Institution Building for Long-lasting Peace in the Area of the Diaoyutai Islands

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Abstract

The sovereignty dispute over the Diaoyutai Islands is bound up with the political and military strategic calculations of the parties concerned. This paper first discusses the political background and strategic context in the area. Then, it identifies the peace initiatives proposed by President Ma Ying-jeou of the ROC and analyzes the opportunities and difficulties, the initiatives and other possibilities that may be encountered. A preliminary examination of the feasibility of certain conflict management arrangements in the area—such as an “East China Sea Forum” and a Code of Conduct in the East China Sea that could be jointly constructed by the contending parties and those third parties which are heavily involved—is presented. Beginning at the Track Two level by carrying out some non-conventional security cooperation and maritime dialogue may be the key to more effective
future planning and implementation of such conflict management arrangements.

**Keywords:** Diaoyutai/Diaoyu/Senkaku Islands, Taiwan (ROC), Japan, China, Conflict Management

### I. Introduction

Among the recent tense regional territorial disputes of the Asia Pacific, the Diaoyutai Islands (also known to the Japanese as the Senkaku Islands) in the East China Sea—rich fishing grounds with potential for considerable oil and gas reserves—have attracted a great deal of attention. This territorial dispute revolves around three non-mutually consistent claims: those of the Republic of China (ROC on Taiwan), of the People’s Republic of China (PRC; hereafter, mainland China), as well as of Japan.

Established in 1912, the ROC, in particular its fishermen, has seen the Diaoyutai Islands and their surrounding waters as its conventional fishing ground. The *Taiwan Shuichan Yaolan (Overview of Taiwan’s Aquaculture)* published by the Office of Imperial Japan’s Taiwan Governor-General in 1925 indicated that the Islands and their surrounding waters were “important fishing grounds” for Taiwan, thus confirming the ROC’s position and assertion of sovereignty over the Islands. The ROC government, which recovered all the territories Japan seized from China (the Qing Dynasty) in the aftermath of the Second World War does not accept any illegal argument by other governments or authorities which might affect the ROC’s sovereignty over the Islands.

Since October 1949 the ROC and mainland China have been in mutual denial of each other’s sovereignty and jurisdiction. From
being a passive claimant, mainland China gradually saw itself more seriously in the 1970s as the heir to Chinese sovereignty over the Islands. Not until the People’s Liberation Army modernized faster in recent years did it begin to strengthen its military presence in the disputed waters. Such a strong military posture toward the Islands could help mainland China achieve two goals at one time: wooing Taiwan to work with it against Japan and countering Japan’s claim of actual control over the Islands.

(Imperial) Japan contended that it had occupied the Islands as *terra nullius*, despite the fact that Japan did not occupy the Islands until a few months prior to its foreseeable victory in the 1894-1895 Sino-Japanese War, due to its awareness of the fact that the Qing Dynasty actually possessed them. Hence the Japanese government later “rented” the Islands to Japanese civilians for the purpose of “the naturalization of Taiwan,” along with the Senkaku Islands, as part of Imperial Japan’s territory that resulted from its successful conquest. In 1932 the Islands were “sold” by the Japanese government to civilians.

Tensions regarding the Diaoyutai Islands have been escalating since Shintaro Ishihara, then Mayor of Tokyo, announced his plan to purchase the major islands of the Diaoyutai in April 2012, followed by the decision of Yoshihiko Noda, then Prime Minister of Japan, to nationalize them. Since then, the making of diplomatic and political statements by the three parties regarding this ongoing sovereignty dispute has not yet come to an end. Mainland China’s maritime surveillance vessels have been spotted a few times in the disputed waters near the Islands, and its aircraft have also approached the Islands. In September 2012, moreover, some 70 of the ROC’s civilian fishing vessels, escorted by the ROC Coast Guard, also went to the Islands to protest against the arbitrary behavior of Japan, while the Japanese
Coast Guard attempted, as usual, to prevent these vessels from getting close to the Islands. In many incidents like these, the Japanese government always contended that there was no sovereignty dispute over the “Senkaku Islands” because, beyond a doubt, Japan possesses the sovereignty of the Islands.  

An extremely influential third party to the sovereignty dispute, the United States (U.S.) does not want to take sides but firmly endorses Japan’s jurisdiction over the Islands, which Japan acquired from the U.S. in June 1971 by signing the Agreement between Japan and the United States of America concerning the Ryukyu Islands and the Daito Islands. For instance, in April 2013, U.S. Secretary of Defense, Chuck Hagel, received Japanese Ministry of Defense, Itsunori Onodera, at the Pentagon. Hagel stated that the U.S. “does not take a position on the ultimate sovereignty of the islands,” but it recognizes “they are under the administration of Japan and fall under our security treaty obligations.” The “treaty” here refers to the Treaty of Mutual Cooperation and Security between the United States and Japan. It is evident that the U.S. government supports only the “status quo” in the Diaoyutai issue and does not commit itself to Japan’s claim to sovereignty over the Islands.

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3. The Abe cabinet insists that the Agreement between Japan and the United States of America concerning the Ryukyu Islands and the Daito Islands, signed
II. The Current Strategic Context

All parties to the dispute know clearly that armed conflict probably will have catastrophic consequences not only for them but also for other countries. It is likely that the U.S.-mainland Chinese strategic interactions are the key factor that partially shapes Japan-mainland Chinese relations in the region of East Asia. The ROC appears inferior in many related arenas, but in both diplomatic and military fronts, mainland China is urging the ROC to cooperate in defending the Diaoyutai Islands, which makes the ROC a little bit strategically important. It is not in the interest of the U.S. or Japan to see cooperation between the ROC and mainland China in the dispute, so the ROC’s strategic move in the Diaoyutai issue is still able to change the status quo in which Japan, the U.S., and mainland China are involved.4

The following paragraphs focus merely on the strategic interaction among the three major powers. The U.S.-Japan security alliance works as one of the major tools of the U.S. and of Japan to stabilize the region. On the one hand, there might be a diplomatic “miscalculation” in the Abe cabinet, namely, that in fact the U.S.—based on

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the adjustment of its military posture in the Asia Pacific and the solid security alliance relationship—would like to see a stronger position of Japan toward the Diaoyutai Islands. If Japan takes advantage of what might seem to be the U.S. ‘neutralization’ on the sovereignty issue, and views that as U.S. endorsement of Japan’s stance, and consequently reinforces its control over the Islands by more assertive measures such as deploying officials to or building more docks on the Islands, it may push the U.S. into a diplomatic and military predicament which could lead to a greater clash with mainland China. On the other hand, this security alliance is seen by Beijing leaders either as a tolerable bilateral arrangement or as an immediate threat, depending on mainland China’s own assessment of power distribution in the world, the comfort of its relationship with both local and outside powers, and the main strategic concerns of its national development and policy.\footnote{Jianwei Wang & Xinbo Wu, Against Us or With Us?: The Chinese Perspective of America’s Alliances with Japan & Korea (Stanford: Asia/Pacific Research Center, Stanford University, 1998). A more recent study can be found in Tomonori Sasaki, “China Eyes the Japanese Military: China’s Threat Perception of Japan since the 1980s,” The China Quarterly, Vol. 203, September 2010, pp. 560-580.}

Moreover, Japan’s anxiety at being marginalized is very clear. After U.S. President Richard Nixon visited Beijing in 1972, Japan’s policy toward mainland China changed quickly. The diplomatic normalization between Tokyo and Beijing was quickly carried out before that between Washington and Beijing. As a result, despite some level of uncertainty about the “Sunnyland informal summit” between U.S. President Barack Obama and mainland Chinese leader Xi Jinping “that would give added resonance to the more concrete initiatives that may grow out of this summit...[and increase] the prospect that they will contribute to building greater mutual trust about long term
intentions.” This historic summit between the U.S. and mainland China may have drawn Japan’s attention to its lack of bilateral dialogue with mainland China and to the risk associated with recurrent confrontation against mainland China over regional political and military issues like the sovereignty dispute over the Diaoyutai Islands. In other words, it is possible that Prime Minister Shinzō Abe of Japan realizes that Japan’s strategic interest can be better served by stable ties with mainland China and that he will not be willing to see continued Tokyo-Beijing standoffs while a significant improvement in Washington-Beijing relations seems to be taking place.

If the above conjecture is close to reality, in the foreseeable future Japan will use diplomatic measures to create an international milieu that is friendly to Japan’s “Senkaku status” in order to win a political advantage over mainland China. Meanwhile, it is reasonable to maintain that Japan is exercising a great deal of self-restraint, for its “nationalization” of the Diaoyutai Islands has triggered some strategic turbulence which might not meet U.S. strategic interests in the region, but in the meantime mainland China perceiving Japan’s assertiveness toward the Diaoyutai Islands and the U.S. “rebalancing in Asia” strategy as critical challenges or threats continues to build up its military capability and show its determination to defend its sovereignty over the disputed Islands by navigating through the waters of, or flying near the territories of, the Islands. However, to concentrate on its domestic problems, mainland China appears to have adopted a two tier approach to managing this sovereignty dispute, that is, demonstrating military power near the Islands to deny the jurisdiction

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of Japan over them and showing goodwill in pursuing the strategic reciprocity enshrined in the four political documents between mainland China and Japan.

Nowadays it appears that both Japan and mainland China have not given up a diplomatic approach to the management of this sovereignty dispute. For example, in late June 2013, Shotaro Yachi, a special advisor to the Abe cabinet and Tomohiko Yaniguchi, a special assistant to Japan’s foreign minister, visited Beijing for a conference marking the 40th anniversary of formal relations between Japan and mainland China, in the hope that the ice between the two conflicting powers could be broken after the election of the House of Councillors. In early September 2013, both Prime Minister Abe and Mainland Chinese President Xi met briefly during the Group of Twenty (G-20) Summit in St. Petersburg, Russia. Generally speaking, both leaders there expressed strong willingness to manage sharpening differences and promote strategic benefits.

A last, but not minor, strategic calculation that must be brought up briefly is the North Korean factor. Mainland China has been playing a key role in the nuclear crises in the Korean Peninsula. The U.S. hopes to make good use of recent improvements in strategic interaction with mainland China to ensure peace and stability in Northeast Asia, and mainland China may want to use this as a bargaining chip to barter its influence, if any, for U.S. concessions on critical issues mainland China feels concerned about, such as Tibet and the Iran nuclear issue.

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7. Basically, this was Japan’s policy when Abe took office for the first time, and such a policy was fulfilled by his successor, Prime Minister Yasuo Fukuda, in 2007-2008.
III. Calls for Institutionalization of Conflict Management

Institutionalizing conflict management mechanisms in the Diaoyutai Islands, or broadly speaking, the East China Sea, is one of the toughest tasks for regional leaders. On top of the existing peace initiatives proposed by the ROC, something at Track Two and Track One and a Half levels should be taken into consideration as well by the parties concerned in order to formulate and accomplish a historic institutionalization of conflict management measures on the basis of piecemeal efforts and deliberate interaction.

Among the three parties to the dispute, it is the ROC government that has both reiterated that it vows to solve this dispute in a peaceful way and at the same time really made efforts to bring conflict management proposals and peace initiatives to the area. In spite of sufficient support in international law asserting the ROC’s sovereignty over the Islands, the ROC government insists on first shelving the dispute over sovereignty, because no healthy progress can be made if the shadow of sovereignty were to still hover over the negotiations. In August 2012, ROC President Ma Ying-jeou proposed a timely “East China Sea Peace Initiative” and, in September, the “East China Sea Peace Initiative Implementation Guidelines.” He has called for adherence to the principles of peaceful dialogue and mutually reciprocal negotiation, as well as those of sharing resources and cooperative development. He also argues that bilateral or trilateral cooperation in such fields as the fishing and mining industries, marine science research and maritime environmental protection, and maritime security and unconventional security can be carried out on the basis of the said principles. In the initial stage, three sets of bilateral consultation and cooperation in these fields can be considered and promoted.

The “East China Sea Peace Initiative” proposed by President
Ma and its “Implementation Guidelines” could reduce the possibility of armed conflict in the East China Sea by meeting the basic interests of the parties surrounding the area. They can more or less prevent the ROC from being marginalized in sovereignty disputes over the Diaoyutai Islands, from losing its international discursive power, and from “acting inconsistently to the detriment of others” — the international rule of estoppel.8

With these unilateral announcements and efforts, the ROC hopes that a change in the other parties’ perceptions of this issue will come into being in the near future. Such a change in perceptions may result in Japan facing reality and recognizing the existence of a long-standing territorial dispute with Taiwan, and with mainland China. If, for domestic reasons, Japan cannot do this, it should at least show its willingness to speak with Taiwan and with mainland China—not necessarily in a trilateral form at first—to determine whether there is such a dispute and what the stakes and practical requirements in this issue are. In other words, Japan should not unilaterally eliminate the possibility of negotiation by rejecting the existence of the territorial dispute, since that will not help the other parties concerned to shelve or resolve the conflict at all.

Such a change in perception of this issue also means that mainland China should take into account the fact that the Diaoyutai Islands and their waters have been closely associated with the ROC (and Taiwan) historically, politically, economically, and geographically—not with the regime in Beijing. In addition, mainland China will find it fruitless

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to ask the ROC to collaborate with it under the “One China” principle for the purpose of defending or solving the issue of the sovereignty of the Islands, because President Ma has reiterated that it is not possible for the ROC to work with mainland China to solve the territorial disputes around Taiwan. The fundamental reason is twofold. First, such collaboration neglects the political reality that in the international community mainland China still denies the jurisdiction and sovereignty of the 102-year-old ROC with which mainland China has reached the “1992 Consensus” (i.e., “one China, respective interpretations”). Second, the ROC’s collaboration with mainland China on this politically and militarily sensitive issue will further complicate the other territorial disputes in which the ROC is involved in the South China Sea, thus reducing the mutual trust and confidence building between the ROC and the countries concerned.

The ROC hopes, as well, that the accumulation of peaceful interaction and goodwill among the parties to the dispute will eventually lead to a code of conduct in the disputed areas of the East China Sea. It has not submitted any case of territorial dispute to the International Court of Justice (ICJ) or to the International Tribunal for the Law of the Sea (ITLOS), neither has mainland China.9 Japan has done so a few times in ITLOS: the “Hoshimaru” case (v. Russian Federation) and the “Tomimaru” case (v. Russian Federation), both in 2007, but Japan has not applied for the resolution of territorial disputes with Russia, South Korea, the ROC, or mainland China.

In the case of the Dokdo/Takeshima territorial dispute, Japan suggests that this case be sent to the ICJ for judgment, in spite of the refusal of South Korea. Japan’s support for a legal measure to

9. The ROC has not solved its territorial disputes in this way, in part because it is not recognized by the United Nations as a sovereign state.
solve this dispute is based on Japan’s subjective will to abide by the commonly accepted principles of international law and solve the dispute peacefully. Obviously it is too early to call for the judgment of the ICJ to determine the sovereignty of the Diaoyutai Islands, but maybe a Code of Conduct in the East China Sea (CCECS) can be discussed among officials and experts, on the basis of principles of international law, including Article 74 of the 1982 *United Nations Convention on the Law of the Sea (UNCLOS)*—the delimitation of the exclusive economic zone (EEZ) among states with opposite or adjacent coasts; peaceful settlement of disputes undertaken by the states concerned if no agreement can be reached within a sensible period of time; as well as the clause that states concerned shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not jeopardize or hamper the reaching of a final agreement. Such arrangements shall be without prejudice to the final delimitation.”

More specifically, all parties concerned in the dispute over the Diaoyutai Islands should accept pragmatic and provisional arrangements in accordance with widely recognized rules of international law and the spirit of mutual respect and cooperation. Meanwhile, such arrangements should not hinder the final delimitation of an EEZ. As a matter of fact, in the territorial disputes in the East China Sea, the 1997 *Agreement on Fisheries between the Government of the People’s Republic of China and the Government of Japan* and the 1998 *Agreement between Japan and the Republic of Korea concerning Joint Development of the Southern Part of the Continental Shelf adjacent to the Two Countries*, have been signed without negating each signatory’s claim to actual sovereignty.

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The ROC and Japan struck an agreement on fishery rights in April 2013 that seeks to enhance peace and stability and to resolve long-lasting disputes in the waters surrounding the Diaoyutai Islands in a peaceful and mutually beneficial manner, despite the obvious clash between the two countries. This agreement, signed by the Taiwan-based Association of East Asian Relations (AEAR) and the Japan-based Interchange Association, Japan (IAJ)—two quasi-official organizations authorized by their own governments to manage and coordinate bilateral relations, is in line with the one between Japan and South Korea, and between Japan and mainland China, in the sense that pragmatic and provisional arrangements that bring about a win-win situation are the major guiding principle in dealing with claims of overlapping sovereign. The bilateral cooperation in fishery issues that has resulted from the overlapping of respective EEZs has nothing to do with the concession of territorial sovereignty mainly because a disclaimer in the agreement adds that the provisions of the agreement do not undermine the respective position on, and interpretation of, international law of the ROC’s and Japan’s authorized agencies regarding their own claims to sovereignty. For example, a statement by the ROC Ministry of Foreign Affairs released on April 16, 2013 indicates that the “ROC’s sovereignty extends to the waters within 12 nautical miles surrounding the Diaoyutai Islands. These waters are not included in the agreed upon designated zone.”

To insist on sovereignty, Japan also claims its 12 nautical miles surrounding the Islands and declares that its Fisheries Agency will deploy quite

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11 Ministry of Foreign Affairs, Republic of China (Taiwan), “Republic of China (Taiwan) signs fisheries agreement with Japan,” Ministry of Foreign Affairs, Republic of China (Taiwan), April 16, 2013, <http://www.mofa.gov.tw/EnOfficial/ArticleDetail/Default/f017f4b3-5d0d-4408-ad7b-abe4044d7551?arf'd=7b3b4d7a-8ee7-43a9-97f8-7f3d313ad781&opno=84ba3639-be42-4966-b873-78a267de8ef1>. 
a few surveillance ships in the waters covered by the agreement to maintain tighter control over any illegal fishing there. To be precise, neither party to this fishery agreement touches on the issue of the sensitive 12-nautical-mile territorial waters.

As the result of a historic pact that came into force on May 10, 2013, after 17 rounds of talks over a period of 17 years, this agreement between AEAR and IAJ established a bilateral fishing commission as part of the agreement, and the commission’s first meeting on May 7 was aimed at exchanging views on each other’s fishing regulations in the area covered by the agreement. Both the ROC and Japan can jointly make use of, and exploit, the 74,000-square-kilometer area around the Diaoyutai Islands, providing an additional 4,530 square-kilometers of high-quality fishing grounds in which Japan would have interfered with Taiwanese fishing boats operating in the disputed area.

Looking at this dispute from a more pessimistic angle, it is true that the issue of sovereignty that hovers over Taiwan and Japan has not gone away. Nevertheless, when looked at from a different angle, this agreement points to at least three promising developments in the territorial dispute in the East China Sea. First, it appears to be of help in reducing tension between the two administrations of the ROC and Japan. It can be valuable in moderating or “civilizing” the effects of conflict without actually uprooting its causes. The face-offs between the ROC and Japan regarding the Diaoyutai Islands often result from fishing disputes. When such an annoying factor is under control, that is, is seen as an independent issue that does not necessarily have to be associated with each side’s insistence on sovereignty, a “graduated reciprocation in tension reduction” (GRIT) in the disputed area can begin to evolve.
Second, the parties to the dispute have finally faced, and recognized, reality and exercised some self-restraint for the sake of the people working for their living in the disputed waters. Despite the fact that the sovereignty dispute still exists, it has been shelved temporarily by the parties both in order to pursue peace and reciprocity and for the promotion of joint exploration and development. Furthermore, the Diaoyutai dispute will not be managed or solved properly if one of the three parties directly involved is excluded from consultation and negotiation. As President Ma’s “East China Sea Peace Initiative Implementation Guidelines” point out, the parties to the dispute can seek various forms of exchange and cooperation in the fishing and mining industries, as well as in marine science research and maritime environmental protection and in law enforcement and marine rescue. Starting from three parallel tracks of bilateral dialogue (between the ROC and Japan, the ROC and mainland China, and Japan and mainland China), the parties will hopefully be able to eventually move to “one track of trilateral negotiations and realize peace and cooperation in the East China Sea.”

Finally, although mainland China, an undeniable party to this dispute that has “routinely” expressed its deep concern about the improvement in Taiwan-Japan relations, links the signing of the agreement to the “One China” principle and asks Japan to abide by the principle and deal with Taiwan-related issues in a careful manner, it does not interfere any further in this fishery agreement. It seems that leaders in Beijing know clearly that this agreement is beneficial for the people of Taiwan and that opposing this agreement may result in a huge 

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setback to cross-Taiwan Strait relations. In other words, with the “Taiwan (people) factor” in mind, mainland China seems to demonstrate a certain degree of self-restraint that could pave the way for the peaceful resolution of the East China Sea territorial dispute. In spite of Japan’s and mainland China’s recent strategic behavior in the air and waters surrounding the Diaoyutai Islands, such a possibility is far from unthinkable. For conflict management in the future, it is of great significance to be able to accumulate positive moves in a piece-meal fashion. Every positive move that could lead to reciprocal responses counts in the unstable situation resulting from the Diaoyutai sovereignty dispute.

It is important to hold that some further progress beyond the current development of the ROC-Japan conflict management in the Diaoyutai Islands is not unattainable. Although nowadays the chance is slim for a CCECS, an institutional arrangement aimed at managing long-lasting disputes over the Islands and other territories, yet a CCECS is still a kind of modus vivendi which is worth trying so as to avoid conflict in order to prepare for the one track of trilateral negotiations and achieve ultimate peace in the area. A possibly protracted process, the establishment of a CCECS comes with some prerequisites. In addition to the necessary goodwill and willingness of the contending parties to the dispute, the attitude and support of South Korea and the U.S. are also a key to the success of a CCECS. Furthermore, as in the case of the Declaration on the Conduct of Parties in the South China Sea of 2002, it will be awkward if one of the major parties to the dispute—the ROC in both cases—is excluded from the official negotiations that will determine the course of peace-related initiatives in the disputed area. This will depend mainly on how the mutual understanding and trust between the two sides of the Taiwan Strait have improved.
To achieve a CCECS, practically, two building blocks can be taken into account: the promotion of non-conventional security cooperation such as environmental protection, economic security, control and prevention of cross-border crime, and management of migration of people, as well as a variety of “maritime dialogues” among the disputants and the other parties indirectly involved. Both can begin at the Track Two level, where common interests, differences, and paradoxes among the contending parties can be identified and discussed. It is relatively easier for such cooperation and “dialogue” to embrace participants from the ROC, an important but long ignored player in the dispute, and from the U.S., a powerful third party that can possibly influence the result of these efforts. The objective of the above-mentioned Track Two processes is, in fact, aimed at creating mechanisms of interchange and cooperation as a foundation for future cooperation in a more far-sighted and constructive way.

If the conditions can be met, a possible follow-up may be the establishment of a periodic “East China Sea Forum.” It may be proper to argue that East Asian states have failed to set up an institution like the Organization for Security and Cooperation in Europe (OSCE). Hence, the “East China Sea Forum” could be Track One and a Half and support the ASEAN Regional Forum (ARF), the only official regional arrangement that concentrates on the security issues of the Asia Pacific, as a conflict management measure in the region. If sufficient consensus on issues regarding the East China Sea can be reached in the said Forum, it will become an important cornerstone for the discussion of a CCECS.

It is necessary to point out here that the participation of the ROC and of the U.S. in the “preparatory” phase of establishing a CCECS is very much politically sensitive. For the time being, for example, mainland China does not wish to see an active participation of the
ROCS in any official discussion of the Diaoyutai Islands dispute, although it does hope leaders in Taipei can agree with its appeal for joint cooperation in countering or expelling any foreign power in the Islands; and it does not wish to see the expanding influence of the U.S. coming with the latter’s joining regional multilateral mechanisms for the management of potential conflict in the area. For Japan, including the ROC in future discussions or negotiations on this sovereignty issue may further complicate the situation Japan is facing, not to mention the possibility that mainland China would “punish,” or “take revenge on,” Japan due to the violation of mainland China’s “One China” principle. To bring the U.S. to the game without the consent of Beijing would get on Beijing’s nerves. The same worry could possibly happen to South Korea as well if the “East China Sea Forum” or a CCECS is to be formed.

IV. Concluding Remarks

The dispute over the Diaoyutai Islands is too intricate in nature to resolve within a short period of time. It is impossible to settle the dispute in one go.

A key to managing this territorial dispute is that all contending parties involved shelve their controversies and face the reality that there is indeed a dispute disturbing regional peace and affecting the welfare of the people in Taiwan whose living traditionally relies on the maritime resources of the Diaoyutai Islands and their surrounding waters. Probably based on the three sets of bilateral non-political and non-military consultations and negotiations among the ROC, Japan, and mainland China, which could evolve into some sort of trilateral mechanism in the future, all parties to the Diaoyutai Islands dispute can begin to consider a variety of approaches to peaceful management, for instance, speaking with one another sensibly and finding feasible
and practical measures that are able to avoid provoking mistrust and conflict and that will bring peace and prosperity to the region. Since the dispute has been going on for decades without any obvious solution, an immediate and reciprocal approach to the management of the issue may be to let it be presented peacefully by each party and then discussed and negotiated prudently at least by all parties directly concerned after a series of rounds of trust building and functional cooperation.

The signing of the fishery agreement between the ROC and Japan has prevented the major cause of the collisions between the two parties and triggered some potentially positive developments in the disputed area as well. It is not far-fetched to argue that in the near future the parties directly involved in the Diaoyutai Islands dispute will reach some other sort of agreement on functional cooperation, either bilaterally or trilaterally, while maintaining their respective stances on sovereignty over the disputed area. This exactly meets the UNCLOS that calls for provisional arrangements as a conflict management mechanism that does not hinder the final delimitation of an EEZ.

If the ultimate goal of these peace efforts in the Diaoyutai Islands is to create a peaceful environment in the East China Sea, then a code of conduct may be considered in a serious manner. Yet, the transformation from bilateral, functional cooperation to one with the participation of all major parties to the East China Sea dispute, including the ROC, Japan, mainland China, South Korea, and probably the U.S. as the most crucial third party, will be extremely fragile and difficult. In addition to the military-strategic complexity among these parties, the historical issues and the territorial disputes over Dokdo/Takeshima and over the Suyan Rock/Leodo associated with some of the parties’ domestic politics and nationalism may easily ruin the
foundation of mutual trust and reciprocity. As a result, regardless of their bilateral or multilateral nature, appropriately-authorized and well-organized Track Two arrangements such as the promotion of non-conventional security cooperation and a variety of “maritime dialogues” among the contending parties and the third parties indirectly involved become of great significance for a good jump start to any attempt that is aimed at creating an “East China Sea Forum” or the similar mechanism at the Track One and a Half level, followed by negotiations on a code of conduct in the area.
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