Chapter IV

Sino-Japanese Jurisdictional Delimitation in East China Sea: Approaches to Dispute Settlement

Ji Guoxing

I. Introduction

Maritime security in the East China Sea is an important component of Northeast Asian maritime security, which relates to the overall security of the region. Northeast Asian security is closely related to the maritime security in its seas.¹

Maritime jurisdiction is an important aspect of maritime security, and disputes in jurisdiction directly affect maritime security. Maritime jurisdictional disputes in Northeast Asian seas include two dimensions of disputes: territorial sovereignty disputes over islands; and disputes over exclusive economic zone (EEZ) and continental shelf delimitation. The two different kinds of disputes are related to each other. Territorial disputes are questions left over by history, and maritime jurisdictional disputes have arisen because of the expansion of jurisdictional sea areas, along with the development of the modern law of the sea. The disputes over maritime interests and rights in the East China Sea between China and Japan involve these two issues.

With the 1982 UN Convention on the Law of the Sea entering into force in 1994, Northeast Asian countries have tried to apply those stipulations of the Convention best suited to expand their maritime interests and rights. Because Northeast Asia has a wide gap between the supply and demand of energy, thirst for offshore oil and gas has made maritime jurisdictional disputes in Northeast Asian seas ever more tense.

Since late May 2004, the Japanese mass media have spread like wild-fire the news of “Chun Xiao Gas Field,” which China has been exploiting in the East China Sea, asserting that China’s exploitation of the Field “oversteps the median line,” and “encroaches upon Japan’s maritime interests and rights in its EEZ.” Since then, the Japanese government has adopted a series of measures: spending 16.8 billion yen

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to rent a Norwegian ship to survey sea-bed resources east of the unilateral “median line”; demanding that China hand over the survey information regarding Chun Xiao and other gas fields; giving the Japanese Imperial Oil Company the authority for a trial exploration of gas resources along its unilateral “median line”; asserting that China “siphons off” resources that may lie under Japan-claimed waters; and suggesting that the two sides of the “median line” should be areas for joint development in an attempt to embrace Chun Xiao and other gas fields that are not in the disputed areas. These moves have escalated the delimitation disputes between China and Japan in the East China Sea.

Japan has further laid the groundwork for military intervention in the East China Sea in an attempt to force China to give in. It was reported in Nihon Keizai Shimbun on September 23, 2005 that the then-Trade-Minister Shoichi Nakagawa proposed to enact a law permitting Japan’s MSDF to patrol in the sea areas of the disputed gas fields so as to provide “legal protection” to the trial exploration of Japanese oil companies. Asahi Shimbun reported on September 26, 2005 of the SDF’s “Defense Alert Plan,” which illustrated in detail “the scene of China’s invasion on Japan,” and revealed various SDF’s defense dispositions in case of China’s different possible attacks on Japan.2

Since late October 2004, China and Japan have held several rounds of talks on the East China Sea delimitation issue. Both agree to continue the dialogues and consultations to seek solutions, and to reach a consensus on the direction of settling the issue through joint development.

Since Prime Minister Abe Shinzo’s visit to China in October 2006, bilateral relations between China and Japan have improved, and the tension has deescalated; however, the Sino-Japanese relations are still faced with variables, and the disputes in East China Sea still remain. How to handle properly the disputes is still a problem the two countries face.

The unresolved maritime jurisdictional disputes seriously affect Northeast Asian security and development. It has made the political relationship between China and Japan volatile and insecure, has affected their economic development and marine resource exploitation, and has jeopardized regional maritime security and sea lines of communication (SLOC) security.

China has adopted the position of “equitable solution through negotiation” and has stood for “shelving the disputes and working for joint development” until conditions for settlement have matured. This principle was first enunciated in regard to the Diaoyudao Islands. While discussing the signing of the Sino-Japanese Treaty of Peace and Friendship in 1978, Deng Xiaoping said that both sides agreed not to get involved in the Diaoyudao Islands issue. “It doesn’t matter to shelf such issues, and to wait for ten years. A settlement acceptable to both sides would surely

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