to lose by submitting to international dispute settlement through the ICJ or ITLOS. Thus, in Japan's dispute with China over the Senkaku/Diaoyu Islands, Japan has administrative control and has so far been unwilling to even acknowledge that a dispute exists; thus, it maintains, there is no need for legal arbitration. Apparently Japan is confident about the strength of its claim to the Senkaku/Diaoyu Islands. Former Foreign Minister Koichiro Gemba went so far as to state that Japan accepts the jurisdiction of the ICJ as compulsory, but since China is seeking to change the status quo, it is the Chinese who must bring the dispute before the ICJ.[15] This argument effectively means that Japan will not make the first move to take its dispute with China over the Senkaku/Diaoyu Islands to the ICJ.

Japan's territorial disputes also greatly affect its maritime boundaries with neighboring countries. This is especially significant in the dispute with China since the East China Sea is less than 400 nautical miles wide and as a result China and Japan cannot both claim full 200 n. mi. EEZs. The logical approach would be to establish the mid-point as the boundary between EEZs, which is Japan's position. But China argues that since its continental shelf extends eastward beyond the midpoint, its EEZ should be larger than Japan's. Under the United Nations Convention on the Law of the Sea (UNCLOS), the ICJ or the ITLOS could arbitrate maritime boundary disputes if Japan and China were to agree to the dispute settlement process. To date, though, neither party has sought legal settlement of its East China Sea claims. Although not contested, Japan also claims over a million square miles of EEZs in the Pacific Ocean associated with Marcus Island and the Ogasawara Islands. In 2004, China protested Japan's EEZ claim associated with Okinotorishima, one of the Ogasawara Islands, which is virtually submerged at high tide and whose features are nearly all man-made.

The United States has little ability to contribute to to the resolution of any of these disputes via international law. While the U.S. certainly keeps abreast of maritime law, it is not a

[15] Koichiro Gemba, Foreign Minister of Japan, "Japan China Relations at a Crossroads," 21 November 2012, p. 3. Ministry of Foreign Affairs of Japan website, available online at: http://www.mofa.go.jp/mofaj/annai/honsho/gaisho/gemba/pdfs/iht_121121_en.pdf, accessed 30 May 2013.

party to either UNCLOS or the Mandatory Juris[16] of the ICJ, and thus lacks the credibility when it presses others to follow the rule of law and seek third party arbitration to settle maritime disputes. All it can do is encourage Japan, China, and South Korea to utilize international dispute resolution mechanisms when its interests so dictate.

Japan's prospects for resolving any of its territorial disputes through international legal means are limited. While legal infrastructure and precedents exist that would be relevant to its disputes, all of the claimants that are in actual control of disputed islands believe that the status quo is far preferable to the risk of an adverse judgment. Although the United States was a party to the creation of Japan's maritime disputes in 1952, its ability to contribute to their resolution is limited to encouraging restraint and peaceful approaches to resolution.

U.S. Policy options

As Japan's treaty ally, the United States has a stake in the peaceful resolution, or management, of Japan's territorial disputes, but it does not have an unlimited range of policy options when it comes to taking on Japan's territorial disputes. Because of the Mutual Defense Treaty, U.S. combat power in the vicinity of Japan serves as a deterrent to aggression by any country that would attack Japanese-administered territory. Although the United States takes no position on competing sovereignty claims in two of Japan's three territorial disputes, arguably it does have some responsibility for helping find a solution, since its inaction 60-odd years ago has allowed them to persist. The following are some options that the U.S. does have.

Deeper involvement

The United States could become more deeply involved in Japan's territorial disputes either through taking the side of one of the parties to a dispute or through offering to mediate negotiations between Japan and its near neighbors. Given Washington's long-standing policy

[16] The U.S. withdrew from the mandatory jurisdiction of the ICJ in the 1985. It can still bring disputes to the court although U.S. consent is necessary for another party to bring suit against the United States in the ICJ. See "United States: Department of State Letter and Statement Concerning Termination of Acceptance of I.C.J. Compulsory Jurisdiction, October 7, 1985," reprinted in *International Legal Materials* 24 no.6 (November 1985) published by the American Society of International Law. Available online via JSTOR at: http://www.jstor.org/discover/10.2307/20692919?uid=21235&uid=3739936&uid=2129&uid=2&uid=70&uid=3&uid=67&uid=62&uid=21234&uid=3739256&sid=21102119514883, accessed 17 June 2013.

of avoiding judgments in territorial disputes in which it has no direct stake, it is unlikely to take this option as a blanket approach.

Still, since each dispute is different it would be a mistake to categorically rule out consideration of greater involvement if it held promise of advancing U.S. interests. For example, it could make an exception to its non-involvement policy in the case of Dokdo/Takeshima. So far, Washington has only advised restraint and dialogue. That approach has had little to no impact. While there are many other disputes over islands in East Asia, the unique feature of Dokdo/Takeshima is that it is a disagreement between two democratic states that both are long-time treaty allies of the United States. In addition, Washington bears some responsibility for the current dispute, because it did not reach a decision on sovereignty when it had the power to do so during the drafting of the 1951 Peace Treaty with Japan. These facts do provide a pretext for Washington to consider a more proactive policy in trying to mediate a compromise. The objective would be a reduction in ROK-Japan tensions, which are counterproductive to the U.S. rebalance strategy.

Non-involvement in the Northern Territories/Southern Kurile Islands dispute

In the case of the dispute between Russia and Japan over the Northern Territories, the United States can continue its non-involvement policy. Washington has already made a judgment on whose claim to sovereignty is better, and it has not involved itself in resolution since 1956 when John Foster Dulles quashed a partition deal between Japan and the Soviet Union. Given the fact that recently Tokyo and Moscow seem to at least be considering some sort of compromise solution, the best position for the United States is to simply stay out of the way, and quietly tell Japan that it will support any diplomatic decision that Tokyo reaches on this dispute.

High stakes in the Senkaku/Diaoyu Islands dispute

The United States has very high stakes in the Senkaku/Diaoyu Islands dispute, because of its treaty obligations. Obviously Washington has the option of stating that it has concluded that Japan's sovereignty claim is best, and that it now supports Japans claim unreservedly. This would greatly please the Japanese—however, it would needlessly provoke to Beijing, and would undoubtedly increase the suspicions with which it already views the security relationship. The most attractive option is the present policy of encouraging restraint, taking

a strong position against unilateral changes to the status quo, and reassuring Japan that the Mutual Defense Treaty is applicable.

Specifically, in the Senkaku/Diaoyu Islands dispute there are some additional steps that can contribute to stability. For example the United States can do the following:

- Encourage China, Japan, and Taiwan to prevent activists from landing on the islands.
- Request that Japan not build structures on the islands.
- Suggest to both China and Japan that they establish risk-reduction mechanisms through regular dialogues devoted to the East China Sea that include maritime confidence-building measures and the use of the crisis communications mechanisms that they have already developed.
- Reinforce deterrence by periodic low-key, but public, reaffirmations of the applicability of Article V of the U.S.-Japan Mutual Security Treaty to the Senkaku/Diaoyu Islands.
- Have U.S. military forces continue, and strengthen, their exercise programs with the Japan Self-Defense Forces (JSDF). These exercises prepare both militaries to deter the use of force and, if necessary, defend the Senkaku/Diaoyu Islands.
- Take measures to strengthen its alliance with Japan as a form of reassurance. Two such measures are to help Japan think through the implications of the steps it takes to shore up its position in the Senkaku/Diaoyu Islands; and to encourage Japan to develop its crisis decision making capabilities among its civilian leadership, JSDF forces, and the coast guard.

Japan's Maritime Disputes: Implications for the U.S.-Japan Alliance

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Introduction

Japan currently has three sovereignty disputes with its neighbors in Northeast Asia. Negotiations with Russia to the north over the Northern Territories (Kuril Islands) began in the 1950s, but there have been no sustained efforts to resolve the island disputes with either South Korea (Takeshima/Dokdo) or China (Senkaku/Diaoyu). Instead, sovereignty disputes were set aside in the interests of concluding bilateral peace treaties.

However, recent nationalist sentiments over sovereignty claims have caused considerable damage to bilateral relations with China (2010 and 2012) and South Korea (2012), and propelled these territorial disputes to the center of Japanese diplomacy.

The simultaneous emergence of these diplomatic problems creates serious geostrategic challenges for Tokyo. While each dispute has its own particular diplomatic narrative, the roots of each lie in Japan's postwar settlement in the aftermath of World War II. Seoul and Beijing, in particular, base their sovereignty claims on the history of Japanese imperial expansion and aggression. Thus, Japan must contend with these disputes now as South Koreans and Chinese see them: as inextricably entwined with the broader tapestry of South Korean and Chinese efforts to revise their postwar settlements with Japan.

U.S. interests are affected by all three territorial disputes, but two raise critical concerns for Washington's Asia policy. The most immediate challenge for the Obama administration has been the escalating tensions between Tokyo and Beijing this past year, yet the simmering antagonism between Seoul and Tokyo, its two closest allies in the region, also creates a dilemma for Washington. The United States cannot resolve these disputes, but it can and should do all that it can to promote peaceful dispute resolution and a lessening of military tensions. Moreover, the United States can and should advocate for the advancement of

greater risk reduction mechanisms in Northeast Asia either through bilateral or multilateral channels, including the East Asia Summit. Finally, the U.S.-Japan alliance is the core mechanism for Japan's defense, and thus when disputes escalate to the level of the use or threat of the use of force, Washington should be prepared to assist in Japan's defense.

Tokyo's Choices for Dispute Resolution

Tokyo has chosen to seek negotiation on two of the three island disputes, those that are not under Japanese administration. South Korean president Syngman Rhee included the islands in his demarcation of South Korean territory on January 18, 1952, in order to preempt the San Francisco Peace Treaty, which came into effect on April 28 that year. The San Francisco treaty replaced the MacArthur Line, drawn in the immediate aftermath of World War II, and did not include Takeshima/Dokdo Islands as land to be returned by Japan to South Korea.[1] A coast guard unit and two civilians now maintain a constant presence on the islets, and tourists travel there from Ulleungdo Island to

[1] "Treaty of Peace with Japan," [commonly known as the San Francisco Peace Treaty] September 8, 1951, accessed via "The World and Japan" Database Project, Institute of Oriental Culture, University of Tokyo, http://www.ioc.u-tokyo.ac.jp/~worldjpn/documents/texts/docs/19510908.T1E.html. According to the San Francisco Peace Treaty, Japan renounced all rights, titles, and claims to "Korea, including the islands of Quelpart, Port Hamilton, and Dagelet," but Takeshima/Dokdo was not mentioned. Upon learning of this draft, Yang Yu Chan, ROK ambassador to the United States, sent a letter to Dean Acheson, U.S. Secretary of State, on July 9, 1951, asking that Dokdo be included in the treaty. Responding to this letter, Dean Rusk, U.S. Assistant Secretary of State for Far Eastern Affairs, wrote "the United States Government does not feel that the Treaty (San Francisco Peace Treaty) should adopt the theory that Japan's acceptance of the Potsdam Declaration on August 9, 1945 constituted a formal or final renunciation of sovereignty by Japan over the areas dealt with in the Declaration. As regards to the island of Dokdo, otherwise known as Takeshima or Liancourt Rocks, this normally uninhabited rock formation was according to our information never treated as part of Korea and, since about 1905, has been under the jurisdiction of the Oki Islands Branch Office of Shimane Prefecture of Japan. The island does not appear ever before to have been claimed by Korea." Ministry of Foreign Affairs, Japan, "Treatment of Takeshima in the San Francisco Peace Treaty," http://www.mofa.go.jp/region/asia-paci/takeshima/treatment.html. The Republic of Korea contends that Japan's incorporation of Takeshima/Dokdo into Shimane Prefecture in 1905 was an "illegal act" done in the lead up to Japan's forced annexation of Korea in 1910, and thus should have been returned to Korea under the 1943 Cairo Declaration and the 1945 Potsdam Declaration. South Korea also argues that its sovereignty over Dokdo was reaffirmed by the San Francisco Peace Treaty. For more information on Korea's account of the history of its administration of Takeshima/Dokdo,, see Ministry of Foreign Affairs and Trade, Republic of Korea, "Dokdo: Korea's Beautiful Island," http://dokdo.mofat.go.kr/index_en.jsp.

demonstrate the importance of Dokdo to South Korean national pride.[2] The Treaty on Basic Relations between Japan and the Republic of Korea concluded in 1965 did not make reference to the territorial dispute, as the two countries agreed to set it aside in the interests of the broader bilateral relationship.[3] Yet Japan's sovereignty claims rankle still in South Korea. Last year, President Lee Myung-bak's visit to the island days before the anniversary of Japan's defeat in WWII again brought the dispute to the forefront of the bilateral relationship. Prime Minister Noda Yoshihiko called on Seoul to join Tokyo in asking the International Court of Justice to review their sovereignty dispute, but President Lee refused.[4] While there is little need for concern over the militarization of this dispute, the interaction of Japanese and Korean forces in and around the islands should be noted. After Lee's visit, Korea mobilized its air defenses when it claimed a Japanese Self-Defense Force helicopter violated its Air Defense Identification Zone (ADIZ).[5]

[2] The Republic of Korea's coast guard has been stationed there since 1954. Korean Tourism Organization, "Dokdo, Korea's Beautiful Islands," August 26, 2008, http://english.visitkorea.or.kr/enu/SI/SI_EN_3_6.jsp?cid=258694.

[3] The issue of Dokdo/Takeshima did come up during the negotiations of the Treaty, but no reference was included in the final version at the request of South Korea, who insisted that the issue could not be an addendum because it was an original territory of Korea. In the Exchanged Notes Concerning Peaceful Settlement of Disputes, however, the two sides agreed to settle disputes by "peaceful means and diplomatic channels that would be agreeable to both sides." The Agreement on Fisheries, also concluded on June 22, 1965, further sidestepped the territorial dispute in favor of marking exclusive and joint regulation zones for fisheries and mandating that both sides seek agreement on fishing boundaries in the case of a dispute. For more information, see Kentaro Nakajima, "Is Japanese Maritime Strategy Changing? An Analysis of the Takeshima/Dokdo Issue," Program on U.S.-Japan Relations, Harvard University, 2007. For official copies of the treaties, see "Treaty on Basic Relations between Japan and the Republic of Korea," June 22, 1965, accessed via "The World and Japan" Database Project, Institute of Oriental Culture, University of Tokyo, http://www.ioc.u-tokyo.ac.jp/~worldjpn/documents/texts/docs/19650622.T1E.html, and "Agreement on Fisheries between Japan and the Republic of Korea," June 22, 1965, accessed via "The World and Japan" Database Project, Institute of Oriental Culture, University of Tokyo, http://www.ioc.u-tokyo.ac.jp/~worldjpn/documents/texts/JPKR/19650622.T2E.html.

[4] This was the third attempt by Japan to bring the issue of Takeshima/Dokdo to the International Court of Justice. The first was in September 1954, which was rejected by the Republic of Korea in October 1954. The second was in March 1962, but South Korea again refused the request. For more information, see Ministry of Foreign Affairs, Japan, "Proposal of Referral to the International Court of Justice," http://www.mofa.go.jp/region/asia-paci/takeshima/proposal.html.

[5] This is not the first time in recent years when Seoul initiated a defense response to Japanese activities near the islands. In 2006, the Korean government threatened a military response should Japanese survey ships approach the islands. *Yomiuri Shimbun*, April 18, 2006.

Negotiations with Russia (and the former Soviet Union) seemed more promising, especially in the early postwar years. The Northern Territories (Kuril Islands for Russia) were inhabited by Japanese in the early 19th century as explorers moved northwards through Tohoku to Hokkaido, and finally across the Nemuro Strait (Kunashirsky Strait for Russia) to these isolated and bitterly cold islands.[6] In the final days of WWII, the Soviet Union occupied the four islands (Etorofu, Kunishiri, Shikotan, and Habomai), and Russia continues to administer them as the Kuril Islands. In the 1950s, Prime Minister Ichiro Hatoyama made several attempts to conclude a peace treaty with the former Soviet Union and in 1956 came very close to finding a mutually acceptable formula for shared sovereignty, but Moscow and Tokyo were unable to finalize the negotiations.[7] As a result, to this day, Russia and Japan have no formal peace treaty that addresses this outstanding dispute over sovereignty. However, there are some recent signs of potential progress. On April 29, 2013, Abe Shinzo became the first Japanese prime minister to visit Russia in almost ten years. He met with Russian president Vladimir Putin, and the two issued a joint statement saying that they would accelerate negotiations on the disputed islands.[8]

Domestic politics in both South Korea and Russia have also raised the importance of these islands in national electoral campaigns and debates in recent years. Despite the ROK's insistence on their claim to Takeshima/Dokdo, no postwar Korean leader sought to use the islands for political gain. President Lee's visit there last summer, however, created a new political hurdle for ROK-Japan relations. In Japan, local leaders of Shimane Prefecture, the administrative home of the Takeshima Islands, have long sought to shine the spotlight on the islands, and advocate for their return to Japan. Ministry of Education approved textbooks continue to describe Takeshima/Dokdo as Japan' sovereign territory.

[6] Ministry of Foreign Affairs, Japan, "Overview of the Issue of the Northern Territories," http://www.mofa.go.jp/region/europe/russia/territory/overview.html.

[7] In October 1956, Prime Minister Hatoyama Ichiro became the first Japanese prime minister to visit the Soviet Union. Differences over the Northern Territories/Kuril Islands prevented the two countries from signing a peace treaty, so they instead signed the Japan-Soviet Joint Declaration, which officially ended the state of war and restored diplomatic relations. In Paragraph 9 of the Declaration, Japan and Russia agreed to continue negotiations toward the conclusion of a formal peace treaty. Ministry of Foreign Affairs, Japan, "Japan's Northern Territories: For a Relationship of Genuine Trust," http://www.mofa.go.jp/region/europe/russia/territory/pamphlet.pdf.

[8] Cabinet Office, Japan, "First Day of the Prime Minister's Visit to Russia," April 29, 2013, http://www.kantei.go.jp/foreign/96_abe/actions/201304/29russia_e.html. The text of the "Joint Statement of the Prime Minister of Japan and the President of the Russian Federation on the Development of Japanese-Russian Partnership" is available in Japanese via Ministry of Foreign Affairs, Japan, *Nichiro shunou kaidan* (Japan-Russia Leadership Conference), April 29, 2013, http://www.mofa.go.jp/mofaj/kaidan/page4_000064.html.

Some conservative Japanese politicians also have taken up the cause of demonstrating Japanese sovereignty over the islands. In 2011, three Japanese Diet members went to South Korea with the intention of visiting the islands. They were denied visas, and sent back home.[9]

In Russia too, President Dmitry Medvedev's election campaign in 2010 included a visit to Russia's "far eastern islands," and this Putin protégé was photographed touring the islands and taking snapshots of his country's islands.[10] Ever since the collapse of the Soviet Union, Russia's territorial disputes have become far more sensitive as a much-diminished Russia seemed unwilling to allow any more of its territory from slipping away. Medvedev, however, saw economic benefit in the development of the Kuril Islands. Sakhalin—not far from the disputed islands—was already a source of important gas resources, and the fisheries in and around the Kuriles are also rich. Medvedev returned to the Kuriles as prime minister in 2012, advocating for better defenses for the islands and for international collaboration in energy development.[11] During Prime Minister Abe's visit to Moscow in April 2013, Putin bristled when asked by a reporter if Russia would continue to invest in infrastructure and energy projects on the disputed islands. He pointed out that "we have inherited {this problem}and it is nearly 100 years ago. We genuinely want to resolve [the dispute] in a way that is acceptable to both sides."[12]

Finally, Tokyo's choices in the remaining island dispute with China and Taiwan deserves fuller and more careful attention as it is the only case where Japan retains administrative control over disputed islands. Beijing and Tokyo did succeed for decades in setting aside their differences over the five, uninhabited Senkaku/Diaoyu Islands, and while they did not resolve their dispute, political leaders did agree that it was in the best interests of both

[9] Kyodo News, "South Korea Bars Three Lawmakers: Opposition Politicians Turned Away at Gimpo, Thwarting Bid to Visit Base of Japan-Claimed Isles," August 2, 2011, accessed via Japan Times, http://www.japantimes.co.jp/news/2011/08/02/national/south-korea-bars-three-lawmakers/#.UWWpkspWKOI.

[10] Official Website of the President of Russia, "Trip to Kuril Islands," November 1, 2010, http://eng.kremlin.ru/trips/1234.

[11] *Asahi Shimbun*, July 4, 2012. Medvedev also gave a speech in February 2011 talking about installing better defenses—including missiles—around the Kuril Islands. *Mainichi Shimbun,* February 10, 2011.

[12] Putin went on to say that the "residents of these territories are Russian citizens just like all our other citizens living anywhere else. We are obligated to think about them, to think about their living standards." Official Website of the President of Russia, "Press Statements and Answers to Journalists' Questions Following Russian-Japanese Talks," April 29, 2013, http://eng.kremlin.ru/transcripts/5339.

sides to prevent this dispute from gaining more attention at home. This diplomatic formula continued for decades, but Japanese government policy adapted over the years as more and more activists, from Japan, China, and Taiwan, sought to land on the islands to demonstrate sovereignty. In the early years after the Japan-China peace treaty, it was Japanese activists critical of the compromise made with Beijing who sought to land on the islands. One group succeeded in constructing a lighthouse on the largest island of Uotsurijima. Japanese activist activities stimulated Taiwanese and later Hong Kong based activists to counter with their efforts to land and place flags on the disputed islands, and this again produced further Japanese activism. In 2001, Prime Minister Koizumi Junichiro quietly approved the lease of the three islands not under government control, and imposed strict regulations on access to the islands, enforced by the Japan Coast Guard. While the exact role of the Chinese government remains unclear, it seems likely that they restricted activism from mainland China, and after Hong Kong reversion, from Hong Kong as well.

This government effort to control activism was called into question in September 2010 by a Chinese fishing trawler. The Japanese government detained the ship and its crew temporarily, but arrested the captain for interfering with the coast guard's official duties. For two weeks, Beijing and Tokyo were at loggerheads over the incident, with China pressing Japan to release the captain. During this time, reports of an informal embargo of rare earth minerals, vital to Japan's high-tech industry, and the arrest by China of four Japanese businessmen for allegedly entering military facilities escalated the diplomatic confrontation. U.S.-Japan consultations resulted in a clear U.S. statement that the disputed islands would fall under the bilateral security treaty's protections. In the end, Japan released the captain, and China released the Japanese businessmen. But the damage to the bilateral relationship was serious. Moreover, the island dispute was no longer an issue that both governments agreed could and should be set aside. Domestic sentiments in both countries had been enflamed, and neither Tokyo nor Beijing was willing to go back to the quiet diplomacy that had allowed them to manage the dispute since 1978.

2012 brought yet another, more dangerous episode of contention over the disputed Senkaku/Diaoyu Islands. Activism by Tokyo governor Ishihara Shintaro, a long-time Senkaku nationalist, led to his appeal for funds to purchase the privately held islands in order to "defend" Japanese sovereignty against China. Within months, Ishihara had raised millions, revealing the mass appeal of his proposal in Japan. Prime Minister Noda sought to counter Ishihara's activism by national purchase of the islands. The lease was due to expire on March 31, 2013, but as Chinese activists landed on the disputed islands in mid-August to commemorate the end of the war, Noda accelerated his plan to purchase the islands. When he informed Hu Jintao of the purchase on September 9, the Chinese government balked. Within days, demonstrations erupted throughout China, resulting in widespread damages to Japanese businesses and products.

Since the purchase, the Chinese government announced its intention to administer actively its sovereign control over the disputed islands.[13] Chinese patrols of the islands began on September 14 and continue today.[14] Most of these patrols are in Japan's contiguous waters, but at times, the Chinese vessels have entered Japan's territorial waters. The ships assigned to these islands seem to be Haijian 23, 50, 51, and 137.[15] Japan's Coast Guard maintains a 24/7 patrol of the islands, and has moved ships to the vicinity from other regions in Japan. A Task Force has been established at Naha, Okinawa, and six new ships have been commissioned in the 2012 supplementary budget.

Military interaction between Japanese and Chinese forces began in December 2012. A small Chinese reconnaissance plane entered the airspace over Senkaku/Diaoyu Islands on December 16. The Japanese Air Force scrambled but was too late to intercept. Following this incident, China's air force fighter jets escorted similar aircraft and headed back to the islands, prompting Japanese scrambles in response. Another source of tensions came from two radar lock incidents reported by Japan's Maritime Self-Defense Force, the first against a destroyer-based helicopter and the second against the frigate Yudachi. Japan's Ministry of Defense publicized the latter and asked for Chinese account of the incident. In response, the Chinese Ministry of Defense two days later reported no such incident took place, but noted that if it had it would have been a violation of international norms. Both governments clearly recognized the inherent danger of their militaries interacting over the territorial dispute, and since then, tensions seem to have cooled.

Progress toward a diplomatic dialogue between Japan and China, however, has been halting at best. Leadership transitions in both Tokyo and Beijing perhaps offer an opportunity to address this past year's escalation in tensions. On January 25, Prime Minister Abe Shinzo sent the leader of the Komei Party, Yamaguchi Natsuo, his ruling coalition partner, to visit with Xi Jinping, China's new leader. The meeting was positive, and suggested there might be interest in the new government for diplomatic talks. Although the radar-lock incident interrupted this process, former prime minister Fukuda Yasuo followed with a visit of his own on April 7, which was meant to set the stage for a more formal visit the

[13] Ministry of Foreign Affairs, People's Republic of China, "Statement of the Ministry of Foreign Affairs of the People's Republic of China," September 10, 2012, http://www.fmprc.gov.cn/eng/zxxx/t968188.htm. See also "Diaoyu Dao, An Inherent Territory of China," State Council Information Office, September 26, 2012, http://www.fmprc.gov.cn/eng/zxxx/t973774.htm.

[14] *Yomiuri Shimbun*, September 14, 2012.

[15] This information is based on compiling media reports from *Asahi Shimbun*, *Nikkei Shimbun*, and *Yomiuri Shimbun* from September 2012 to the present. For more information, see Sheila A. Smith, *Intimate Rivals: Japan and a Rising China*, (New York: Columbia University Press, forthcoming).

following month by Komura Masahiko, Abe's former foreign minister and vice president of the Liberal Democratic Party. In 2006, Komura had a central role in the reconciliation diplomacy Abe began with Beijing after Koizumi left office. China's new foreign minister, Wang Yi, also has considerable experience in that process, and his drafting of the speech delivered by then Premier Wen Jiabao in the Japanese Diet in 2007 was perhaps the most sophisticated Chinese appeal to Japanese public sentiments ever delivered by a Chinese leader. Thus, the personalities on both sides are well suited to exploring a diplomatic reconciliation that reduces tensions over the island dispute. Yet, it remains unclear whether high-level summitry between Xi Jinping and Abe Shinzo can save the day. As yet no direct contact between the two leaders is scheduled. Komura, who is also president of the Japan-China Friendship Parliamentarians' Union, announced on April 22 that he would cancel his planned visit to China in early May after he was told that President Xi Jinping and Vice President Li Yuanchao were unavailable to meet with him.[16] Similarly, plans for the annual trilateral summit between the leaders of China, South Korea and Japan were also postponed, ostensibly because the Chinese had scheduling difficulties.

Nonetheless, the island dispute and the continued differences with China over their shared maritime boundary in the East China Sea carry particular challenges for Japan. China's rising military capabilities are increasing the interactions between Chinese and Japanese forces, particularly maritime and air forces. Japan's southwestern islands extend along the eastern boundary of the East China Sea, and its 2010 National Defense Program Guidelines argues for enhancing intelligence, surveillance, and reconnaissance, as well air defense and maritime capabilities in that region. Recent North Korean missile launches have added to the military significance of the East China Sea as ballistic missile defenses in that region are being upgraded. Furthermore, the lack of agreement between Beijing and Tokyo over their maritime boundary in the East China Sea also exacerbates the potential for tensions. Joint energy development plans have not come to fruition, and Chinese exploitation of gas fields near the median line between the two nations continues to be a source of frustration. China's claim that its exclusive economic zone extends out to include the continental shelf also affects the island dispute, as the Senkaku/Diaoyu rest just on the edge of that shelf.

[16] Japanese media reports suggested that tensions over the Senkaku island dispute were the cause, and there was some speculation in Tokyo that it could have also been related to the visit to Yasukuni Shrine by Japan's Deputy Prime Minister Aso Taro, on April 21. See for example, *Asahi Shimbun*, "Yasukuni Visits Overshadow Ties with China, South Korea," April 23, 2013, http://ajw.asahi.com/article/behind_news/politics/AJ201304230081.

Japan's Maritime Disputes and U.S. Policy Goals

Japan's maritime challenges affect U.S. policy in a number of ways.[17] *First, as Tokyo's treaty ally, any use of force in the context of a territorial dispute would raise the question of U.S. military assistance to Japan*. But the most important policy challenge is to deter the use of force, and dissuade the parties from taking actions that would escalate tensions to an armed clash. This has been particularly important for U.S. policy response to the rising Japan-China tensions. Deterrence has been Washington's primary concern since tensions between Beijing and Tokyo erupted in 2010; deterrence and dissuasion have been the policy challenge since the Chinese decision to assert its administrative control over the Senkaku/Diaoyu Islands last fall.

On January 18, 2013, U.S. secretary of state Hillary Clinton after her meeting with Japanese Foreign Minister Kishida Fumio clearly reiterated that the islands would be protected under the U.S.-Japan security treaty, and stated that the United States "would oppose any unilateral actions that would seek to undermine Japanese administration."[18] On April 14 in Tokyo, newly appointed U.S. secretary of state John Kerry went further, saying that the United States would "oppose any unilateral or coercive action that would somehow aim at changing the status quo."[19]

Second, encouraging the establishment of risk reduction mechanisms for the militaries of Northeast Asia would be beneficial to U.S. interests. Recent interactions between the Chinese and Japanese militaries raise the prospect of an inadvertent clash due to miscalculation or accident. The U.S. and China, for example, developed the MCAA in the wake of the downing of the EP-3 on Hainan Island. No bilateral mechanism for risk reduction exists at the moment between Tokyo and Beijing, although their High Level Consultation on Maritime Affairs begun in 2012 could offer a venue for crisis management communications.[20] Likewise, the ROK and Japanese militaries should develop similar initiatives. Search and

[17] For a full discussion of the U.S. policy options in the case of a Japan-China clash over their island dispute, see Sheila A. Smith, *Contingency Planning Memorandum #18: A Sino-Japanese Clash in the East China Sea*, Council on Foreign Relations (April 2013).

[18] "Remarks with Japanese Foreign Minister Fumio Kishida After Their Meeting," U.S. Department of State, January 18, 2013, http://www.state.gov/secretary/rm/2013/01/203050.htm.

[19] "Joint Press Availability with Japanese Foreign Minister Kishida After Their Meeting," U.S. Department of State, April 14, 2013, http://www.state.gov/secretary/remarks/2013/04/207483.htm.

[20] Ministry of Foreign Affairs, Japan, "The First Round Meeting of Japan-China High Level Consultation on Maritime Affairs," May 16, 2012, http://www.mofa.go.jp/policy/maritime/jchlc_maritime01.html.

Rescue Agreements, Coast Guard cooperation, and channels for crisis communications between the militaries of the region ought to be assiduously developed. The U.S. role in encouraging these mechanisms could prove important, and our development of—and effective use of—crisis management procedures with China could model the future of regional military confidence building.

Other venues are also available for the diplomatic initiative of building maritime risk reduction mechanisms. The leaders of China, Japan and South Korea meet each year in the Plus Three summit. This trilateral meeting could obviously provide the opportunity for East China Sea risk reductions mechanisms.

Third, U.S. efforts to date to build trilateral cooperation with South Korea and Japan reflect the shared interests between the two U.S. allies in managing regional tensions, especially on developing responses to North Korea's missile and nuclear proliferation. The effort to build a shared approach to managing North Korea dates back several decades, but trilateral security cooperation remains a challenge for Tokyo and Seoul even in cooperation with Washington. Since the 2006 nuclear test, however, increasing attention to the scenario of a Korean contingency have led to an understanding that Japanese participation in a support capacity for U.S. and ROK military efforts would be valuable. Significant progress was made after the North Korean provocations in 2010 to develop an ACSA and information-sharing agreement to facility cooperation between Seoul and Tokyo, but unfortunately this was abruptly called off last year after domestic opposition to the agreements erupted in the South Korean National Assembly.[21] Washington's ability to bring its two Northeast Asia allies together will be important; perhaps too this trilateral security dialogue might consider the ways in which Japan and the ROK can consider developing greater maritime cooperation, including anti-piracy or other types of missions.

Finally, the United States has an abiding interest in advocating for peaceful dispute resolution of territorial and maritime boundary disputes. U.S. Advocacy in regional and global settings is important not only to our allies in the region, but also to U.S. national interest. Regional concerns about the rise of Chinese military power in the South China Sea have prompted the ASEAN to develop a Code of Conduct for dispute resolution; an East China Sea Code of Conduct could also be developed. The ASEAN Regional Forum should continue to advocate for freedom of navigation and the Code of Conduct. The ASEAN Defense Min-

[21] Scott A. Snyder, "U.S. Rebalancing and Japan-South Korea Defense Cooperation," *Asia Unbound*, Council on Foreign Relations, July 9, 2012, http://blogs.cfr.org/asia/2012/07/09/u-s-rebalancing-and-japan-south-korea-defense-cooperation/.

ister's meetings could also be important venues for confidence building, and they should be held annually. But beyond the Asia Pacific, the United States must be at the table in the global adjudication mechanism for maritime rights and dispute resolution. To do so, the United States itself must become party to the two most important dispute resolution mechanisms, the International Court of Justice and the UN Convention on the Law of the Sea. Japan and other allies are seeking to use UNCLOS to articulate their interests, and Washington cannot advocate for the use of these mechanisms while refusing to ratify the UNCLOS ourselves.

The Myth of U.S. Neutrality

Tensions between allies and China as well as between allies themselves can raise questions about our ability to be neutral in disputes where we do not have a direct role. Washington policymakers must do all that they can to support the use of bilateral or multilateral mechanisms of dispute resolution, but the United States cannot mediate sovereignty disputes when one or both of the complainants is an ally.

Yet it is imperative that the United States not aim to present itself as neutral. In the dispute between Japan and China, for example, the U.S. policy goal cannot be neutrality as Washington has an obligation to deter and if necessary to defend Japan should Beijing opt to threaten or use force to resolve the dispute. Should the United States attempt to demonstrate neutrality, it will fundamentally undermine its ability to extend deterrence on Japan's behalf. In the dispute between Japan and South Korea, both are treaty allies and thus the dilemma is compounded. The United States cannot mediate, and should any tensions erupt that might involve the use of force, the United States would be in the awkward position of being obligated to assist both sides. Of course, it is highly unlikely that the territorial dispute between Japan and South Korea would escalate to military tensions.

In addition to our treaty commitments, however, there are other reasons for the United States to avoid confusing its role in the islands disputes in Northeast Asia. These territorial disputes raise important questions about Japan's postwar settlement, and the U.S. role in brokering Japan's postwar peace. Of course, the outbreak of war on the Korean peninsula became the back drop for postwar Japan-ROK relations, and the role of each as a U.S. ally gave Washington a strong influence over the terms of their bilateral peace accord. The South Korean government remained dissatisfied with the San Francisco Peace Treaty, and thus extended its control over the disputed islands. The 1965 bilateral treaty also draws fire in contemporary South Korean politics because of the authoritar-

ian government of Park Chung-hee's compromise on the islands.[22] Washington supported the compromise and the long overdue postwar peace settlement between its two Northeast Asian allies. Today, however, there is open questioning of the terms of that treaty in Seoul. The choice of timing of President Lee's visit amply demonstrates the extent to which nationalist politics and historical memory are fused in the domestic debate over the Takeshima/Dokdo dispute.

Likewise, China too bases its claim on the events surrounding the San Francisco Peace Treaty, to which it was not a party. The Cold War too prolonged the postwar peace negotiations between Beijing and Tokyo. Their bilateral decision in 1978 to set aside differences over the islands is being revisited as nationalist tensions and China's rising military power suggest the appeal of a new, more assertive sovereignty claim over the islands. Last fall, at the UN General Assembly, however, it was Japan's prewar behavior that was the focal point of Foreign Minister Yang Jiechi's diatribe against the purchase of the islands by the Tokyo government. Yang called Japan's move "totally illegal and invalid, which in no way can change the historical fact that Japan 'stole' the Diaoyu Islands from China."[23]

While the U.S. government cannot undo the diplomatic history of the ending of World War II, it should remember that it had a role historically in the circumstances that led to these disputes. Washington's sponsorship of the negotiations for the San Francisco Peace Treaty were deeply informed by the outbreak of the Korean War that began the Cold War division of postwar international relations. Two decades later, the U.S. negotiation of the Okinawa Reversion Agreement (1971) with Japan, ending finally the extended occupation of these southwestern Japanese islands, prompted Chinese and Taiwanese assertions of sovereignty over the Senkaku/Diaoyu Islands. According to both Beijing and

[22] Park Chung-hee's daughter, Park Geun-hye, is the current president of the Republic of Korea. In an address to a joint session of the U.S. Congress on May 9, 2013, Park Geun-hye did not mention Japan directly but said that while the Asia Pacific region's economies are becoming more interlinked, "differences stemming from history are widening." See Official Website of the Republic of Korea's Blue House, "Address by President Park Geun-hye of the Republic of Korea to the Joint Session of the United States Congress," May 9, 2013, http://english.president.go.kr/pre_activity/speeches/speeches_view.php?board_no=E03&uno=7826. In an interview with the *Washington Post* published two days earlier, Park was more direct, saying that she was "disappointed and frustrated" with the lack of progress on Korean-Japanese relations. See *Washington Post*, "South Korean President Park Geun-hye Answers Questions," May 7, 2013, http://www.washingtonpost.com/opinions/south-korean-president-park-geun-hye-answers-questions/2013/05/07/d7482e5a-b761-11e2-b94c-b684dda07add_story.html.

[23] Ministry of Foreign Affairs, People's Republic of China, "Yang Jiechi Expounds China's Solemn Position on the Diaoyu Islands Issue at the 67th Session of the UN General Assembly," September 28, 2012, http://www.fmprc.gov.cn/eng/zxxx/t975814.htm.

Taipei, the U.S. failed to return these islands to their rightful owner. Similarly, Syngman Rhee's "line" of territorial demarcation was the direct result of the refusal of U.S. officials to acknowledge that the Takeshima/Dokdo Islands had been originally Korean territory prior to Japanese colonization. Our history, in fact, denies us the credibility of a neutral position in much of the contemporary debate in Japan, South Korea and China over terms of the postwar peace. Yet, it does tie us inextricably to the circumstances of Japan's surrender and the terms of its postwar peace.

Recommendations for the United States

In conclusion, several recommendations for U.S. policy are important. *First, remember that there is no direct U.S. role in either territorial or maritime boundary disputes at the moment*. There is no direct role to be had by Washington in resolving the territorial disputes. The United States may be asked to contribute to any adjudication effort in the International Court of Justice, should the island disputes be resolved in that way. On maritime dispute resolution, ratifying the UN Convention on the Law of the Sea would bring the United States into the conversation on both maritime boundaries and dispute resolution, however, and give *Washington a voice in the legal and normative contest over the future of maritime rights.*

Second, the United States plays an indispensable role in deterring and dissuading China from using force to resolve its island dispute with Japan. It is vital that Washington continue to harshly oppose any unilateral effort to alter Japan's administrative control over the islands. In addition to this declaratory policy, the United States ought to ensure it maintains the capability and exercises with Japan's Self-Defense Force to deter and if necessary repel invasion.

Third, Washington should advocate the creation of military risk reduction measures designed specifically for East China Sea. U.S.-China bilateral military dialogue should include reference to the dangers of the interactions of late between Japan and China near the disputed islands, and encourage bilateral maritime talks to resume. The United States should also encourage Beijing, Tokyo and Seoul to add maritime confidence building to their trilateral dialogue, and if feasible, to consider Code of Conduct specific to East China Sea maritime needs. Both Tokyo and Beijing should be encouraged to resume their High Level Consultations on Maritime Affairs, and to initiate use of the crisis communications mechanisms developed last June.

Fourth, Washington should initiate a maritime confidence building dialogue with Seoul and Tokyo. Maritime cooperation in anti-piracy and in other areas of interest to regional stability could offer positive mechanisms for the navies of both allies to consider their own crisis communications practices. Furthermore, Seoul should be encouraged to expand its cooperation

with U.S. and Japanese navies in a regional missile defense network. The current chill in diplomatic relations between Japan and South Korea greatly hinders their strategic cooperation in Northeast Asia, but Washington should continue to do all it can to find opportunities to embed collaboration in broader regional efforts at confidence building.

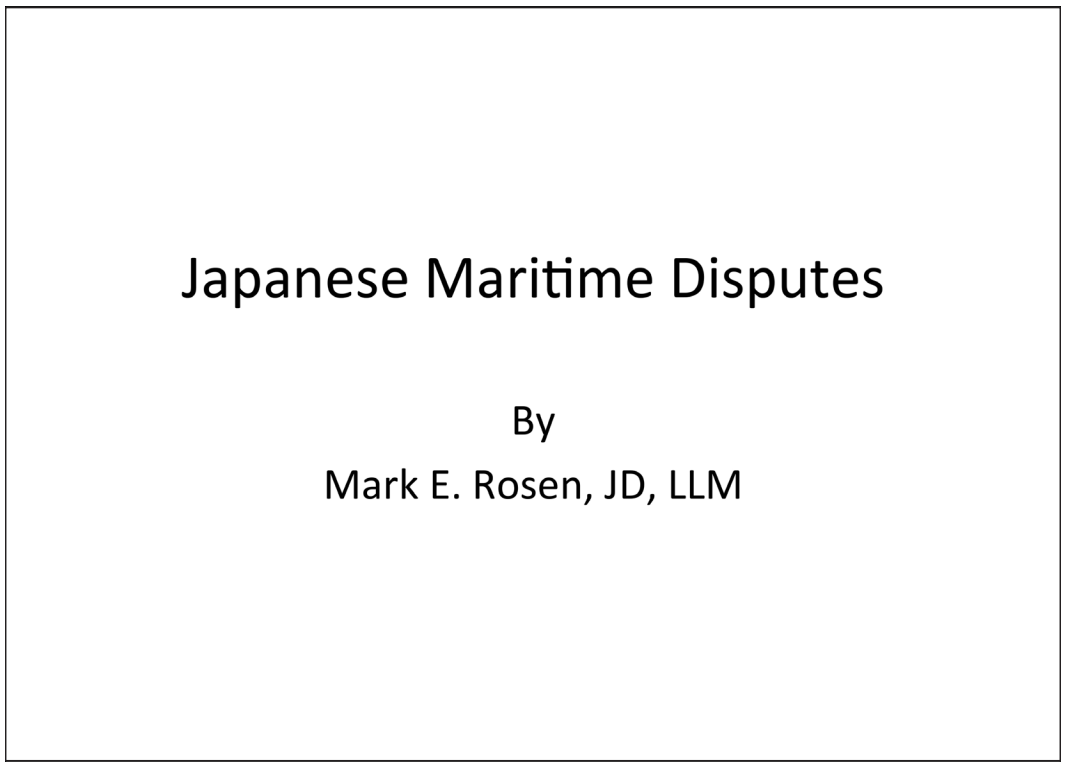
Finally, Washington should consider its own commitment to and participation in regional and global maritime dispute resolution mechanisms. As noted above, the United States should continue to advocate for the principle of freedom of navigation in the East Asia Summit and other ASEAN-based multilateral consultations. Also, the United States should encourage and support the efforts to conclude the ASEAN Code of Conduct for the South China Sea. Globally, Washington should join the evolving maritime rights debate, and ratify the UN Convention on the Law of the Sea is not simply important for U.S. interests, it will also add to our ability to defend and support our Asian allies as they seek to negotiate with Beijing.

Japanese Maritime Disputes

Mark E. Rosen
CNA Vice President and Deputy General Counsel

Introduction

Mr. Rosen's presentation topic was maritime legal issues among China, Japan, Taiwan, and South Korea. This is the briefing that he presented on this subject at the workshop.

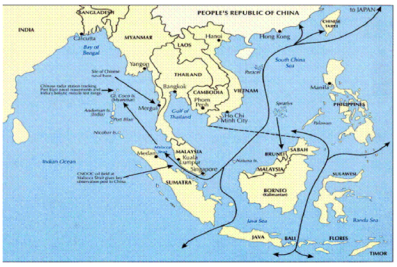


Overview

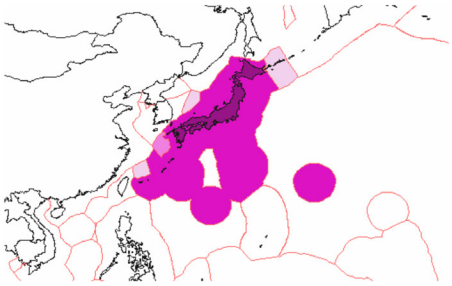
- Examine Japan's maritime status—including its claims to islands and associated maritime areas.
- Identify areas in which Japanese claims are in conflict with those of other states.
- Identify those claims which are most problematic from an international peace and security perspective and for the U.S.
- Discuss the impact(s) of recent cases.
- Recall U.S. requirements based on text of the 1960 Treaty of Mutual Cooperation and Defense.

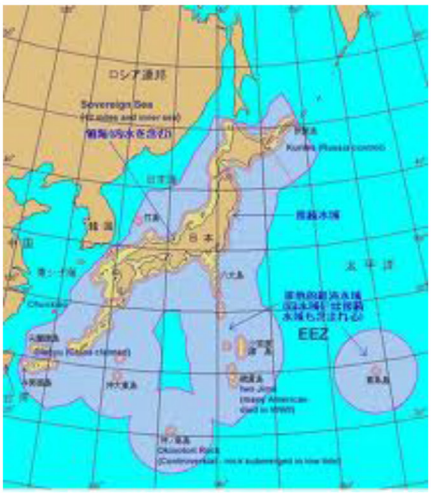
Japan's maritime status

- Japan is an island state, although it has not declared itself an archipelagic state under the LOS Convention.
- Japan has the legal right to establish sea lanes through its internal waters if it claims archipelagic status.
- Japan has limited its claims in various straits—La Perouse, Tsugar, Osumi, and Tsushima—to 3 NM in some areas to negate the "shoreline to shoreline" transit passage regime.
- Prescott and others say that Japan can't meet the land/water tests to gain archipelagic status…but will the Japanese revisit their position?



Japanese EEZ claims

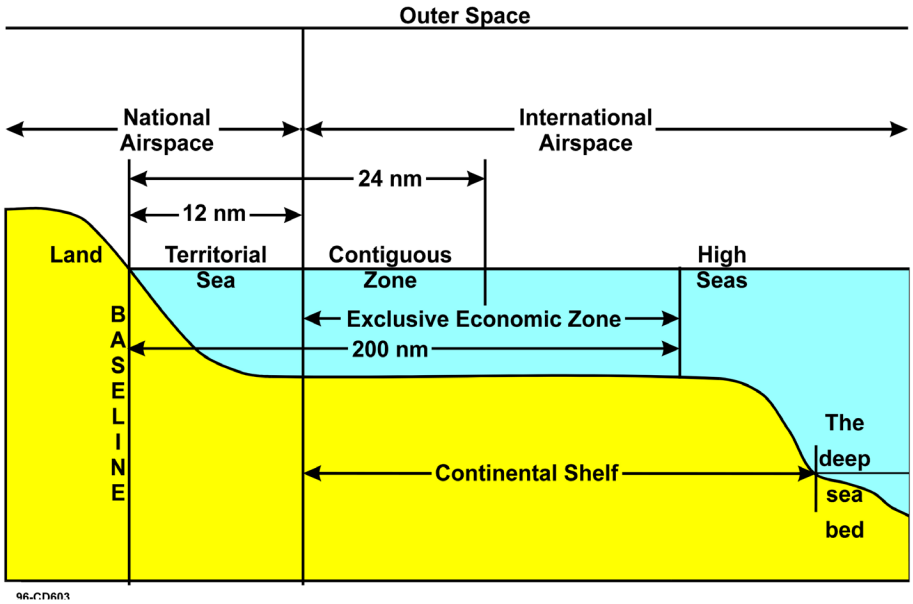




East China Sea

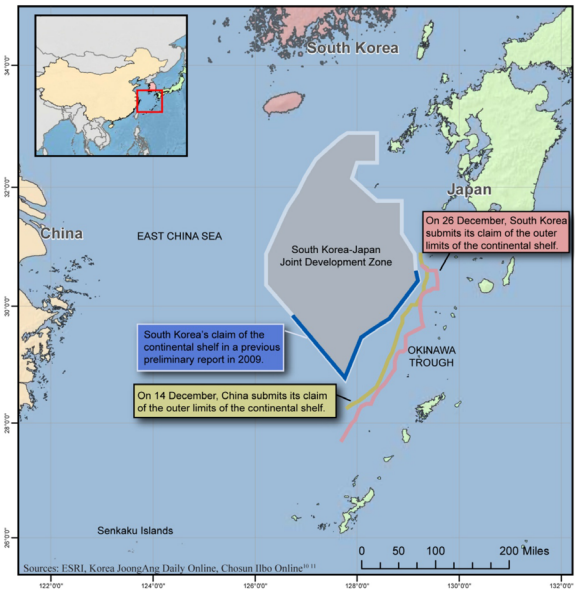
- Crowded area...heavyweight contestants.
- Japan vs. China vs. Korea Dispute over adjacent/opposing continental shelf (CS) claims in the southwest quadrant near Kyushu.
  - Continental Shelf Commission
- Future of Japan/Korea Joint Development Zone.
- Japan vs. China.
  - Senkakus ownership
  - CS and EEZ delimitation
- Oil, gas, fish.

Maritime zones and delimitation under the 1982 LOS convention

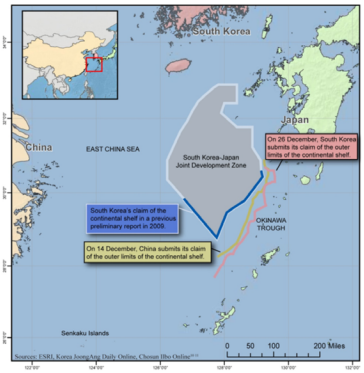


Outer continental shelf claims–South Korea and China

- "Partial" submission by China on 14 Dec 2012 to the UN Commissionon the Extended Continental Shelf (CLCS).
- Full submission by ROK on 26 Dec 2012. (Prelim submission filed in 2009.)
  - Area claimed by ROK is much larger than that originally claimed.
- Japan requested that the CLCS delay consideration because China is an indispensable party and boundaries are in dispute (Senkakus).
- ROK pushing hard for the CLCS to go forward now. Not a surprise.
- Assessment:
  - PRC "preliminary" submission looks pretty complete (north).
  - Submission may put PRC straight baselines at risk.
  - This submission trans-sects the Joint Development Zone. Future?
  - Japan may have to file its own claim to preserve its rights.

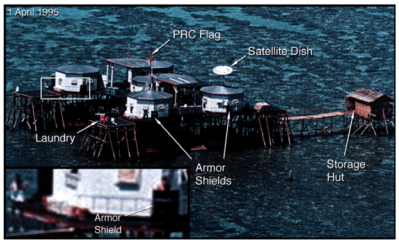


Japan-Korea–Joint Development Zone



- First of its type—established 1974.
- No boundary delimitation language in zone although 9 sub-zones established wherein one country can license oil/gas concessions.
  - Each approved developer shares 50/50 with states.
  - "Lead" state for development in 9 sub-zones applies its laws on developers.
  - Binding arbitration for resources that straddled a boundary line.
- Zone does not affect airspace or fisheries.
- Very little actual development of this JDZ—Tokyo not sure it got a good deal given most of the JDZ is arguably part of their EEZ and CS.

The Regime of Islands, Article 121, LOS



- Under the UN Convention on the Law of the Sea (LOS), for an island to qualify for a 200-mile EEZ and continental shelf, it must be:
  - Naturally formed land.
  - Surrounded by water.
  - Above water at high tide.
  - Economically viable or capable of sustaining human habitation.
- Case trend has been strict—12 NM is default (some talk of less).
- If an island, title goes to country which demonstrates "effective occupation."
  - If no sovereign has effectively occupied it, it is then terra nullius.

Disputed territory

- East China Sea Island—Senkaku in Japan, Diaoyu in China and Diaoyutai in Taiwan (controlled by Japan)
- Practical effect is to extend Japan's oceanic territory West (towards China) into hydrocarbon areas

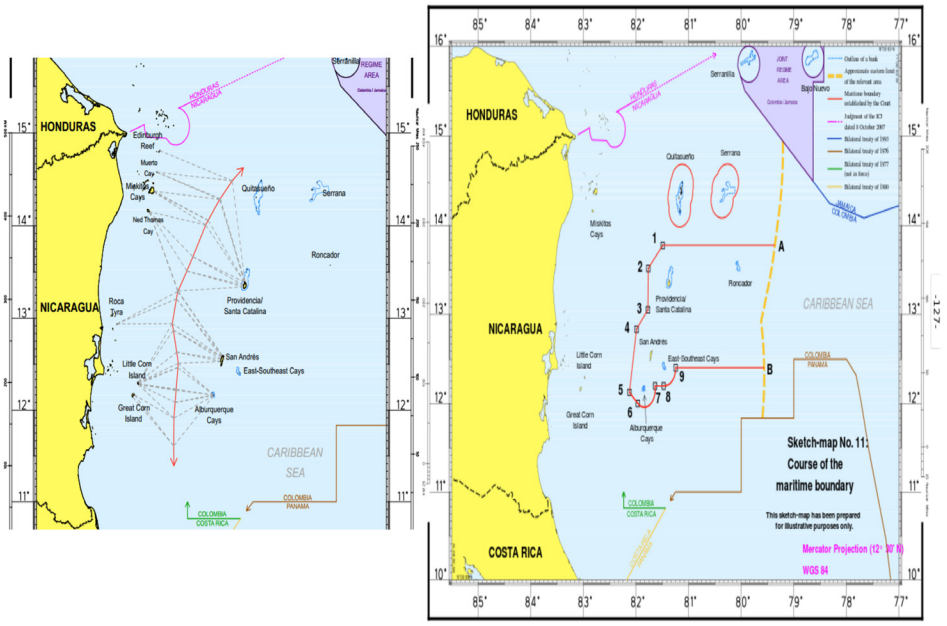
Diaoyu/Senkaku: summary of positions

- China's makes dual claims based on discovery and past occupation.
  - China can present historical evidence pre-1895 that the Diaoyu were part of Taiwan/Formosa.
    - "The surrounding seas of the Senkaku Islands have been a traditional and historical fishing ground of the Chinese fishermen. In recent years, Japan has been continuously adopting measures to fabricate legal evidence that it has occupied and controlled the Senkaku Islands so as to claim sovereignty over the islands." (State Oceanic Institute, 2009).
  - China also asserts that the rocks/islands are a part of its CS.
  - Did not lay claim to the D/S until 1971 (done formally in the '92 TS Law).
- Japan's claims are premised upon prescriptive title + effective occupation—key elements.
  - Until 1895, the islands were considered part of Taiwan although Japan has done surveys of the islands in 1884 by the "Koga" family.
  - 1895 China cedes control of Taiwan (and D/S?) to Japan following the Sino/Japan War as part of the Treaty of Shimonoseki.
    - Occupied from around 1900-1940 (fish factory)
  - After WWII, Japan returned Taiwan to China (sort of) but didn't address the issue of D/S.
  - In June '71, the US returned D/S to Japan as part of the Okinawa Reversion Treaty (but Taiwan & PRC did protest)
  - The mayor of Ishigaki has been given civic authority over the territory. Part of Okinawa Prefecture since 1897.
  - Japan erected a lighthouse on D/S in early 1970s…keeps other out.

Diaoyu/Senkaku: Assessment of "Ownership" claims to the 5 islands/3 rocks

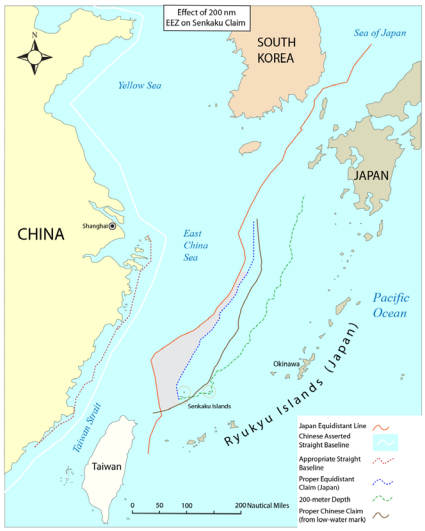
- Did anyone really care until 1969? (when oil and gas were discovered)
- Ownership: No blackletter answer,—but Japanese case seems much stronger: (a) nominal title traced back to 1895; (b) some limited occupation; (c) administrative control.
  - The fact that the Islands "should" have been returned in 1951 via agreement to China along with Taiwan is too bad...analogy to the US Statute of Frauds. The drafters of the '51 San Francisco treaty knew how to use the plural construction when it came to the return of Taiwan from Japan to China.
  - Chinese arguments that the islands are part of their continental shelf makes no legal sense.

Colombia vs. Nicaragua, ICJ, 2012

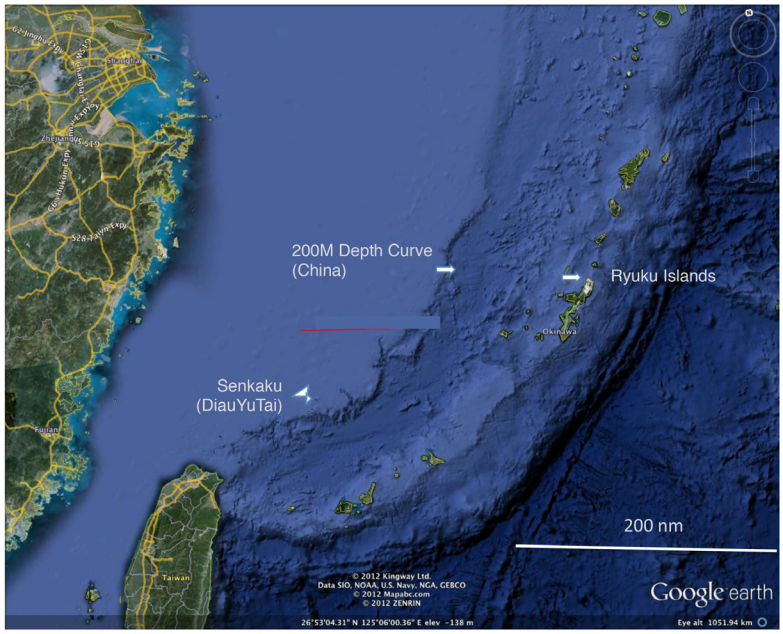


Rock vs. Island: Does Japan get the shaded area?

- Real issue is where median line between the PRC coastline and the Ryuku Islands gets drawn.
- If the Senkakus are an Article 121 island—Japan should get a 200-NM EEZ subject to median line delimitation well west of the Senkakus.
  - Major territorial impact (see shaded area).
- If a rock, Japan gets a 12-NM territorial sea reflected and a small 12-NM bump west towards China.
  - Relatively minor impact (see blue dotted line).



East China Sea—physical CS—median line?

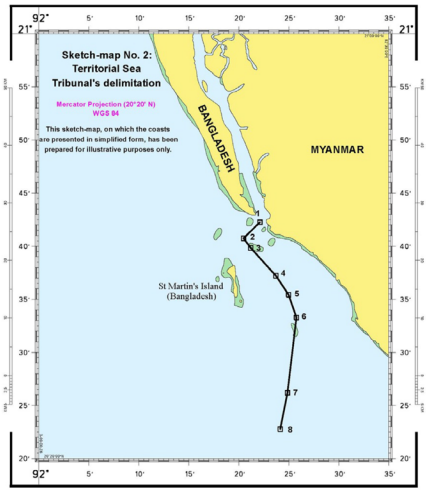


Romania vs. Ukraine, ICJ, 2009

- Snake Island (Ukraine) is an origin point on the continental shelf delimitation.
- Court upheld that the regime of island in the text of the opinion (with its own EEZ and CS) but said in this case that the island could not "push out" the "equidistance" line to ensure an "equitable result" vis-a- vis Romania.

Myanmar vs. Bangladesh, ITLOS 2012 Decision on single boundary

- Court gave St Martin's Island a "full effect"—i.e., a 12-NM TS—but basically ignored the boundary's projection into the EEZ and CS.
- Practical effect: gave Bangladesh a more southerly leading boundary. But, the court prevented Myanmar from being "squeezed" along its coast.



Positions on median line delimitation of the opposing EEZs/CSs—the real issue…

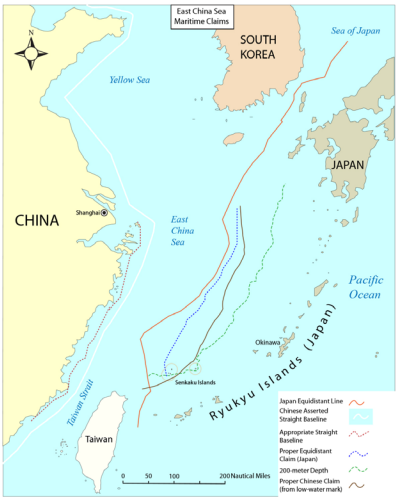
Japan:

- Demarcation should be based on a median line in waters less than 400 NM in width with a positive adjustment in the south based on the Senkakus.
  - Note: Distance between the Ryukus and PRC coastline is about 360 NM.

China:

- Boundaries should be delimited on the basis of Equitable Principles in which median line analysis is but one factor.
  - The 200-M depth curve would be, in the PRC's view, an equitable result.
- China at least acknowledges that some mid ocean line is appropriate.

Correct median line



- Something akin to the RED Japanese median line (less the Senkaku bump) likely to prevail absent evidence that portions of their claimed area represent "traditional" fishing areas.
- This case is more like the ICJ Libya case than the Gulf of Maine ICJ case – this is essentially open ocean.
  - Ryukus are on a legitimate continental land mass that "opposes" China's CS.
- So,—Japan wins on median line but gets little help from the Senkakus.
  - BUT Japan makes up ground by walking back China's excessive coastal baselines.
- **The BLUE line is the correct median line.**

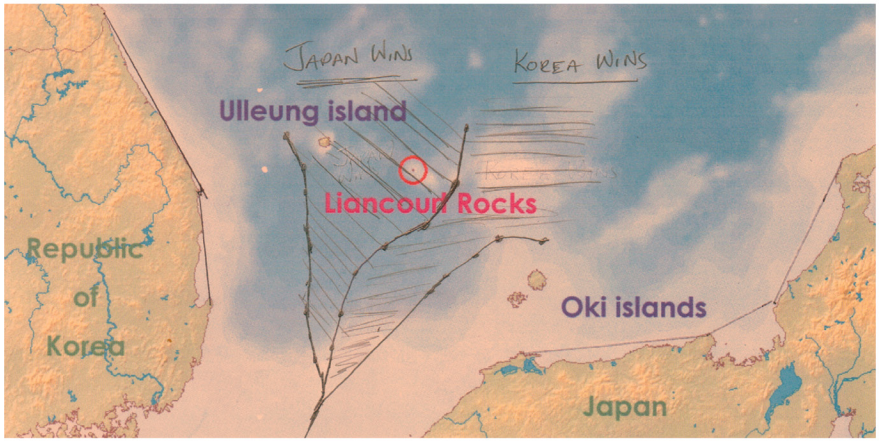
Sea of Japan disputes

- SOJ:
  - Territorial dispute—who owns Liancourt Rocks (Dokdo/Takeshima)?
  - Boundary still not fixed.
    - Japan and Korea have not yet established EEZ and CS claims in the SOJ because less than 400 NM separates the two countries and to fix boundaries would require an agreement.
    - Extant fisheries agreements could be affected if EEZ claims were made.

Liancourt Rocks

- Japan and Korea each lay claim to these rocks (Dokdo/ Takeshima).
- These islets make up a total land mass of about 46 acres.
- There are 3 permanent residents (ROK employees)—although ROK police present since 1952.
- Even though the islands have some natural springs, desalinization plants were installed because of fresh water pollution.
- South Korea has employees garrisoned on the islets to support tourist visits of the rocks.
  - Occupied since early 1950s.
  - US position has been basically neutral…although nod seems to be in favor of Japan.
- Each country claims these rocks to enhance its CS/EEZ claims.

The Stakes—Ownership and median line delimitation in the SOJ



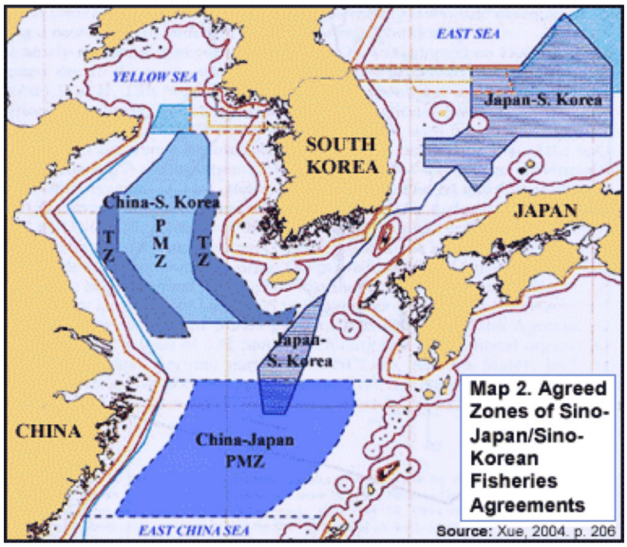
Liancourt and the LOS

- Both Japan and ROK are LOS members.
- Can it sustain human habitation or economic life on its own to meet the standards of Article 121 of the LOS Convention?
- International Hydrographic Bureau (IHB) uses this nomenclature:
  - A mathematical definition for small islets (1 to 10 square kilometers), isles (10 to 100 kilometers), and islands (100 to 5 x 106 square kilometers) has been established by the International Hydrographic Bureau (IHB).
  - Under this hierarchy, if a "rock" was to be smaller than a "small islet," the area of a rock would be less than 1 sq. km. (.3906 sq. mi. or 1 million sq. meters)
- Liancourt Rocks have a combined area of 0.23 square kilometer.

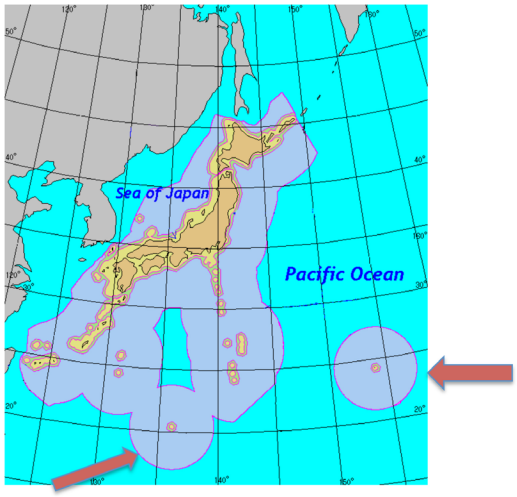
Legal assessment

- Haas–based on totality, these should be classified as rocks vs. island.
  - IHB corroborates this position based on the small size.
- Judge Gao: (ITLOS)(Bay of Bengal Case):
  - It is not so certain that full effect (a complete EEZ and CS) is therefore obligatory as a matter of customary law. Treatment of island's effect is basically so diverse that any generalization will be hazardous…. P. 32.
  - Factors he cited: size, large permanent population, important economic life, close proximity to Bangladesh mainland.
- **Bay of Bengal and Serpent Island cases support the 12-NM conclusion—either side would get a 12-NM enclave because giving full effect would greatly distort the demarcation line and the allocation of sea space between the two parties.**
- 2012 ICJ - Nicaragua case: Area must be capable of "appropriation."
  - Size doesn't matter, but size relative to the opposite coastline can be relevant.
  - Nicaragua case placed heavy emphasis on modern exercise of "effective" occupation.
- Japan's claims historically seem superior (Pedrozo): Liancourt Rocks had been under the administrative control of Japan since the 17th century and have been visited off and on for many years by Japanese fisherman to hunt sea lions. WWII did not cause Japan to cede title.
- **But so what!**
  - The islands are nearly at the midpoint where opposing EEZ and CS claims would be drawn.
  - Persistence by Korea would force Japan to claim their full EEZ—which would likely scuttle the fisheries agreement.

Fisheries agreements: China–Korea–Japan



Southwestern Japan EEZ– Potential issue areas

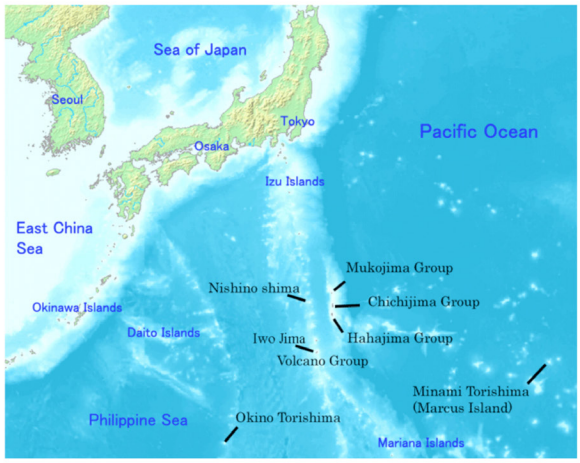


Marcus Island

- 428, 875 sq. km EEZ derived from **Marcus Island.**
  - Located some 1848 KM from Tokyo.
  - Triangular; 300 acres. Former USCG station.
  - Fringed by coral reef; no other islands in vicinity.
  - Unoccupied except for a weather station. A source of rare earth minerals.
  - No disputes over title.
  - EEZ is the size of California.

Ogasawara Islands (aka Bonin Islands)

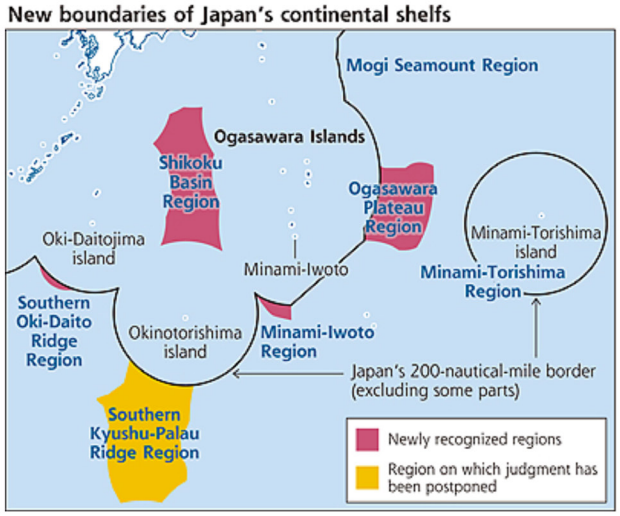
- 862,782-sq. km EEZ derived.
- 30 scattered islands now forming a national park.
- Most famous Iwo Jima.
- Quasi Archipelago—World Heritage Park.
- Only a few Islands are inhabited—calling into question the size of the EEZ claim.
  - China recorded a protest concerning Okinotorishima's status in 2004.
  - PRC seems right …do they have standing to contest this?



Okinotorishima

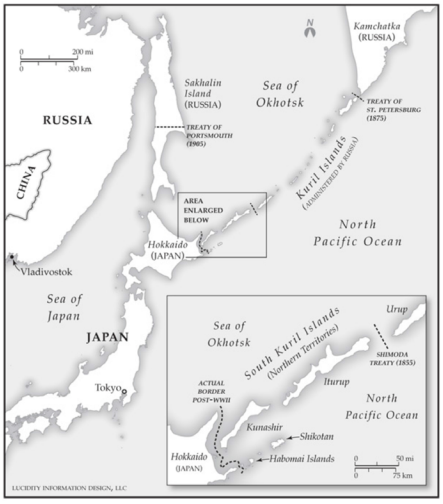
- No water and no vegetation.
- Structures are virtually all man-made.
- China protested Japan's associated EEZ claim in 2004.
  - Van Dyke believes it does not pass the test to be an island.
  - Concur with Van dyke.

Continental Shelf Commission



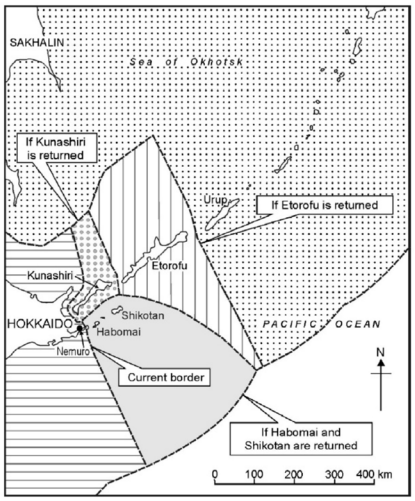
NE Asia

- Southern Kuriles (4 islands) have been in dispute by Japan and Russia since the 1850s.
- Inhabitants in the Kurile Islands can "generally" travel freely.
- The 51 Treaty of San Francisco awarded the 4 Islands to Russia plus the southerly portion of Sakhalin Island.
  - Russia and Japan attempted a deal in the 1950s but the US opposed it.
  - Japan could make a technical argument that it never relinquished title to the southern Kuriles—faulty premise cited for Japan's need to return the Kuriles.
- Russia is open to a negotiated settlement in which Russia transfers the 2 smallest islands back to Japan and possibly joint administration of other two.



EEZ projections

- The 2-Island Deal (Habomai and Shikotan) drives a nice EEZ projection for Japan into very rich fishing grounds.
- Very small land territory associated with those claims.
- Scholars say deal(s) possible.



US Japan Mutual Cooperation/Security Agreement 1960

- Art 1: The parties undertake to settle disputes using peaceful means…and refrain from any actions which threaten "international peace and security" or involve "threats or use of force" against the territorial integrity and political independence of any state.
- Art V: Each party recognizes that an armed against either party in the territories under the administration of Japan would be dangerous to its own peace and safety and declares it would act to meet the common danger…
- Agreed Minute, Jan 19, 1960: "while the status of islands administered by the US (in which Japan has residual sovereignty)…has not been made the subject of discussion…if an armed attack occurs or is threatened against '*these islands*' …the US will consult at once…and intends to take the necessary measures for the defense of the Islands." (emphasis added)

US concerns in all of this

- Territorial disputes
  - Disputes erupt in conflict involving close allies and/or trading partners.
  - States will feel need to make and enforce more territorial claims–lest getting left behind at the bus stop.
    - Maritime movement restrictions may undergird territorial claims.
  - Disputed areas will become ocean DMZs–depriving the coastal areas of needed fisheries and create a doughnut hole that bad people (pirates, poachers, worse) will exploit.
  - Disputed areas are DMZs for development. As witnessed in the Bay of Bengal case, "title" is needed before companies will develop the hydrocarbons.
- Excessive claims
  - Deprive coastal states of the clean title they need to responsibly embark on unilateral or joint development –look at potential effects in SOJ and ECS & fisheries agreements.
  - Will embolden more states to assert excessive/spurious claims and cause LOS to collapse.
    - A "new and improved" LOS Convention may never be negotiated.
  - Undermine US operational freedoms.
    - Less ability to project force & conduct law enforcement on high seas.
    - Much longer transit routes by commercial shippers.

The Sovereignty Dispute over Dokdo/ Takeshima (Liancourt Rocks) and Its Impact on ROK-Japan Relations

Michael McDevitt
CNA Senior Fellow, Strategic Studies Division

Introduction

The Liancourt Rocks—also known as *Dokdo or Tokto* in Korean, and *Takeshima* in Japanese—are a group of small islets in the Sea of Japan (see figures 1 and 2), and are considered by both countries to be part of their respective territories. The islets have become a national symbol for both Korea and Japan, and the dispute over them has been an ongoing spoiler in bilateral relations. South Korea occupied them in June 1954 and has had administrative control of them ever since, although Japan refuses to recognize South Korea's claim to them.

Figure 1. Location of the Liancourt Rocks[A]

[A] Source: http://en.wikipedia.org/wiki/Liancourt_Rocks.

Figure 2. Aerial view of Dokdo/Takeshima[B]

[B] An aerial view of Dokdo/Takeshima showing facilities on the smaller islet (on the right in the photo) (Reuters/Jeon Su-Yung/Yonhap). Source: http://www.dokdo-takeshima.com/wordpress/wp-content/images/dokdo-airshot.jpg.

Seoul maintains a small coast guard detachment on one of the islets, and pays an octopus fisherman and his wife to live there full time. In the almost 60 years that Seoul has occupied the islets, it has built a lighthouse, a helicopter pad, barracks, two small desalinization plants, and telephone towers on them. South Korean tourists can visit when weather permits a ferry to dock at the pier, which is on the smaller of the two islets (the one on the right in the photo above).[1]

The Japanese claim dates to 1905, when Tokyo annexed the islets under the international law provision of *terra nullius*, meaning that it was annexing unoccupied land. Koreans, on the other hand, claim that the islets were first incorporated into the Korean Shilla Dynasty in 512 AD. Koreans also point to various land surveys and maps that were drawn in later centuries, which do, in fact, show Dokdo (in its accurate geographic position) to be Korean territory.

[1] Mark S. Lovmo, *The Territorial Dispute Over Dokdo*, http://dokdo-research.com/page4.html.

The sovereignty question became very confused following Japan's surrender in 1945 and during the subsequent six years of U.S. occupation. Occupation authorities never completely sorted out who had sovereignty, and when the U.S.-Japan Peace Treaty was signed in 1951 the question was left unaddressed. Today, the United States takes no official position on the sovereignty of Dokdo/Takeshima.[2]

The conflict between Japan and Korea is not just about the islets themselves. Both countries consider the ownership of Dokdo as the basis for exclusive economic zone (EEZ) claims over the surrounding waters. At stake are economic claims to about 16,600 square nautical miles of sea and seabed, including areas that may hold some 600 million tons of gas hydrate (natural gas condensed into semisolid form). Gas hydrate is potentially a next-generation energy source that could be made into liquid natural gas if adequate technology were made available. The islets are also surrounded by fertile fishing grounds, and therefore have grown in economic importance to both countries: both sides are worried about depletion of fish stocks in other parts of the world, which increase the value of good fishing grounds close to home. Thus, fishing has become an important resource, and a domestic political issue, for both countries.[3]

To an outside observer, the two countries have every reason to overcome this seemingly petty territorial dispute and reach an agreement over resource sharing in the EEZ. However, there is an emotional element to the "Dokdo issue" for South Koreans, based on historical memory. This nationalist narrative equates losing Dokdo to the post-facto legitimization of Japanese colonial rule.[4] According to some analysts, Koreans think that as long as they have effective jurisdiction, there is no point in risking the loss of the islets by taking the case to the International Court of Justice (ICJ), as Tokyo has proposed several times. They also argue that by agreeing to refer

[2] Ibid.

[3] In 1985, total fish production was about 12 million tons. Then, in the Korea-Japan fisheries agreement of 1998, both states agreed to regard the waters around Dokdo/Takeshima as neutral territory. Under the 2002 Korea-Japan fisheries agreement, South Korea was allowed to catch 149,200 tons of fish while Japan was limited to 94,000 tons. In January 2002, the actual fishing industry output by Koreans was 149,218 tons, while the Japanese caught 93,773 tons. Kunwoo Kim, "Korea-Japan Fish Dispute," *Inventory of Conflict & Environment Case Studies*, April 23, 2002, http://www.american.edu/TED/ice/korea-japan-islands.htm.

[4] Dong-Joon Park and Danielle Chubb, "Why Dokdo Matters to Korea," *The Diplomat blogs*, August 17, 2011, http://thediplomat.com/new-leaders-forum/2011/08/17/why-dokdo-matters-to-korea/.

the case to the ICJ, they would appear to be conceding that Japanese claims to the islands are valid.[5]

According to one respected international lawyer who teaches at the U.S. Naval War College, South Koreans do have reason to worry that they would lose if the case were taken to the ICJ. In a lengthy legal analysis, he finds that the legal documents cited by Korea to prove its claim are less than clear, and may be irrelevant to resolving the sovereignty dispute. According to his analysis of the documents cited by Japan and Korea to justify their claims, the ICJ would "in all probability, award Japan title to the islets."[6]

To emphasize the issue of historic memory, it is worth noting that the largest ship in the ROK Navy—its 14,000-ton amphibious ship (LPD), capable of embarking 750 ROK Marines—is named *Dokdo*. A well-regarded South Korean scholar who is a vice president at the Korean Institute for Defense Analyses (KIDA) recently wrote:

> The United States needs to be well advised over the magnitude of the Dokdo issue. Washington is well aware of the cruelty of past Japanese colonial rule, and the fact that Japan is far from repenting its past…the United States knows that Japan's claims to Dokdo are shameless impudence to a neighboring country it harmed in the past.[7]

The disputed ownership of the islets was a relatively minor issue between Seoul and Tokyo until February 2005—that is, until then it had not been a "spoiler" in Japan-ROK relations. Things changed when the Japanese prefecture of Shimane, opposite Dokdo, designated February 22 as "Takeshima Day" because it was the 100th anniversary of Japan's annexation of the islets. "Takeshima Day" was the political response to frustrated Shimane fishermen who were unhappy because a 1998 agreement between Tokyo and Seoul that would have allowed fishermen of

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[5] Ibid., and Mark Selden, "Small Islets, Enduring Conflict: Dokdo, Korea-Japan Colonial Legacy and the United States," *Asia-Pacific Journal: Japan Focus*, http://www.japanfocus.org/-Mark-Selden/3520.

[6] Raul (Pete) Pedrozo, "Sovereignty Claims over Liancourt Rocks (Dokdo/Takeshima)," *Chinese (Taiwan) Yearbook of International Law and Affairs, ed. Ying-jeow Ma, Vol. 28, 2010 (London: CMP Publishing, 2013), pp. 78-98.*

[7] Source: Taewoo Kim, "ROK Military Transformation and ROK-US Security and Maritime Cooperation: MD, PSI and Dokdo Island," *International Journal of Korean Studies* XII, no. 1 (Fall/Winter 2008).

both countries to coexist in waters around Dokdo/Takeshima had not been implemented as planned.[8] In response, the government of South Korea demanded that Tokyo take action against the provincial government. Tokyo did nothing, saying it had no authority to interfere in Shimane's decision.[9]

Then, in a press conference the next day, February 23, the Japanese ambassador to the ROK announced that "the Takeshima Islands are Japanese territory historically and in terms of international law." The South Korean press covered this statement widely and provoked a firestorm of outrage in South Korea. ROK President Roh responded by calling for an inquiry to find and punish those who had collaborated with the Japanese during the 1910-1945 period of Imperial Japanese rule. He also demanded that Japan offer more apologies and further compensation to its Korean victims. Roh's demands were seen by Japan as a new escalation, since the agreements made between the two governments when relations were restored in 1965 included a one-time payment of compensation by Japan.[10] The ROK foreign minister backpedaled from the Roh statement, indicating that there was no reason to renegotiate the 40-year South Korean-Japanese Treaty that was the basic framework for bilateral ties. Still, the damage was done; public awareness of the dispute translated into outrage in both countries.

On March 8, 2005, things escalated again when four ROK Air Force fighters intercepted a private plane hired by Japanese newspapermen to over-fly the islands. ROK Foreign Minister Ban Ki-Moon (currently UN secretary general) cancelled a scheduled visit to Japan and said that the issue of sovereignty over the islands was more important than ROK-Japan relations. Emotions in Korea were high. To protest Japan's assertions on sovereignty, several South Korean citizens cut off fingers and one set himself on fire. Foreign Minister Ban announced that Seoul would take military action in response to any provocation from Japan, and would take "tangible steps to solidify our sovereignty if Japan does a provocative act."[11]

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[8] Kazuhiko Togo, "Japan's Territorial Problem: The Northern Territories, Takeshima and the Senkaku islands," *National Bureau of Asian Research Commentary*, May 8, 2012, www.nbr.org.

[9] David Kang, "History Impedes the Future," *Comparative Connections: A Quarterly E-journal on East Asian Bilateral Relations* 7, no. 1 (April 2005): 126.

[10] Kongdan Oh, "The United States between Japan and Korea: keeping alliances strong on East Asia," *The Korean Journal of Defense Analysis* 22, no. 2 (June 2010): 136.

[11] Cited in Kang, "History Impedes the Future," p. 126.

Over the remaining three years of the Roh presidency, what had previously been a period of improved military relations between the two U.S. allies became problematic. Only sporadic bilateral military contacts were held between Korea and Japan, because of the Dokdo/Takeshima dispute and a combination of other issues: the Japanese introduction of new textbooks that upset Koreans (Japan introduces new textbooks every four years, and inevitably something raises Korean or Chinese ire); Japan's refusal to compensate "comfort women" (discussed below); and visits to Yasukuni Shrine by Japan's Prime Minister Koizumi during this time.[12] Seoul periodically took actions to remind Tokyo that it was prepared to use force to defend Dokdo/Takeshima. For example, in February 2006 the ROK Air Force chief of staff led a four-plane formation of F-15s and F-16s in a flyover of Dokdo/Takeshima "as a symbolic gesture to inform Japan and the world that the Dokdo islets belong to Korea."[13]

Differences over how to address the behavior of North Korea also continued to plague the relationship. In July 2006, North Korea launched seven missiles into the Sea of Japan. Japan was alarmed. It took prompt action, cutting off its ferry service to North Korea, and began to publicly talk about considering preemptive strikes against the North. South Korea essentially stood up for North Korea, criticizing Japan for overreacting. South Korea's unification minister asserted, "When it comes to security threats, North Korea poses a microscopic one in the short term,

[12] The Yasukuni Shrine is a Shinto shrine in Tokyo. It is dedicated to the soldiers and others who died fighting on behalf of the Emperor of Japan. Currently, its Symbolic Registry of Divinities lists the names of over 2,466,000 enshrined men and women whose lives were dedicated to the service of Imperial Japan, particularly those killed in wartime. It also houses one of the few Japanese war museums dedicated to World War II. The priesthood at the shrine has complete religious autonomy to decide who may be enshrined and how. They believe that enshrinement is permanent and irreversible. According to Shinto beliefs, Yasukuni Shrine provides a permanent residence for the spirits of those who have fought on behalf of the emperor. Koreans and Chinese protest visits by Japanese prime ministers and other officials because of controversies triggered in 1959 when spirits *(kami)* of 1,068 Class-B and Class-C war criminals who had been executed by the military tribunals of the Allied Forces were enshrined at Yasukuni. This issue was compounded in 1978 when the kami of 14 persons who had been executed or imprisoned as Class-A war criminals were enshrined at Yasukuni. At that point, Emperor Hirohito stopped visiting. According to a memorandum released in 2006 by the Imperial Household, his visits stopped due to the presence of enshrined Class-A war criminals. See http://www.yasukuni.or.jp/english/about/index.html, and http://wgordon.web.wesleyan.edu/kamikaze/museums/yushukan/index.htm.

[13] Cited in David Kang and Ji-Young Li, "Cold Politics, Warm Relations," *Comparative Connections: A Quarterly E-journal on East Asian Bilateral Relations* 8, no. 1 (April 2006): 139.

but we can't deny that Japan poses one in the long term and from a historical point of view."[14]

In early 2007, Japan's Prime Minster Abe became directly involved in the issue of "comfort women." His involvement followed the introduction of a bipartisan resolution by U.S. Congressman Michael Honda from California, which called for Japan to formally acknowledge and accept responsibility for sexually enslaving women, mostly from Korea, during World War II. Abe said that Japan would not apologize even if the resolution passed. He lobbied hard against the resolution, asserting that no conclusive evidence showed that the Japanese military had been involved in recruitment of these unfortunate women. In a public relations disaster for Japan, some 40 members of the Japanese Diet took out a full-page ad in the *Washington Post* denying the Japanese government's involvement in the practice. Predictably, many in Washington, and even more in South Korea, were furious. The Korean newspaper *Joonjang Ilbo* editorialized, "Is it so hard for Japan to confess its past sins and to teach subsequent generations never to repeat them?"[15]

Following the February 2008 inauguration of Lee Myung-bak as president of South Korea, South Korea-Japan relations took a decided turn for the better. Lee held a summit with Japanese Prime Minister Fukuda, in which the leaders agreed to reinstitute what had been known as "shuttle diplomacy" as the leaders of the two countries routinely exchanged visits. One big reason for the rapid improvement was that Lee's position toward North Korea was much tougher than his predecessor's and was more closely aligned with the positions of Tokyo and Washington. He and Fukuda also agreed to have a "mature, future-oriented partnership." One of the steps taken was an agreement to develop a military cooperation agreement which would include joint search-and-rescue naval exercises.

No sooner had the summit concluded than the issue of Dokdo/Takeshima came up again, triggered by the publication of yet another Japanese textbook that claimed that South Korea was illegally occupying Japanese territory. The usual flurry of actions and reactions followed, resulting in a decided chill in relations. This was the pattern throughout the Lee Myung-bak administration. ROK-Japan relations reached a nadir in August 2012 when President Lee visited Dokdo/Takeshima,

[14] Cited in David Kang and Ji-Young Li, "Missiles and Prime Ministers May Mark a Turning Point," *Comparative Connections: A Quarterly E-journal on East Asian Bilateral Relations* 8, no. 3 (October 2006).

[15] Cited in David Kang, "The Honeymoon's Over," *Comparative Connections: A Quarterly E-journal on East Asian Bilateral Relations* 9, no. 1 (April 2007).

marking the first time a Korean president had ever set foot on the islands. This action was followed by a comment Lee made in response to a question about a potential visit to South Korea by Japanese Emperor Akihito, suggesting that if the emperor wanted to come to Korea he should plan on apologizing to the Korean independence fighters of the Japanese colonial era.[16]

The Japanese were outraged by these two events, especially the perceived insult to the emperor. Subsequent media coverage suggested that bilateral relations had again hit rock bottom. The press in both countries was filled with nationalist hectoring. For instance, on August 20, 2012, *Chosun Ilbo*, one of the ROK's leading newspapers, carried an editorial titled "Japan must take a cold look at its empire," which urged Japan to realize that "its lurch to the right since the inauguration of the Noda administration and aggressive stance on Dokdo and attempts to whitewash its World War II atrocities are constantly souring ties with Korea." [17]

The U.S. military newspaper, *Stars and Stripes*, reported on how schoolchildren in Japan and Korea are being "indoctrinated" regarding Dokdo/Takeshima. It quotes Prime Minister Yoshihiko Noda's words to an upper house budgetary meeting in August: "We need to thoroughly teach our children in schools that Takeshima and Senkaku are sovereign territories of Japan. There are even some adults who don't know." The article goes on to say that the existence of the islands is first introduced to students in a fifth-grade geography textbook, and that South Korea's claim is not taught until junior high, according to the Ministry of Education, Culture, Sports, Science and Technology.[18]

In South Korea, the Dokdo dispute is woven throughout the curriculum beginning in elementary school, when students study materials that emphasize "love of territory and defending our sovereignty," according to a spokesperson for the Ministry of Education, Science and Technology. All schools are encouraged to study the Dokdo issue. Students are given supplementary textbooks entitled *Let's Get Dokdo Right and Our Forever-land, Dokdo*.

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[16] David Kang and Juin Bang, "Japan-Korea Relations: Grappling on a Hillside," *Comparative Connections: A Triannual E-journal on East Asian Bilateral Relations* 14, no. 2 (September 2012), Pacific Forum/CSIS, http://csis.org/files/publication/1202qjapan_korea.pdf.

[17] Quoted in ibid.

[18] Ashley Rowland et al., "South Korea's passion over disputed islands gets Japan's attention," *Stars and Stripes,* September 25, 2012, http: //www.stripes.com/news/south-korea-s-passion-over-disputed-islands-gets-japan-s-attention-1.190814.

The lessons continue outside the classroom. Schools celebrate Dokdo Love Week in October, and high school students are encouraged to be "global and history diplomats" who promote South Korea's claim to the islands and urge the renaming of the Sea of Japan. Teachers are encouraged to visit the islands.[19]

Impact on the U.S. "rebalance to Asia" strategy

The persistence of periodic flare-ups between Japan and South Korea over Dokdo/Takeshima and the broader question of Japan's history with South Korea has been a continued source of disappointment and frustration for U.S. officials and security experts who have attempted for years to make military cooperation between America's two closest allies in Northeast Asia sustainable. It is clear that the ROK-Japan history question has become a hindrance to Washington in accomplishing its broad strategic objective of sustaining stability in Northeast Asia. This objective was reiterated in President Obama's November 2011 new strategy for Asia. He announced that the United States was rebalancing its strategic focus away from the wars of the Middle East to the Asia-Pacific. The new strategic rebalancing, or pivot, was to include an integrated mix of diplomatic, economic, budgetary, and security-related initiatives.

The strategy was widely interpreted in the Western media as being all about China, which the U.S. administration denies. In China, the strategy was widely perceived as being one more step in a Washington containment strategy. The truth, of course, is that while China is a significant consideration, the rebalance *is not solely about China* and is not an attempt to contain China. In fact, none of China's neighbors would support a containment strategy. Rather, rebalancing is about shaping the strategic environment in East Asia, which obviously includes China,[20] and is not officially blind to China's rise. As U.S. Secretary of State Hillary Clinton wrote in a *Foreign Policy* article that provides the most comprehensive written description of the administration's Indo-Pacific strategy, "China represents one of the most challenging and consequential bilateral relationships the United States has ever had to manage."[21]

[19] Ibid.

[20] Regarding shaping the security environment, see, for example, Tyrone Marshall, "DOD Officials Detail Defense Posture in Asia-Pacific," Armed Forces Press Service, August 3, 2012, www.defense.gov/news/newsarticle.aspex?id=117398.

[21] Hillary Clinton, "America's Pacific Century, *Foreign Policy*, November 2011, www.foreign policy.com/articles/2011/10/11/americas_pacific_

Contrary to public expectations, the change in military force posture due to the rebalance is quite modest. In the case of the U.S. Navy, for example, the Pacific Fleet will have no huge build-up of presence—at most, some 20-odd more ships will be added between today and 2020. As a result, the United States must be able to count on the navies of its two closest Northeast Asian allies to be part of the "network" of alliances that National Security Advisor Donilan considers a centerpiece of U.S. strategy.[22] The inability of South Korea and Japan to get beyond questions associated with history, including the Dokdo/Takeshima dispute, affects Washington's top priority in East Asia, which is to shape the environment so that a regional conflict is never likely and perhaps someday will be inconceivable.[23]

A good way to contribute to the shaping of the strategic environment is to ensure that two of the world's most modern and capable navies, those of South Korea and Japan, are able to interoperate with one another as well as with the United States. This will be a critical factor in helping the United States achieve and maintain the balanced combination of assurance and dissuasion necessary to create a conflict-free environment.

Policy options for Washington

It is difficult to forecast a future of anything other than more of the same when it comes to Dokdo/Takeshima. Over the past eight years, the dispute has become a major impediment to sustained good relations between Japan and South Korea. During the last decade, the only occasions on which security relations between those two countries have improved for any period of time have been when North Korea has done something so outrageous that both countries' leaders and publics have been alarmed, and issues related to sovereignty and history have been placed on a back burner. Missile tests, nuclear weapons tests, and sinking of warships have awakened both countries to that fact that in a security sense they need one another. But, inevitably, before habits of cooperation can become ingrained, the "demons of history" manage to undo the goodwill and shared sense of purpose.

[22] Tom Donilan, "America is back in the Pacific and will uphold the rules," *Financial Times*, November 27, 2011, http://www.ft.com/intl/cms/s/0/4f3febac-1761-11e1-b00e-00144feabdc0.html#axzz2JD3gIikm.

[23] David Berteau, Michael Green, et al., *US Force Posture Strategy in Asia-Pacific Region: An Independent Assessment* (Washington, DC: Center for Strategic and International Studies (CSIS), August 2012), csis.org/files/publication/1208_final_pacom_optimized.pdf.

Because the United States, as a matter of policy, chooses not to take a position on disputed sovereignty claims in which it is not directly involved, Washington has not become involved in the Dokdo/Takeshima dispute beyond advising restraint and dialogue. That approach has had little to no impact. While there are many other disputes over islands/islets in East Asia, the unique feature of Dokdo/Takeshima is that it is a disagreement between two democratic states that both are long-time treaty allies of the United States. In addition, Washington bears some responsibility for the current dispute, because it did not reach a decision on sovereignty when it had the power to do so during the drafting of the 1951 Peace Treaty with Japan. These facts do provide a pretext for a more proactive policy by Washington.

Another major consideration for Washington must be the reality that the only way South Korea will relinquish control is if military force is used to eject it from the islets. Even then, enough military capability would have to be maintained in the vicinity on a more or less permanent basis, to ensure that South Korea could not take the islets back. It is hard to imagine that Japan would ever be willing to attempt such a military undertaking, or could amass the capability to actually sustain control if it ever did seize the islets. In effect, South Korea's de facto control is permanent. In the view of this author, since use of force by Japan is out of the question, the sensible policy for Tokyo is to pursue a bargain in which it relinquishes its sovereignty claim in return for an understanding on an equitable division of resources. This is an agreement that Washington could consent to broker.

A related consideration is the fact that Japan needs friends in the region. It would help Japan's overall security situation if it could resolve at least one of the sovereignty disputes it has with all of its Northeast Asian neighbors, and, in the process, remove a major impediment to a closer security relationship with South Korea.

Obviously, it would be a risky approach for Washington to involve itself in the dispute, and to quietly urge Japan to take a politically difficult road. There is no question that continuing the current policy approach is safest. But, by avoiding direct involvement at all costs while hoping that Seoul and Tokyo can be persuaded to shelve the dispute permanently, Washington is most likely to perpetuate the status quo. The trouble with avoiding involvement is that the larger objective of permanent Korean-Japanese security rapprochement is held hostage to this unresolved dispute, and, as a result, there is little possibility of establishing a coalition of democratic Pacific partners that would be invaluable in shaping Chinese behavior.

The Southern Kuril Islands Dispute

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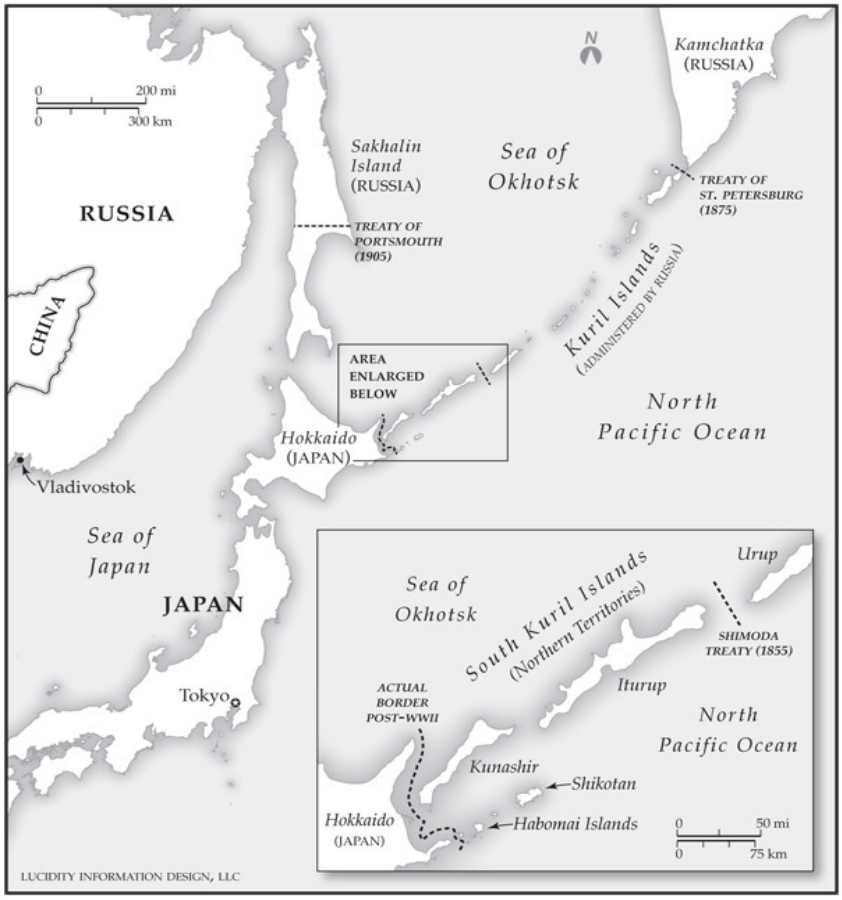
Figure 1: Location of the Kuril Islands[1]



The dispute between Russia and Japan over the southern Kuril Islands (see figure 1) represents one of the longest standing territorial disputes in East Asia. The dispute concerns possession of the four southernmost islands in the chain, named Etorofu, Kunashiri, Shikotan, and Habomai.[2]

[1] Figure from Dmitri Trenin and Yuval Weber, "Russia's Pacific Future: Solving the South Kurile Islands," Carnegie Policy Research, Paper, December 2012, http://m.ceip.org/2011/12/27/упущенная-возможность-в-ираке/espd&lang=en.

[2] The Russian names for the first two islands are Iturup and Kunashir. I use the Japanese names for the sake of consistency.

Drawing on Russian and English language sources, this paper provides some background on the history of the dispute, spells out the current Japanese and Russian positions on the islands' status, and discusses some potential solutions to the conflict.

Background of the dispute

Russia and Japan have traded possession of the Kuril Islands and Sakhalin Island since they first established diplomatic relations in 1855. In that year, the Treaty of Shimoda assigned possession of the northern Kuril Islands to Russia, while Japan received the four southernmost islands. Sakhalin itself was administered as a joint condominium until the 1875 Treaty of St. Petersburg assigned the entire island to Russian possession in exchange for Japan receiving the entire Kuril Islands chain up to the Kamchatka Peninsula. The Russo-Japanese border shifted again after Russia's defeat in the 1904-05 Russo-Japanese war. The Treaty of Portsmouth, which concluded that war, gave the southern half of Sakhalin Island to Japan.

These borders remained stable until the end of World War II. The Soviet Union occupied the entire Kuril Islands chain and southern Sakhalin Island in late August 1945. Soviet possession of these territories was decided during the Yalta summit in 1945, at which time Stalin promised to attack Japanese forces three months after the conclusion of the war with Germany. The entire population of the four southern Kuril Islands was expelled in 1947 and resettled in northern Japan.[3]

The San Francisco Peace Treaty, which formally concluded the war with Japan, stated that "Japan renounces all right, title and claim to the Kuril Islands, and to that portion of Sakhalin and the islands adjacent to it over which Japan acquired sovereignty as a consequence of the Treaty of Portsmouth of 5 September 1905."[4] This treaty was not signed by the Soviet Union; in part because it did not explicitly recognize the Soviet right to possession of the four southern Kuril Islands.

Japan began to raise its claim to the four islands in the 1950s. Initially, it claimed only Shikotan and Habomai. According to a number of historians, as late as 1951, Japanese officials stated that they considered Kunashiri and Etorofu to be part of

[3] Kanako Takahara, "Nemuro raid survivor longs for homeland," *Japan Times Online*, September 22, 2007, http://www.japantimes.co.jp/text/nn20070922w1.html.

[4] "Treaty of Peace with Japan," http://www.taiwandocuments.org/sanfrancisco01.htm.

the Kuril Islands as defined in the San Francisco Peace Treaty and did not claim them.[5] In October 1951, Kumao Nishimura, then director of the Treaties Bureau at the Japanese Foreign Ministry, testified to the Japanese National Diet that the southern Kuril Islands were explicitly included in the definition of the Kuril Islands listed in the San Francisco Peace Treaty.[6] According to Gregory Clark, the vice president of Akita International University and a member of former Japanese foreign minister Makiko Tanaka's private advisory committee on foreign-policy questions, the Japanese position only started to shift in 1955. It was not until 1956 that Japanese negotiators reached an agreement with their Soviet counterparts to settle the dispute by transferring Shikotan and Habomai to Japanese control while simultaneously renouncing all claims to Kunashiri and Etorofu.[7] This deal was scuttled because the United States threatened to keep control of Okinawa if Japan accepted this compromise.[8] In the end, the two sides signed a joint declaration that ended the state of war between them, but postponed the resolution of the territorial dispute until the two states had concluded a formal peace treaty. The text of the declaration stated that the Soviet Union agreed to hand over Shikotan and Habomai but that

[5] Gregory Clark, "Northern Territories dispute highlights flawed diplomacy," *Japan Times Online*, March 24, 2005, http://www.japantimes.co.jp/text/eo20050324gc.html.

[6] Seokwoo Lee, Shelagh Furness, and Clive H. Schofield, Towards a Framework for the Resolution of the Territorial Dispute Over the Kurile Islands (IBRU, 2001), p. 15.

[7] Clark, "Northern Territories dispute."

[8] This deal with Moscow was conditioned by a Soviet request that Japan promise that its military alliance with the US was not directed at any third country. Secretary of State John Foster Dulles had been watching the Soviet-Japanese peace discussions, and as early as January 1955 was trying to prevent a territorial settlement between Tokyo and Moscow. In August 1956 when it appeared that a Peace Treaty that included only the return of the two smaller islands might actually take place, Dulles apparently "summoned the Japanese Foreign Minister to London, where Dulles was dealing with the Suez Crisis, and threatened to annex Okinawa if the peace agreement was reached. Historians are not clear on why Dulles was dead-set against this agreement; some speculate it was because of pressure from Australia who wanted to see Japan stripped of all of its pre-war possessions. Others suggest that Dulles wanted to ensure that Tokyo and Moscow would remain in a state of confrontation for decades to come. Clark, "Northern Territories dispute," see also James E. Goodby, Vladimir I. Ivanov, Nobuo Shimotomai, *"Northern territories" and beyond: Russian, Japanese, and American Perspectives* (Westport, CT: Praeger Publishers, 1995).

the actual transfer would occur only after the conclusion of a peace treaty.[9] This peace treaty was never completed, and the territorial dispute persists to the present day.

The Japanese position

Since the early 1960s, the Japanese government has unwaveringly claimed all four islands to be Japanese territory. Japan's official views on the history of its claims to the Northern Territories are laid out in a pamphlet that is readily accessible on the website of the Ministry of Foreign Affairs. Its key provisions are as follows:

- The Cairo Declaration of 1943 and the Potsdam Declaration of 1945 stated that Japan would have to relinquish all territories it had taken "by violence and greed" during its military expansion campaigns during and prior to World War II. However, these declarations do not apply to the Northern Territories, because these islands had never belonged to Russia and were therefore not annexed to Japan during the period of Japanese expansion.

- At no point since the start of Russian-Japanese diplomatic relations in 1855 has Russia claimed the disputed islands. Therefore the disputed islands cannot be considered part of the territories acquired by Japan "by violence and greed."

- The Yalta Agreement, which stipulated that the Kuril Islands should be handed over to the Soviet Union and that the southern part of Sakhalin as well as all the islands adjacent to it should be returned to the Soviet Union, did not determine the final settlement of the territorial problem. Furthermore, Japan is not bound by this document, as it was not a party to the agreement.

- Russia's 1945 entry into the war against Japan was a violation of the Soviet–Japanese Neutrality Pact, and the occupation of the islands was therefore a violation of international law, which legally remained in effect until April 13, 1946, despite the Soviet Union's announced intention not to extend it after its expiration.

- Although by the terms of Article 2c of the 1951 San Francisco Peace Treaty, Japan renounced all rights to the Kuril Islands, the treaty did not apply to the is-

[9] "Texts of Soviet-Japanese Statements," *New York Times*, October 20, 1956, http://query.nytimes.com/mem/archive/pdf?res=F40C15FB3C5F147B93C2AB178BD95F428585F9.

lands of Kunashiri, Etorofu, and Shikotan, or to the Habomai rocks, since they are not geographically part of the Kuril Islands. Furthermore, the Soviet Union did not sign the San Francisco Peace Treaty, so its provisions do not apply to the dispute between the two countries.[10]

Japan's official position on the islands' current status is also available on the website of the Ministry of Foreign Affairs. Its four basic tenets read as follows:

1. The Northern Territories are inherent territories of Japan that continues [sic] to be illegally occupied by Russia. The Government of the United States of America has also consistently supported Japan's position.

2. In order to solve this issue and to conclude a peace treaty as soon as possible, Japan has energetically continued negotiations with Russia on the basis of the agreements and documents created by the two sides so far, such as the Japan-Soviet Joint Declaration of 1956, the Tokyo Declaration of 1993, the Irkutsk Statement of 2001 and the Japan-Russia Action Plan of 2003.

3. Japan's position is that if the attribution of the Northern Territories to Japan is confirmed, Japan is prepared to respond flexibly to the timing and manner of their actual return. In addition, since Japanese citizens who once lived in the Northern Territories were forcibly displaced by Joseph Stalin, Japan is ready to forge a settlement with the Russian government so that the Russian citizens living there will not experience the same tragedy. In other words, after the return of the islands to Japan, Japan intends to respect the rights, interests and wishes of the Russian current residents on the islands.

4. The Japanese government has requested Japanese people not to enter the Northern Territories without using the non-visa visit frameworks until the territorial issue is resolved. Similarly, Japan cannot allow any activities, including economic activities by a third party, which could be regarded as submitting to Russian "jurisdiction," nor allow any activities carried out under the presumption that Russia has "jurisdiction" in the Northern Territories. Japan is of the policy to take appropriate steps to ensure that this does not happen.[11]

[10] Ministry of Foreign Affairs, Japan, "Japan's Northern Territories: For A Relationship of Genuine Trust," no date, http://www.mofa.go.jp/region/europe/russia/territory/pamphlet.pdf.

[11] Ministry of Foreign Affairs, Japan, "Overview of the Issue of the Northern Territories," no date, http://www.mofa.go.jp/region/europe/russia/territory/overview.html.

Since the end of the Cold War Japan has sought to expand its cooperation with Russia, in part because it hoped that better overall relations would result in a favorable settlement of the territorial dispute. In 1997, the Ministry of Defense removed all mentions of potential military threats from Russia from its annual white papers on the security situation facing Japan.[12] During the difficult years immediately after the break-up of the Soviet Union, Japan began to provide humanitarian assistance to Russian residents living on the disputed islands. This assistance has at various points included providing needed supplies and accepting medical patients from the islands.[13] Since 1991, residents of the disputed territories have been allowed visa-free travel to Japan in exchange for similar privileges granted to former Japanese residents of the islands and their families. This agreement has allowed 8,000 visits by Russians to Japan and 18,000 visits by Japanese to the islands over the last 20 years.[14]

At the same time, Japan has in recent years taken a number of actions that have shown unwillingness to compromise on its official position. In July 2009, the Japanese Parliament adopted a law stating that the southern Kuril Islands are Japanese territory that has been unlawfully occupied by Russia.[15] After President Medvedev visited Kunashiri in November 2010, Japan filed a protest with the Russian government and temporarily recalled its ambassador from Moscow. The government also protested subsequent visits to the islands by senior Russian officials. While protests on Northern Territories Day (February 11) are an annual occurrence, in 2011 the protesters desecrated the Russian flag in front of the Russian Embassy in Tokyo while the Japanese prime minister declared President Medvedev's visit to Kunashiri an "unpardonable rudeness."[16]

However, Japanese leaders have increasingly come to understand that they need to establish a cooperative relationship with Russia on a broad range of issues separate

[12] A.N. Panov, "Rossiisko-Iaponskie Otnosheniia v XXI Veke," Aziia i Afrika Segodnia, February 2009, p. 3.

[13] Ministry of Foreign Affairs, Japan, "Japan's Northern Territories."

[14] Ibid.; "Visa-free travel between S. Kuril Islands and Japan to begin shortly," The Voice of Russia, April 10, 2012, http://english.ruvr.ru/2012_04_10/71225813/.

[15] Vitalii Alad'in, "K Probleme Kurilskikh Ostrovov, Ili 'Severnykh Territorii,'" *Mezhdunarodnaia Zhizn* (September 2009): 150.

[16] Aleksandr Panov, "V Ozhidanii Novogo Shansa," *Rossiia v Globalnoi Politike*, May 2011, pp. 184-5.

from the Northern Territories dispute. Japan badly needs to diversify its energy supply sources and increasingly sees Russia as a necessary ally in the region that could help to prevent Chinese domination of East Asia. On energy, Japan has sought to gain access to Russian gas and oil exports from fields in Siberia and Sakhalin, amid concerns that pipelines may be built that will send the energy resources to China instead.[17] Both countries see China as a rising power that potentially needs to be balanced and have sought to deepen their security relationship to address the changing security dynamics in East Asia.[18]

Japanese leaders have recently begun to focus on commonalities between Russian and Japanese foreign policies, while toning down their criticism of Russia's refusal to hand over the Northern Territories. In the aftermath of Medvedev's first visit (2010) to Kunashiri, Japanese leaders adopted a damage limitation strategy that sought to make clear that they would not seek to escalate the dispute provided that Russia also refrained from taking any further provocative steps.[19] To show their sincerity, Japanese officials made clear they still welcomed Medvedev's attendance at the APEC summit in Yokohama in November 2010, which took place a few weeks after his trip to Kunashiri.[20] Medvedev's second visit to the disputed territories in July 2012 elicited little more than an expression of regret and some negative rhetoric by the Japanese foreign minister. [21] In 2011, Japanese leaders announced that they would be willing to consider participating in joint economic activities in the southern Kurils, provided that such activities did not negatively affect Japan's claims to the disputed territories.[22] Japan's leaders have thus recognized that the chances

[17] Spyridoula Amalia Metallinou, Energy Security: *The Russian Trans-Siberian Pipeline and the Sino-Japanese Courtship*, Hydra Paper, September 2006, Institute of International Relations, Athens, Greece, http://www.idis.gr/GR/Ekpaideutika/hydra_papers/metallinou_amalia-spyridoula.pdf.

[18] "Japan, Russia to boost business, security ties," *Japan Times Online*, January 29, 2012, http://www.japantimes.co.jp/text/nn20120128x2.html; Walter Russell Mead, "Japan, Russia Build Ties As Asian Balance Shifts," *Via Meadia blog*, January 28, 2012, http://blogs.the-american-interest.com/wrm/2012/01/28/japan-russia-build-ties-as-asian-balance-shifts/.

[19] "Japan will not take new actions against Medvedev's visit to Kuril Islands," *RIA-Novosti*, November 4, 2010, http://en.rian.ru/world/20101104/161212287.html.

[20] Richard Weitz, "Why Moscow Has Escalated Its Territorial Dispute with Tokyo," *Pacific Focus* (August 2011): 158.

[21] Vasilii Golovnin, "Zagadochnyi Russkii Medvedev," *Novaia Gazeta*, July 9, 2012.

[22] Masami Ito, "Russia-held isles past point of return," *Japan Times Online*, February 15, 2011, http://www.japantimes.co.jp/text/nn20110215a3.html.

for solving the territorial dispute are quite low and have resolved to downplay the dispute while developing other aspects of the bilateral relationship.

The Russian position

When he first came to power, Vladimir Putin sought to solve the dispute with Japan by negotiating on the basis of the 1956 declaration. This was the first official recognition by the Russian side since that year that they might be willing to return some of the islands as part of a negotiated solution. However, the Japanese government rejected this overture, insisting that it was only willing to negotiate the timing of the transfer of all four islands to Japanese control and therefore could not base the negotiations on a declaration that called for the transfer of two of the four islands to Japan while allowing Russia to retain the other two.[23] Soon thereafter, Japanese Prime Minister Koizumi especially noted in his first address to Parliament that he would continue to fight for the return of all four islands. During Koizumi's term in office, no progress was made on the issue.[24] At the same time, Russia became much stronger politically and economically, and was much less in need of the assistance that Japan had always held out as a carrot in exchange for the return of its Northern Territories. As a result, Russian leaders became far more reluctant to endorse even the compromise "two island" solution that they had promoted during Putin's first term. Beginning in 2005, Russian officials have generally argued that the islands belong to Russia and that Japan has to accept Russian sovereignty over all four islands before any discussions can begin.[25]

Russia's current position on the islands is based on three main points:

1. The Yalta Treaty and the San Francisco Peace Treaty gave the Soviet Union an explicit right to the entire Kuril Islands chain.

2. Russia inherited the islands from the Soviet Union as its internationally recognized successor state.

3. The Japanese assertion that the disputed islands are a northern extension of the island of Hokkaido rather than a part of the Kuril Islands is a deceptive tactic

[23] Panov, "Rossiisko-Iaponskie," p. 5.

[24] A. Koshkin, "Rossiia i Iaponiia: Vozmozhen li Kompromis o Kurilakh," *Aziia i Afrika Segodnia* (November 2008): 30.

[25] Ibid., p. 31.

designed to promote Tokyo's unjustified territorial claims and is not supported by history or geography.[26]

Russia has said it is open to a negotiated "solution" to the island dispute while declaring that the legality of its own claim to the islands is not open to question. In other words, Japan would first have to recognize Russia's right to the islands and then try to acquire some or all of them through negotiations.

During Vladimir Putin's second presidential term, the Russian government began to undertake a number of concerted measures to strengthen Russia's hold on the islands. The first step was the adoption of a special federal program for the economic development of the islands. The program earmarked 18 billion rubles for various infrastructure development projects on the islands, which were to be completed between 2007 and 2015.[27] While this additional financing led to some improvements in living standards for the islands' inhabitants, an even greater boost to the region's economy followed Dmitry Medvedev's controversial visit to Kunashiri Island in November 2010. While this visit led to immediate protests on the part of Japanese officials, the reaction was relatively muted and did not last long.[28] Subsequently, a number of Russian government ministers visited the disputed territories in an effort to ensure that the president's directives on the economic development of the islands were being carried out.

To ensure its security in the region, the Russian government has recently taken steps to strengthen the islands' defenses. To this end, it is planning to modernize the equipment used by the 18th Artillery Division, which is based primarily on Kunashiri. The division is likely to get new medium- and short-range missile systems such as the Pantsir, Buk, and Tor, as well as new armored vehicles. The runway at the island's airport is expected to be extended, to allow larger military transport aircraft such as the Il-76 to land. Improvements in ships stationed in Vladivostok and aircraft based on Sakhalin are expected to further strengthen the islands' defenses. Analysts do not expect the dispute to result in armed conflict but do believe that the

[26] "Russia stands firm in territorial dispute with Japan," *RIA-Novosti*, July 2, 2008, http://en.rian.ru/russia/20080702/112838415.html; Panov, p. 2.

[27] P. Burmistrov, "Imeet li Reshenie Kurilskaia Problema," *Aziia i Afrika Segodnia*, January 2007, p. 12.

[28] Weitz, "Why Moscow Has Escalated," p. 158.

strengthening of the disputed territories' defenses will show Russia's resolve to keep possession of the islands and may convince Japan to focus on other aspects of the bilateral relationship.[29]

In the last few years, Russia has occasionally taken forceful measures to enforce its sovereignty in the maritime territory attached to the disputed islands. While minor conflicts over illegal fishing by Japanese craft date back to the Soviet period, the shooting of a Japanese fisherman in August 2006 highlighted the tension over fishing in the region. The Russian Foreign Ministry refused to apologize for the actions of its border guards, placing the blame on "those who were directly guilty, and also with those representatives of the Japanese authorities who connive in poaching by Japanese fishermen in Russian territorial waters."[30] There have been other incidents of Russian border guards shooting at Japanese fishing boats entering Russian territorial waters, including one in January 2010.[31] These incidents have further hardened Russian attitudes, as they are seen as unacceptable violations of Russian territorial sovereignty.

The primary reason that Russian leaders insist on keeping possession of the islands has to do with conceptions of national honor and the sense that a handover would be seen by both the international community and the Russian population as an admission of weakness. However, there are also a number of more practical considerations that have pushed the Russian government into a more uncompromising position. According to Russian scholars, the islands and their territorial waters possess a great deal of economic value for their mineral resources, which include offshore hydrocarbon deposits, gold, silver, iron, and titanium. Etorofu is also the only source in Russia of the rare metal rhenium, which has important uses in electronics. The islands are also able to supply enough geothermal energy to meet the islands entire annual heating needs. The waters off the southern Kurils are the location of an upwelling that makes the area an exceptionally rich source of fish and seafood production, worth an estimated 4 billion dollars a year. Russian leaders also believe

[29] Andrei Kisliakov, "Iuzhnym Kurilam Obeshchanna Usilennaia Oborona," *Nezavisimoe Voennoe Obozrennie*, April 22, 2011; Ilya Kramnik, "Kurilskii Pretsedent," VPK: *Voenno-Promyshlennyi Kur'er*, March 2, 2011; Ilya Kramnik, "Kurily: Prognoz Politicheskoi Nepogody," *Golos Rossii*, February 21, 2011.

[30] Justin McCurry, "Japanese fisherman killed in Kuril dispute," *The Guardian*, August 16, 2006, http://www.guardian.co.uk/world/2006/aug/16/japan.russia.

[31] "Japan to question crews of fishing boats attacked by Russian border guards," *Voice of Russia*, February 1, 2010, http://english.ruvr.ru/2010/02/01/4067894.html.

that they could turn the region into a profitable tourism center, though this seems somewhat dubious given its remoteness and lack of appropriate infrastructure.[32]

Russian leaders also see possession of the southern Kurils as playing an important role in defense planning. The islands control access to the Sea of Okhotsk and thereby allow the Russian Pacific Fleet free access to the Pacific Ocean. The deep channels between the southern Kuril Islands allow Russian submarines to transit under water to the open ocean. Russian military planners have argued that the loss of these channels would reduce the effectiveness of the Russian Pacific Fleet and thereby reduce Russian security in the region.[33]

In order to strengthen Russian defenses in the region, the Russian Pacific Fleet is expected to acquire one or two French-built Mistral-class ships, which will supposedly be used to help defend the Kurils in the event of a Japanese attack. Recent reports indicate that the Russian versions of these ships will be heavily armed, including Kalibr or Oniks cruise missiles, air defense and anti-submarine missiles, and both Ka-27 ASW and Ka-52 attack helicopters. Having such armaments will theoretically counter the dearth of escort ships for the Mistrals.[34] In the next decade, the Pacific Fleet will also receive some new Admiral Gorshkov-class frigates and Steregushchii-class corvettes. The replacement of its existing five 1980s-vintage destroyers will take longer: new destroyers are unlikely to arrive before 2025 at the earliest. Finally, the fleet's aging Delta III strategic nuclear submarines will soon be replaced by three or four Borei-class submarines carrying the recently commissioned Bulava SLBM. However, the fleet is unlikely to replace its remaining attack submarines any time soon, as construction of the Yasen-class attack submarines is expected to take a relatively long time.[35] This will weaken the ability of the fleet to protect its nuclear submarines. Overall, while Russia's Pacific Fleet may gradually gain strength over the coming decade, it will still be substantially weaker than the Japanese navy or other potential adversaries in the Pacific.

[32] Koshkin, "Rossiia i Iaponiia," p. 32

[33] Kisliakov, "Iuzhnym Kurilam Obeshchanna Usilennaia Oborona"; Koshkin, "Rossiia i Iaponiia," p. 32.

[34] Aleksandr Mozgovoi, "Raketno-iadernyi korabl-dok mistral i kosmicheskii avianosets," *Nezavisimoe Voennoe Obozrenie*, March 23, 2012.

[35] Aleksandr Khramchikhin, "Bolshe korablei, khoroshikh i raznykh," *Nezavisimoe Voennoe Obozrenie*, February 17, 2012.

Russia's current position on the dispute has much in common with that of Japan. Russia is not particularly interested in making serious concessions on the territorial dispute, but would like to further develop the bilateral relationship in other spheres, particularly trade and joint development of Russian energy resources. Russia is also concerned about the rapid increase in Chinese economic and political power and would like to work with Japan to constrain Chinese influence. Recent press discussions about the possibility of a settlement should be viewed in this light. Both sides have toned down the harsh rhetoric and are no longer engaging in provocative actions.[36] There is clearly interest on both sides in settling the dispute and diplomats have restarted discussions about possible solutions, but neither government is yet ready to make the sacrifices necessary to reach a compromise that would be acceptable to the other side.

Potential solutions

A number of potential solutions to the conflict have been proposed over time. Most of these proposals have come from scholars, though until recently the Russian government was also willing to consider a compromise. Traditional solutions have focused on the number of islands or amount of territory that would be transferred as part of a compromise agreement. As described above, the Russian government has periodically offered to transfer the two southernmost islands and include Japan in efforts to jointly develop the other two islands. From the Japanese point of view this offer does not seem very equitable, since the two islands that would remain in Russia's possession make up 93 percent of the disputed territory's total land area. The Japanese scholar Akihiro Iwashita notes, however, that the exclusive economic zone (EEZ) commanded by Habomai and Shikotan is quite large and rich in marine resources. Depending on how the boundary is demarcated, the total territory (including maritime territory) handed over could reach half the size of the total EEZ of the four disputed islands.[37] (*See figure 2, on the following page.*)

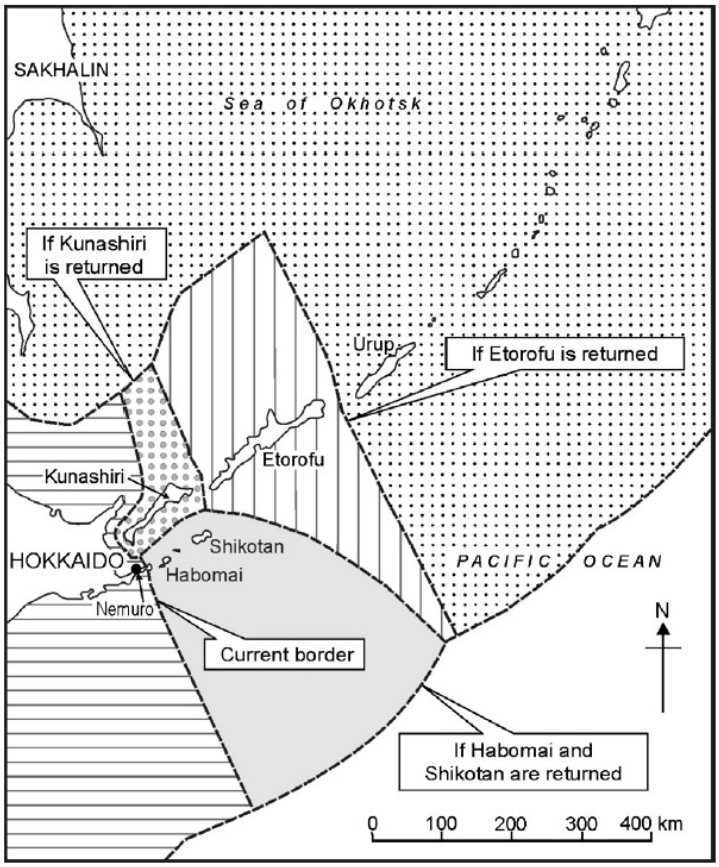
A number of Japanese scholars and a few politicians have recently sought to promote various proposals that include the transfer of Kunashiri and, in some cases, part of Etorofu. These proposals have collectively been labeled "the 50/50 plan."

[36] Julian Ryall, "Japan, Russia move to heal 68-year territorial rift," *Deutsche Welle*, January 31, 2013, http://www.dw.de/japan-russia-move-to-heal-68-year-territorial-rift/a-16564078.

[37] Brad Williams, "Dissent on Japan's Northern Periphery: Nemuro, the Northern Territories and the Limits of Change in a 'Bureaucrat's Movement,'" *Japanese Journal of Political Science* 11(2): 231.

This was the gist of a proposal made by Akihiro Iwashita in a 2005 study that won awards in Japan. A number of politicians, including the former prime minister Taro Aso, the senior foreign ministry official Kazuhiko Togo, and the prominent Hokkaido politician Muneo Suzuki, have also voiced support for various forms of the 50/50 plan. However, many of these politicians have been purged for espousing what were considered defeatist positions, and Suzuki was in fact arrested on corruption charges, possibly in retaliation for his activism in this area.[38]

Figure 2. The Northern Territories' EEZ [39]



These proposals have received the support of a sizeable number of former Japanese residents of the disputed islands and of their descendants. As far back as April 2001, a survey of 500 former Japanese islanders showed that 28 percent of respondents were willing to accept the return of two islands first, with subsequent negotiations over the status of the remaining two islands. In 2005, a survey of Japanese living on the northern island of Hokkaido showed that while 73 percent of respondents as a whole support-

[38] Gilbert Rozman, *Japan's Response to the Gorbachev Era*, 1985–1991: *A Rising Power Views a Declining One* (Princeton University Press, 1992), p. 103; Gregory Clark, "Northern Territories dispute."

[39] Source: Brad Williams, "Dissent on Japan's Northern Periphery: Nemuro, the Northern Territories and the Limits of Change in a 'Bureaucrat's Movement,'" Japanese Journal of Political Science 11(2): 232. Adapted from Akihiro Iwashita, Hoppo Ryodo Mondai: 4 demo 0 demo, 2 demonaku (Chuko Shinsho, 2005), p. 165.

ed the "four islands or nothing" negotiating position, this position had the support of only 56 percent of respondents in the town of Nemuro, where most former Kuril Islanders live. Forty-two percent wanted to revise the "four island" policy, with a majority of that group supporting the initial return of Habomai and Shikotan and subsequent negotiations over the fate of the other two islands. Surveys show that both former islanders and other Japanese strongly oppose any solution that would compel Japan to renounce its claims to Etorofu and Kunashiri, but are willing to accept solutions that are far more flexible than the Japanese government's current all-or-nothing negotiating position.[40]

Conclusion

At the moment, the majority of both Japanese and Russians prefer the continuation of the status quo to territorial compromise. As long as this situation persists, the possibility of a successful negotiated solution is very low. Given the current situation on the ground, the ball is entirely in Japan's court, as Russia holds the territory and therefore has an advantage. Russian leaders have repeatedly made clear that the transfer of all four islands to Japan will never happen. The only way for any progress to be made is for Japan to take the quite radical (by internal political standards) step of dropping its insistence on an all-or-nothing solution and offering to negotiate exact parameters of territorial compromise. This would move the ball to Russia's court, as the Russian government would face a significant amount of pressure to confirm its willingness to actually give up territory. Given that Russia on several occasions has declared its willingness to give up two islands, it may be difficult for Russian leaders to stick to their recent statements that the southern Kuril Islands are indisputably Russian territory and not subject to negotiation. If they feel confident enough to reiterate their willingness to give up two islands, there would be an opportunity to enter into negotiations over the exact parameters of the territorial compromise, whether this ended up being two islands, three islands, or some version of the 50/50 plan.

However, such a compromise is extremely unlikely. The initial move would require a strong Japanese leader to break with decades of precedents and be willing to take on the concerted criticism that would be sure to come from Japanese nationalists. Given the long-term weakness and instability exhibited by the Japanese political system over the last two decades, there is a very low probability that such a leader

[40] Williams, "Dissent on Japan's Northern Periphery," pp. 226-227.

might emerge any time in the foreseeable future. If such a leader should emerge, he would have to expend a great deal of political capital to shift the preferences of the Japanese people and political elites.

There is also the possibility of a non-traditional solution, such as joint sovereignty by both countries over all or some of the four disputed islands. Such a solution would allow the two countries to focus on joint economic development projects in the region, rather than arguing about territorial delimitation. This is the type of compromise recently proposed by Dmitri Trenin and Yuval Weber. Their plan calls for Russia to immediately give up Shikotan and Habomai and demilitarize the region, while the Japanese government ramps up direct investment and provides incentives for private sector investment in the Southern Kurils. The two countries would establish a joint economic zone run by a bi-national authority, and citizens of both countries would be free to move to all four islands. Russia would continue to have sovereignty over Iturup and Kunashir for a 50-year period, at the end of which sovereignty would be transferred to Japan.[41]

Such a compromise is as unlikely to be reached as the more traditional solutions based on a formal division of the disputed territory between the two sides. Opponents on both sides would find plenty to dislike in the compromise. Russian nationalists would highlight the eventual transfer of all four islands to Japan as proof that the deal was a betrayal of Russian national interests. Japanese nationalists would, in turn, decry the acceptance of Russian sovereignty in the transitional period.

Leaders on both sides would have to expend a great deal of political capital to sell the deal to their respective publics. The strength of nationalist attitudes on both sides makes it very difficult for political leaders to stand down from the maximalist positions that they have adopted for years. Nationalists in Japan have fiercely attacked both academics and politicians who have broached the merest hint of compromising on the government's long-standing all-or-nothing position. While Russian nationalists are not as powerful an interest group as their Japanese counterparts, they did protest the territorial concessions that Russia made to China in 2004. At that time, Vladimir Putin had broad popularity among the Russian public and could dismiss such protests as irrelevant; however, the Putin regime now faces a great deal of popular discontent and may find itself less willing to alienate one of its core remaining constituencies.

[41] Dmitri Trenin and Yuval Weber, Russia's Pacific Future: Solving the South Kuril Dispute, Carnegie Moscow Center, December 2012, http://carnegieendowment.org/files/russia_pacific_future_upd.pdf.

The change in the Putin regime's circumstances in the last few years points to a second reason that makes compromise unlikely. The political elites in both countries are relatively weak and likely to remain so for the foreseeable future. Numerous large protests opposing Vladimir Putin's stage-managed return to the presidency revealed a widespread sense of discontent with the Russian president, reducing his ability both to make unpopular political decisions and to shift the public discourse in favor of new initiatives. The Japanese government has been weakened by two decades of slow economic growth and popular discontent with widespread corruption among the political and business elites. The result has been a revolving-door cabinet: no prime minister has served for longer than 15 months since 2006, and only one has served a full term since 1989. Last year's tsunami and subsequent nuclear reactor meltdown at Fukushima further reduced confidence in the government among Japanese people. The consequence of this lack of trust and government weakness is that Japanese leaders are not likely to take a significant risk on an unpopular foreign policy initiative such as compromising on claims to the Northern Territories.

With neither the Russian nor Japanese leadership in a position to take the political risks necessary to resolve the dispute, the status quo is virtually certain to continue for the foreseeable future. However, this will not prevent the two countries from continuing to strengthen their relationship in other spheres, as both sides seek to protect themselves from the economic and political consequences of China's rapid emergence as the preeminent East Asian power. As trade in energy expands and bilateral security cooperation deepens in the coming years, the territorial dispute left over from World War II will become increasingly irrelevant to both the governments and the public. This development could in turn allow for a compromise solution. Given this forecast, the best U.S. policy option is to continue to stay out of the dispute.

American Interests in the Senkaku/ Diaoyu Issue, Policy Considerations

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American interests date back to World War II

U.S. interests in the Senkaku/Diaoyu islands date back to World War II. It was not an isolated interest but stemmed from the American consideration of the role of Okinawa, which was the subject of considerable internal U.S. government debate as the war wound down. Some military experts saw Okinawa as extremely useful and perhaps essential to the U.S. military posture in a post-war world; others wanted to keep it out of Soviet hands, but were not all that keen on occupying it. The Navy, for example, found it inadequate as a year-round base due to weather and other considerations. And the State Department had political reservations about delaying return of the Ryukyus to Japan.[1]

Be that as it may, Okinawa soon became a central element in U.S. post-war military positioning in the region, and following several years of de facto control starting in 1945 before the war was even over, in 1953 the United States was granted formal administrative rights based on Article 3 of the San Francisco Peace Treaty of 1951.[2] An important feature of that arrangement was that the United States recognized

[1] A detailed discussion of the U.S. approach to these islands from the immediate post-war period through formal assumption of administration under the San Francisco Peace Treaty is contained in Jean-Marc F. Blanchard, "The U.S. Role in the Sino-Japanese Dispute over the Diaoyu [Senkaku] Islands, 1945-1971," *China Quarterly* no.161, 2000, pp. 102-115.

[2] "Japan will concur in any proposal of the United States to the United Nations to place under its trusteeship system, with the United States as the sole administering authority, Nansei Shoto south of 29 deg. north latitude (including the Ryukyu Islands and the Daito Islands), Nanpo Shoto south of Sofu Gan (including the Bonin Islands, Rosario Island and the Volcano Islands) and Parece Vela and Marcus Island. Pending the making of such a proposal and affirmative action thereon, the United States will have the right to exercise all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of these islands, including their territorial waters." (Treaty of Peace with Japan, signed September 8,1951, initial entry into force April 28, 1952, *United Nations Treaty Series* 1952 (reg. no. 1832), vol. 136, pp. 45 – 164, available at http://www.taiwandocuments.org/sanfrancisco01.htm.

Japanese "residual sovereignty" over the islands, meaning that at a future date all sovereign powers obtained by the United States (administrative, legislative and jurisdictional) were to be returned to Japan, and not given to any other nation.[3]

Inclusion of Senkakus as part of the Ryukyus/ Okinawa

There is considerable evidence that the U.S. consistently viewed the Senkakus as part of the Ryukyus,[4] while there is no evidence that consideration was ever given treating them as part of Taiwan, which is the basis of both Taipei's and Beijing's claims. Indeed, as early as 1944, an Army Map Service Gazetteer identified the Senkakus as a constituent part of Okinawa prefecture. Subsequently, as a number of colleagues in this conference have written about with great authority, the famous U.S. Civil Administration of the Ryukyus Proclamation 27 (USCAR 27) of 1953 defined the boundaries of the area over which the U.S. was given sole powers of administration under the San Francisco peace treaty, boundaries that included the Senkakus. As the Congressional Research Service has written,[5] this was reaffirmed at the time of Okinawa reversion by the testimony of several State Department officials, including the Acting Assistant Legal Adviser for East Asian and Pacific Affairs, as well consolidated over the years by such actions as renting target ranges on the islands from Japanese citizens. So, from an American perspective there seems to have been little if any question about the association.[6]

[3] Blanchard, op. cit., p. 109.

[4] Blanchard, op. cit., pp. 108-109; Kimie Hara, *Cold War Frontiers in the Asia-Pacific*, Routledge, 2007, p. 179; Paul J. Smith, "The Senkaku/Diaoyu Island controversy: A crisis postponed," *Naval War College Review*, Spring 2013, Vol. 66, No. 2, http://www.usnwc.edu/getattachment/bfa92a47-1f5f-4c23-974c-f92e1ed27be4/The-Senkaku-Diaoyu-Island-Controversy--A-Crisis-Po.aspx, p. 30.

[5] Mark E. Manyin, "Senkaku (Diaoyu/Diaoyutai) Islands Dispute: U.S. Treaty Obligations," Congressional Research Service, January 22, 2013, R42761, http://www.fas.org/sgp/crs/row/R42761.pdf, p. 4. This publication updated and modified an earlier one in the same series written by Larry Niksch.

[6] Kimie Hara, "50 Years from San Francisco: Re-examining the Peace Treaty and Japan's Territorial Problems," *Pacific Affairs* 74, no. 3 (Fall 2001), p. 377.

This was, it must be noted, rather different from FDR's rather expansive views at Cairo in 1943 about what Japan would cede and what China would get [7] and from what many people thought the U.S. accepted via the Potsdam Declaration in late July 1945. Potsdam prescribed that Japanese sovereignty would be limited to the four main islands of Japan "and such minor islands as we determine,"[8] but the State Department put forward a memorandum establishing the view that Japan would not give up sovereignty over the Ryukyus or Kuriles, or even southern Sakhalin.

Although history dictated otherwise in the other two cases, as regards Okinawa, including the Senkakus, although U.S. occupation was installed and maintained for almost 20 years, it was never intended last indefinitely. The U.S. view about residual sovereignty over the islands was reconfirmed by successive American administrations from Eisenhower through Johnson. And, in that context, as already indicated, it was understood throughout the U.S. government that the Senkakus were part of Okinawa [9] and, as such, sovereignty over them would be returned to Japan as part of the return of sovereignty over Okinawa. In the event, the Senkakus were handed back to Japan with the Okinawa reversion agreement of 1971,[10] but without the title to sovereignty.

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[7] The Republic of China's interest in the Ryukyus at the time was not entirely clear. A memorandum of conversation of a Cairo meeting between President Roosevelt and Chiang Kai-shek notes that Roosevelt asked Chiang "more than once" if China wanted the Ryukyus. Finally Chiang responded that China would "be agreeable" to joint occupation by the United States and China and eventually to joint administration under the trusteeship of an international organization. (*Foreign Relations of the United States Diplomatic Papers, the Conferences at Cairo and Tehran, 1943*, United States Department of State, p. 324, http://digicoll.library.wisc.edu/cgi-bin/FRUS/FRUS-idx?type=goto&id=FRUS.FRUS1943CairoTehran&isize=M&submit=Go+to+page&page=324.)

One might also note that Roosevelt and Stalin were reportedly in "complete agreement" that the Ryukyus belonged to China and should be returned to her. At the same time, adumbrating the ultimate arrangements regarding Okinawa, they also agreed that civil administration of all islands then controlled by Japan should be taken over by the UN with military control of specific strong points assigned as necessary to maintain the peace. (*Foreign Relations of the United States Diplomatic Papers, the Conferences at Cairo and Tehran*, 1943, United States Department of State, pp. 869-870, http://digicoll.library.wisc.edu/cgi-bin/FRUS/FRUS-idx?type=turn&entity=FRUS.FRUS1943CairoTehran&isize=M.)

[8] Text available at http://pwencycl.kgbudge.com/P/o/Potsdam_Declaration.htm.

[9] Hara, "50 Years from San Francisco," op. cit. See also Smith, op.cit., p. 31.

[10] Text available at http://www.niraikanai.wwma.net/pages/archive/rev71.html.

U.S. shift on Senkakus sovereignty with Nixon Administration and Okinawa Reversion

The change in the U.S. position came about with the advent of the Nixon Administration. While there were a number of factors involved, a critical one was that in the late 1960s a UN study had suggested that vast hydrocarbon resources might lie in areas around the islands, and suddenly both Taipei and Beijing expressed new interest in asserting their sovereignty over what they called Diaoyu. Likely sparking their intense interest, as well, was that this was the period in which Tokyo and Washington were engaged in intense and complicated negotiations for Okinawa reversion, formally kicked off by the Nixon-Sato communiqué of November 21, 1969.[11] If there was ever going to be a time to assert sovereignty over Diaoyu, this was it; once sovereignty was given to Japan, it was going to be impossible to wrest it away.

Of some importance, as well, was that fact that Washington was engaged in important textile negotiations with the ROC, and Ambassador-at-Large David Kennedy, who was handling the negotiations for the U.S., urged the President not to transfer even administrative control to Japan; just maintain the status quo, he argued.[12] President Nixon considered the issue, but he decided that, with the reversion agreement signing only ten days away on June 17, 1971, the negotiations over Okinawa had gone too far, and too many commitments had been made, to back off at that late date.[13]

It is unknown what exchanges, if any, might have taken place with Beijing before the Okinawa Reversion Treaty was signed. But the signing came just weeks before

[11] Joint Statement by President Nixon and Prime Minister Eisaku Sato, Washington, DC, November 21, 1969, http://www.niraikanai.wwma.net/pages/archive/sato69.html. The communiqué spoke only of the return of "administrative control" of Okinawa so at that stage it wasn't clear how, or if, that issue and sovereignty were to be differentiated.

[12] Memorandum From the President's Assistant for International Economic Affairs (Peterson) to President Nixon, Subject: Textile Negotiations in Taiwan, June 7, 1971, Foreign Relations of the United States (FRUS), 1969–1976, Volume XVII, China, 1969–1972, Document 133, http://www.history.state.gov/historicaldocuments/frus1969-76v17/d133.

[13] Backchannel Message From the President's Assistant for International Economic Affairs (Peterson) to Ambassador Kennedy, in Taipei, June 8, 1971, FRUS, 1969–1976, Volume XVII, China, 1969–1972, Document 134, http://www.history.state.gov/historicaldocuments/frus1969-76v17/d134.

Kissinger's secret trip to China in July, and it is self-evident that, as arrangements for that critical initiative were well-advanced, the White House had very much in mind the PRC factor. While the issue of reversion was enormously important for successful management of the vital alliance with Japan, a direct challenge on a sovereignty issue had significant potential to complicate the strategic move toward Beijing.

Negotiators of the Reversion Treaty recall no specific mention of a specific "China factor" in their instructions. Some others involved at the time have said there were communications between Washington and Embassy Tokyo touching on this issue, but they were never shared with the negotiators.[14] The withholding of such germane communications might strike one as a little odd. But given that everything concerned with the PRC at that point was on a "close hold" basis and that, in any case, the basic position adopted by the negotiators was that, in light of the challenges to sovereignty raised by both Taipei and Beijing it was logical to focus only on returning "administrative control" to Japan, it probably wasn't deemed necessary. Moreover, the argument went, in fact, "administrative control" is all that had been granted to the U.S. in the first place, so it was all that the U.S. had the power to return.[15] Beyond that, a common view in the government at that time was that, by taking this "neutral" approach, the U.S. could leave it for the various claimants to work out and avoid getting caught in the middle.[16]

Whatever the logic of the position, the fact is that the issue was still being debated internally until late in the reversion negotiating process. In March 1971, for example, the Defense Department sent a memorandum to the State Department citing the 1953 USCAR memorandum and the 1944 Army Map Service Gazetteer, all of which, DoD said, "dignify the Japanese claim to the Senkakus, contrary to the neutral position assumed by the United States." It went on: "Under these circumstances, the United States 'position' is not entirely free from an element of recognition."[17]

In the end, Beijing called the reversion of Okinawa a "despicable fraud" because the U.S. military remained on Okinawa, while Taipei criticized the transfer for not

[14] Private interviews.

[15] Smith, op. cit., p. 35, citing a letter from Robert I. Starr, Acting Assistant Legal Adviser for East Asian and Pacific Affairs.

[16] Hara, *Cold War Frontiers in the Asia-Pacific*, op. cit., p. 180.

[17] Hara, "50 Years from San Francisco," op. cit., p. 377.

having followed proper procedure. Both disputed the U.S. action specifically with respect to the Diaoyu islands, with Beijing, for example, asserting that U.S. control was illegal from the outset, and that the United States had no right to include in the "reversion area" islands that it occupied illegally.[18]

Article V and Sino-Japanese tensions

In any case, the Nixon Administration's position of "no position" on the issue of sovereignty has remained U.S. policy ever since. Still, because Japan has "administrative control" of the islands, they do come under the provisions of Article V of the U.S.-Japan Mutual Security Treaty. That article provides that "[e]ach Party recognizes that an armed attack against either Party *in the territories under the administration of Japan* would be dangerous to its own peace and safety" and declares that each side would "act to meet the common danger in accordance with its constitutional provisions and processes."[19]

The applicability of the Mutual Security Treaty to the Senkakus has been reaffirmed on a number of occasions over the years by American officials at moments of tension between China and Japan regarding the islands. In 1996, then-Deputy Assistant Secretary of Defense Kurt Campbell did so; Deputy Secretary of State Richard Armitage and State Department Spokesman Adam Ereli did in 2004; it was done again in 2009 following the entry of two PRC survey vessels within 12 nm of the islands the previous December; and Secretary of State Hillary R. Clinton did so again in 2010 in the wake of an incident when a Chinese fishing boat rammed two Japanese Coast Guard vessels inside the islands' territorial waters.[20]

Over the past year, the issue has exploded onto the scene once again with the Japanese government's purchase in September 2012 of three privately-held islands it had previously been renting from their private owners. The controversy is discussed in detail in other papers presented on this panel, and doesn't need

[18] Hara, *Cold War Frontiers in the Asia-Pacific*, op. cit., p. 179.

[19] Treaty of Mutual Cooperation and Security between the United States of America and Japan, January 19, 1960, http://afe.easia.columbia.edu/ps/japan/mutual_cooperation_treaty.pdf. (Emphasis added).

[20] M. Taylor Fravel, "Explaining Stability in the Senkaku (Diaoyu) Islands Dispute," in Gerald Curtis, Ryosei Kokubun and Wang Jisi, eds., *Getting the Triangle Straight: Managing China-Japan-US Relations* (Washington, DC: The Brookings Institution Press, 2010), pp. 148-149, accessed via http://taylorfravel.com/research/articles/. Armitage's statement is referred to in Manyin, op. cit., p. 6.

repeating here. But comments by some Chinese officials have left the impression that at least one purpose of the subsequent series of intrusions by PRC civilian maritime vessels goes beyond seeking to change the status quo with respect to Japan. It is also part of an effort to undermine the legitimacy of Japanese claim of "administrative control" and the link of such control to the U.S. treaty commitment. Responding to that possibility, in January 2013 Secretary Clinton made a statement opposing any unilateral actions seeking to undermine Japanese administration.[21] Moreover, even earlier Congress had inserted into the National Defense Authorization Act of 2013 a provision that, in addition to reaffirming the commitment to Japan under Article V of the Mutual Defense Treaty, said it was the sense of the Congress that "the unilateral action of a third party will not affect the United States' acknowledgment of the administration of Japan over the Senkaku Islands"[22]

The PRC reacted negatively to these various statements. And it did so on the same grounds it has consistently used to complain since 1971, that is, that the U.S. had no right to transfer "administrative control" to Japan in the first place and that it should stay out of it.

In fact Washington has toned down the rhetoric about the treaty. What it has not done, however, is alter its position on the treaty's applicability or walked away from its commitment. Indeed, recent U.S.-Japan joint military exercises have reportedly been directed at how to oust an aggressor who had occupied an island—no names used, but highly suggestive. Hence, whatever deterrent effect the link to the treaty has had remains in effect.

Clearly the United States found the PRC assertive behavior in sending civilian agency vessels within 12 nm of the island to be dangerous and highly provocative. Although those challenge expeditions continue,[23] Washington has welcomed

[21] "U.S. warns China to steer clear of Senkakus," Kyodo (in *Japan Times*), January 20, 2013, http://www.japantimes.co.jp/news/2013/01/20/national/u-s-warns-china-to-steer-clear-of-senkakus/.

[22] "Sense of Congress on the Situation in the Senkaku Islands ," National Defense Authorization Act for Fiscal Year 2013, H.R. 4310-408, January 3, 2013, Title XII-Matters Relating to Foreign Nations, Subtitle F, Section 1286, http://www.gpo.gov/fdsys/pkg/BILLS-112hr4310enr/pdf/BILLS-112hr4310enr.pdf. The Act was signed into law by President Obama on January 10, 2013.

[23] One such foray apparently took place just two days before this workshop convened, with three PRC boats lingering inside territorial waters for some six hours. ("3 Chinese vessels enter Japanese territorial waters around Senkakus," Kyodo, April 9, 2013, http://english.kyodonews.jp/news/2013/04/218539.html.)

the recent apparent slowdown in the pace of such challenges, as well as the fact that there has been no repeat of the mid-December intrusion of a State Oceanographic Administration plane to within approximately 20 km of the Senkakus airspace.[24] But the potential for escalation at any time remains.

The salience of the issue for U.S.-PRC relations was summed up by Paul Smith of the Naval War College:

> Washington's standing as the defender of Japan's administrative rights over the islands—notwithstanding U.S. declarations of neutrality on the question of sovereignty—places the dispute at the heart of Sino-American competition, which in turn has been exacerbated by recent military strengthening, rebalancing, and posturing on both sides. Overall, a confluence of economic, military, and geopolitical factors suggests that the Senkaku/Diaoyu issue will increasingly define and shape the geopolitical environment in East Asia—to include the possibility of major-power war—for the foreseeable future.[25]

Taiwan

Finally, a word about Taiwan's involvement. As already noted, and explored in detail in Bonnie Glaser and Leon Zhihong Bai's paper, although both Taipei and Beijing cite history going back to the Ming Dynasty as legitimizing their claims to Diaoyu, they stake their affirmation of sovereignty over the islets importantly on action by the Qing Dynasty incorporating Taiwan and its "associated islands" as an integral part of China. Taiwan's president, Ma Ying-jeou, did extensive research on this topic during his academic years and is both very knowledgeable

[24] Mizuho Aoki and Ayako Mie, "Senkaku Showdown Taxing Forces," The Japan Times, February 22, 2013, http://www.japantimes.co.jp/news/2013/02/22/national/senkaku-showdown-taxing-forces/#.UU-8kTdmMpU, referenced in Bonnie Glaser and Leon Zhihong Bai, "Chinese Perspectives on the Senkaku/Diaoyu Islands Dispute," an unpublished paper prepared for this conference. A similar flight nine days later entered Japanese airspace and seemed to be approaching the islands but turned away while still 120 kilometers away after Japanese jets scrambled. ("Chinese plane approaches Senkakus, but veers away," *The Yomiuri Shimbun*, December 24, 2012, http://www.yomiuri.co.jp/dy/national/T121223002578.htm.)

[25] Smith, op. cit., p. 29.

about it and remains deeply interested in it. So as he has addressed it, he has done so with an obvious degree of expertise and enthusiasm.[26]

While Ma, like his counterparts in the Mainland, believes that the U.S. transfer of "administrative control" to Japan at the time of Okinawa reversion was invalid, at this point he has focused on the U.S. position of neutrality regarding sovereignty and has urged that the U.S. maintain that position.[27]

Ma has made clear that Taiwan is setting aside its posture of bystander, adopting instead an activist role as "facilitator of peace in the international community."[28] This means not only shunning the role of "troublemaker" of a past period, but adopting the mantle of peacemaker.

Like Beijing, Ma has not shied away from criticizing Japan for its "surreptitious" and "invalid" seizure of the islands.[29] Nonetheless, rather than pressing the case in a confrontational manner, in August 2012, Ma put forth an East China Sea Peace Initiative,[30] which he then amplified in September.[31] In it, Ma laid out principles consistent with the spirit of what the U.S. and others have urged in the South China Sea, advocating that sovereignty disputes be simultaneously set aside by all the parties and that they focus, instead, on finding a way to share resources and to create a "code of conduct." As Taylor Fravel has pointed out, not only could suc-

[26] "President Ma visits Pengjia Islet," Office of the President, Republic of China (Taiwan), September 7, 2012, http://english.president.gov.tw/Default.aspx?tabid=491&itemid=28074&rmid=2355&sd=2012/09/05&ed=2012/09/07.

[27] Kelven Huang and Elizabeth Hsu, "Ma calls for U.S. to remain neutral on Diaoyutais dispute," CNA, September 25, 2012, http://taiwandiaoyutaiislands.tw/EN/Leader_Detail.aspx?ID=646.

[28] "President Ma visits Pengjia Islet," op. cit. See also "Remarks by President Ma Ying-jeou at Fulbright Research Workshop," Office of the President, Republic of China (Taiwan), March 7, 2013, http://english.president.gov.tw/Default.aspx?tabid=491&itemid=29346.

[29] Kelven Huang and Y.F. Low, "Japan's occupation of Diaoyutais unlawful: president," CNA, September 13, 2012, http://taiwandiaoyutaiislands.tw/EN/Leader_Detail.aspx?ID=650.

[30] Initially put forward by Ma in a speech ("President Ma attends activities commemorating the 60th anniversary of the Sino-Japanese Peace Treaty," Office of the President, Republic of China [Taiwan], August 5, 2012, http://english.president.gov.tw/Default.aspx?tabid=491&itemid=27898&rmid=2355&sd=2012/08/05&ed=2012/08/06), the proposal was subsequently laid out formally in a foreign ministry announcement (East China Sea Peace Initiative, http://www.mofa.gov.tw/EnOfficial/Topics/TopicsIndex/?opno=cc7f748f-f55f-4eeb-91b4-cf4a28bbb86f).

[31] "President Ma visits Pengjia Islet," op. cit

cessful implementation of such an approach help minimize near-term behavior that could trigger a military clash, but focusing on cooperation regarding resources could reduce any perceived imperative to resolve the underlying sovereignty dispute.

However, despite the issue of potentially rich (but unproven) hydrocarbon deposits around the islands, for Beijing and Tokyo the dispute seems focused more on questions of nationalism and political competition rather than economics. Some people have also suggested that the islands have potential use as military observation sites, monitoring naval traffic in the area. Inevitably these sorts of considerations are far harder to simply set aside once they have been engaged than might more economically-oriented motives, which could be subject to compromise.

Hence, some questions have been raised about whether, in light of the nature and intensity of the dispute playing out in the waters around the islands between Japan and the PRC, the involvement of a "third party"—in the sense not of who has a legitimate interest but who are the main protagonists in this potentially risky situation at the moment—will actually help identify a way forward or complicate the task of finding an "off ramp" before confrontation of civilian maritime vessels leads to something more dangerous. Ma, himself, has recognized the potential for stirring up trouble both within Taiwan and externally, and starting from the time he put forward his initiative he has reiterated on several occasions that, despite his emphasis on improving cross-Strait relations, he has no intention of joining hands with Beijing to confront Japan.[32]

In fact, while proclaiming sovereignty is the basis for asserting fishing rights, Taiwan's principal goal has been to obtain fair access for its fishermen to the waters around the Diaoyu islands, waters that have been traditional fishing grounds for Taiwan fishermen for a century or more. In September 2012, a growing sense of unfairness led to demonstrations, including by a veritable armada of fishing boats from Taiwan to the islands late that month escorted by coast guard vessels,[33] which created a situation on the roiling waters that could have led to an accident with loss of life and an attendant rise in political tensions.

[32] Tsao Heng and Elizabeth Hsu, "Taiwan not to join with China against Japan on island dispute: Ma," CNA, August 21, 2012, http://taiwandiaoyutaiislands.tw/EN/Leader_Detail.aspx?ID=655.

[33] Worthy Shen and Lilian Wu, "Taiwanese fishing boats on way back after Diaoyutai protest," CNA, September 25, 2013, http://focustaiwan.tw/news/aall/201209250010.aspx.

In a more recent incident, a lone Taiwan boat (again with coast guard escort) making a foray in the direction of the Diaoyus, in this case to plant a flag on the islands, provided an opportunity for PRC maritime vessels to offer to come to assistance.[34] While the escorting Taiwan coast guard vessels warned the Mainland boats off, and despite Ma's firm position about not joining hands with the Mainland, the episode made clear the potential for yet another complicating element to develop.

In this regard, the conclusion of a Taiwan-Japan fisheries agreement on April 10, 2013 covering the area around the islands is very welcome news. Fishing interests on Taiwan have welcomed the significant expansion of the areas open to them,[35] and one can anticipate that it will relieve pressure both for further demonstrations on the island as well on the water. Coming just as the tuna fishing season was about to open, this in itself will be a significant contribution to maintaining peace. Moreover, as Foreign Minister David Lin has observed, while Taipei will adhere to its sovereignty claim, the issue was being set aside for now.[36]

I raise these points in a paper about American interests and policy because of the potential for all of this Diaoyu-related activity to complicate the situation around the islands and to get in the way of the very smooth relationship that the U.S. and

[34] "Taiwan activists attempt to reassert sovereignty over Diaoyutais," KMT News Network (from Taipei papers), January 25, 2013, http://www.kmt.org.tw/english/page.aspx?type=article&mnum=112&anum=12486.

[35] "Japan makes concessions to Taiwan over Diaoyutai fishing: Reports," *Taiwan News Online*, April 10, 2013, http://www.taiwannews.com.tw/etn/news_content.php?id=2192804.

[36] Ibid. After the conclusion of the conference, as details of the agreement began to emerge, it became clear that the islands and a 12 nautical mile territorial water area around them were not covered; as a result, Japan would continue to control them as before. Taiwan insisted, however, that a provision be included in the agreement stating that signatories' respective positions on sovereignty had not been compromised. Moreover, President Ma later stated that Taiwan fishing boats had a legitimate right to fish within the twelve nautical mile limit and that, if they did so and were harassed by Japanese patrol craft, Taiwan coast guard vessels would move in to help the fishermen.

The expectation is that, given the vast new fishing areas open to them, Taiwan fishermen will not bother to challenge the 12nm limits, but the potential for a problem obviously exists. Moreover, leaders of the nationalist movement to "protect Diaoyutai" have already made known their intention to sail to the islands. Under regulations adopted after the September 2012 and January 2013 events that allow only legitimate fishermen to set out toward the Diaoyutai area, it is likely that the Taiwan authorities will block such efforts. Moreover, the public is not likely to be supportive of the nationalist forays. Still, this is another source of potential trouble.

Taiwan have developed in recent years. The new Taipei-Tokyo fisheries agreement should go a long way to allay any concerns of that sort.

U.S. policy choices—Implementing "Option C" all over the world

Theoretically, there are a number of options the United States could pursue:

- It could become more deeply involved, stating that the recent coercive actions by China had changed the situation and the U.S. was therefore shedding its neutrality in the sovereignty dispute and backing Japan's claim. (Theoretically it could back a Chinese claim, but given the history and current circumstances, this would seem to be an even greater stretch.)

- It could signal a more hands-off position by publicly stating that, while its treaty commitment to Japan remains solid, nothing in the current situation merits activation of that commitment.[37]

- Or, it could remain in its current mode of keeping a low profile while both publicly and privately counseling that "cooler heads prevail," urging that Beijing and Tokyo work to find a way back toward a stable equilibrium.

[37] In fact, albeit in a very different context, an Obama administration official came close to saying that in 2010, when he observed that the administration had no expectation that the confrontation at that time over the incident between a Chinese fishing boat and Japanese coast guard vessels would escalate into a military confrontation. As he put it, "we have no expectation in any known universe that this would escalate to that kind of a level." ("Press briefing by Press Secretary Robert Gibbs, Special Assistant to the President and Senior Director for Asian Affairs Jeff Bader, and Deputy National Security Advisor for Strategic Communications Ben Rhodes," The White House, Office of the Press Secretary, September 23, 2010, http://www.whitehouse.gov/the-press-office/2010/09/23/press-briefing-press-secretary-robert-gibbs-special-assistant-president-.) This judgment echoed a similar one fourteen years earlier, in September 1996, by the State Department spokesman, also at a time of some tension: "We expect the claimants to the islands will resolve their differences and do so peacefully…it's not the kind of issue that's worth elevating beyond a war of words." (Blanchard, op.cit., p.96, citing an essay by CRS analyst Larry A. Niksch, "Senkaku [Diaoyu] Islands dispute: the U.S. legal relationship and obligations," *PacNet Newsletter*, No. 45, November 8, 1996.)

It is important to note that those earlier statements were in contexts that were quite different from the one prevailing today. In those instances, the same sort of active, prolonged faceoff seen in recent months between Japan and China, a faceoff that has caused some people to identify it, and not the cross-Taiwan Strait situation, as the "second" East Asian flashpoint beyond North Korea.

The problem with the first course, obviously, is that it would completely change the picture in a highly provocative way from Beijing's perspective, not only likely leading to escalation on the PRC's part, but reinforcing perceptions of American encirclement and derailing prospects of creating the "new type of major power relationship" between China and the United States that both leaderships have endorsed as in their strategic interest. The fallout could affect everything from coordination on regional and global challenges such as North Korea and Iran to management of important bilateral issues.

The second course could be interpreted as abandonment of our treaty ally, setting off waves of concern that, however much Americans reiterate fidelity to the alliance, the U.S. commitment has essentially lost a great deal of its meaning. What lessons Tokyo, Beijing, Taipei and others would draw from this are unclear, but none of them would likely benefit the United States—or regional stability.

The third course has not proven especially effective so far, but this "Option C" approach would seem more appealing than the other two, what one might call all-out war or capitulation. (Readers will recall the Henry Kissinger quote, perhaps apocryphal, that the United States is implementing Option C all over the world.) Moreover, this option need not be entirely passive. It could include quietly voicing support for a proposal raised by many people to turn the area into a maritime or environmental preserve. It could include promoting a common understanding among the claimants that no permanent structures would be allowed on the islands, as well as agreement to block intrusions by any and all activists, regardless of their nationality.

An alternative within Option C could be Ma Ying-jeou's approach, to seek agreement on joint exploration of resources. It probably is worth trying. But as we've noted, the nature of the face-off between Beijing and Tokyo, with its intense focus on sovereignty, per se, rather than resources, may not lend itself to such pragmatism. (Keep in mind that the Senkakus/Diaoyu issue is rather different in nature from the issue of overlapping EEZ claims in the East China Sea, where resources are an important component of the issue.)

Despite the lack of any real success so far, the better part of wisdom would be for the U.S. to try to help the parties find some way to reduce the salience of confrontation, focusing on creation of a mutually acceptable equilibrium. In doing this, the U.S. should stay away from frequent public repetitions of its commitment to

Article V of the Mutual Defense Treaty but it should be sure not to send any misleading signals that it is backing away from its commitment—because it isn't.

At the same time, in private dealings with Japan, the U.S. needs to be clear that the continuing commitment in no way signals U.S. tolerance for provocative actions by Japan to consolidate its sovereignty claim. To date the Abe administration, despite some tough rhetoric, has given no one reason to assume it would engage in such behavior. But reflecting on the action of the previous Japanese administration to purchase the islands in the first place suggests clarity on this point is in order. Having said that, Washington needs to take account of the fact that the Senkakus issue is very sensitive not only in China but also in Japan, and if it wants its advice to maintain a cool head to be heeded, beyond trying to move Beijing away from assertiveness, the U.S. also needs to find ways to reinforce the shared sense of deep friendship and special relationship with Japan.

While not picking a fight with Beijing, the U.S. needs to ensure that China is able to distinguish between American true neutrality on sovereignty and a total lack of neutrality on resort to force or coercion. This is not only a matter of a treaty commitment to Japan—though at the end of the day it obviously could become that. It is a matter of how the two countries do business and whether the notion of a "new major power relationship" has any future.

Finally, it is important to find ways to help Ma Ying-jeou demonstrate the value of restraint. While the special circumstance of U.S.-Taiwan relations imposes limits on what can be done, it should be possible, especially in economic and related fields, to help Ma in this regard. Meanwhile, the conclusion of the new fisheries agreement with Japan should go a long way toward eliminating any concerns about Taiwan fishermen complicating an already fraught situation around the islands. A U.S. expression of support would be in order.

Chinese Perspectives on the Senkaku/Diaoyu Islands Dispute

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Introduction

On September 11, 2012, the Japanese government made a decision to purchase three of the five Senkaku/Diaoyu islets, from their private owner. Sovereignty over the islets has long been a matter of dispute among Japan, China and Taiwan. The purchase was ostensibly a defensive move to pre-empt then Tokyo governor Shintaro Ishihara, an ultra nationalist, from realizing his plans to build installations on the islands, which would have greatly antagonized China. Yet, not only did China flatly reject this explanation, it also initiated revisionist measures that, till today, continue to destabilize the situation over the disputed territories.

This paper presents China's perspectives on the disputed islands and analyzes its strategy in handling this crisis. It argues that Beijing had an overarching strategy which was conceived before Japan's planned purchase was officially announced. China behaved opportunistically, with the goal of compelling Japan to make concessions and altering the status quo in China's favor. In the short run, Beijing seeks to challenge Japan's administrative control of the islands and their surrounding waters, and establish Chinese jurisdiction. Another near to medium-term objective is to persuade Japan to acknowledge that a sovereignty dispute exists over the Senkaku/Diaoyu islands. In the long run, China seeks to secure control over the islands, which could provide a platform for surveillance systems to monitor submarine and other military movements in the vicinity and provide a foothold for the PLA Navy to break out of the first island chain, further extending the PLA's anti-access and area-denial reach into the open ocean.

Chinese strategy thus far has had only limited success and in some ways may have backfired. Beijing likely underestimated Japan's resolve and the willingness of the United States to take a clear position against China's actions.

Conflicting Claims to the Islands

There is little doubt that China sees itself as the rightful owner of the Senkaku/Diaoyu islands, which Japan has usurped through historical revisionism and reneging on its treaty obligations. First, China refutes Japan's claims that the islands were terra nullius when the Japanese government surveyed them in 1885. China asserts that since there were Chinese historical records noting the discovery and geography of the islands as early as 1372, Japan could not claim territorial sovereignty on the basis that the islands were uninhabited.[1] Second, China believes that Japan had failed to surrender the Senkaku/Diaoyu islands in accordance with the 1943 Cairo Declaration, 1945 Potsdam Proclamation and the San Francisco Peace Treaty. These documents called for the restoration of illegally occupied Chinese territories which, from the Chinese perspective, included the Senkaku/Diaoyu islands that were seized during the 1895 Sino-Japanese War. Although the Senkaku/Diaoyu islands were never mentioned in these documents, China makes the case that they were "affiliated islands of Taiwan" and naturally had to be returned along with Taiwan to China.[2] From Japan's viewpoint however, there is no obligation to "return" these islands, since they came under Japanese rule prior to the Treaty of Shimonoseki, and they were never explicitly included as part of the territory to be renounced under the San Francisco Treaty.[3] Rather, the San Francisco Treaty had granted the United States administrative rights over the islands in 1951, which were later transferred to Tokyo under the Agreement between Japan and the United States of America Concerning the Ryukyu Islands and the Daito Islands in 1971.[4] For presiding over matters that should come under Chinese sovereign control, this is regarded by China as an illegal "backroom deal."[5]

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[1] "Full Text: Diaoyu Dao, an Inherent Territory of China," *Xinhua News*, September 25, 2012, http://news.xinhuanet.com/english/china/2012-09/25/c_131872152_2.htm.

[2] Ibid.

[3] "Fact Sheet on the Senkaku Islands," *Ministry of Foreign Affairs of Japan*, November 2012, http://www.mofa.go.jp/region/asia-paci/senkaku/fact_sheet.html.

[4] Ibid.

[5] "Full Text: Diaoyu Dao, an Inherent Territory of China."

Background: 2010 Boat Collision Incident

Apart from this strong belief by China and Japan in the legitimacy of their respective claims, the buildup of mistrust and acrimony over the course of the dispute in recent years has fuelled periodic flare-ups over the Senkaku/Diaoyu islands. The decision by Japan to purchase three of the disputed islands in September 2012, and China's forceful response towards it, should be evaluated against the backdrop of the most serious of these incidents—the 2010 boat collision. Then, a Chinese trawler fishing near the islands defied Japanese orders to leave the area, collided with one Japanese patrol vessel and ran into another while evading interception. Both the captain and his crew were eventually apprehended and detained. This enraged China which viewed Japan's handling of the incident as a violation of a secret bilateral pact made in 2004 that Japan would not take such trespassers into custody in exchange for China stopping activists from travelling to the disputed islands.[6] It was also seen as a provocative move, given that Japan had, in the past, quickly deported Chinese "intruders" without attempting to prosecute them. While the crew members and the boat were released 6 days after the incident, the captain was detained for 17 days. During his confinement China took a series of countermeasures to pressure Japan: the Japanese ambassador was summoned six times to protest the detention; high-level talks between both countries were called off; Chinese tourists were discouraged from visiting Japan; four Japanese nationals were arrested for filming military installations in Hebei province; and exports of Chinese rare earth minerals to Japan were halted.[7]

Tokyo's eventual decision to release the captain was widely viewed in Japan as disgraceful: the Japanese government was accused of capitulating to Chinese diplomatic and economic pressure.[8] China's bold demand for an apology and financial compensation from Japan after the release of the captain likely further reinforced

[6] Linus Hagström, "'Power Shift' in East Asia? A Critical Reappraisal of Narratives on the Diaoyu/Senkaku Islands Incident in 2010," *The Chinese Journal of International Politics 5* (2012): 283.

[7] Martin Fackler and Ian Johnson, "Arrest in Disputed Seas Riles China and Japan," *The New York Times*, September 19, 2010, http://www.nytimes.com/2010/09/20/world/asia/20chinajapan.html; Keith Bradsher, "Amid Tension, China Blocks Vital Exports to Japan," *The New York Times*, September 22, 2010, http://www.nytimes.com/2010/09/23/business/global/23rare.html?pagewanted=all;

[8] Mariko Sanchanta, "Did Japan Cave to China Too Soon," Japan Real Time, *The Wall Street Journal*, September 24, 2010, http://blogs.wsj.com/japanrealtime/2010/09/24/did-japan-cave-to-china-too-soon/.

the impression that the Japanese administration was a pushover. To counteract this perceived "subservience" of the central government, Tokyo Governor and outspoken nationalist Shintaro Ishihara declared on April 16, 2012 that he would purchase three of the islands by the end of that year, and develop them to reassert Japan's sovereign rights.[9] From the perspective of the Noda administration, Ishihara's plan was patently dangerous: it would bring unpredictability and instability to the situation in the Senkaku/Diaoyu islands, greatly agitate China, and potentially derail relations between the two countries. To foil his plan, the central government decided that the best solution was to nationalize the three islands instead.[10] After providing explanations to the Chinese government, Japanese officials believed that Beijing would accept that the decision was essentially a defensive and necessary step to pre-empt Ishihara, and therefore would do no more than rhetorically oppose the decision. On September 11, 2012, the Japanese government proceeded with the announcement that Tokyo would purchase the islands.

Nationalization as Challenge and Opportunity for China

Tokyo's confidence in China's willingness to appreciate the Japanese government's dilemma was severely misplaced. Although some Chinese foreign ministry officials viewed Tokyo's explanation as reasonable and advocated a mild response,[11] the leadership decided to depict the nationalization as a ploy, provocation and affront that China had no choice but to strongly oppose. While the Japanese administration saw nationalization exclusively as a transfer of "property rights," the Chinese government opted to interpret it as an exercise of "sovereign rights," which breached the mutual understanding to shelve the question of sovereignty over the disputed

[9] Speech by Ishihara, delivered at the Heritage Foundation, April 16, 2012, http://www.youtube.com/watch?v=XwGwnMeIw4M.

[10] The three islands were being rented by the Japanese government, but the agreement was set to expire in March 2013. A fourth island remains in the hands of a private Japanese citizen and will continue to be rented by the Japanese Ministry of Defense. The Senkaku/Diaoyu grouping also includes a fifth island and three rock formations.

[11] The Asia Department of the Chinese Ministry of Foreign Affairs wrote a report that made this recommendation, but its advice was rejected. Conversation with Chinese official, New York, January 15, 2013.

islands.[12] China's media portrayed the nationalization as part of a "good cop bad cop" ruse to force China into accepting an unfavorable revision of the status quo, rejecting the claim that Noda's government was in a genuine predicament and had no choice but to make the purchase.[13] To add insult to injury, the announcement came only one day after Chinese President Hu Jintao personally warned Noda not to do so, representing a huge loss of face for China. In a brief 15-minute conversation on the sidelines of the APEC meeting in Vladivostok, Hu reportedly told Noda that "it is illegal and invalid for Japan to buy the islands via any means. China firmly opposes it."[14]

At the same time, China likely saw the decision by Japan's central government to buy the islands as an opportunity to challenge the status quo of the dispute. China could assert its sovereignty claims and ratchet up tensions over the islands without appearing as the provocateur, since its moves could be framed as a reaction to Japan's planned nationalization. Even if China's heavy-handed response were to result in a hostile confrontation, Beijing could credibly absolve itself of responsibility by blaming the Japanese government. On the domestic front, China's condemnation of Japan's provocation could galvanize popular support and provide a compelling distraction from the Bo Xilai scandal and other issues, thus ensuring strong

[12] During the Sino-Japanese normalization negotiations, Deng Xiaoping told Japan's Foreign Minister Sonoda Sunao on August 10, 1978: "There is the problem of what you call the Senkaku Islands and what we call the Diaoyu Islands, and there is also the problem of the continental shelf. In Japan there are some people who use these issues to obstruct the signing of the Treaty. In our country there are also people who want to obstruct [the Treaty]…But it is better not to dwell on it. In the spirit of the Peace and Friendship Treaty, it does not matter to put the issue to the side for some years. Ishii Akira, Zhu Jianrong, Soeya Yoshihide and Lin Xiaoguang, eds., Nitchu kokko seijoka-Nitchu Heiwa Yuko Joyaku teiketsu kosho (Iwanami Shoten: Tokyo 2003), p. 320-21, as cited in Reinhard Drifte, "Japanese-Chinese territorial disputes in the East China Sea—between military confrontation and economic cooperation. Working paper, Asia Research Centre, London School of Economics and Political Science (London UK: 2003).

[13] In the days following the announcement of the purchase, Chinese media labeled the Japanese government as being two-faced ("演双簧") and hypocritical ("说一套做一套" Gaojiquan, "*Jie fang ri bao: bu yao wan nong man tian guo hai ji liang," People's Daily Online*, September 14, 2012, http://opinion.people.com.cn/n/2012/0914/c1003-19005918.html; "*Zhuan jia: shuo yi tao zuo yi tao shi ri ben de te xing," People's Daily Online*, September 11, 2012, http://world.people.com.cn/n/2012/0911/c1002-18978927.html;

[14] Kiyoshi Takenaka and Sui-Lee Wee, "Japan infuriates China by agreeing to buy disputed isles," *Reuters*, September 10, 2012, http://www.reuters.com/article/2012/09/10/us-china-japan-idUSBRE8890AU20120910.

backing for the Communist party and political stability during the sensitive period of leadership transition. To this end, China mobilized large-scale anti-Japanese demonstrations in several major Chinese cities. A survey by the Chinese newspaper *Global Times* after the unveiling of the planned purchase showed that almost 9 in 10 Chinese citizens backed using stronger measures to defend China's position on the disputed islands.[15]

Beijing's calculation was probably also influenced by the confrontation between China and the Philippines in the Scarborough Shoal the prior April. In that instance, the Philippines used a navy cutter to attempt to arrest Chinese fishermen who were allegedly poaching sharks, clams and rare corals from the area, prompting Chinese marine surveillance ships to intervene. After a tense standoff that lasted two months, an agreement to simultaneously withdraw from the Shoal was reached, but after the Philippines pulled out its ship,[16] Beijing reneged on the agreement and blocked the entrance to the lagoon, refusing to permit Filipino fishermen to enter. Chinese patrol boats subsequently maintained a constant presence, establishing effective control and jurisdiction in the shoal and surrounding waters. This marked the first seizure of a land feature by China since 1995 when China took Mischief Reef by force from the Philippines. Despite appeals from Manila to the United States to provide support, which the Philippines argued was at least consistent with, if not mandated under the terms of the 1951 Mutual Defense Treaty, the U.S. did not intervene. This cost-free success achieved in altering the status quo to its advantage in the South China Sea likely emboldened China to challenge Japanese administrative control over the Senkaku/Diaoyu islands.[17]

Chinese Strategy in the Current Crisis

There are signs in Chinese behavior which strongly suggest that Beijing had an overarching strategy and that it was conceived before Japan's planned purchase

[15] James J. Przystup, "40th Anniversary: Fuggetaboutit," Comparative Connections 14 (September-December 2012): 115, http://csis.org/files/publication/1203q.pdf.

[16] Foreign Affairs Secretary Albert del Rosario revealed these details in response to a question after a speech he delivered at the Center for Strategic and International Studies on September 26, 2012.

[17] There is apparently evidence that has not been made public that China applied lessons drawn from the Scarborough Shoal incident to the East China Sea. Conversation with former U.S. official, Washington, D.C., March 21, 2013.

was officially announced.[18] On the same day that Tokyo declared it would nationalize the islands, China issued an updated claim to its territorial baselines, which are used to determine a nation's territorial waters and maritime economic zones.[19] Whereas China's initial declaration of baselines in 1996 had omitted the Senkaku/Diaoyu islands, the September 2012 baselines included them. Three days later, in accordance with the requirements of the UN Convention on the Law of the Sea (UNCLOS), Beijing filed a claim with the United Nations of an extended continental shelf beneath the East China Sea that extends all the way to the Okinawa Trough. By acting so swiftly after Tokyo's declaration that it planned to nationalize the islands, China revealed that the new baselines had been drawn up much earlier. As a measure which China had traditionally reserved for islands that it already controls or occupies, it was also a signal of China's intention to strengthen its claims over the Senkaku/Diaoyu islands.[20] On September 16, China's State Oceanic Administration (SOA) issued names and coordinates for the 71 features it deemed to be included in the grouping of islands and "affiliated islets." Then, five days later, the SOA released the names of 26 geographic features on the islands, themselves, including peaks, creeks, ridges and bays. The purpose of these actions was to demonstrate its effective administration of the Senkaku/Diaoyu islands and, therefore, strengthen China's sovereignty claim.[21]

Furthermore, the deployment of China Marine Surveillance (CMS) vessels and Fisheries Law Enforcement Command (FLEC) ships to waters near the disputed islands on the same day of the Japanese announcement provides further evidence of a premeditated and well-coordinated response. Three days later, two separate flotillas of CMS ships with a total of six ships were dispatched with the stated purpose of defending China's maritime rights and interests, and bot entered the 12-nautical

[18] A report by Japan's National Institute of Defense Studies also concludes that "The actions that China subsequently took clearly reveal that it was already meticulously preparing measures for advancing its claim over the Senkakus from a very early stage." *East Asian Strategic Review 2013*, http://www.nids.go.jp/english/publication/east-asian/pdf/eastasian_e2013.pdf.

[19] "Statement of the Government of the People's Republic of China on the Baselines of the Territorial Sea of Diaoyu Dao and its Affiliated Islands," http://www.fmprc.gov.cn/eng/zxxx/t968769.htm.

[20] Mure Dickie and Kathrin Hille, "Japan risks China's wrath over Senkaku," F*inancial Times*, September 10, 2012, http://www.ft.com/intl/cms/s/0/babbfa2a-fb2b-11e1-87ae-00144feabdc0.html.

[21] "Island Dispute Stirs Sino-Japanese Tensions," *Strategic Comments*¸ Institute of International Strategic Studies, http://www.iiss.org/publications/strategic-comments/past-issues/volume-18-2012/september/island-dispute-stirs-sino-japanese-tensions/.

mile territorial waters of the islands. Such deployments have since been conducted on a daily basis. Establishing routine presence is aimed at demonstrating Chinese jurisdiction in the islands' waters. The reported creation of the "Office to Respond to the Diaoyu Crisis" at the onset of the crisis, with leader-in-waiting Xi Jinping at the helm, suggests that Chinese actions undertaken towards the disputed islands were guided and coordinated by the top leadership.[22]

In addition, it appeared that China was determined to pursue confrontation rather than compromise on the Senkaku/Diaoyu dispute. When the U.S. and Japan announced in mid-October that they would cancel a portion of an exercise planned for November that involved a joint amphibious landing on a remote island, reportedly due to Japanese Prime Minister Noda's concerns to not provoke China, Beijing did not reciprocate with a conciliatory gesture. Meetings between senior Japanese and Chinese foreign ministry officials at about the same time also produced no progress.[23]

China's Interests and Objectives

From China's perspective, its approach to the Senkaku/Diaoyu dispute is defensive: defending China's territorial integrity and sovereignty has long been judged to be a Chinese core national interest. In the East China Sea, the imperative of this interest is in part derived from China's perceived maritime vulnerabilities: in the era of "gunboat diplomacy," the Western powers exploited China via the sea during the "century of national humiliation." China recognizes that its coastline is a soft spot for an enemy attack and that there is a heavy price to be paid if it is not well-defended. This strong desire to secure the homeland is a major factor in the development of a navy that is capable not only of coastal defense, but also near-seas active defense, which some Chinese argue requires wresting control of the Senkaku/Diaoyu islands from Japan.[24]

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[22] Linda Jakobson, "China's Foreign Policy Dilemma," *The Lowy Institute* (February 2013): 9, http://www.lowyinstitute.org/publications/chinas-foreign-policy-dilemma.

[23] Japan's Vice Foreign Minister Chikao Kawai met with Chinese Vice Foreign MinisterZhang Zhijun in Shanghai. Takashi Hirokawa and Isabel Reynolds, "Japan, China Envoys Met Last Week for Talks on Island Feud," *Bloomberg*, October 23, 2012, http://www.businessweek.com/news/2012-10-23/fujimura-confirms-japan-china-envoys-met-last-week-for-talks.

[24] "*Dong hai cheng zhong guo hai yang zhan lve yao lan guan hu zhong guo wei lai fa zhan.*" *East Day*, August 9, 2005, http://mil.eastday.com/eastday/mil/node62186/node62664/node62665/node78604/userobject1ai1329668.html

In addition, China's emergence as a major economic power has resulted in a widely-held perception domestically that China has expanding maritime interests that must be protected. Various interests groups within China's increasingly pluralistic political system are promoting the linkage between securing Chinese resources, energy, territorial and other maritime interests and the country's continued economic prosperity. Partly in response to this growing pressure, in his report to the 18th Party Congress, Hu Jintao stated that the Chinese "should enhance our capacity for exploiting marine resources, resolutely safeguard China's maritime rights and interests, and build China into a maritime power."[25] In light of greater Chinese commitment to defend its broader maritime interests, securing control of the Senkaku/Diaoyu islands has become even more important for China.[26]

Although the Chinese government has not articulated clear objectives in the recent spat with Japan, it appears that China has both short-term and long-term goals it hopes to achieve. In the short run, Beijing seeks to challenge Japan's administrative control of the islands and their surrounding waters, and establish Chinese jurisdiction. Through the regular conduct of patrols in the contiguous and territorial waters surrounding the islands, this goal has to some extent already been achieved. Over time, Beijing hopes to further erode Japanese administrative control by wearing out Japan's Coast Guard. This serves Chinese interests in two ways: it bolsters China's legal claims to the disputed territories in the event that the issue eventually is presented to an international court and it can potentially nullify the U.S. defense commitment to the islands. Regarding the latter, according to Article 5 of the US-Japan Security Treaty, the United States is obliged to come to Japan's defense in the event of an "armed attack" on the "territories under the administration of Japan."[27] As such, if Japan's administrative control over the Senkaku/Diaoyu islands is challenged, it might call into question the legitimacy of U.S. involvement in a Sino-Japanese military confrontation over the islands.[28] If U.S. commitment

[25] "Hu calls for efforts to build China into maritime power," *Xinhua News*, November 8, 2012, http://news.xinhuanet.com/english/special/18cpcnc/2012-11/08/c_131959403.htm.

[26] Oil and gas reserves may lie in the sea bed near the islands, though so far remain unconfirmed. Aibing Guo and Rakteem Katakey, "Disputed Islands with 45 Years of Oil Split China, Japan," *Bloomberg*, October 12, 2012, http://www.bloomberg.com/news/2012-10-10/disputed-islands-with-45-years-of-oil-split-china-japan.html.

[27] "Japan-US Security Treaty," *Ministry of Foreign Affairs of Japan*, http://www.mofa.go.jp/region/n-america/us/q&a/ref/1.html.

[28] Discussion with PLA officials who were in Washington DC for the Defense Policy Consultative Talks, October 10, 2012.

were to waver due to the erosion of Japanese administrative control, this would sow doubts in Japan about the credibility of the U.S.-Japan alliance.

Another near to medium-term objective is to persuade Japan to acknowledge that a sovereignty dispute exists over the Senkaku/Diaoyu islands. Currently the official stance of the Japanese government is that the islands "are clearly an inherent part of the territory of Japan" and there is no territorial dispute over them.[29] If Japan could be pressured into conceding that the sovereignty of the islands is contested, this could be portrayed as a major victory to the Chinese people and would put China a step closer towards achieving the desired outcome of a "negotiated settlement."[30]

In the long run, China seeks to secure control over the Senkaku/Diaoyu islands, which would benefit Chinese strategic interests in several ways. China currently lacks sufficient intelligence, surveillance and reconnaissance (ISR) in the East China Sea. The islands provide an ideal site for emplacing surveillance systems to monitor submarine and other military movements in the vicinity.[31] The islands could even serve as a base for anti-ship missiles that could be used to project power over adjacent sea lanes. By virtue of Chinese possession of the islands, Japan could be denied a spot to install a radar system that could track Chinese military activities. Chinese ownership could also provide a foothold for the PLA Navy to break out of the first island chain, and further extend the PLA's anti-access and area-denial reach into the open ocean.[32]

At the same time, however, Beijing has critically important economic interests at stake in its relations with Japan. Trade between the two nations has tripled since 2000, but in 2012 trade fell by 3.9 percent to $329.45 billion, the first drop in three

[29] "Fact Sheet on the Senkaku Islands," *Ministry of Foreign Affairs of Japan*, November 2012, http://www.mofa.go.jp/region/asia-paci/senkaku/fact_sheet.html.

[30] "Foreign Ministry Spokesperson Hong Lei's Regular Press Conference on September 11, 2012," *Ministry of Foreign Affairs of the People's Republic of China*, September 12, 2012, http://www.fmprc.gov.cn/eng/xwfw/s2510/t969123.htm.

[31] Jonathan Sullivan, "Sino-Japanese Relations: The Security Perspective," *China Policy Institute Blog*, February 18, 2013, http://blogs.nottingham.ac.uk/chinapolicyinstitute/2013/02/18/sino-japanese-relations-the-security-perspective/.

[32] Tetsuo Kotani, "The Senkaku Islands and the U.S.-Japan Alliance: Future Implications for the Asia-Pacific," Futuregram 13-002, Project 2049, March 14, 2013, http://project2049.net/documents/senkaku_kotani.pdf; "*Jun fang jiu diao yu dao shi jian biao tai shu li: lian xu jun yan jing gao ri ben*," *Huan Qiu Wang*, September 26, 2012, http://world.huanqiu.com/regions/2012-09/3149532.html

years. Foreign direct investment in China—most of which comes from 10 Asian countries and economies, including Japan, fell 4.8 percent last year to $95.74 billion.[33] Japanese firms are unlikely to pull out of China due to persisting bilateral tensions or occasional flare-ups of anti-Japanese sentiments, but many companies are already looking for a second production base to hedge their China exposure. For example, while foreign investment into Vietnam declined by 15% in 2012, a reflection of macroeconomic challenges there such as high inflation, investment from Japan into Vietnam more than doubled due in part to Japanese companies' efforts to look for alternatives to China.[34]

The Strategy and its Execution

In pursuit of these interests and objectives, China has essentially exploited the porous nature of maritime borders and U.S./Japanese desire to avoid a confrontation that could escalate to establish a new status quo that is in its favor. Developments in recent years have facilitated and inspired China's employment of such a strategy. The structural changes in Sino-Japanese relations along with the shift in the balance of power in East Asia as a consequence of China's economic and military emergence have nurtured Chinese confidence that it can coerce Japan into compromising its sovereignty claims. Also, having correctly predicted that the United States is likely to be cautious and not intervene directly in the dispute, China sees diminished risk of a possible confrontation with Japan that might result from its incursions. China is further encouraged by the additional potential benefit of demonstrating to Japan and other nations in the region the limited value of America's military presence in countering Chinese sizable paramilitary fleet.

China has also capitalized on the initiative it has seized and maintained to send timely warnings against efforts to challenge or undermine its presence. For example, it was reported that on January 19 2013, China scrambled two J-10 fighter jets to tail a US airborne warning and control aircraft near the Senkaku/Diaoyu islands.[35] An insider close to the Chinese military divulged that this was seen as U.S.

[33] Allison Jackson, "Island Dispute Disrupts Sino-Japanese Trade," *The Financialist*, January 30, 2013, http://www.thefinancialist.com/territorial-dispute-disrupts-sino-japanese-trade/.

[34] "China Begins to Lose Edge as World's Factory Floor," *Wall Street Journal*, January 16, 2013, http://online.wsj.com/article/SB10001424127887323783704578245241751969774.html.

[35] Kenji Minemura, "China's Senkakus operations overseen by party task force led by Xi," *Asahi Shimbun*, February 13, 2013, http://ajw.asahi.com/article/special/PLA/AJ201302040089a.

"intervention," which compelled China to react forcefully so as to warn the United States to stay out of the dispute.[36]

To implement its strategy of contesting Japanese jurisdiction and administrative control, China has sent its Maritime Surveillance vessels into the contiguous and territorial waters around the Senkaku/Diaoyu islands on virtually a daily basis.[37] Entry of Chinese ships into the 12 nautical mile zone has spiked from a total of 4 times between December 2008 and September 2012 to 36 times (as of April 9, 2013) since the nationalization of the islands.[38] In addition to rewriting the facts on the ground, the deployment of non-military assets enables China to construct a narrative absolving it of any responsibility in the event of a crisis or conflict. For instance, China could arguably portray any Japanese military counter-response to its white-hulled paramilitary fleet as an act of "aggression" and hold Japan culpable for the outbreak of armed hostilities that might consequently arise.

China has also deliberately taken provocative moves that suggest a strategy of brinksmanship. From December 2012 to January 2013, there were several incidents of China's State Oceanic Administration Y-12 twin turboprop aircraft approaching the islands, and on December 13th one such Chinese aircraft came within 20 km of the Senkaku/Diaoyu airspace, the closest incursion ever, according to Japan's

[36] "Insight: China increased belligerence after US aircraft deployment near Senkakus," *Asahi Shimbun*, February 6, 2013, http://ajw.asahi.com/article/asia/china/AJ201302060077.

[37] Captain James Fanell, deputy chief of staff for Intelligence and Information Operations, U.S. Pacific Fleet, told a seminar in San Diego on January 31, 2013 that China's maritime surveillance agency is "a full-time maritime sovereignty harassment organization" with the goal of enforcing territorial claims. See transcript of Fanell's remarks, *China Business Intelligence, http://www.china-business-intelligence.com/content/transcript-remarks-capt-james-fanell-pacfleet*.

[38] Prior to nationalization Chinese ships had entered the islands' territorial waters on December 8, 2008; August 24, 2011; July 11, 2012 and July 12, 2012. "Position Paper: Japan-China Relations Surrounding the Situation of the Senkaku Islands," *Ministry of Foreign Affairs of Japan*, February 7, 2013, http://www.mofa.go.jp/region/asia-paci/senkaku/position_paper3_en.html; "Mr Kenichiro Sasae, Vice-Minister for Foreign Affairs, lodges a protest against Mr. Cheng Yonghua, Ambassador of the People's Republic of China to Japan," *Ministry of Foreign Affairs of Japan*, August 24, 2011, http://www.mofa.go.jp/announce/announce/2011/8/0824_01.html; "Mr Kenichiro Sasae, Vice-Minister for Foreign Affairs, lodges a protest against Mr. Cheng Yonghua, Ambassador of the People's Republic of China to Japan," *Ministry of Foreign Affairs of Japan*, July 11, 2012, http://www.mofa.go.jp/announce/announce/2012/7/0711_01.html; "Mr Kenichiro Sasae, Vice-Minister for Foreign Affairs, lodges a protest against Mr. Cheng Yonghua, Ambassador of the People's Republic of China to Japan," *Ministry of Foreign Affairs of Japan*, July 12, 2012, http://www.mofa.go.jp/announce/announce/2012/7/0712_01.html.

Defense Ministry.[39] China undoubtedly anticipated that Japan would scramble F-15 fighters in response to the intrusion, in accordance with international rules of engagement, which could justify China's dispatching its J-10 fighters to counter JASDF interceptors. According to one account, senior Chinese officials admitted that the aerial intrusion was planned and coordinated by the national Land and Sea Border Defense Committee for the purpose of escalating the situation.[40] In January, Chinese fighter jets were spotted in Japan's air defense identification zone (ADIZ), which extends over the Chinese side of the median line between the two countries in the East China Sea.[41] Hinting at the possibility of new potentially escalatory challenges to Japanese administration control, a senior official of the Chinese Mapping Agency declared plans to land a survey team on the disputed islands at an unspecified time in the future.[42]

Another set of incidents further suggests a Chinese strategy of orchestrating an escalation of tensions in the hope of making the Japanese back off and concede the islands to China. According to Tokyo, Chinese warships used their fire-control radar to paint a Maritime Self-Defense Force destroyer and helicopter on January 19 and 30. Prime Minister Abe described the use of weapons-targeting radar as "a unilateral, provocative and dangerous act." It is uncertain whether the Chinese ships in fact turned on their fire-control radar, and, if they did, whether this was carried out with the approval of higher level military and/or civilian authorities, or was simply a decision taken by the ship's commander. Only in the event that the former is true can these incidents be seen as part of a strategy of increasing pressure on Japan. China's Ministry of National Defense spokesman subsequently denied the accusations and charged Japan with releasing "false information" and "hyping"

[39] Mizhuo Aoki and Ayako Mie, "Senkaku Showdown Taxing Forces," *The Japan Times*, February 22, 2013, http://www.japantimes.co.jp/news/2013/02/22/national/senkaku-showdown-taxing-forces/#.UU-8kTdmMpU.

[40] This committee reportedly facilitates coordination between the military, the SOA and the FLEC. "Chinese officials admit to MSDF radar lock allegations," *The Japan Times*, March 18, 2013, http://www.japantimes.co.jp/news/2013/03/18/national/chinese-officials-admit-to-msdf-radar-lock-allegations/.

[41] "Chinese Planes Spotted Near Japanese Airspace, ASDF Scrambles Jets, *Kyodo*, January 10, 2013, http://english.kyodonews.jp/news/2013/01/203480.html.

[42] "China plans to send surveyors to disputed islands," *Straits Times*, March 12, 2013, http://www.straitstimes.com/breaking-news/asia/story/china-plans-send-surveyors-disputed-islands-20130312?utm_source=Sinocism+Newsletter&utm_campaign=c744dcd506-Sinocism03_13_13&utm_medium=email.

the threat from China. In an effort to exonerate itself and put the onus on Japan, the spokesman suggested that since "Japan has closely tracked Chinese vessels and craft to monitor and interfere with them," Japan must therefore be held accountable for any mishap and the Chinese side "reserves the right to take corresponding measures."[43]

Such rhetoric is part of a broader public relations campaign that China has employed to undermine the legitimacy of Japan's position and bolster that of its own, in order to garner international support. The media offensive was launched quickly after the Japanese government announced its intent to purchase the islands. China issued a Foreign Ministry Statement on September 10 and a White Paper on September 25, clarifying its stance and rebutting Japan's position on the disputed islands. On the diplomatic front, Beijing launched an international campaign charging Japan with seeking to upend the international system established after World War II and resume a militarist path. Speaking at the United Nations, Chinese Foreign Minister Yang Jiechi accused Japan of "outright denial of the outcomes of the victory of the world anti-fascist war," which "poses a grave challenge to the post-war international order and the purposes and principles of the Charter of the United Nations."[44] A Chinese scholar affiliated with one of China's most important think tanks suggested that, in pressuring Japan to "face reality and correct its mistakes," China should "avoid making enemies" out of other states in the international community so that they would be more willing to accept the Chinese narrative.[45] In the end, Beijing hopes that if sufficient international pressure can be brought to bear on Japan, then Tokyo can be forced into recognizing the existence of a territorial dispute with China over the Senkaku/Diaoyu islands.

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[43] http://www.nytimes.com/2013/03/01/world/asia/china-accuses-japan-of-provoking-tensions.html

[44] "Yang Jiechi Expounds China's Solemn Position on the Diaoyu Islands Issue at the 67th Session of the UN General Assembly," *Ministry of Foreign Affairs of the People's Republic of China*, September 28, 2012, http://www.fmprc.gov.cn/eng/zxxx/t975814.htm. See also "Foreign Minister Yang Jiechi Refutes Japan's Distorted Accounts on Diaoyu Dao Issue at the Asia-Europe Meeting (ASEM) Summit," *Ministry of Foreign Affairs of the People's Republic of China*, http://www.fmprc.gov.cn/eng/wjb/wjbz/2467/t986599.shtml.

[45] Chen Xiangyang, "Japan's designs must be defeated," *China Daily USA*, January 25, 2013, http://usa.chinadaily.com.cn/opinion/2013-01/25/content_16173158.htm.

Assessing the Efficacy of Chinese Strategy

Chinese strategy thus far has had only limited success and in some ways may have backfired. As noted above, the regular conduct of patrols in the waters by Chinese paramilitary ships around the disputed islands has challenged Japanese administrative control. However, it has not resulted in Japanese concessions; on the contrary, Prime Minister Abe has warned against underestimating the firmness of Japan's resolve to defend its sovereignty.[46] China's continuous deployments and encroachments have also prompted actions by Japan to reinforce its capabilities. In addition to forming a new, 600-member unit equipped with 12 patrol ships that will be deployed exclusively on missions around the disputed islands, the Japan Coast Guard has made plans to reuse old ships and re-employ retirees as "stopgap measures" to bolster its capabilities to respond to Chinese ships that approach the Senkaku/Diaoyu islands.[47]

Growing Chinese pressure on Japan has also led the U.S. to make rhetorical statements and take steps designed to reassure its ally and deter Chinese provocations, even as Washington has remained neutral on the sovereignty issue. U.S. officials have repeatedly reiterated that the Senkaku/Diaoyu islands fall under the U.S.-Japan Treaty of Mutual Cooperation and Security, which obligates the U.S. to defend Japan if it is attacked. An amendment to the 2013 National Defense Authorization Act stated that "the unilateral actions of a third party will not affect [the] United States acknowledgement of the administration of Japan over the Senkaku islands."[48] It also declared U.S. opposition to any efforts to coerce, threaten to use force, or use force to resolve the sovereignty and territorial issues in the East China Sea.

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[46] Speech by Prime Minister Shinzo Abe at the Center for Strategic and International Studies, February 22, 2013, http://csis.org/files/attachments/132202_PM_Abe_TS.pdf.

[47] Adam Westlake, "Japan Coast Guard looking to use old ships, retirees to help with Senkaku patrols," *The Japan Daily Press*, January 3, 2013, http://japandailypress.com/japan-coast-guard-looking-to-use-old-ships-retirees-to-help-with-senkaku-patrols-0320783; David Lague, ""China Navy Seeks to 'Wear Out' Japanese Ships in Disputed Waters," *Reuters*, March 6, 2013, http://www.reuters.com/article/2013/03/06/us-china-japan-navy-idUSBRE9251GU20130306.

[48] Kyoko Yamaguchi, "Bill Confirms US Backing on Senkakus / 'Security treaty applies to isles' in Okinawa," *Daily Yomiuri*, December 23 2012, http://www.yomiuri.co.jp/dy/national/T121222003037.htm. National Defense Authorization Act 2013, H.R. 4310, p. 409, http://www.gpo.gov/fdsys/pkg/BILLS-112hr4310enr/pdf/BILLS-112hr4310enr.pdf.

China's strategy of brinksmanship and aggressive behavior has not produced desired results. In mid-January, in the aftermath of China's Y-12 aircraft flew in close proximity to the islands and several other aggressive incidents, Secretary of State Clinton used the occasion of the visit by Japanese Foreign Minister Fumio Kishida to state publicly that "we oppose any unilateral actions that would seek to undermine Japanese administration," while also urging "all parties to take steps to prevent incidents and manage disagreements through peaceful means."[49] The U.S. also voiced concerns about China's December breach of the airspace near the Senkaku/Diaoyu and the alleged fire-control radar incident in February. Moreover, the U.S. and Japan are reportedly revising contingency plans to include retaking the islands if they are seized by China.[50] If Beijing estimated that the U.S. decision to not respond to China's intimidation of the Philippines in the Scarborough Shoal episode would be repeated in the case of Japan and the East China Sea, it severely miscalculated.

In addition, China's actions against Japan have exacerbated fears in the region that China will undermine peace and stability as its power grows. Southeast Asian countries are eying the crisis warily and view it as further evidence of China's willingness to intimidate its neighbors. This has reinforced their desire to see a continued strong US presence in their region. The Philippines Foreign Minister even went so far as to back rearming Japan as a counterweight to China's growing military assertiveness.[51] With increasing Sino-Japanese tensions in the East China Sea in mind, India's External Affairs Minister Salman Khurshid told the Japanese that India would stand with their country when it comes to ensuring freedom of navigation on the high seas.[52]

There are some signs that the Chinese may have recognized that the costs of continuing to confront and provoke Japan are too high and that Beijing may be seek-

[49] "Remarks With Japanese Foreign Minister Fumio Kishida After Their Meeting," January 18, 2013, http://www.state.gov/secretary/rm/2013/01/203050.htm.

[50] "U.S., Japan Review Worst-Case Plans for Isles Dispute," *AFP-Jiji*, March 21, 2013, http://www.japantimes.co.jp/news/2013/03/21/national/u-s-japan-review-worst-case-plans-for-isles-dispute/#.UVdt0Te2odg.

[51] Albert del Rosario interview with *The Financial Times*, December 9, 2012, http://www.cnbc.com/id/100293527.

[52] "We Stand by Japan on Freedom of Navigation: Khurshid," *The Hindu*, March 27, 2103, http://www.thehindu.com/news/national/we-stand-by-japan-on-freedom-of-navigation-khurshid/article4551843.ece.

ing ways to defuse the crisis. During former Prime Minister Murayama's visit to Beijing this past January, Tang Jiaxuan, a former state councilor who is now head of the China-Japan Friendship Association, indicated that the territorial issue must be resolved through dialogue. Then-Chinese Foreign Minister Yang Jiechi apparently told Murayama in a separate meeting that a clash would be "foolish, given the damage it would do to both sides, considering our economic relations."[53] Chinese Vice President Li Yuanchao also struck a moderate tone in remarks he made to the Japan-China Economic Association meeting in late March, noting that the territorial dispute would likely be solved peacefully, citing many examples in Europe where such disputes had been solved through dialogue rather than military conflict.[54] However, whether China has a strategy of de-escalation that can achieve a new stable status quo that is acceptable to Japan, remains to be seen.

Conclusion

The Japanese decision to purchase the islands on September 2012 represents another watershed in the development of the Senkaku/Diaoyu island dispute. China has taken it as a bold challenge and unique opportunity to execute its revisionist strategy to contest Japan's sovereignty claims and administrative control of the islands. It is, in essence, a multi-pronged approach where China promotes a narrative that seeks to discredit the legitimacy of the Japanese stance and portrays Japan as pursuing an aggressive, right-wing agenda; establishes a constant presence in the waters surrounding the disputed territories through the use of its paramilitary vessels and civilian aircraft to context Japanese administrative control; and uses brinksmanship in an effort to intimidate Japan and warn off the United States.

China's actions pose a deliberate test to the credibility of the US-Japan alliance. Beijing hopes it can persuade the US to remain strictly neutral and avoid any involvement in the island dispute. Driving a wedge between Washington and Tokyo has been a long standing Chinese goal. To eliminate ambiguity that could result in Chinese miscalculation, and reassure Japan, American officials have appropriately asserted that while the US remains neutral on the question of sovereignty over the

[53] "China Eager to End Isle Row, not Alter '95 Apology: Murayama," *Kyodo*, March 31, 2013, http://www.japantimes.co.jp/news/2013/03/31/national/china-eager-to-end-isle-row-not-alter-95-apology-murayama/#.UVhhXze2odh.

[54] Keith Zhai, "Vice-president Adopts 'softer tone' on Diaoyu Disputes with Japanese Delegation," *South China Morning Post*, March 23, 2013, http://www.scmp.com/news/china/article/1197554/vice-president-adopts-softer-tone-diaoyu-disputes-japanese-delegation.

Senkaku/Diaoyu islands, it has an abiding interest in how the dispute is managed. In addition, China's efforts to contest Japanese administrative control over the islands will not lead the US to revise its position that the Senkaku/Diaoyu islands are under Japan's control. Unconfirmed reports that the US and Japan are stepping up contingency plans to defend and even re-take the islands similarly reinforce deterrence and shore up the credibility of the U.S.-Japan alliance.

Chinese strategy thus far has had only limited success and in some ways may have backfired. If Chinese leaders conclude that the costs of continuing to implement this strategy are too high, they may seek ways to defuse the crisis and improve relations with Japan. It is extremely unlikely, however, that Beijing will give up its gains and return to the status quo ante that existed before September 2012.

Senkaku Islands/East China Sea Disputes—A Japanese Perspective

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Introduction

The "Senkaku Islands" consists of five virtually uninhabitable islands (Uotsuri Jima, Kuba Jima, Taisho Jima, Minami Kojima, Kita Kojima) and three rocks (Okino Kitaiwa, Okino Minami-iwa, Tobise) that lay in close proximity to the Chinese mainland, Okinawa, and the Taiwanese coast. They sit on top of the East China Sea's largest petroleum reserve.

From Japanese perspectives, the Senkaku Islands/East China Sea issue has two dimensions. First is the "territorial" dimension, which essentially is the disagreement with China over the sovereignty of these islands and rocks. Second is the economic dimension in which Japan and China disagrees over how to draw a demarcation line in the area where their claimed exclusive economic zones (EEZs) and continental shelves, as defined under the United Nations Convention on the Law of the Sea (UNCLOS), overlap. However, as the profile of the issue rises in last several years after a couple of major incidents, the issue has begun to increasingly assume the political-military characteristic. This is obviously problematic for Japan. First, as long as the issue remains high profile, it continues to provoke Chinese sensitivity of Japan's wartime aggression and atrocities committed in China between 1930-1945. This makes the issue a matter of national pride for China, making it difficult to start dialogue with the government in Beijing to explore pragmatic ways to diffuse tension. Moreover, China's assertive behavior on this issue, particularly the activities by Chinese fishing boats, maritime law enforcement vessels, and maritime research ships—are fueling the negative image of China in Japan. It has also made the management of these issues politically difficult for the leaders in Tokyo.

This paper focuses on Japanese perspectives on the Senkaku issue. It first provides an overview of Japan's basic claims on the issue, followed by description of the types of Chinese activities around the Senkaku Islands that Japan has been concerned about. The paper then identifies the challenges that the Senkaku Islands issue pres-

ents for Japan. The paper finishes with the assessment of how Japan's behavior can impact the US-Japan alliance, and what the United States can do to prevent the further escalation of the tensions.

Background: Japanese Claims

The territorial dispute over the Senkaku Islands surfaced in 1971 after the UN Economic Commission for Asia and the Far East (ECAFE) issued a survey in 1968 that indicated the continental shelf between Taiwan and Japan was possibly one of the "most prolific oil reservoirs in the world."[1]

Taiwan first made the claim over the Senkaku Islands in 1971, around the time of the US reversion of Okinawa to Japan. The reasons behind these claims made by Taipei are as follows:

- The Ryukyu Kingdom (integrated into Japanese territory as Okinawa prefecture in 1879) was in tributary relationship with China (then represented by Qing dynasty). Therefore, the Ryukyu Islands (today's Nansei Southwestern Islands that includes the Senkaku Islands) are considered part of Chinese territory.

- As such, the Ryukyu Islands were considered a part of the territory (Taiwan) that was handed over to Japan at the end of the Sino-Japanese War in 1895.

Based on these arguments, Taipei opposed the US reversion of Okinawa to Japan, and Beijing followed suit. Beijing argued that the Senkaku Islands had been incorporated into the territory of the Ming Dynasty in 1556, and asserted that the Ming Dynasty's ownership of the islands invalidated Japan's incorporation of them in 1895. Additionally, they argued that they ceded the Senkaku Islands as part of Taiwan to Japan according to the 1895 Treaty of Shimonoseki, and that the islands should be returned to China.

The Japan Ministry of Foreign Affairs (MOFA) articulates Japan's official position on the Senkaku Islands issue as follows[2]:

[1] UNECAFE 1968:39-40.

[2] Japan Ministry of Foreign Affairs (MOFA), "The Basic View on the Sovereignty over the Senkaku Islands," http://www.mofa.go.jp/region/asia-paci/senkaku/basic_view.html Accessed April 4, 2013; MOFA, "Fact Sheet on the Senkaku Islands" http://www.mofa.go.jp/region/asia-paci/senkaku/fact_sheet.html Accessed April 4, 2013.

- The Japanese government's decision to integrate the Senkaku Islands into Japanese territory is based on the Cabinet Decision on January 14, 1895. The decision was a result of a 10-year-long survey on the Senkaku Islands that the government conducted through Okinawa prefectural government, which confirmed that the Islands showed no trace of having been under the control of China.

- Since 1895, the Senkaku Islands have continuously remained an integral part of the Nansei Islands. As such, they were never a part of Taiwan nor a part of the Pescadores Islands Japan acquired from the Qing Dynasty of China in accordance with Article 2 of the Treaty of Shimonoseki that came into effect in May of 1895.

- Accordingly, the Senkaku Islands are not included in the territory that Japan renounced under Article 2 of the 1954 San Francisco Peace Treaty. The Senkaku Islands have been placed under the administration of the United States of America as part of the Nansei Islands, in accordance with Article 3 of said treaty. Therefore, they are included in the area that was reverted to Japan at the time of the Okinawa reversion in 1971.

To rebut the claims by Taiwan and China, Japan makes the following points:

- Prior to the discovery of petroleum resources in the Senkaku seabed, neither Beijing nor Taipei insisted that the Senkaku Islands were a part of their territory.

- Nor did they raise objection to the exclusion of the Senkaku Islands from Article III of the 1951 San Francisco Peace Treaty, which placed the Senkaku Islands under US administration as a part of Nansei Islands.[3]

- China did not object when the US Navy leased the Kuba and Taisho islands from then-owner Koga Zenji for $11,000, and used the islands as firing ranges from 1951 onward.[4] Prior to Taipei and Beijing's claims to the Senkaku Islands, several maps that supported the Japanese claims—in which China did not consider the Senkaku Islands as a part of its territory—were published in China.

[3] MOFA. "Fact Sheet on the Senkaku Islands".

[4] MOFA. "Q&A on the Senkaku Islands". http://www.mofa.go.jp/region/asia-paci/senkaku/qa_1010.html Accessed April 4, 2013.

For example, *the Republic of China New Atlas* published in China in 1933, or the *World Atlas* published in China in 1958 both clearly marked these islands as the "Senkaku Islands," not Diaoyutai Islands.[5] Additionally, a *World Map Atlas* published by the Taiwanese National Defense Studies Institute and the Chinese Institute for Geoscience in 1965 clearly delineated the maritime border between the Senkaku Islands and Taiwan. Lastly, a 1969 classified PRC map published in the *Washington Times* also depicted the Senkaku Islands as being part of Japanese territory. All three maps referred to the disputed islands by their Japanese names and made no mention of their Chinese names, indicating that the Chinese did not consider these islands to be part of their territory at the time the maps were published.

Today, the Japanese government's position remains that the Senkaku Islands are a part of the City of Ishigaki of Okinawa Prefecture. It also maintains the position that the Government of Japan does not acknowledge that the sovereignty of these islands are in dispute.

Japanese Concerns about Chinese behavior

Since the Senkaku Islands dispute surfaced between Japan and China in 1971, Tokyo and Beijing repeatedly have had diplomatic tense interaction on this issue. There are three types of Chinese actors that Japan has been concerned about.

1. Activists

From Japanese perspective, maritime dispute over the Senkaku Islands date back to the 1950s when Taiwanese boats began fishing off the coast of the islands. September 1970 marked the first skirmish regarding the Senkaku sovereignty issue, when the Okinawan police arrested a Taiwanese journalist attempting to plant a ROC national flag on Uotsuri Island. During the negotiation for the Japan-China Treaty of Peace and Friendship, China sent numerous Chinese trawlers equipped with the PRC flag to the waters of the Senkaku Islands in response to the assertion made by a group of conservative Japanese politician.

Since then, Chinese/Taiwanese/Hong Kong activists have regularly shown up to the waters around the Senkaku Islands (see Table 1 on next two pages).

[5] MOFA. "Republic of China New Atlas" http://www.mofa.go.jp/region/asia-paci/senkaku/pdfs/fact_sheet_05.pdf Accessed April 5, 2013; "Map of World Atlas" http://www.mofa.go.jp/region/asia-paci/senkaku/pdfs/fact_sheet_06.pdf Accessed April 5, 2013.

Table 1. Major incidents instigated by the Chinese/Hong Kong/ Taiwanese to assert the territorial claims over Senkaku Islands

Date	Incident	Outcomes
9/1996	A ship with several Hong Kong activists entered the waters near the Senkaku Islands.	A few activists onboard dove into the water and drowned.
10/1996	49 vessels with Hong Kong and Taiwanese activists on board approached to Senkaku. 41 out of 49 vessels entered Japanese territorial water.	Voluntary departure from the area after conducting their protest activities.
5/1997	30 vessels with Hong Kong and Taiwanese activists on board approached the Senkaku Islands, 3 of which entered Japanese territorial water.	2 activists got onboard the Japanese Coast Guard's cruiser. Forced departure from the area.
7/1997	A vessel with a Taiwanese activist entered the territorial water around the Senkaku Islands.	Departure following Coast Guard's warning.
6/1998	6 vessels with Hong Kong and Taiwanese activists approached the Senkaku Islands. 1 vessel and a rubber boat entered into territorial waters.	Departure following Coast Guard's warning.
6/2003	A vessel with a PRC activists entered the territorial water around the Senkaku Islands.	Departure following Coast Guard's warning.
10/2003	A vessel with a PRC activists entered the territorial water around the Senkaku Islands.	Departure following Coast Guard's warning.
1/2004	Two vessels with PRC activists entered the territorial water around the Senkaku Islands.	Departure following Coast Guard's warning.

Source: Japan Coast Guard. *Kaijo Hoan Report 2012* (Maritime Safety Report 2012), http://www.kaiho.mlit.go.jp/info/books/report2012/html/honpen/p066_02_01.html (Accessed April 8, 2013).

Table 1. Major incidents instigated by the Chinese/Hong Kong/ Taiwanese to assert the territorial claims over Senkaku Islands–cont.

Date	Incident	Outcomes
3/2004	A vessel with a PRC activist entered the territorial water around the Senkaku Islands.	7 PRC activists landed on Uotsuri Island. Activists were arrested and deported.
8/2006	A vessel with a Taiwanese activist approached Senkaku Islands.	Departure after Coast Guard's warning.
10/2006	A vessel with Hong Kong and PRC activists entered the territorial water around the Senkaku Islands.	Departure after Coast Guard's warning.
10/2007	A vessel with a PRC activist entered the territorial water around the Senkaku Islands.	Departure after Coast Guard's warning.
6/2008	A vessel with Taiwanese activists entered the territorial water around the Senkaku Islands.	Departure after Coast Guard's warning, accompanied by Taiwanese Coast Guard Ship.
9/2010	A vessel with Taiwanese activists approached the Senkaku Islands.	Departure after Coast Guard's warning, accompanied by Taiwanese Coast Guard Ship.
9/2011	A vessel with Taiwanese activists approached the Senkaku Islands.	Departure after Coast Guard's warning while in the adjacent water. Accompanied by Taiwanese Coast Guard Ship.
6/2012	A vessel with Taiwanese activists approached the Senkaku Islands.	Departure after Coast Guard's warning while in the adjacent water. Accompanied by Taiwanese Coast Guard Ship.

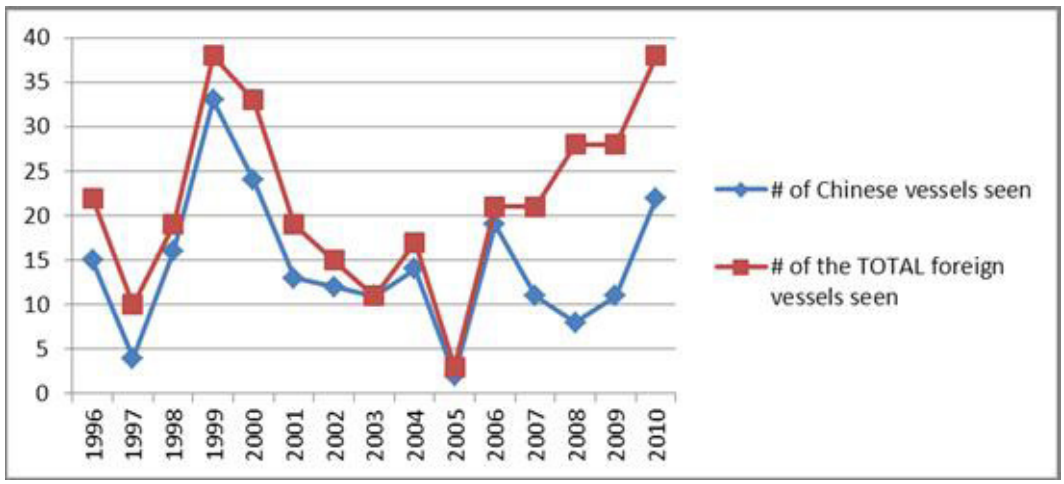
Table 1 is a summary of the incursions by China/Taiwan/Hong Kong activists in the waters around the Senkaku Islands. However, the behavior by the activists, as frustrating as it may be, is relatively a minor concern for Japan. These activists usually voluntarily leave the area when Japan Coast Guard issues warning. They

usually enter the adjacent water, but stop short of entering what Japan defines as its territorial water. Most of all, Japanese government also has been troubled by the activists in Japan. For instance, in the summer of 1996 when it was the construction of the second lighthouse by Nihon Seinen-sha (a right-wing activist group that constructed the first one in 1970s) and their request to the Japan Maritime Safety Agency (JMSA, today's Japan Coast Guard) to designate it as Japan's official lighthouse that triggered the tension with China. In other words, the activists in Japan are just as guilty for triggering diplomatic tension with China on the Senkaku Issue.

2. Maritime research vessels

In addition, a number of Chinese maritime research vessels (Kaiyo Chosa-sen) have appeared in the East China Sea with greater frequency in the last several years. To demonstrate the heightened concerns that the Japanese government has in Chinese maritime research vessels' activities, the JCG released the number of occasions it witnessed foreign maritime research vessels by country in Maritime Safety Report, its annual white paper, in 2000 (Chart 1):

Chart 1. Frequency of Chinese maritime research vessels in Japanese territorial water and EEZs, 1996-2010



Source: Japan Coast Guard, Kaijo Hoan Report (Maritime Safety Report), 2000-2011.

As Chart 1 demonstrates, Chinese maritime research vessels often consists more than 50% of all the foreign maritime research vessels found to be sailing in Japanese territorial water and EEZs. In addition, the most recent annual report by Japan

Coast Guard reports that an increasing number of Chinese maritime research vessels either enters these waters without prior notification, or their activities are considerably different from what they had said in their notification.[6]

3. Maritime surveillance/law enforcement vessels

The third, and what concerns Japanese most in recent years, is an increasing presence and activities of Chinese maritime law enforcement vessels. Until realigned recently, Chinese government had five maritime organizations—China Coast Guard (CCG), Maritime Safety Administration (MSA), China Marine Surveillance (CMS), Fisheries Law Enforcement Command (FLEC) and Customs—each of which plays a role in maritime security and related issues. While belonging to different government agencies (CMS is a part of State Oceanic Administration and FLEC is an organization within Fisheries Management Bureau of Ministry of Agriculture), they are both mandated with law enforcement within Chinese territorial waters and EEZs.

Japan has been increasingly concerned with a heightening level of activities by CMS and FLEC vessels in the waters around the Senkaku Islands. Especially following Japanese government's purchase of three islands of the Senkakus in September 2012, CMS and FLEC vessels have been appearing in the vicinity of the Senkaku Islands on almost a daily bases, frequently entering into Japanese territorial waters. (see Table 2 on page 9).

In many of these entries, when warned by Japan Coast Guard, CMS and FLEC vessels either ignore JCG's warning, or retort by saying "Senkaku is Chinese territory" and continue their maneuvers.

JCG has been at the forefront of responding to the incursion and incursion attempts by these vessels. As a result, their vessels that belong to the 11th District (headquartered in Naha, Okinawa) has been stretched thin, even with rotating in additional 50 vessels from other districts. The Abe administration has already announced the augmentation of the 11th District by FY2015 that includes the construction of six additional vessels and employment of additional personnel.[7] With an increasing

[6] Japan Coast Guard. *Kaijo Hoan Report 2012* (Maritime Safety Report 2012) http://www.kaiho.mlit.go.jp/info/books/report2012/html/honpen/p066_02_01.html Accessed April 20, 2013.

[7] "*Kaiho Senkaku Keibi he Kaijo Hoan-cho no Taisei Kyoka* (JCG augmenting the patrol around the Senkakus)" *Mainichi Shimbun*, February 15, 2013. http://mainichi.jp/feature/news/20130206org00m010022000c.html Accessed April 15 2013.

Table 2. Entry into Japanese territorial water near Senkaku Islands by Chinese maritime law enforcement vessels since September 2011

Year	Month/Day	Vessels	Year	Month/Day	Vessels
2011	Aug. 24	2 FLEC vessels	2013	Feb. 14	4 MSA vessels
2012	Mar. 16	3 FLEC vessels		Feb. 18	3 MSA vessels
	Jul. 11	4 FLEC vessels		Feb. 21	1 FLEC vessel
	Sept. 14	6 MSA vessels		Feb. 23	1 FLEC vessel
	Sept. 18	3 MSA vessels		Feb. 24	1 FLEC vessel
	Sept. 24	2 MSA vessels,		Feb. 28	3 MSA vessels
		2 FLEC vessels		Mar. 6	3 MSA vessels,
	Oct. 2	4 MSA vessels			2 FLEC vessels
	Oct. 3	3 MSA vessels		Mar. 12	3 MSA vessels
	Oct. 25	4 MSA vessels		Mar. 18	2 MSA vessels
	Nov. 20	4 MSA vessels		Apr. 1	2 MSA vessels
	Dec. 4	1 MSA vessel		Apr. 9	3 MSA vessels
2013	Jan. 21	3 MSA vessels		Apr. 16	3 MSA vessels
	Jan. 30	3 MSA vessels		April 20	2 MSA vessels
	Feb. 4	2 MSA vessels		April 23	8 MSA vessels

NOTE: the list may not be complete and cover all the entry attempt into Japanese territorial water). (Source: "*Kimpaku no Senkaku Shoto Shashin Tokushu* (Rising Tension over the Senkaku Islands: Photo Gallery)" *Jiji Press* http://www.jiji.com/jc/d4?d=d4_ter&p=kss816-jlp13398688 Accessed April 15, 2013; "*Chuugoku Kousen Yon-seki ga Nihon no Ryoukai ni Shinnyu* (Chinese government vessels entered Japanese territorial water)" MSN Sankei News. October 25, 2012. http://sankei.jp.msn.com/affairs/news/121025/crm12102509160003-n1.htm: "*Chuugoku Kousen ni yoru Senkaku Shotou heno Sekkinn* (Approach to the Senkaku Islands by Chinese official vessels)" Materials released from MOFA. Website of Honorable Yoshitaka Shindo, a member of the House of Representatives. http://www.shindo.gr.jp/wp-content/uploads/2012/10/%EF%BC%8810%E6%9C%8816%E6%97%A5%E6%9B%B4%E6%96%B0%EF%BC%89%E4%B8%AD%E5%9B%BD%E5%85%AC%E8%88%B9%E3%81%AB%E3%82%88%E3%82%8B%E5%B0%96%E9%96%A3%E8%AB%B8%E5%B3%B6%E3%81%B8%E3%81%AE%E6%8E%A5%E8%BF%91.pdf Accessed April 15, 2013; "*Chuugoku Kanshi-sen Yon-seki ga Ryoukai shinnyuu* (4 MSA vessels enters Japanese territorial water)" *MSN Sankei News* November 20, 2012. http://sankei.jp.msn.com/affairs/news/121120/crm12112012560007-n1.htm Accessed April 15, 2013.)

tempo and the rise in the number of CMS and FLEC vessels appearing in and around the Senkaku Islands, there is a growing anxiety in Japan that the JCG, despite its best efforts, may be overwhelmed by the influx of Chinese vessels, and may allow China to effectively disrupt the status quo of Japan's effective administrative control over the Senkakus.

Japan has protested twice to Chinese government at a senior level—once in September 2012 and the other on April 23 2013 after the most recent incursion attempt—to reduce the level of these vessels' activities to no avail.

Incidents that have contributed to the current tension

As noted earlier in the paper, Japan-China tension over the Senkaku Islands has been particularly aggravated in the last three years. Three events in particular can be identified as contributing to the current situation.

1. Collision of Chinese fishing trawler with Japan Coast Guard vessel (September 7, 2010)

On September 11, 2010, a Chinese fishing trawler entered the territorial waters near the Senkaku Islands and collided with a JCG cruiser that followed it while continuing to issue warnings and urging voluntary departure from the area.

This incident was markedly different from previous ones for both countries in several ways. First, the Chinese trawler was much more persistent, as well as the government's reaction that followed. In the past, Chinese (Taiwanese and Hong Kong) vessels that entered the waters near the Senkaku Islands merely ignored warnings issued by the JCG. Second, this was the first time a Chinese vessel collided with a JCG vessel. Finally, the retaliatory action from Chinese government—prohibition of rare earth exports to Japan, detention of Japanese businessmen in China—also was unprecedented.

Secondly, the Japanese government's management of the incident also broke with past precedent. As seen in Table 1 on pages 5 & 6, when Japanese law enforcement authorities previously made arrests of Chinese nationals because of their entry into Japanese territorial water around the Senkaku Islands, the individual was deported to China shortly afterwards. However, in this case, Japanese authorities not only

arrested but also detained the captain of the trawler in custody for nearly a month while the District Prosecutors Office in Naha, Okinawa, considered whether to prosecute him. Furthermore, the process through which the Naha District Prosecutor's Office reached its ultimate decision of not to press charges was not transparent. This left many to speculate that the leaders in then ruling Democratic Party of Japan (DPJ), fearing further aggravation of Japan-China relations, yielded to political pressure and intervened with the Prosecutor's Office's decision.

2. Japanese decision to purchase three islands in Senkaku (September 11, 2012)

On September 2012, the Japanese government under then Prime Minister Yoshihiko Noda, announced that it reached an agreement to purchase three islands (Uotsuri-jima, Kita-kojima and Minami-kojima) in the Senkakus from the private landowner for over twenty billion yen. This triggered the most recent round of tension between Japan and China.

From Japan's perspective, the government's decision to purchase these islands was to prevent further tension in Japan-China relations. In April 2012, then Governor of Tokyo Shintaro Ishihara who has been known to have extremely conservative views and often is characterized as "nationalist" or "right-wing" had announced during his visit to Washington, DC that the Tokyo Metropolitan Government was planning to purchase these islands.[8] Since then, Ishihara had indicated his plan to construct port facilities and other construction, and also requested the government to visit these islands to conduct land survey. Ishihara also announced that the Tokyo Metropolitan Government would fund its planned purchase of the islands through public donation and launched a fund drive, collecting 700 million yen in the first month.[9] This had led then Noda government to believe that Ishihara gaining control over these islands would do an irreversible damage to Japan-China relations. Given the well-known conservative views held by Ishihara, they decided that, as

[8] For his speech, see "The US-Japan Alliance and the Debate on Japan's Role in East Asia" *Heritage Foundation*, April 16, 2012. http://www.heritage.org/events/2012/04/shintaro-ishihara Accessed April 20, 2013.

[9] As of January 31, 2013, approximately 1.4 billion yen has been donated to the special account set up by the Tokyo Metropolitan Government. "*Tokyo-to Senkaku Shoto Kifukin Uketsuke Joukyou* (Current Status of Donation to the Tokyo Metropolitan Government for the Senkaku Islands)" Data as of January 31, 2013. http://www.chijihon.metro.tokyo.jp/senkaku/kifu-jyokyo.html Accessed April 20, 2013.

controversial as they may be at the time of the announcement, the national government's purchase of these islands was the lesser evil of the two options. Furthermore, the communication between Tokyo and Beijing through diplomatic channel left Tokyo with the impression that China would "understand" the reason behind Noda administration's decision to purchase the three islands.[10]

Chinese reaction to Japanese government's announcement of islands' purchase was much stronger and far more furious than it had anticipated, however. Chinese foreign ministry immediately issued a statement that said Tokyo's purchase of the islands "cannot alter the fact that Japanese side stole the islands from China…If Japan insists on going its own way, it will bear all the serious consequences that follow."[11] Following the Japanese government's announcement of the purchase, the anti-Japanese protests—already spreading after Ishihara initially announced his intention to purchase the islands—have worsened.[12] Japanese government also argues that the activities by Chinese CMS and FLEC vessels have accelerated since Tokyo's announcement of the islands' purchase.[13] Chinese State Oceanic Administration's aircraft also intruded into Japanese airspace over the Senkakus in December 2012 for the first time.[14]

[10] "*Senkaku kokuyu-ka Chuugoku no Kyoukou Shisei Nihon no Yosou Kosu* (China's Reaction to Japanese government's purchase decision far beyond Tokyo's anticipation)" Nihon Keizai Shimbun, September 14, 2012. http://www.nikkei.com/article/DGXNASDC1400I_U2A910C1EA2000/ Accessed April 19, 2013.

[11] "In Response to Japanese "Antagonism" Over Senkaku Islands, China Dispatches Two Patrol Ships" *The Prison Planet*, http://www.prisonplanet.com/in-response-to-japanese-antagonism-over-senkaku-islands-china-dispatches-two-patrol-ships.html Accessed April 3, 2013.

[12] See, for instance, "How a Remote Rock Split China and Japan." *CNN* January 30, 2013. http://www.cnn.com/2012/09/17/world/asia/china-japan-islands-dispute-explained Accessed April 20, 2013.

[13] For example, MOFA argues that between September 11 2012 and February 6 2013, Chinese officials vessels have entered into Japanese territorial waters around the Senkakus 25 times. See MOFA. "Position Paper: Japan-China Relations Surrounding the Situation of Senkaku Islands—In Response to China's Weapon Radar Lock-on" February 7, 2013. http://www.mofa.go.jp/region/asia-paci/senkaku/position_paper3_en.html Accessed April 13, 2013.

[14] MOFA. ""Position Paper: Japan-China Relations Surrounding the Situation of Senkaku Islands—In Response to China's Airspace incursion" December 18, 2013. http://www.mofa.go.jp/region/asia-paci/senkaku/position_paper2_en.html Accessed April 20, 2013.

3. PLA Navy's weapon radar lock-on to JMSDF aircraft (January 30, 2013)

On February 5, 2013, Japanese defense minister Istunori Onodera convened an emergency press conference in which he announced that that PLA Navy (PLAN) frigate locked-on its fire control (FC) radar on Japan Maritime Self-Defense Force (JMSDF)'s destroyer Yudachi on January 30, 2013 in East China Sea. Referring to another incident on January 19 in which PLAN frigate was suspected to lock on its FC radar on JMSDF helicopters.[15] Defense Minister's statement was followed by a strong statement by Prime Minister Shinzo Abe who described the incident as a "dangerous action that could have brought about an unexpected situation."[16]

Chinese strongly denies Japan's charge. Chinese foreign ministry spokesman rebutted Japanese charge by insisting that "the top priority for now is for Japan to stop all provocative actions it has been doing as sending ships and flights into Diaoyu islands sea and air space."[17] On the other hand, there are media reports that suggest that PLAN officers, based on the condition of anonymity, admitted the use of FC radar against JMSDF destroyer, and the decision was made by the commander of the frigate.[18]

Although the details remain unclear, this incident brought Japan-China tension over the Senkaku Islands to a new height. At the same time, the involvement of the militaries in the incidents also reminded many of a great risk that an incident of this kind can escalate into an actual clashes between the two militaries, and the absence of the mechanism between Tokyo and Beijing to manage such situation.

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[15] Japan Ministry of Defense. "*Daijin Rinji Kaiken Gaiyou* (Summary of Minister's Emergency Conference)" February 5, 2013. http://www.mod.go.jp/j/press/kisha/2013/02/05a.html Accessed April 20, 2013.

[16] "Japanese prime minister accuses Chinese navy ship of 'dangerous' act" CNN. http://www.cnn.com/2013/02/06/world/asia/china-japan-disputed-islands Accessed April 18, 2013.

[17] *Ibid.*

[18] "China military officials admit radar lock on Japanese ship, says report" *South China Morning Post*, March 19, 2013. http://www.scmp.com/news/china/article/1193600/china-military-officials-admit-radar-lock-japanese-ship?page=all Accessed April 19, 2013.

Impact of the Senkaku Islands/East China Sea issue on Japan's perception of China: challenge for Tokyo

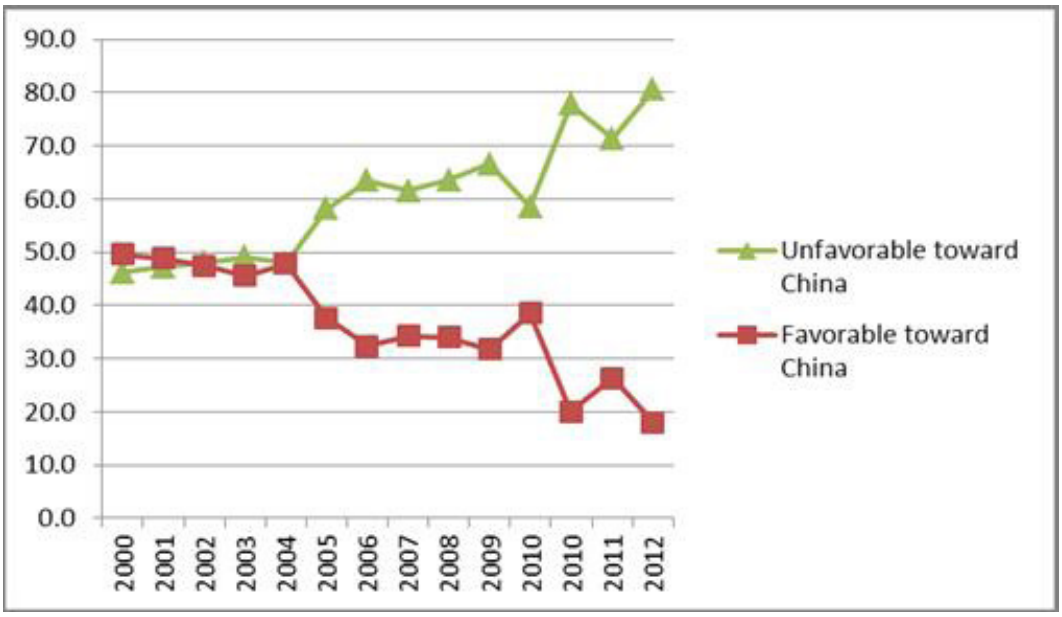
The Japan–China tension, highlighted in the three incidents examined in the previous section, have enhanced the trends in Japan that were slowly building up in the last several years. First, among a large segment of Japanese political leadership, Japanese government officials as well as intellectuals, China's increasing assertiveness in the Senkaku Islands/East China Sea issues have made them question Beijing's intention in the future. China's capability to pursue its global policy goals has noticeably improved, thanks to its economic growth as well as its aggressive diplomacy that focuses on promoting economic partnership and securing energy sources. Furthermore, Tokyo government officials—especially those in the defense establishment—recognize China's seemingly endless military modernization efforts over the last decade. In the 2011 Defense White Paper, the Japan Ministry of Defense (MOD) acknowledges that China's published defense budget has grown 18 times over the last 20 years.[19]

In the eyes of many Japanese, China's behavior in this issue has facilitated strong anti-China sentiment. Ever since Jiang Zemin demanded that Japan officially apologize for its wartime atrocities during his visit to Japan in 1998, there has been widespread sentiment among the Japanese that China uses Japan's wartime atrocities for political maneuvering and to extract more diplomatic concessions from Japan. China's recent behavior in the Senkaku Islands/East China Sea issue has only solidified the perception that Beijing optimizes its "history" card against Japan to assert its position, hardening public attitude toward China.

The public opinion poll taken by Japan's Cabinet Affairs Office on Japanese foreign policy demonstrates this change: there is a downturn in the number of survey respondents who held a favorable feeling toward China after its 2000 survey. This downward trend continued and took a decidedly negative turn in 2004. The number of those who held a favorable feeling toward China hit an all-time low in the 2012 survey, with over 80 percent of the respondents having a negative feeling toward China (see Chart 2 top of next page).

[19] MOD, *Heisei 23-nendo ban Bouei Hakusho* (FY 2011 Defense White Paper). 78-79. http://www.clearing.mod.go.jp/hakusho_data/2011/2011/pdf/23010203.pdf. Accessed June 5, 2012.

Chart 2. Japanese public's feeling toward China, 2000-2012



Source: Cabinet Affairs Office, *Heisei 24-nendo Gaiko ni kansuru Yoron Chosa* (FY 2012 Public Opinion Poll on Foreign Policy), http://www8.cao.go.jp/survey/h24/h24-gaiko/zh/z10.html. Accessed April 20, 2013.

The anti-China sentiment has been further aggravated by China's economic ascendance and the resulting influx of Chinese citizens in Japan as students, members of the workforce, and/or tourists. People complain of the increase in crime conducted by an increasing number of Chinese living and working in Japan; bad manners displayed by Chinese tourists has become a common grievance. In short, the average Japanese feels that their lifestyle and social norms have been "threatened" by the increasing presence of Chinese citizens in Japan.

In this context, Japanese government's response to the September 2010 fishing trawler's incident confirmed the public perception that the DPJ is pro-China, even if it is to the detriment to Japan's national interest. Prior to the trawler's incident, a 600-people delegation visit to China in December 2009 led by Ichiro Ozawa, one of DPJ's most influential politicians, was criticized by Japanese media as kowtowing to China. During Chinese Vice President Xi Jinping's visit in December 2009, Ozawa pushed to schedule an audience with Emperor Akihito despite the MOFA's objections. The Imperial Household Agency did not grant the audience, and the incident further attracted criticism for the DPJ government for going out of its way

to please the Chinese and breaking long-held diplomatic protocol in order to do so. The leak of the video footage shot by a JCG officer of the Chinese trawler incident on YouTube in November 2011 further aggravated public criticism against DPJ government for being too soft on China in the face of an obvious hostile act.

To make matters more complicated, JSDF, Ground Self-Defense Force (JGSDF) in particular, is increasingly concerned about the scenario in which the JSDF has to retake the Senkaku Islands in case of Chinese attempts to change a status quo with military (or para-military) force. The 2010 National Defense Program Guideline (NDPG) designates "southwestern defense" and "remote-island defense" as the priorities for which the JSDF equip itself and train.[20] The JSDF has been intensifying its consultation with US forces on the requirements for amphibious operations, and it also engages in bilateral exercises that focus on remote island defense.[21]

These developments within Japan present a formidable challenge for Japanese government as it explores ways to stabilize the situation and reduce tensions with China. In particular, the current hardened public attitude toward China can hamstring the government's policy options. Similar to being perceived as "soft" on North Korea and abduction issues as politically unacceptable in today's Japan, being perceived as "conciliatory" of "accommodating" toward China is now just as, or even more politically unacceptable. Such an environment makes it very difficult for any Japanese political leaders and government officials—even conservatives ones, such as Shinzo Abe—to pursue a pragmatic approach, or demonstrate any willingness to show flexibility in his/her approach with China.

A seeming "gap" in the thinking of the Japanese government in regards to its response to China on the Senkaku Islands issue presents another challenge. Today, the Japanese government seems to be prepared for two policy options. On one end, it prepares to bolster JCG's capacity to respond to the continuing influx of Chinese maritime law enforcement vessels into the waters around the Senkakus, thereby trying to maintain the status quo (Japan retains an effective administrative control over the Senkaku Islands). On the other end of the policy options, the JSDF is busy preparing for "remote island defense" that focuses more on retaking the islands—a fundamental change in status quo—than preventing the situation from escalating to

[20] JMOD. *National Defense Program Guidelines for FY 2011 and Beyond* December 17, 2010. http://www.mod.go.jp/e/d_act/d_policy/pdf/guidelinesFY2011.pdf Accessed April 20, 2013.

[21] For instance, a part of *Keen Sword 2012*, an annual US-Japan joint field training exercise, was focused on remote-island defense operation.

that point. Although Japan's realistic policy option will most likely revolve around the maintenance of status quo and additional bilateral political and/or diplomatic dialogue on how to reduce the risk of allowing minor incidents from escalating, there does not seem to be much thinking about it.

To be fair, there are some legitimate efforts made by the Japanese. When Japanese Prime Minister Yoshihiko Noda visited Beijing in December 2011, he and Chinese president Hu Jintao agreed on six policy initiatives to improve and deepen Japan-China relations to commemorate the 40th anniversary of Japan-China diplomatic normalization. As part of the six initiatives, the two leaders agreed to launch Japan-China senior official-level maritime consultations to discuss broad maritime issues in the East China Sea that are of mutual concern for Tokyo and Beijing. In addition, an agreement on East China Sea resource development and the establishment of search-and-rescue (SAR) mechanisms to respond to maritime accidents were identified as high priority issues.[22] The first maritime consultation took place in Beijing on May 16, 2012. The Japanese delegation was led by deputy director-general of the Asian Affairs Bureau, and included representatives from the Cabinet Secretariat, MOFA, MEXT, Resources and Energy Agency, Coast Guard, Ministry of Defense, Ministry of Land, Infrastructure and Transportation (MLIT), Japan Fisheries Agency, and Ministry of Environment. The delegation met with their Chinese counterparts.[23] While the consultation has been suspended since Japan's announcement of the purchase of three islands in the Senkakus, the resumption of this talk is one way for Japan and China to begin tension-reduction process. In this context, the agreement between Tokyo and Beijing to resume the bilateral defense talks on establishing the maritime emergency communication mechanism as a risk-reduction measure, if it can produce a concrete action plan, can be helpful.[24] Japan's recent successful conclusion of the fishery agreement with Taiwan is also important in this regard.

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[22] MOFA, "Nichuu Kokko Seijouka 40 shuunen ni saisuru Nicchu "*Senryakuteki Gokei Kanke" no issouno shinka ni muketa Muttsu no initiative (fact sheet)* (Fact Sheet regarding the Six Initiatives toward deepening strategic mutually beneficial relationship at the 40th Anniversary of Japan-China Diplomatic Normalization)" http://www.mofa.go.jp/mofaj/kaidan/s_noda/china_1112/pdfs/jc40_factseet.pdf. Accessed May 31, 2012.

[23] MOFA, "Nicchu Kokyu Jimu Reberu Kaiyo Kyogi Dai-ikkai Kaigou (gaiyou) (Overview: the 1st Japan-China Senior Officials Consultation on Maritime Issues". May 16, 2012. http://www.mofa.go.jp/mofaj/area/china/jc_kk_1205.html. Accessed May 31st, 2012.

[24] "*Nicchu hotline Saikyougi he…enkaku Shoutotsu kaihi de* (Japan-China resuming bilateral talks on establishing a hotline: to prevent clashes in the Senkakus)" *Yomiuri Shinmbun*, April 25, 2013. http://www.yomiuri.co.jp/politics/news/20130424-OYT1T01625.htm?from=ylist Accessed April 25, 2013.

Conclusion: implication for the United States

Today, the situation surrounding the Senkaku Islands issue has been constantly shifting. Until recently, Prime Minister Abe was considered an "adult" in the relationship. By making it clear that Japan would not take measures that might escalate the current tension but indicating that he considers Japan-China relations as one of the most important bilateral relationship for Japan[25], Abe successfully assuaged the concerns that some in Washington had held for Abe and his government taking a policy that is overly aggressive toward China. However, with the visits to the controversial Yasukuni Shrine by Vice Premier and Finance Minister Taro Aso and Minister of State in charge of abduction issue Keiji Furuya and the following statements by Abe himself that can be interpreted as him denying Japan's aggression in Asia in 1930s and 1940s, concerns for the potential negative impact of Abe's nationalistic behavior and his revisionist views on Japan's wartime past on Japan's ability to engage diplomatically with its Asian neighbors are quickly resurfacing in Washington DC.

In fact, the developments that follow Aso and Furuya's Yasukuni visit have a risk of emboldening China. Following their Yasukuni visit, some Asia specialists in Washington DC are calling for the Obama administration to distance itself from the Abe government. If not managed carefully, however, such a US response could be interpreted by China as the United States somehow less committed to its treaty obligation under Article Five of the Mutual Security Treaty to defend Japan and the areas that are under administrative control of Japan.

However, the escalation of Japan-China tension that could aggravate the already tenuous situation around the Senkaku Islands is not in US interest. The United States obviously needs Japan as its most important ally in East Asia, but it also needs China. It needs China not only for economic and trade reasons, but also for the global and regional security issues that Washington finds important for US national security, such as the nuclear programs in North Korea and Iran.

In its attempt to reduce the recent flare-ups over Prime Minister Abe's perception of Japan's wartime past, the United States must privately weigh in on the leadership

[25] Prime Minister of Japan and his Cabinet. "Japan is Back": Policy Speech by Shinzo Abe at the Center for Strategic and International Studies, February 22, 2013. http://www.kantei.go.jp/foreign/96_abe/statement/201302/22speech_e.html Accessed April 20, 2013.

in Tokyo, including Prime Minister Abe and his closest advisors, to not to further provoke China's nationalistic reaction by doing or saying more on the history issue. Washington can also help Tokyo to think through a range of policy options vis-à-vis China on the Senkaku Issues. It may, for instance, also encourage and support JCG efforts to engage not only Chinese Coast Guard but also CMS and FLEC—both of which are now under the State Oceanic Administration—regarding the risk-reduction measures that are comparable to the one that is being discussed between the defense ministries of the two countries. Or, the United States may serve as "an honest broker" and, while remaining neutral on the sovereignty question, provide the opportunity for Japanese and Chinese officials to resume their dialogue by giving it a cover of "trilateral" dialogue. "Pragmatism" and "sense of reason" are critical not only for the United States but also for Japan and China in order not to further destabilize the current situation. Whether the three governments can behave accordingly is, however, quite another matter, and thus requires US close monitoring.

The Senkaku/Diaoyu Island Controversy: A Crisis Postponed

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Reprinted from The Naval War College Review, Spring 2013, Vol. 66 No. 2

On 11 September 2012, the Japanese government signed a contract worth 2.05 billion yen ($26.1 million) with Kunioki Kurihara, a private businessman, to purchase three of the five main islands that constitute the Senkaku/ Diaoyu Island group, an action that effectively nationalized the islands.[1] Ironically, the government purchase was designed to head off more ambitious moves by Tokyo's governor (東京都知事), Shintaro Ishihara, to purchase the islands with cash collected in a national fund-raising campaign. Ishihara, known for his nationalistic views, had told an American audience in April 2012 that the "Senkaku Islets will be purchased by the Tokyo Metropolitan Government . . . [and] we will do whatever it takes to protect our own land."[2] Not surprisingly, the Chinese government viewed Japan's island-purchasing activities, whatever their motivations or sources, as severe provocations that required a firm and immediate response.

In subsequent weeks, anti-Japan protests erupted throughout China, causing a major strain in the two countries' relationship. During one two-week period in September, thousands of Chinese were engaged in marches and demonstrations in over eighty-five cities. Of greatest concern to both the Japanese and Chinese governments during the outburst was violence committed against Japanese persons and property. Japan's Prime Minister, Yoshihiko Noda, told news reporters that the controversy and associated protests were "impacting the safety of our citizens and causing damage to the property of Japanese businesses."[3]

The demonstrations and associated violence also had major economic consequences. Japanese companies operating in China reported significant losses due to the unrest. Japan Airlines and All Nippon Airways, the country's two largest carriers, reported that over fifty-five

[1] Masami Ito, "2 Billion Deal Nationalizes the Senkakus," *Japan Times*, 12 September 2012, www.japantimes.co.jp/.

[2] Shintaro Ishihara, "The U.S.-Japan Alliance and the Debate over Japan's Role in Asia" (address to the Heritage Foundation, Washington, D.C., 16 April 2012), available at www .heritage.org/.

[3] Louise Watt, "China Aims at Japan's Economy in Island Protests," Associated Press, 16 September 2012, LexisNexis Academic.

thousand seat reservations had been canceled during the three months through November.[4] Similarly, Japanese automobile manufacturers saw their sales in China plummet by roughly 40 percent.[5] By early October 2012 the economic impact of the protests had become so widespread that the chief of the International Monetary Fund, Christine Lagarde, was warning that they had the potential to negatively influence the global economy. She described China and Japan as "key economic drivers" that needed to be "fully engaged," in light of the precarious state of the international economy.[6]

The 2012 crisis came just two years after a similar one that flared up following the collision of a Chinese fishing boat with two Japan coast guard vessels. In that episode, relations between the two countries hit a new low following Japan's decision to arrest and detain the Chinese boat's captain. When China demanded compensation over the episode and an apology from Japan, Prime Minister Naoto Kan reacted defiantly. "Senkaku is an integral part of Japanese territory," he told reporters. "I have no intention of accepting [the demand] at all."[7] China canceled a number of visits that had been planned by Japanese groups (including a major planned visit by Japanese students to the World Expo, being held in Shanghai that year). Overall, at least twenty cultural, political, or other exchange programs were affected by the dispute.[8] China made its anger known also by banning rare-earth mineral exports to Japan, materials that were key to several Japanese industries (including hybrid-automobile manufacturers), although Chinese leaders later claimed that these measures were taken to "protect the environment."[9]

In fact, the Senkaku/Diaoyu Island issue has been a persistent and caustic irritant in relations between Japan and the People's Republic of China, particularly since the early 1970s, when "administrative rights" over the islands were transferred from the United States to Japan (as part of the larger "reversion" treaty of 1971 for the return of Okinawa and

[4] Agence France-Presse, "JAL to Extend Japan- China Flight Cuts amid Row," 5 October 2012, LexisNexis Academic.

[5] Yuri Kageyama, "Toyota, Honda Sales Plunge in China on Islands Row," Associated Press, 9 October 2012, LexisNexis Academic.

[6] Teddy Ng, "Beijing-Tokyo Row 'Threatens Global Economy,'" *South China Morning Post*, 4 October 2012, p. 6.

[7] "Kan Rejects China's Demand for Apology, Compensation over Skipper," *Japan Economic Newswire*, 26 September 2010.

[8] Kyodo News Service, "At Least 20 Japan- China Exchange Activities Canceled," *BBC Monitoring Asia Pacific-Political*, 24 September 2010.

[9] Joe McDonald, "China Says Rare Earths Not a 'Bargaining Tool,'" *Associated Press Financial Wire*, 28 October 2010.

the Ryukyu Islands). More recently, the islands have been assuming greater significance as Japan and the People's Republic of China undergo a gradual yet inexorable power shift, in which China's political and military ascendancy is juxtaposed with Japan's relative and protracted economic and demographic decline.

Moreover, the islands' geographic location in the East China Sea, which is increasingly a contested space between Tokyo and Beijing, places the controversy in a larger and more dangerous strategic context. Added to this is the role of the United States, the third major actor in an increasingly complex geopolitical puzzle. Washington's standing as the defender of Japan's administrative rights over the islands-notwithstanding U.S. declarations of neutrality on the question of sovereignty-places the dispute at the heart of Sino-American competition, which in turn has been exacerbated by recent military strengthening, rebalancing, and posturing on both sides. Overall, a confluence of economic, military, and geopolitical factors suggests that the Senkaku/Diaoyu issue will increasingly define and shape the geopolitical environment in East Asia-to include the possibility of major-power war-for the foreseeable future.

Post-World War II and the Senkaku/Diaoyu Islands

The Senkaku/Diaoyu Islands comprise approximately eight small islets, with a total land area of approximately seven square kilometers, located approximately 170 kilometers from both Taiwan and Japan's Ishigaki Island in the East China Sea. Although administered by Japan, the Senkakus/Diaoyus are at the center of a sovereignty dispute involving Japan, China, and Taiwan, with all three claimants relying on an array of historical and legal arguments to bolster and legitimize their respective positions.[10] In 1895 Japan annexed the islands, having determined ten years earlier that they were terra nullius ("empty land," belonging to no person or state).[11] Japan now asserts that its annexation of the islands was not opposed by the Chinese government (then controlled by the Qing dynasty), while China argues that Japan's annexation was invalid given that the islands were already Chinese sovereign territory and thus could not be "discovered" or annexed.[12]

[10] For a good overview of some of the various claimants' legal and historical arguments (and evidence), see June Teufel Dreyer, "Sino- Japanese Territorial and Maritime Disputes," in *Beijing's Power and China's Borders: Twenty Neighbors in Asia*, ed. Bruce A. Elleman, Stephen Kotkin, and Clive Schofield (Armonk, N.Y.: M. E. Sharpe, 2012), pp. 81-95.

[11] M. Taylor Fravel, "Explaining Stability in the Senkaku (Diaoyu) Islands Dispute," in *Getting the Triangle Straight: Managing China-Japan-US Relations*, ed. Gerald Curtis, Ryosei Kokubun, and Wang Jisi (Tokyo: Japan Center for International Exchange, 2010), p. 146.

[12] Zhongqi Pan, "Sino-Japanese Dispute over the Diaoyu/Senkaku Islands: The Pending Controversy from the Chinese Perspective," *Journal of Chinese Political Science* 12, no. 1 (2007), p. 77.

After World War II, the United States assumed administrative responsibilities in the Senkaku/Diaoyu Islands as part of its larger governing responsibilities over the Ryukyu Island chain. On 8 September 1951 the United States, Japan, and other countries signed the Treaty of Peace with Japan (San Francisco Peace Treaty), of which the third article made the United States the "sole administering authority" over the Nansei Shoto south of twenty-nine degrees north latitude, which included the Ryukyu and Daito Islands. Under article 3 the United States was granted "the right to exercise all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of these islands, including their territorial waters."[13]

As the United States administered the Ryukyu Islands (including the Senkakus/ Diaoyus), it was careful to characterize its control and governance as temporary in nature; Japan was granted "residual sovereignty" over the Ryukyu Islands, including Okinawa. A State Department memorandum on the Ryukyus produced in 1965 characterized the arrangement as follows: "We recognize that Japan maintains residual sovereignty over the [Ryukyu] islands, and have agreed to return them to full Japanese control as soon as Free World security interests permit."[14] The "residual sovereignty" formula was affirmed on several occasions, such as in June 1957, during a meeting between President Dwight Eisenhower and Prime Minister Nobusuke Kishi, and later in June 1961, during a meeting between President John F. Kennedy and Prime Minister Hayato Ikeda. Indeed, Kennedy, as part of an executive order regarding administration of the islands, declared the Ryukyus "to be a part of the Japanese homeland."[15]

The policy rationale for residual sovereignty rested on at least three major considerations. First, the United States sought to cultivate Japan as a key Cold War ally in the Asia-Pacific, particularly as Japan's southern islands were viewed as part of an essential "U.S. defense perimeter" containing "important defense points."[16] A White House memorandum in 1967 paraphrased a statement of Secretary of State Dean Rusk to the effect that "it was in our

[13] "Treaty of Peace with Japan," signed in San Francisco, 8 September 1951, art. 3, available at www.taiwandocuments.org/.

[14] U.S. State Dept., background paper regarding the U.S.-Japanese treaty concerning the Ryukyu Islands, drafted on 7 January 1965 in preparation for Prime Minister Eisaku Sato's 11-14 January U.S. visit, Gale Declassified Documents Reference System, Farmington Hills, Mich. [hereafter Gale].

[15] U.S. Senate, testimony of Secretary of State William P. Rogers, hearing on the Okinawa Reversion Treaty before the Foreign Relations Committee (27-29 October 1971), Testimony No. 1, 2-S381-1, 27 October 1971.

[16] Jean-Marc F. Blanchard, "The U.S. Role in the Sino-Japanese Dispute over the Diaoyu (Senkaku) Islands, 1945-1971," *China Quarterly*, no. 161 (March 2000), p. 106.

vital interest to keep Japan a willing partner in the free world and to get [it] to carry the larger share of the common load."[17]

Second, the residual-sovereignty formula-particularly the underlying assumption that it was a precursor to ultimate reversion-offered the Japanese government an incentive to allow the United States maximum flexibility regarding the use of American bases on Okinawa. A 1966 State Department memorandum noted, "While our legal rights in the Ryukyus are clear, effective use of our bases would be impossible without Japanese and Ryukyuan cooperation."[18] For American defense planners during the Cold War, Okinawa and its "extensive and highly developed complex of military bases" were critical to U.S. efforts to provide security to Japan and all other allies in the Pacific.[19]

Third, residual sovereignty was in part meant to assuage anti-American sentiment in both Okinawa and mainland Japan during a period (especially the 1960s) of rising self-confidence and nationalism. A State Department study observed that as public demands for a more assertive Japanese foreign policy grew, "continued U.S. occupation of Japanese territory and unilateral control of 900,000 Japanese nationals [could] only be seen by the Japanese people as incongruous and demeaning."[20]

The Senkaku/Diaoyu Islands, as a component of the Ryukyu Island group, were included in this Japanese residual-sovereignty formula, particularly as there was little or no indication that, prior to the late 1960s, the United States sought to disaggregate the Senkaku/Diaoyu Islands and their legal status from that of the overall Ryukyu group. In fact, a U.S. military "islands monolith" policy ensured that the Senkakus had the same status as that of all the other Ryukyu Islands.[21] In other words, as one scholar has explained, "the prefer-

[17] National Security Council [hereafter NSC] meeting of 30 August 1967 regarding reversion to Japan of the Ryukyus, Bonins, and other western Pacific islands, White House, 31 August 1967, Gale.

[18] U.S. State Dept., "U.S. Policy on the Ryukyu Islands Detailed," 1 June 1966, Gale.

[19] L t. Gen. James B. Lampert, High Commissioner of the Ryukyu Islands, remarks before the Foreign Relations Committee, Okinawa Reversion Treaty, Testimony No. 2, 72-S381- 1, p. 50.

[20] U.S. State Dept., "U.S. Policy on the Ryukyu Islands Detailed."

[21] Blanchard, "U.S. Role in the Sino-Japanese Dispute over the Diaoyu (Senkaku) Islands," p. 121.

ences of the U.S. military, then, resulted in the linkage of the Diaoyu [Senkaku] Islands with the Ryukyu Islands and prevented their disassociation from the Ryukyus."[22]

Further evidence of this policy can be found in a 1965 telegram sent by the U.S. embassy in Tokyo to State Department headquarters in Washington, D.C. The telegram relayed Japanese government requests that the United States increase patrols around the Senkakus to prevent "uncontested squatting by Taiwanese" that could lead the Taiwanese (Republic of China) government to argue that "some sort of prescriptive rights [had] been acquired."[23] The telegram's drafters further argued that Washington should not conceal from Taipei Japan's interest in "preserving from adverse claims" territory (implying the Senkaku Islands) over which the United States recognized Japan's residual sovereignty.[24] Thus, prevailing evidence suggests that, until about three years prior to Okinawa's reversion in 1972, the U.S. government's recognition of Japan's residual sovereignty applied to every component of the Ryukyu Islands, including the Senkaku/Diaoyu Islands.

Okinawa Reversion and Rising Chinese Interest

Two major developments in the late 1960s stimulated interest in the Senkaku/ Diaoyu Island issue on the part of both the Republic of China (ROC) and the People's Republic of China (PRC). The first was a 1968 energy survey of the East China Sea conducted by the Committee for the Coordination of Joint Prospecting for Mineral Resources in Asian Offshore Areas, under the authority of the United Nations Economic Commission for Asia and the Far East. The committee reported that the East China Sea might contain "substantial energy deposits," a finding that subsequently invigorated latent ROC and PRC claims to the Senkaku/Diaoyu Islands.[25]

The second development was the negotiation under way between the United States and Japan over the formal reversion of the Ryukyu Islands, including Okinawa. In the middle

[22] Ibid. To bolster his assertion, Blanchard cites Michael Schaller's analysis of the U.S. Navy's reluctance to give up control of the Bonin Islands. See Michael Schaller, *Altered States: The United States and Japan since the Occupation* (New York: Oxford Univ. Press, 1997), p. 204. Kimie Hara makes a similar point regarding how the United States treated the Senkakus/Diaoyus equally with the other Ryukyu Islands, at least until the Nixon administration. See Kimie Hara, "50 Years from San Francisco: Re-examining the Peace Treaty and Japan's Territorial Problems," *Pacific Affairs* 74, no. 3 (Autumn 2001), p. 377.

[23] U.S. Embassy, Tokyo, to Secretary of State Dean Rusk, cable, 8 August 1965, Gale.

[24] Ibid.

[25] Blanchard, "U.S. Role in the Sino-Japanese Dispute over the Diaoyu (Senkaku) Islands," p. 98.

and late 1960s a growing sense of urgency pervaded the U.S.-Japan relationship; officials from both countries were convinced that the return of the Ryukyu Islands to Japan should be completed as soon as feasible. One U.S. State Department official in late 1968 characterized the momentum for Okinawa's reversion as having "reached the point of no return."[26] Moreover, President Richard Nixon viewed reversion as critical to maintenance of the U.S.-Japan security alliance, which he considered the "linchpin for peace in the Pacific."[27]

In November 1969, Nixon and Prime Minister Eisaku Sato met in Washington, D.C., to establish the terms of reversion. On 21 November 1969 the two issued a joint statement reporting that they had "agreed that the two governments [U.S. and Japanese] would immediately enter into consultations regarding specific arrangements for accomplishing the early reversion of Okinawa without detriment to the security of the Far East including Japan."[28] The two sides declared that reversion would occur in 1972.

However, the announcement of Okinawa's imminent reversion had a collateral effect of stimulating Chinese and, particularly, Taiwanese interest in the Senkaku/ Diaoyu Islands. On 16 September 1970 the ROC ambassador to the United States, Chow Shu-kai, presented a four-page aide-mémoire to his American counterpart outlining his government's objections to Japanese sovereignty over the Senkakus. Three months later the PRC, in a statement from the Xinhua news agency, made a similar claim, asserting that the islands belonged to Taiwan-which, in turn, naturally belonged to the People's Republic of China.[29]

In 1971 the Taiwan government faced significant pressure from Chinese communities overseas, particularly in the United States, whose support Taipei counted on in its cultivation and maintenance of relations with Washington. In January 1971, over a thousand Chinese students from several American East Coast cities staged a protest in front of the United Nations building, as well as the Japanese consulate general. In March more than five hundred Chinese scholars and scientists living in the United States sent a telegram to President Chiang Kai-shek in Taipei, urging him to take a firm position against "new Japanese aggression."[30]

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[26] Richard L. Sneider to Mr. Bundy and Ambassador Brown, memorandum [on Okinawan reversion and the status of the U.S. bases], 24 December 1968, Gale.

[27] Testimony of Secretary of State William P. Rogers, 27 October 1971, p. 7.

[28] President Richard Nixon and Prime Minister Eisaku Sato, joint statement, Washington, D.C., 21 November 1969, available at www.niraikanai.wwma.net/.

[29] Tillman Durdin, "Peking Claims Disputed Oil-Rich Isles," *New York Times*, 6 December 1970, p. 32.

[30] Frank Ching, "US Chinese Ask Backing on Isles," *New York Times*, 12 April 1971, p. 9.

On 10 April another wave of Chinese and Chinese American protests was launched in major American cities, including Washington, San Francisco, Los Angeles, Chicago, and Houston. The New York Times described the protests, partly comprising scholars and scientists, as "by far the largest ever staged by the Chinese community in this country."[31] The protests were directed not only at Japan but also at the United States and the ROC government. One protest organizer was quoted as saying, "It's [i.e., Taipei is] the only government that can do something. Peking [i.e., Beijing] is not in a position to do anything."[32]

That Taiwan was sensitive to this pressure is revealed in the summary of a meeting held on 12 April 1971 between Chow Shu-kai and Henry Kissinger (then Nixon's national security adviser) in which the protests were directly addressed. Ambassador Chow reportedly cited them as evidence of the "strong sentiments which various Chinese groups had with regard to a number of issues, particularly the question of the status of [the] Senkaku Islets."[33] He urged that the final disposition of the Senkaku/Diaoyu Islands in connection with the reversion of the Ryukyus be kept open, as "this issue was a measure of the ROC's ability to protect itself."[34] Chow's pleadings had at least one important effect-they prompted Kissinger to order an assistant on the National Security Staff, John H. Holdridge, to draft a memorandum outlining and summarizing Taiwan's main arguments as to why the Senkaku/Diaoyu Islands belonged to the Republic of China and should not be returned to Japan.

On 13 April Holdridge presented his draft to Kissinger. It summarized the key points of the note verbale that had been sent to the U.S. government via the Taiwan embassy in Washington a month earlier. The memorandum described the various historical and geographical arguments supporting the ROC's claim to the Senkaku/Diaoyu Islands. Moreover, it explained why the ROC had never raised objections about American administrative control over the islands: "For regional security considerations the GRC [government of the Republic of China] has hitherto not challenged the U.S. military occupation of the Senkakus under Article 3 of the San Francisco Peace Treaty."[35] Holdridge's draft acknowledged that

[31] Ibid.

[32] Ibid.

[33] Memorandum of Conversation, Washington, D.C., 12 April 1971, 3:31-3:47 pm, participants Dr. Henry A. Kissinger, Chou Shu-kai, John Holdridge, subject "U.S. Relations with the People's Republic of China," in U.S. State Dept., *Foreign Relations of the United States, 1969-1976*, vol. 17, *China, 1969-1972* (Washington, D.C.: Office of the Historian, n.d.) [hereafter FRUS], doc. 114.

[34] Memorandum of Conversation, meeting between the president, Ambassador Chow, and Henry A. Kissinger, Washington, D.C., 12 April 1971, 11:31 am-12:05 pm, *FRUS*, doc. 113, note 6.

[35] John H. Holdridge to the President's Assistant for National Security Affairs [Kissinger], memorandum, *FRUS*, doc. 115.

"the Japanese Government has a comparable list of apparently offsetting arguments and maintains simply that the Senkakus remain Japanese."[36] It also described the official position of the State Department, which had by this time crafted its neutrality doctrine: "State's position is that in occupying the Ryukyus and the Senkakus in 1945, and in proposing to return them to Japan in 1972, the U.S. passes no judgment as to conflicting claims over any portion of them, which should be settled directly by the parties concerned."[37]

June 1971 was to be decisive for U.S. policy vis-à-vis the Senkakus/Diaoyus and their post-reversion status. That month Ambassador at Large David Kennedy played a major role in trying to solve a textile dispute that had arisen between Taiwan and the United States.[38] In early 1971 the two sides had reached an impasse. Kennedy believed that one way to forge an agreement that would satisfy both Taiwan and American manufacturers, who were concerned about rising textile imports, would be to offer Taiwan a concession on the Senkaku/Diaoyu Islands by having them remain under U.S. administrative control. "This is a major issue in Taiwan with both domestic and international implications," Kennedy wrote. "If the U.S. were to maintain administrative control [over the Senkaku/Diaoyu Islands], it would give the GRC a tremendous public boost since they have expressed themselves so forcefully on the issues."[39] Kennedy further argued that it would signal American "interest in and support for the GRC."[40]

Ambassador Kennedy insisted that he was not advocating the handover of the Senkaku/Diaoyu Islands to Taiwan instead of Japan; he was only proposing that the United States maintain its administrative rights over the islands until the dispute was finally resolved: "Since possession of the Islands is still in dispute, there is every reason for the United States to maintain administrative control until such time as the dispute is settled."[41] Moreover, he reported, Taiwan's leaders believed that "once Japan had administrative control there is absolutely no possibility of their ever relinquishing that control."[42] In general, Kennedy made the case that since Taiwan had "taken a heavy beating from the U.S. in recent months"

[36] Ibid.

[37] Ibid.

[38] President Richard Nixon appointed Ambassador David Kennedy as Ambassador at Large for Foreign Economic Policy Development in February 1971.

[39] Relayed in President's Assistant for International Economic Affairs [Peterson] to President Nixon, memorandum, subject "Textile Negotiations in Taiwan," 7 June 1971, *FRUS*, doc. 133.

[40] Ibid.

[41] Ibid.

[42] Ibid.

(an oil moratorium, two-China developments in the United Nations, and other matters of diplomacy), the United States could achieve a breakthrough on the textile dispute by "preserving the status quo" vis-à-vis the Senkaku/Diaoyu Islands.[43]

The Pressure Grows: Nixon and the U.S. Neutrality Doctrine

Not only did Nixon administration officials face extraordinary lobbying from Taiwan over the disposition of the Senkaku/Diaoyu Islands, but they also had to take into account how the reversion of the islands to Japan might affect a nascent warming of relations with the People's Republic of China. The early 1970s was a decade of growing rapprochement between the United States and the PRC.

For Nixon, developing a "more normal relationship" with that nation had become necessary, because "the world situation [had] so drastically changed."[44] The U.S. opening toward Beijing was motivated "not because we love them," he explained to Walter P. McConaughy, the ambassador to Taiwan, "but because they're there."[45] Nixon foresaw that on a broad range of geopolitical issues- including Vietnam, India, competition with the Soviet Union, and so on-the United States would need Beijing's cooperation. In other words, notwithstanding the close and formal American relationship with Taiwan, failure to open a relationship with the People's Republic of China "would prejudice our interests in other areas that are overwhelming."[46]

In July 1971 Henry Kissinger secretly traveled to China and engaged in a dialogue with Premier Chou En-lai (Zhou Enlai) on a number of issues, including details regarding President Nixon's visit planned for the following year. One of the more substantive issues that Kissinger raised with Chou was the desire to gain China's assistance in creating the conditions that would allow the United States to end the war in Vietnam: "We want a settlement [to end the war in Vietnam] that is consistent with our honor and our self-respect," Kissinger told Chou. "And if we cannot get this," Kissinger added, "then the war will

[43] Ibid.

[44] President Nixon, conversation with the ambassador to the Republic of China (McConaughy), 30 June 1971, *FRUS*, doc. 136, p. 348.

[45] Ibid. McConaughy served as U.S. ambassador to the Republic of China (Taiwan) during this period.

[46] Ibid.

continue."[47] Interestingly, the Senkaku/Diaoyu issue was not addressed in this dialogue, but on previous occasions China had made it known that its position was largely consistent with that of Taiwan.

Finally, as if the diplomatic minefield was not already complex enough, Nixon administration officials had to consider the impact on U.S.-Japan relations of any change of American policy toward the islands. In 1969, as noted earlier, Nixon and Sato had reached an understanding on the islands. Nixon would later reply to Ambassador Kennedy-who had articulated Taiwan's requests for nonreversion of the islands to Japan-that he could not accede, because "the deal [had] gone too far and too many commitments [had been] made to back offnow."[48] Furthermore, Nixon officials argued that World War II-era maps clearly depicted the Senkakus as being administered by Japan and that accordingly the islands had to be returned along with the other Ryukyus.[49]

In light of these factors, and despite intense pressure from Taiwan, President Nixon decided on 7 June 1971 that the United States would not change its position on the Senkakus.[50] However, the reversion to Japan would be handled in such a way as not to commit the United States irrevocably on the sovereignty question. American officials planned to announce that the return of "administrative rights" to Japan would "in no way prejudice the underlying claims of the Republic of China."[51] On 17 June 1971 the United States and Japan signed the agreement returning the Ryukyu Islands to Japan; the agreement was subsequently submitted to the Senate for its advice and consent to ratification. A policy of declaring neutrality with respect to the sovereignty question while transferring administrative rights to Japan seemed to offer the United States a "middle way" that would preserve its interests and relations with all three parties-Taiwan, Japan, and the People's Republic of China.

[47] Memorandum of Conversation, Beijing, 9 July 1971, Nixon Presidential Materials, NSC files, box 1032, National Archives, Washington, D.C.; also *FRUS*, doc. 139.

[48] President's Assistant for International Economic Affairs (Peterson) to Ambassador Kennedy in Taipei, back-channel message, Washington, D.C., 8 June 1971, *FRUS*, doc. 134, pp. 343-44.

[49] U.S. State Dept., "Senkakus," briefing paper, August 1972, Japan and the U.S., 1960-1976, item JU01589, Digital National Security Archive.

[50] One American official described this pressure as "the heat that GRC [government of the Republic of China] is bringing to bear on us[,]" which "in turn in some degree probably reflects the heat that GRC is feeling on a subject which it neglected for so long." Peterson, back-channel message, note 2.

[51] Ibid., note 6.

On 20 October 1971, State Department staff attorney Robert I. Starr wrote a letter to the attorney for a U.S.-based Chinese American claimant in which he articulated the legal foundation of this neutrality doctrine.[52] "The Governments of the Republic of China and Japan are in disagreement as to sovereignty over the Senkaku Islands," he wrote, and the People's Republic of China was a third claimant. Given these conflicting claims, "the United States believes that a return of administrative rights over those islands to Japan, from which the rights were received, can in no way prejudice any underlying claims."[53] More important was Starr's characterization of the legal force of the former U.S. administrative control over the Senkakus as effectively nugatory: "The United States cannot add to the legal rights Japan possessed before it transferred administration of the islands to us, nor can the United States, by giving back what it received, diminish the rights of other claimants."[54]

This reasoning would underpin American policy statements regarding the islands in 1971. For example, during the Okinawa Reversion Treaty hearing on 27 October 1971, Senator (and Chairman) J. W. Fulbright asked Secretary of State William Rogers whether Okinawa's reversion would settle the question of who had sovereignty over the Senkaku Islands. Rogers replied, "We have made it clear that this treaty does not affect the legal status of those islands at all. Whatever the legal situation was prior to the treaty is going to be the legal situation after the treaty comes into effect."[55] Thus, the neutrality doctrine was established and would shape U.S. diplomacy over the matter for the next forty years. Subsequent administrations-both Democratic and Republican-would refer to and rely on its legal analysis to justify nominal disinterest and neutrality regarding the ongoing territorial controversy.

The Neutrality Doctrine and Its Discontents

While the U.S. neutrality doctrine and its underlying legal reasoning appeared to represent a diplomatic breakthrough, it did not ultimately solve the controversy or placate the claimants. Japan, for its part, was quite unhappy with the American neutrality posture. In 1972, Japan's foreign minister, Takeo Fukuda, expressed strong dissatisfaction with what

[52] Starr's official title was "Acting Assistant Legal Adviser for East Asian and Pacific Affairs."

[53] Robert I. Starr, Acting Assistant Legal Adviser for East Asian and Pacific Affairs, U.S. Department of State, to Robert Morris, Esq., Rice and Rice, Mercantile Dallas Building, Dallas, Texas, 20 October 1971, transcript of U.S. Senate, Committee on Foreign Relations, Okinawa Reversion Treaty (72-S381-1, Testimony No. 6), 29 October 1971, p. 91.

[54] Ibid.

[55] Testimony of Secretary of State William P. Rogers, 27 October 1971, p. 9.

he described as the "uncertain attitude taken by the U.S. Government toward the question of ownership of the disputed Senkaku Island group."[56] Ambassador Nobuhiko Ushiba approached the State Department on two occasions in March 1972 relaying Tokyo's "unhappiness with the public position of neutrality being taken by the U.S. Government."[57] Ushiba pointed out that the retention of gunnery ranges by the United States in the Senkaku/Diaoyu Islands was inconsistent with such a policy.

In addition, Japan specifically requested the United States not to call attention to any controversy during encounters with the news media: "The GOJ [government of Japan] requested, and we [the U.S. government] agreed, that in responding to press queries on this subject we would not refer to the existence of conflicting 'claims' to 'sovereignty' over the islands, since the official GOJ position is that there are no 'claims' to these islands other than the Japanese claim."[58] The American side responded by "revising somewhat" its press guidance, although it insisted to Tokyo that such actions did not imply any change in policy. Similarly, in April 1972, the State Department advised Henry Kissinger to avoid the "volatile nationalistic" Senkaku/Diaoyu issue, by focusing "as little public attention on it as possible."[59]

A second problem with the neutrality doctrine was its putative assumption that the parties would be able to resolve their differences on their own. In his October 1971 letter, Robert Starr stated (directly below the neutrality doctrine analysis mentioned above) that "the United States has made no claim to the Senkaku Islands and considers that any conflicting claims to the islands are a matter for resolution by the parties concerned."[60] To date, no such resolution has occurred. Moreover, since the early 1970s, when the PRC began to gain international stature (most significantly, by gaining the China seat in the United Nations in October 1971), it began gradually to assume the dominant role as advocate for the Chinese side. There have been two significant occasions in the diplomatic relationship between the PRC and Japan where resolution of the dispute could have theoretically occurred but did not.

[56] "The Senkaku Islands," *Washington Post-Times Herald*, 23 March 1972, p. A22.

[57] U.S. State Dept., "Senkakus," in *Issues and Talking Points: Bilateral Issues*, briefing paper, August 1972, Japan and the U.S., 1960-1976, item JU01582, Digital National Security Archive.

[58] Ibid.

[59] U.S. State Dept., memorandum for NSC Secretariat, "Briefing Papers for Mr. Kissinger's Trip to Japan," Washington, D.C., 6 April 1972, item JU01523, Digital National Security Archive.

[60] Starr to Morris, 20 October 1971.

First, in 1972, Beijing and Tokyo entered into the negotiations that would eventually lead to the opening of official diplomatic relations. The year had begun with China reasserting its claim over the Senkaku/Diaoyu Islands. Beijing argued that the islands were Chinese territory during the Ming dynasty and had been included with Taiwan when the latter was ceded to Japan in 1895. As negotiations between the two countries proceeded, both sides realized they could not reach a mutually agreeable settlement. Premier Chou En-lai reportedly downplayed the issue by stating that the islands were difficult to find on a map given their small size.[61] Eventually the Chinese government agreed to set the dispute aside so that it could be addressed at a later date.

In 1978, the Senkaku/Diaoyu Island controversy emerged a second time in the context of negotiations over a peace treaty between Japan and the People's Republic of China. In April of that year Japan was surprised by the sudden arrival of an armada of Chinese ships and smaller vessels. According to an American account, "upwards of 140 PRC fishing vessels (some armed) entered the 12-mile territorial waters claimed by the Japanese around the islands and displayed signs asserting the PRC claim."[62] Japan demanded an explanation from the Chinese side, which described the affair as an "accident."[63] Four days later, most of the ships and vessels had withdrawn, although the effects of the incident (a delay in peace treaty negotiations and a new chill in Sino-Japan relations) would last for months.[64]

In July 1978, Japan and China were able to put the Senkaku/Diaoyu issue aside and proceed with round two of negotiations.[65] As in 1972, China demonstrated that, while the island controversy was important, it was subsidiary to Beijing's larger political goals vis-à-vis Japan.[66] In October 1978, two months following the signing of the Treaty of Peace and

[61] Elizabeth Pond, "How Tokyo Came Out with Peking," *Christian Science Monitor*, 4 October 1972, p. 7.

[62] Cyrus Vance [Secretary of State] to the president [Jimmy Carter], memorandum, "Your Meeting with Takeo Fukuda, Prime Minister of Japan," 3 May 1978, 10:30 am, p. 1, Digital National Security Archive.

[63] Ibid.

[64] Daniel Tretiak, "The Sino-Japanese Treaty of 1978: The Senkaku Incident Prelude," *Asian Survey* 18, no. 12 (December 1978), p. 1243.

[65] Ibid.

[66] In both 1972 and 1978, the Senkaku/Diaoyu issue appears to have emerged, formally or informally, as a collateral matter in connection with the larger negotiations (i.e., diplomatic recognition and the peace treaty); Japan and China have never held formal talks specifically to address the status of the Senkaku/Diaoyu Islands. See Fravel, "Explaining Stability in the Senkaku (Diaoyu) Islands Dispute," p. 157.

Friendship between China and Japan, Deng Xiaoping reportedly declared that it would not matter "if this question [regarding sovereignty of the Senkaku/Diaoyu Islands] is shelved for some time, say, ten years…Our generation is not wise enough to find common language on this question. Our next generation will certainly be wiser."[67] However, Japan has recently claimed that there was no formal agreement to "shelve" or put the issue aside in 1978 and that in fact no controversy exists.[68]

Forty Years Later: Persistent Controversy and Transformed Geopolitics

Despite the passage of forty years since the Ryukyu Islands were returned to Japan, there are few indications that the Senkaku/Diaoyu controversy is any closer to resolution. In fact, the issue has remained a persistent irritant in the political relationship between Japan and the People's Republic of China, notwithstanding the fact that the two countries enjoy a parallel economic relationship that features extensive and growing interdependence and cross-investment. Taiwan also continues to play a role in the dispute, although Taipei's significance in the controversy is much diminished compared to forty years earlier.

Moreover, a heightening of sensitivities over the dispute-propelled by nationalism on both sides-means that the chances for unintentional conflict, perhaps ignited by tactical miscalculation or an accident involving patrol ships or surveillance aircraft, continue to grow. In general, because of changes in the geopolitical environment, including the relative power position of Japan vis-à-vis China, opportunities for peaceful resolution seem to be rapidly fading. The implications for the future of peace and stability in East Asia are potentially grave, particularly in light of three overarching factors.

First, the power relationship between Japan and the People's Republic of China, which drives the dynamics of this dispute, is shifting. In the 1970s and, especially, the 1980s Japan's economic power was unrivaled in East Asia, while China was comparatively undeveloped and militarily weak. Today the situation has changed; the countries find themselves in an uneasy balance of relative military and economic parity. However, current trends appear to favor China. Japan, while the world's third-largest economy, is undergoing a gradual relative decline-economically, demographically, and ultimately militarily. Thus, underlying the bilateral tension over the Senkakus/Diaoyus is a palpable sense of power transition. In February 2011 Japanese officials acknowledged a widely reported fact that

[67] As quoted in Zhongqi Pan, "Sino-Japanese Dispute over the Diaoyu/Senkaku Islands," p. 74.

[68] Kyodo News Service, "Kissinger Cites Deng Deal," *Japan Times*, 5 October 2012.

China's economy had surpassed Japan's to become the world's second largest. "We are not competing for rankings," stated Japan's economy minister Kaoru Yosano; instead, he argued, "we welcome China's economic advancement as a neighboring country."[69]

If Japanese officials do not worry excessively about China's economic ascendance, the same cannot be said regarding its military activities. "On the military front, China has been modernizing its military forces, backed by the high and constant increase in its defense budget," stated Japan's 2012 defense white paper.[70] A key concern in Tokyo is a perceived lack of transparency: "China has not yet achieved the levels of transparency expected of a responsible major power in the international society."[71] Japanese officials assert that in a number of areas- military procurement, records of key military operations, details regarding the military budget, and so on-China's openness is inadequate.[72] The net effect of this gradual power shift is that China increasingly perceives itself as in a position to demand a change in the rules and of the status quo concerning the Senkaku/Diaoyu Islands. This may explain why China now appears to be increasing the pressure on Japan-to include military posturing-with each episode in which the dispute flares up.[73]

The second factor that negatively influences prospects for peaceful resolution of the controversy is the geographic location of the Senkaku/Diaoyu Islands within the East China Sea. As China's naval power grows, the East China Sea is emerging as a "contested space" between China and Japan. Many American military observers believe that China's military modernization efforts are increasingly oriented toward missions other than Taiwan-for example, defense of territorial claims in the East and South China Seas.[74] In addition to the Senkakus/Diaoyus, China and Japan have other ongoing East China Sea disputes, some related to maritime boundaries and hydrocarbon resources. A 2008 agreement that would have facilitated joint exploration of hydrocarbon resources in the East China Sea was essentially scuttled by the September 2010 dispute centering on the islands.

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[69] Tomoko A. Hosaka, "Japan Confirms China Surpassed Its Economy in 2010," *Associated Press Financial Wire*, 14 February 2011.

[70] Japan Ministry of Defense, *Defense of Japan 2012*, part 1, *Security Environment Surrounding Japan* (Tokyo: [2012]), chap. 1, sec. 3 [hereafter Japanese defense white paper], available at www.mod.go.jp/.

[71] Ibid.

[72] Ibid.

[73] "Chinese Warships Move Away from Senkakus, but Tensions Remain," *Asahi Shimbun*, 17 October 2012, available at ajw.asahi.com/.

[74] Ronald O'Rourke, *China Naval Modernization: Implications for U.S. Navy Capabilities-Background and Issues for Congress* (Washington, D.C.: Congressional Research Service, 23 March 2012), p. 5.

From a military perspective, Japanese defense officials appear to view China's advances into the East China Sea with growing alarm. Japan's 2012 defense white paper argued that China's navy is seeking to protect and consolidate maritime interests in the East China Sea: "It is believed that its naval vessels operated near the drilling facilities of the Kashi oil and gas fields in September 2005, partly because China tried to demonstrate [its] naval capabilities of acquiring, maintaining, and protecting its maritime rights and interests."[75] The same document reported that the Chinese air force has deployed various types of aircraft(including H-6 medium-range bombers and Y-8 early warning aircraft) around the East China Sea close to Japan's airspace.

Chinese naval transits through the East China Sea-particularly those via the Miyako Strait next to the main island of Okinawa-are closely monitored by Japanese military observers, reflecting apparent unease over this growing trend. Japan's 2012 defense white paper described a June 2011 incident in which eleven Chinese naval vessels, including a Jiangkai II-class frigate and Sovremenny-class destroyers, "passed between Okinawa Island and Miyako Island and advanced to the Pacific Ocean."[76] The report cited as well five other instances, dating back to November 2008, in which such transits occurred.

These transits seem not only to represent attempts to break through the "first island chain" (extending from northern Japan southward through the Ryukyu Islands into the South China Sea) to conduct exercises in the Pacific Ocean but also to signal dissatisfaction to Japan. For example, China's decision in early October 2012 to deploy seven warships through the Miyako Strait without alerting the Japanese government (per the terms of an agreement) was viewed by some in Japan as conveying displeasure over the Senkakus/Diaoyus.[77]

Japan's response has been to reemphasize the protection of its southwestern islands. "Japan has 6,800 islands, and territory that stretches over 3,300 kilometers," Japanese defense minister Satoshi Morimoto told a U.S. newspaper in 2012: "It's necessary to have troops at its southwestern end to beef up our warning and surveillance capability."[78] More significantly, heightened concern about the East China Sea and the security of the southwestern islands has stimulated changes in Japan's military doctrine, such as a shift from static to "dynamic

[75] Japanese defense white paper.

[76] Ibid., pp. 81-82.

[77] 日方称中国军舰过宫古海峡未事先通报 [Japan Accuses the Chinese Navy of Failing to Provide Notice Regarding Miyako Strait Passage], www.chinareviewnews.com/.

[78] Yuka Hayashi, "Japan to Boost Defenses in Pacific, Minister Says," *Wall Street Journal*, 26 June 2012, p. A11.

defense."[79] This will require, among other things, significant integration between the Japan Maritime Self-Defense Force and the Japan Air Self-Defense Force "in order to defend its southwest islands."[80]

The third underlying factor is arguably the most important-the U.S. role in the islands controversy. Throughout the 1970s and 1980s the United States signaled to Japan, if in careful or conditional language, the applicability of article 5 of the U.S.-Japan defense treaty in a Senkaku Islands military contingency. A briefing paper prepared for Henry Kissinger in 1972, for example, stated that the Mutual Security Treaty "could be interpreted" to apply to the Senkakus.[81] At various times Japanese officials sought to clarify whether the United States considered the islands within the scope of the alliance. For instance, in a March 1974 meeting between American and Japanese officials, Defense Agency chief Sadanori Yamanaka inquired whether the United States, notwithstanding its "neutral" position, would be willing to defend the islands on behalf of Japan under the security treaty. A U.S. defense official stationed at the embassy in Tokyo responded with his "personal view" that the islands, which were administered by Japan, would indeed fall under the treaty.[82]

More recent American assurances to Japan have been more direct and robust. During an October 2010 news conference at the U.S. embassy in Tokyo, Assistant Secretary Kurt Campbell was asked about the applicability of article 5 to the Senkakus. Campbell emphasized that he and fellow American officials had "stated very clearly about the applicability of Article V in this circumstance," a military contingency involving the Senkaku Islands. He characterized previous U.S. pronouncements as the "strongest statements" on this matter and as indicative of a "very strong and consistent [U.S.] policy."[83] Just a few weeks later, on 27 October, Secretary of State Hillary Rodham Clinton seemed to dispel any strategic ambiguity when she affirmed, "The Senkakus [Diaoyus] fall within the scope of Article 5

[79] Michael A. McDevitt and Catherine K. Lea, *CNA Maritime Asia Project-Workshop Two: Naval Developments in Asia* (Alexandria, Va.: Center for Naval Analyses, August 2012), p. 4.

[80] Ibid.

[81] U.S. State Dept., "Briefing Papers for Mr. Kissinger's Trip to Japan."

[82] [Chargé d'affaires, U.S. Embassy, Tokyo], memorandum of conversation, "Views of the Defence Minister," 9 March 1974, Japan and the U.S., 1977-1992, item JA00081, Digital National Security Archive.

[83] "East Asia and the Pacific: Media Roundtable at the U.S. Embassy in Tokyo," *State Department Documents and Publications*, 6 October 2010, LexisNexis Academic.

of the 1960 U.S.-Japan Treaty of Mutual Cooperation and Security."[84] Thus the Senkaku/Diaoyu controversy can be viewed not merely as a bilateral dispute involving Japan and China but as a focal point of Sino-American competition and potential conflict.

This means that the United States potentially bears substantial risk in the event of a rapid escalation of tensions between Japan and China. In theory, American assurances to Japan help to maintain stability by promoting a balance of power that helps keep the controversy from becoming inflamed. However, U.S. assurances could paradoxically exacerbate tensions, by emboldening Japan to initiate provocative actions designed to consolidate its sovereign claims over the islands.

Further, as both Japan and China build up their law-enforcement (and potentially military) presence over and around the islands-as they have increasingly done over the past few years-the likelihood of accidents or inadvertent clashes will grow. In July 2012 Tokyo and Beijing announced the creation of a hotline to cope with such a scenario. However, it is uncertain whether a hotline could keep a conflict contained, particularly one involving issues so drenched in emotion and nationalism on both sides. If an event did indeed escalate, the United States would come under pressure to come to Japan's defense. Thus, a U.S.-China conflict could ensue, with its own potential for escalation within both conventional and nonconventional realms.

Forty years after the reversion of the Ryukyus to Japan, the controversy over the Senkaku/Diaoyu Islands persists. Careful management and deft diplomacy have merely postponed the dispute, allowing it to fester and emerge as perhaps the region's most volatile flash point. For the United States the dispute presents a dilemma: How can Washington maintain its neutrality over the sovereignty question while at the same time ensuring that relations between Tokyo and Beijing do not become inflamed-as they did in 2012-or worse, lead to war?

It may be that historical circumstances require a more activist approach by all concerned countries, including the United States, to achieve a lasting solution to this vexing controversy. Such a solution might involve simply reinvigorating the status quo ante-the tacit understanding between Beijing and Tokyo that Japan, notwithstanding its administrative rights, would not actively consummate its sovereignty claims by, among other things, building permanent structures on the islands. Alternatively, both countries could strive for a more ambitious grand bargain, one in which the final disposition of the Senkaku/Diaoyu

[84] "Joint Press Availability with Japanese Foreign Minister Seiji Maehara" (Kahala Hotel and Resort, Honolulu, Hawaii, 27 October 2010), available at www.state.gov/.

Island controversy was negotiated within the larger interests of both countries. However, for this option to be viable, a much higher level of trust and goodwill than now exists would need to be established between the two countries. Also, since Japan currently enjoys the advantage of administrative rights over the islands, China would need to offer a package compelling enough to balance Japanese concessions. Such a package might include formal acknowledgment of Japan's other claims in the East China Sea (including those related to boundaries and hydrocarbon resources) and support for a Japanese permanent seat in the United Nations Security Council, among other possibilities.

Regardless of which path is chosen, an informal tacit understanding or a more ambitious grand bargain, each side must remain focused on one key strategic goal-preventing the controversy from escalating, particularly to the level of military conflict. China and Japan, like two partners in an estranged but lucrative marriage, are inextricably tied to one another. As the world's second- and third largest economies, respectively, China and Japan are keys to each other's longterm success and continued prosperity. As one Chinese official recently stated, the China-Japan relationship bears "directly on peace, stability and prosperity of the region and the world as a whole."[85] The Senkaku/Diaoyu controversy, important and emotionally potent as it is, must not obscure or derail this larger strategic reality.

[85] "Remarks by Assistant Foreign Minister Le Yucheng at the Symposium Marking the 40th Anniversary of the Normalization of Relations between China and Japan," *States News Service*, 28 September 2012, LexisNexis Academic.

Workshop Agenda

Japan has territorial disputes with all of its near neighbors. Two in particular have assumed a higher profile in recent months. The nationalization of the Senkaku/Diaoyutai Islands in the East China Sea by Tokyo has turned into a serious crisis, while the dispute over the Dokdo/Takeshima islets between Japan and South Korea has derailed the bi-lateral security progress that Japan and South Korea made in early 2012.

At a time when all of the concerned powers have experienced a leadership transition, there is indeed both opportunity and danger for Japan in its territorial disputes. This workshop will explore the security implications for Japan of its unresolved territorial disputes and the implications for the U.S.-Japan alliance.

Panel 1: Strategic implications of Japan's maritime geography

While it is well known that Japan has ongoing maritime disputes with all other countries in Northeast Asia, what are often less appreciated are Japan's extensive maritime claims in the Pacific Ocean. Similar to Japan's maritime claims closer to the Asian continent, these Pacific claims also rankle China and are met with diplomatic protests. This de facto oceanic frontier that Japan has created for itself has strategic implications not only for Japan and the region, but also for the United States. This panel will explore the geography of Japan's maritime claims and their strategic implications for the region as well as for the U.S.-Japan alliance.

Moderator: **RADM (ret.) Michael McDevitt,** CNA

Panelists:

CAPT (ret.) Mark Rosen, JAGC USN, CNA: the legal basis of Japan's territorial claims

Sheila Smith, Council on Foreign Relations: Implications for the U.S.-Japan alliance

Patrick Cronin, Center for a New American Security: Strategic implications for Japan of its multiple territorial disputes

Panel 2: Japan's ongoing territorial disputes with South Korea and Russia

Japan's ever-contentious territorial disputes with the Republic of Korea (ROK) and Russia have been particularly tumultuous over the previous year. Most dramatically, when former ROK President Lee Myung-Bak visited Dokdo/Takeshima Island, his actions ignited long-simmering nationalist sentiment in Japan over the issue. This territorial dispute has been a hindrance to deeper bilateral relations at a time when Chinese power is increasing in the region. By contrast, with Vladimir Putin's return to the Russian Presidency even the seemingly intractable issue of the Southern Kuriles/Northern Territories may have prospects for a negotiated resolution. This panel will explore how these two long-standing territorial disputes affect Japan's strategic options in the region.

Moderator: **Michael Green,** Center for Strategic and International Studies

Panelists:

Dmitry Gorenburg, CNA: Possibilities for a negotiated settlement of the Northern Territories/Southern Kuriles Dispute with Russia

RADM (ret.) Michael McDevitt, CNA**:** The Dokdo/Takeshima dispute in the context of Japan-ROK bilateral relations

Keynote address

Dr. Mark Manyin, Congressional Research Service

Panel 3: The Senkaku/Diaoyutai Islands dispute: a regional flashpoint

The dispute between Japan and China over the Senkaku/Diaoyutai Islands reached a fever-pitch in the fall when the Central Government elected to purchase three of the islets from their private owner. Regardless of Japan's motives, China views the purchase as not only illegal but also provocative and has responded with increased air and sea incursions around the islands. The new LDP government in Tokyo has staked out a position of non-compromise on territorial issues which suggests that this will a locus of bilateral relations for the foreseeable future. This panel will explore the political-military dimensions of this dispute and the consequent implications for the U.S.-Japan alliance.

Moderator: **Chris Yung,** National Defense University

Panelists:

Alan Romberg, Henry L. Stimson Center: U.S. interests at stake in the Senakau/Diaoyutai Islands dispute

Bonnie Glaser, Center for Strategic and International Studies: China's perspectives and strategy in the Senakau/Diaoyutai Islands dispute

Yuki Tatsumi, Henry L. Stimson Center: Japan's perspective on the Senakau Islands dispute

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