



## China, Japan and the East China Sea Imbrolio

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### ABSTRACT

The East China Sea dispute has become a characteristic feature in the defined “hot economics, cold politics” relations between China and Japan. The maritime sphere has gained precedence in the larger realm of diplomacy, thus making the contested waters a primary hotspot of power politics between the two Asian countries. With the growing tensions, in all likelihood the maritime dispute will be high on the political and security agenda of China and Japan. What makes this worrisome is that the dispute does not just make the bilateral relations unstable but holds significant implications for East Asia’s regional stability. In this regard, given the phenomenon of constant testing of each other’s resolve, the possibility of an all-out confrontation in the East China Sea remains a vital concern. What has further added to the power struggle is the US involvement, thus making the dispute a difficult case to resolve. The crux of the paper lies in understanding the volatility of the East China Sea dispute between China and Japan. In doing so, the paper examines the determinants of the dispute, the actors involved and their responses.

### KEYWORDS

China; Japan; East China Sea;  
United States; Diaoyu/  
Senkaku Islands

## Introduction: The Gulf of East China Sea between China and Japan

The year 2017 marks the 45<sup>th</sup> anniversary of the normalisation of Sino–Japanese diplomatic ties. However, the fragile relations are still far from being normal, mainly due to elevated tensions over territorial disputes in the East China Sea. At the heart of the dispute is the control of five small islets in the East China Sea, called Diaoyu in Chinese and Senkaku in Japanese, and the waters surrounding them. With no signs of real improvement, this tension if not managed will result in unwarranted risks of a confrontation, with significant implications for regional peace and stability.

On April 25, 2017, Japan’s Ministry of Foreign Affairs released its diplomatic “Blue Book” – the annual policy statement based on the evaluation of the international environment. In this, Tokyo expressed concerns over a lack of transparency surrounding China’s spending on defence and its increasingly aggressive maritime posture in the East China Sea.<sup>1</sup> The Chinese Foreign Ministry Spokesperson Geng Shuang responded to this in a press conference on April 26, saying:

*China has indisputable sovereignty over Diaoyu Dao and its affiliated islands and Nansha islands. China’s public service activities in the relevant waters are reasonable and legitimate, and we will continue to resolutely respond to any provocative action towards China’s sovereignty and security.<sup>2</sup>*

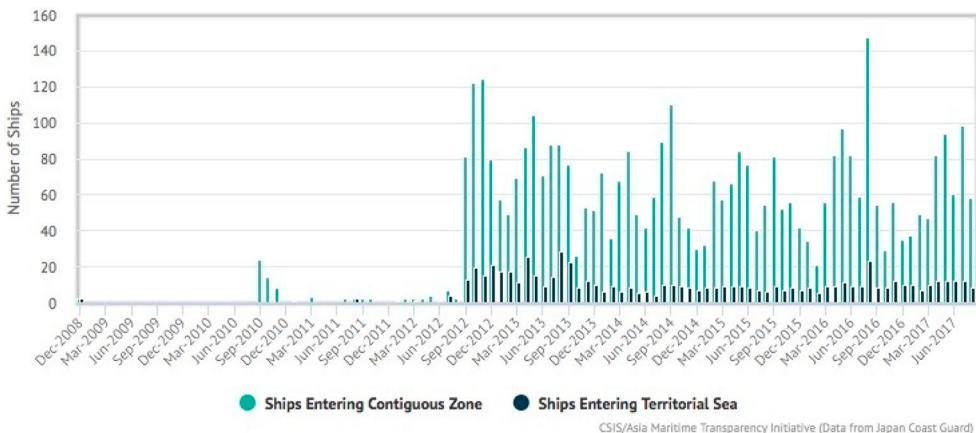
Both China and Japan have adopted an assertive approach in securing their claims. The turning point came with the 2010 fishing boat collision incident when a Chinese fishing boat collided with a Japanese official vessel. The Japanese arrested the fishing boat's captain and intended to put him on trial. This incident sparked tensions as China perceived the captain's arrest as a sign that Japan had changed its policy towards the unwritten mutual understanding on fishing in the Diaoyu/Senkaku area.<sup>3</sup> On the other hand, Japan perceived it as the beginning of China acting more aggressively over the Diaoyu/Senkaku issue and suspected that this aggressive behaviour was part of a long-term plan to change the status quo of the East China Sea. Furthermore, in 2012 Japan's government nationalised the Diaoyu/Senkaku islands, while in 2013 China established an Air Defence Identification Zone (ADIZ) in the disputed sea. In addition, repeated provocations have inflamed the dispute, raising speculations about an armed conflict. Although there has been no exchange of fire, the dispute has significantly de-stabilised the region's peace and security architecture. That is, a new and potentially more destabilising "normal" has set in around the East China Sea between China and Japan.<sup>4</sup>

Given the increasing trends of Chinese and Japanese activities in the East China Sea as suggested in Figures 1 and 2, the Asia Maritime Transparency Initiative (AMTI) called it "an incremental game of Chicken".<sup>5</sup> That is, Beijing puts pressure bit by bit on Japan's administrative control of waters and airspace over the East China Sea, while Tokyo remains determined not to cede that control.<sup>6</sup> Therefore, with escalating risks, an accidental collision can spiral into a crisis.

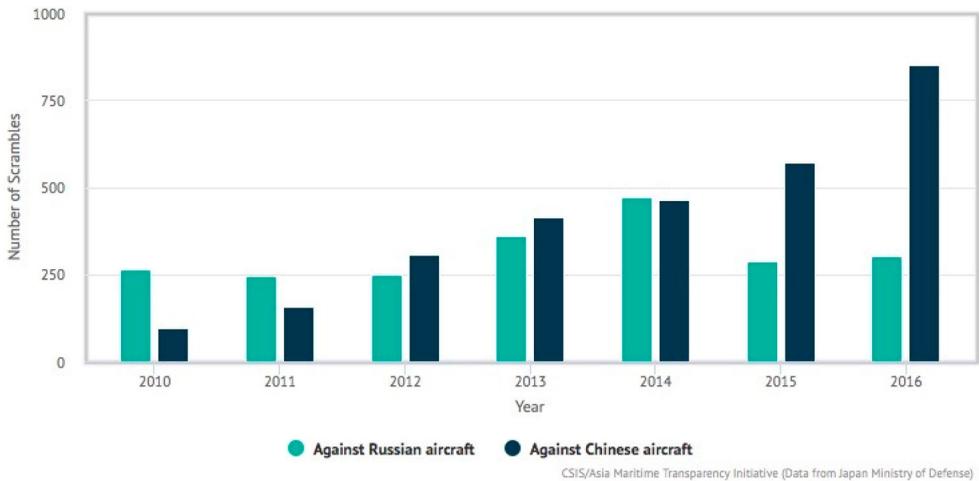
### The Perceptual Gap between China and Japan over the Diaoyu/Senkaku Islands

In January 2017, China's State Council Information Office issued a White Paper titled "China's Policies on Asia-Pacific Security Cooperation", which identified the East China Sea as a "regional hotspot issue". The statement noted:<sup>7</sup>

*Issues concerning the Diaoyu Islands and maritime demarcation in the East China Sea exist between China and Japan. The Diaoyu Islands are an integral part of China's territory. China's sovereignty over the Diaoyu Islands has a sufficient historical and legal basis. [...]*



**Figure 1.** Growing Activities of Chinese Vessels in the Diaoyu/Senkaku Contiguous Zone.<sup>8</sup>



**Figure 2.** Japanese Scrambles by Year and Country.<sup>9</sup>

*China is willing to properly manage the situation and resolve related issues through continued dialogue and consultation.*

To note, China makes its claims based on historical records, arguing that the islands have been Chinese territory as they were “first discovered, named and used by the Chinese as early as the 14<sup>th</sup> century”.<sup>10</sup> Based on this, China negates Japan’s claims based on the principle of “discovery occupation” as the islands were not terra nullius (or land without an owner). This viewpoint is well stated in China’s 2012 White Paper on “Diaoyu Dao”, which strongly claims: “Diaoyu Dao and its affiliated islands are an inseparable part of the Chinese territory. Diaoyu Dao is China’s inherent territory in all historical, geographical and legal terms, and China enjoys indisputable sovereignty over Diaoyu Dao”.<sup>11</sup>

In this context, there is a perceptual gap that exists between China and Japan. In contrast to Beijing, Tokyo’s claims on sovereignty of the islands, as outlined by Japan’s Ministry of Foreign Affairs on March 8, 1972 are three-fold.<sup>12</sup> First, historically the Senkaku Islands have continuously been an integral part of the Nansei Shoto Islands, which are in the territory of Japan.<sup>13</sup> Second, the Senkaku Islands were neither part of Taiwan nor part of the Pescadores Islands, which were ceded to Japan from the Qing Dynasty of China in accordance with the treaty of Shimonoseki.<sup>14</sup> And, lastly, the fact that there was no objection from China to the Islands being under the administration of the United States, under Article III of the San Francisco Peace Treaty, indicates that China did not consider the islands part of Taiwan. The Republic of China (Taiwan) recognised the Treaty in the Sino–Japanese Peace Treaty, which came into effect in August 1952.<sup>15</sup> Based on this three-tier perspective, Japan negates China’s historical and geographical claims over the Diaoyu islands as invalid under the international law.

In contrast to this perspective, China argues that Japan’s claim of sovereignty over Diaoyu Dao is “totally unfounded”.<sup>16</sup> Therefore, Beijing rejects Tokyo’s claims under a three-fold proposition, as the 2012 White Paper argues.<sup>17</sup> First, China claims it is the indisputable owner of Diaoyu Dao as it had exercised valid jurisdiction over the island for several hundred years long before the Japanese people “discovered” it. Japan’s act to include Diaoyu Dao as “terra nullius” into its territory based on the “occupation” principle

is in fact an illegal act of occupying Chinese territory and has no legal effect according to international law.<sup>18</sup>

Second, Diaoyu Dao has always been affiliated to China's Taiwan Island both in geographical terms and in accordance with China's historical jurisdiction practice. Through the unequal Treaty of Shimonoseki, Japan forced the Qing court to cede to it "the island of Taiwan, together with all islands appertaining or belonging to it", including Diaoyu Dao.<sup>19</sup>

Third, Diaoyu Dao was not placed under the trusteeship established by the Treaty of San Francisco, rather the United States arbitrarily expanded the scope of trusteeship to include Diaoyu Dao, which is China's territory, and later "returned" the "power of administration" over Diaoyu Dao to Japan.<sup>20</sup>

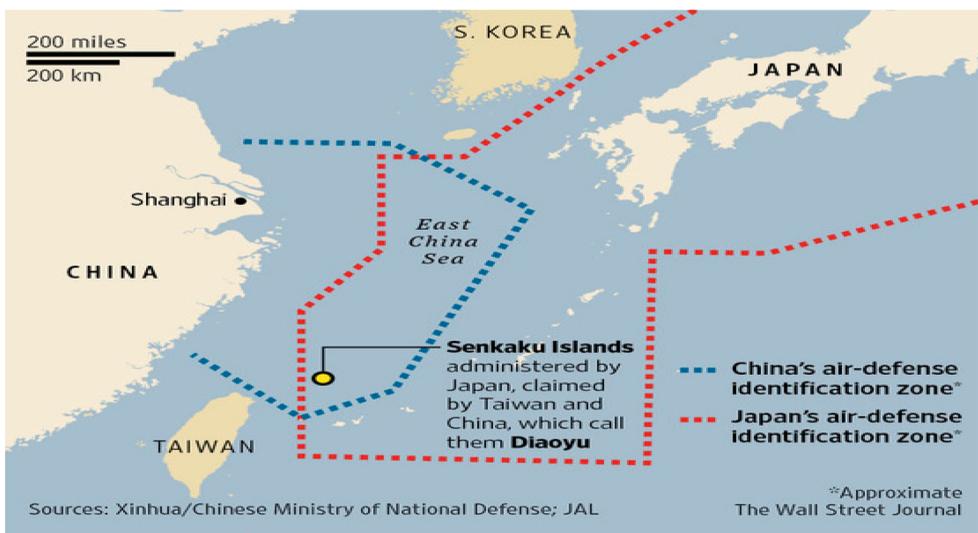
Given this three-tier perspective, Beijing rejects Tokyo's claims as having no legal basis and therefore being totally invalid according to international law. These asymmetries based on historical and geographical assertions act as the starting point to the current dispute. Most importantly, this reflects the perceptual gaps between Beijing and Tokyo on how the Diaoyu/Senkaku islands in the East China Sea have come into dispute.

## Contested Issues between China and Japan: Legal versus Material

In view of the perceptual gaps, what makes the East China Sea a hotspot of tension between China and Japan can be understood from a two-fold perspective. This perspective can be categorised into legal and material issues as explained in Figure 3 and Figure 4, that plague the relations between China and Japan.

### 1. Legal Perspective

On legal grounds the dispute is two-fold, and concerns: (a) the sovereignty over the Diaoyu/Senkaku islands and (b) the way the maritime border between China and Japan in the East China Sea should be drawn.



**Figure 3.** Clash of Sovereignty and Maritime Border.<sup>21</sup>

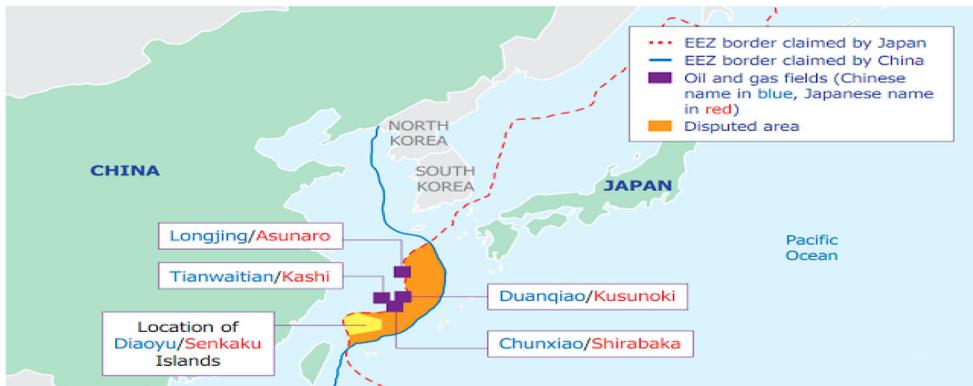
First, it concerns the contested sovereignty over the territoriality of Diaoyu/Senkaku Islands – which comprise five uninhabited islands and three rocks. The islands are currently administered by Japan but claimed by China based on historical records. Here, the clash of interest lies in the competing claims made by China and Japan over the territoriality based on differing international laws. Japan claims that the Diaoyu/Senkaku islands were terra nullius at the time they were formally incorporated into Japanese territory in 1895. Therefore, the fundamental Japanese claim is that the disputed islands were acquired by virtue of “discovery occupation”, one of the established modes of territorial acquisition under international law, whereby valid title over a piece of territory can be acquired through occupation if it was recognised as terra nullius.<sup>22</sup> Hence, for Japan there exists no dispute on the sovereignty of the islands, as they belong to Japan.

China firmly opposes this view of Japan’s sovereignty over the islands, as Beijing argues that Japan’s occupation of the islands as part of the Treaty of Shimonoseki of the First Sino–Japanese War in 1895 is “illegal and invalid”<sup>23</sup>, asserting therefore that the islands should have been returned to China under the Cairo (1943) and Potsdam (1945) Declarations, which stated that Japan must return all territories stolen from China.<sup>24</sup> Unlike Japan, Beijing acknowledges the presence of a sovereignty dispute in the islands and thus wants to establish its own jurisdiction in the East China Sea by challenging Japan’s administrative control over the islands and the surrounding waters.<sup>25</sup>

Secondly, the dispute revolves on the demarcation of the sea boundary and different interpretation by of the United Nations Convention on the Law of the Sea (UNCLOS) in the East China Sea, which comprises the 200-nautical-mile maritime border claim over exclusive economic zones (EEZs). Here the conflict lies in the overlapping of the EEZs between China and Japan. China, in using the UNCLOS principle of the natural extension of its continental shelf, places the limit at the Okinawa trough just west of the Ryukyu island chain, while Japan draws it halfway between the Ryukyus and the Chinese mainland.<sup>26</sup> This has created overlapping claims of nearly 81,000 square miles.<sup>27</sup>

## 2. Material Perspective

The dispute also involves both China and Japan’s competing national interests in the East China Sea. This is because not only are the Diaoyu/Senkaku islands strategically located, but also their adjacent



**Figure 4.** The Overlapping Zones in the East China Sea. Source: Lee and Ming (2012).<sup>28</sup>

waters are rich in economic value given the abundance of hydrocarbon resources and rich fisheries stock – both vitally important for China and Japan given their heavy dependence on oil and gas and their rich appetite for fish. The untapped oil reserves are estimated at 100 to 160 billion barrels, according to the US Energy Information Administration.<sup>29</sup>

The tension over the competing claims came into existence only after a geological survey of the East China Sea, conducted under the auspices of the Committee for Co-ordination of Joint Prospecting for Mineral Resources in Asian Offshore Areas of the United Nations Economic Commission for Asia and the Far East, in October–November 1969, reported promising signs of oil reserves in the sea around the Diaoyu/Senkaku islands.<sup>30</sup>

According to the relevant prospecting data, it is estimated that the oil and natural gas reserves in the East China Sea would be enough to meet China's needs for at least 80 years, while the abundance of manganese in the waters near the Diaoyu/Senkaku islands would meet Japan's needs for 320 years, and there is also enough cobalt for 1300 years, enough nickel for 100 years, and enough natural gas for 100 years, not to mention other mineral resources and plentiful fish.<sup>31</sup> China's surging energy demands have made the country the world's largest net importer of crude oil, while Japan has been perennially an oil importer and ranks as the world's largest liquefied natural gas importer.<sup>32</sup> Given this, the East China Sea dispute has been driven by the calculated material interests of both sides. This has further compounded their assertive behaviour and hard-line positions.

Given their energy quest, both China and Japan have been involved in exploration of resources in the East China Sea. One of the key aspects of the dispute is that of “unilateral exploration”, as the 2008 Consensus clearly posits: “both sides will, through joint exploration, select sites for joint development by mutual agreement and conduct joint development at the sites based on the principle of mutual benefit. Details will be decided by the both sides [sic] through consultation”.<sup>33</sup>

Here, the selected sites are mainly in the 2700 km<sup>2</sup> that extend over the median line proposed by Japan, and include the Chunxiao/Shirakaba oil and gas field.

Hence, based on the contested claims and interests, the main maritime security concerns relating to China and Japan in the East China Sea are: (1) disputes over the sovereignty of the Diaoyu/Senkaku islands; (2) disputes over maritime rights and interests in the surrounding waters of the East China Sea; (3) the increasing activities of Chinese naval vessels passing through international waters, through the Japanese archipelago into the Western Pacific, compounded by Japan's air scrambles; (4) disputes concerning the overlapping ADIZs; and lastly (5) disputes over unilateral exploration of resources in the East China Sea. These concerns have transformed the East China Sea into a hotspot of rivalry between China and Japan.

## Conclusions

Undeniably, the East China Sea is the bedrock of tensions between China and Japan. Given their related sovereignty and maritime interests, Beijing and Tokyo are at loggerheads over the clash of legal and material claims. However, what further compounds the dispute is the identity factor. This is a result of the huge perceptual gap that exists between China and Japan. This leads to greater speculation and concern over each other's intentions and actions. There is a tendency to view oneself as the victim and the other as the aggressor.

This divide further brings to the fore the clash of identities, wherein both players are triggered by the common motivation of gaining supremacy over the strategic regional sphere. In view of this, with the changing context in the Asia-Pacific regional space catalysed by North Korea's nuclear ambitions, the tensions in the East China Sea theatre will only get more intense; they will not fade away. This will further heighten the concerns over the peace and stability in the region as well as affect the bilateral equation between Beijing and Tokyo. It can be accurately stated that China and Japan are two tigers sitting on the East China Sea, neither weak enough to cede dominance.

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