

NOTES & COMMENTS

Problems and Practices in Maritime Delimitation in East Asia: With Special Reference to Taiwan

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The countries in East Asia continue to have problems in maritime boundary delimitation. The collision on September 7, 2010 between a Chinese fishing vessel (Minjinyu) and a Japanese patrol boat in the waters near Diaoyu/Senkaku Islands is interesting to observe as a step in dispute settlement process. The differences between the PRC and Japan on maritime boundary delimitation for the East China Sea and the legal status of Diaoyu/Senkaku Islands are demonstrated by this incident. To see things in their context, it is necessary to observe the practices of East Asian countries in handling their maritime boundary delimitations, especially those involving islands with disputed legal status. The rules of international law relating to the pacific settlement of dispute and maritime delimitation dispute resolution, which involve a preliminary sovereignty dispute over islands, are also relevant as a much broader background. The author will examine why certain maritime delimitation cases are particularly hard to handle. The lessons drawn from this paper is inspiring for Taiwan, a long-time marginalized player in East Asian regional affairs. The author will examine the difficulties and opportunities for Taiwan in maritime boundary delimitation and offer a suggestion on how to accomplish such task with neighboring countries.

Keywords

Diaoyu/Senkaku Islands, Japan's Northern Territories, Maritime Boundary Delimitation, JDZ, Taiwan, Minjinyu

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1. Introduction

On September 7, 2010, a Chinese fishing trawler, *Minjinyu*, collided with a Japanese Coast Guard patrol boat, *Yonakuni*, near Diaoyu/Senkaku Islands. Japanese officers then boarded *Minjinyu* to arrest the captain, charging him with “obstruction of law enforcement” under the Japanese domestic law.¹ This enraged the People’s Republic of China (“PRC”); Premier Wen Jiabao demanded the immediate and unconditional release of the captain. On September 24 of that year, Japanese prosecutors decided to let the captain leave, after 17 days of detention. The official reason for his release was that the damage to the Japanese Coast Guard vessels was slight and no one was injured.² After this incident, waters surrounding the Diaoyu/Senkaku Islands have been repeatedly visited by the PRC patrol boats belonging to Regional Bureau of the East China Sea Fishery Management under the Ministry of Agriculture.³ As of March 10, 2011, eight visits by such patrol boats have been sighted by Japan. Among the vessels are Yu-Zheng (Fishery Administration) No. 201 and Yu-Zheng No. 202.⁴ It is important to note that, though being warned by Japanese aircrafts, all these visits have not been physically ‘obstructed.’

The collision incident and its aftermath indicate the different positions between the PRC and Japan on the maritime boundary delimitation and the legal status of the Diaoyu/Senkaku Islands. The complex situation cannot be correctly understood, analyzed, characterized, and predicted without first looking at relevant rules of international law and at behavior patterns of the two States when dealing with similar problems of maritime delimitation involving islands with disputed legal status.

As another stakeholder, the Republic of China Government on Taiwan (“ROC”) is marginalized (if not ignored) in regional and international affairs.⁵ Given the special

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¹ Hu Feiyue *Japan’s action off Diaoyu raises concern*, CHINA DAILY (Sept. 10, 2011) available at http://www.chinadaily.com.cn/cndy/2011-09/10/content_11282795.htm (last visited on Sept. 27, 2011).

² Ken Jimbo, *Matter of Fact: Japan-China Relations Strained over Senkaku Islands*, NHK WORLD (Sept. 10, 2011), available at <http://www3.nhk.or.jp/nhkworld/english/tv/japan7/archives100925.html> (last visited on Sep. 27, 2011).

³ See List of the PRC Fishery Management Patrol Boats 中國漁政船總表, available at <http://60.250.180.26/pla/5741/5708.html> (last visited on Oct. 6, 2011).

⁴ See Patrol Boat from Mainland China Found in Waters of Diaoyu (available only in Chinese), CHINA TIMES available at <http://news.chinatimes.com/world/50405463/132011012701149.html>; *PRC Patrol Boat Enters Waters of Diaoyu Again* 中國漁政船又進入釣魚台海域, available at <http://www.haixiainfo.com.tw/139064.html> (all last visited on July 34, 2011).

⁵ Today, 23 States recognize the ROC government. See the list of States recognizing the ROC, available at <http://www.mofa.gov.tw/webapp/ct.asp?xItem=11624&CtNode=1426&mp=1> (last visited on Oct. 10, 2011).