CHINESE DISPUTES WITH JAPAN IN THE EAST CHINA SEA: 
BILATERALISM OVER MULTILATERALISM

A THESIS SUBMITTED TO THE GRADUATE DIVISION OF THE UNIVERSITY 
OF HAWAI'I AT MĀNOA IN PARTIAL FULFILLMENT OF THE REQUIREMENTS 
FOR THE DEGREE OF 

MASTER OF ARTS 

IN 

POLITICAL SCIENCE 

MAY 2011

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Introduction

For centuries China and Japan have engaged with one another in both positive and negative contexts. Since the establishment of the People’s Republic of China (PRC) in 1949, the nation has viewed Japan with combined admiration, envy and occasional hostility. As scholar Jian Yang wrote, “Chinese relations with Japan are characterized by the contradiction of deep distrust on one hand and important interests on the other.”¹ Since these two countries normalized relations in 1972, China has sought to cultivate Japan as a benign, peaceful neighbor that could provide economic benefits to China.

While trade relations have grown enormously since the normalization of diplomatic relations, numerous issues and disputes have also emerged. China and Japan are the two most important political and military actors in East Asia. Furthermore, their importance to the larger security environment is bolstered by the fact that both are powerful at a similar point in history. Former US National Security Council advisor Michael Green stated: “Japan and China are powerful now at the same time, essentially for the first time in history. They both have somewhat different visions for the future of Asia. They both want to play a leadership role, and they are in competition.”²

The major issues of conflict between China and Japan can be divided into the following categories: territory and resource, history and nationalism, militarism and

nuclear security and the issues surrounding Taiwan. In terms of the China-Japan relationship, what means does China use to resolve these conflicts? It is my hypothesis that the majority of these issues are dealt with in a bilateral manner whenever possible. While China and Japan do interact through multilateral organizations, the preferred manner of decision making for China is always through the bilateral process, and multilateral decision making is not the primary, or the desirable, avenue through which China resolves these conflicts. Within my paper I analyze why China prefers the bilateral approach, and discuss its implications and outcomes. The case-study method is used in the analysis and the focus is on issues of territory and resource between the states. I look at two long-standing maritime and economic disputes, the Senkaku/Diaoyu Islands case, as well as the Chunxiao gas field dispute.

As is evident through the introduction of my thesis, the time period I focus on is from 1972 to present, since the two countries’ relations normalized in this modern era and China became a member of the United Nations (UN). The thesis examines China’s use of multilateral institutions, versus its bilateral behavior toward Japan in these specific dispute cases, and hypothesizes about future interaction on these disputes. I have conducted the majority of my research from books, journal articles, and newspaper articles (including United States, Chinese and Japanese news sources). Furthermore, I draw upon official white paper documents from China and Japan, official UN documents, as well as official documents from other relevant organizations. I also utilize testimonies
given to the United States Congress, as well as reports from the Congressional Research Service.

**Review of the Literature**

*General Chinese Foreign Policy*

China’s emergence into the global economic and political arenas was characterized as a “peaceful rise.” It was initially perceived to open its economy so that “its population can serve as a growing market for the rest of the world, thus providing increased opportunities for, rather than posing a threat to, the international community.”

Whether or not China’s rise has indeed been peaceful continues to be an issue for debate, and is one of the most important issues in contemporary international politics. Based upon the historical example of Europe, many realist scholars have concluded that China cannot rise in a peaceful manner, while others more liberal still feel that China may rise without causing instability. In either case, focus is on China’s regional behavior as an indication of global actions and policy. A relatively new perspective looks at China’s rise through an “optimistic” realist lens. It points out that the basic pressures generated by the international system will not force the great powers into conflict.

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In engaging internationally China has “created a systematic, coherent soft power strategy, and a set of soft power tools to implement that strategy.”\(^6\) By utilizing the tools of soft power, including its diplomacy, growing trade and aid, China is able to promote a benign view of itself that allows for it to push its hard goals, while still being perceived as a responsible power that follows international rules.

China’s global policy today has produced discussion about the zones of China’s responsibility and of whether it is “today a major ‘regional power of the Asia-Pacific Region,’ ‘big developing state,’ or a ‘superpower,’ as well as the notion that China’s global priorities are drawing closer, or even synthesizing, with its overall regional priorities.”\(^7\) Most recently, the need for China to have a “grand strategy” has been pointed to, as well as defining the strategy within a geostrategic focus, specifically toward Asia. While relationships with great powers are essential to defending China’s core interests, China will need to “invest tremendous resources to promote a more benign image on the world stage.”\(^8\) China will serve its interests better if it can provide more common goods to the international community and share more values with other states. How other countries respond to the emergence of China as a global power will also have a great impact on China’s internal development and external behavior. For example, some assert that the US and other leading powers have the opportunity to shape the


international environment in a manner that can assist the Chinese elites that espouse creative, constructive and assertive policies.  

Policy toward East Asia and Japan

China and Japan have enjoyed peaceful relations since the close of World War II and have expressed interest in developing an Asia-Pacific economy as well as more formal institutions. However, numerous political issues, both regional and international have dramatically divided the states. From Beijing’s perspective, Japan’s strategic value has primarily been within the realm of trade, investment and aid. Since the late 1970’s, Japan has been among the most important players in the Chinese economy.  

Politically, however, China’s relationship with Japan overall has not been positive or consistent.

Scholars agree that while Beijing views friendly relations with Tokyo as strategically useful, various issues and disputes have emerged since the countries’ relations normalized in 1972. The PRC’s Ministry of Foreign Affairs highlights the following as “some sensitive issues”: issue of history, issue of Taiwan, issue of Diaoyu Islands, issue of Japanese-American Security Cooperation, issue of war reparations, Japanese chemical weapons discarded in China and the issue of Guanghualiao.  

On the political surface, contemporary relations between China and Japan are characterized by a degree of mistrust that is underpinned by discord resulting from

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unresolved historical issues, which marked a distinct downturn in foreign relations between the states. An example of this was the nationwide anti-Japanese protests in China in the first half of 2005, where authorities struggled to reign in nationalist intent on violently targeting Japanese diplomatic missions and businesses operating on the Chinese mainland. It is also clear that a source of tension in the relationship relates to more wariness in Beijing and Tokyo concerning the longer-term role and intentions of the other in Asia. The large-scale Chinese demonstrations in 2005 were a reaction indeed to Japan’s bid to become a permanent member of the United Nations Security Council, as were they also a response to the visits by Japanese cabinet ministers to the Yasukuni Shrine and the publication of several college textbooks ignoring Japan’s brutal imperial past.

While the historical background of these states has divided them, increasing economic interdependence has assisted to reverse some of the tensions spoken of above that were experienced during the era of Japanese Prime Minister Junichiro Koizumi. From the Chinese perspective, maintaining a stable regional environment that is conducive to its national economic development is only possible through improved relations with Japan. China’s economic interests are well served by being able to cooperate effectively with Japan on trade, investment, energy efficiency, environmental protection, and fisheries, among other issues. Yet PRC leaders are perceived to play a

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14 Luzyanin, 18.
hedging game in relations with Japan. They are thought to be seeking to nudge Japan out of its orbit as a United States (US) ally, or at least to make more difficult Tokyo’s choices between advancing future PRC or US interests.\footnote{Christopher M. Dent, ed. China, Japan and Regional Leadership in East Asia (Northampton, MA: Edgar Elgar Publishing, Inc, 2008), 59-61.}

\textit{Literature Concerning the East China Sea}

The two cases being examined are that of a territorial islands dispute concerning the Senkaku/Diaoyu (Japanese name/Chinese name) islands and the development of the Chunxiao gas field. While these are two different issues and cases, the Senkaku/Diaoyu islands and the disputed Chunxiao gas field are located in the East China Sea, which causes a great deal of intersection in the cases. One case is often dealt with in conjunction with the other matter. The Senkaku/Diaoyu dispute first flared up in 1968 after the United Nations Economic Commission for Asia and the Far East (UNECAFE), suggested that a “high probability exists that the continental shelf between Taiwan and Japan may be one of the most prolific oil reservoirs in the world, with the potential estimated between 10 to 100 billion barrels.”\footnote{Min Gyo Koo, “The Senkaku/Diaoyu Dispute and Sino-Japanese Political-Economic Relations: Cold Politics and Hot Economics?” The Pacific Review 22, No. 2 (May 2009): 213.} This report caused a great sensation among the oil hungry states of Japan, Taiwan and the PRC. Beijing claimed that the Senkaku/Diaoyu Islands, as well as Taiwan, were China’s sacred territory and that foreign exploitation of the area would not be tolerated.

Since this initial flare-up of tensions before Sino-Japanese relations were normalized, the years have been scattered with various other incidents that have escalated
tensions over the disputed area. A fishing expedition incident in 1978, as well as the lighthouse incidents of the 1990’s and continued competition for resources have assisted in re-engaging the states over this dispute area. This conflict area has been characterized by scholars as “cold politics and hot economics,” as Sino-Japanese economic interdependence has counter-balanced the standstill political strategies and agreements between the states.\textsuperscript{17} Further adding to the tensions over the Diaoyu/Senkaku Islands, myriad nationalist groups from both sides have attempted to make claims on the islands dating back to the late 1980’s. This islands dispute thus is beyond a maritime boundary issue, and is also a matter of national pride for both countries, thus ensuring that neither side is likely to take a chance of backing down.\textsuperscript{18}

With regard to the East China Sea (ECS), in 2008, a very promising formal agreement between China and Japan was established. The East China Sea Agreement announced a “consensus” on joint exploration for oil in the resource-rich ECS, as well as an “understanding” on Japanese participation, under PRC jurisdiction, in development of one of the area’s proven gas reserves, the Chunxiao gas field. This is monumental because, from the Japanese perspective, the Chinese Chunxiao gas field may straddle the demarcation line in the ECS. Furthermore, the Chinese have proposed joint development before, only to be rejected by Japan, and the Japanese have voiced desire to share resources if the field extends to the Japanese side of the ECS, which of course was highly

\textsuperscript{17} Manicom and O’Neil, 218-219.
contested by the Chinese.\textsuperscript{19} Initially the agreement was considered a remarkable improvement that would be able to remove a major obstacle in Sino-Japanese relations.\textsuperscript{20} However, the agreement allows a way for Japan to participate in energy development in a disputed area, while not requiring the PRC to accept Japan’s claims that a median-line divides the ECS into Japanese and Chinese owned areas.\textsuperscript{21}

On the surface the ECS agreement appears to lay the groundwork for addressing an area that has been the focus of years of competing Sino-Japanese territorial claims and tense stand-offs. Yet, a number of potential obstacles could hamper future progress. Both China and Japan have put their own spin on the agreement, with China quickly clarifying that it is not a “joint development” project (as Japan claims) but a “co-operative development” venture, which Beijing describes as a “very different thing.”\textsuperscript{22} According to the PRC, private Japanese investment will have to recognize PRC sovereignty over the Chunxiao gas field and will be conducted in accordance with Chinese laws. Details still are not definite on how the cooperation will move forward and how revenues will be shared. Neither side has compromised on its core definition concerning its own sovereignty rights in the East China Sea.

The future of relations between China and Japan under the cooperation of the ECS agreement will have to navigate through nationalist sentiments, which oft times

\textsuperscript{21} Smith, 234.
appear outside the control of the involved governments. PRC nationalist sentiments surged after the agreement was announced, with a small protest outside the Japanese Embassy in Beijing and online commentary criticizing PRC officials for allegedly “selling out” China’s interests to Japan.\textsuperscript{23} However, this agreement was a very small and needed step toward wider cooperation in the ECS as a whole. Challenges still remain, including the status of other disputed fields and questions of delimitation, which have the potential to trigger political crises in the future.

As the literature discussing these specific areas of Sino-Japanese conflict has highlighted, the main avenue in resolving issues has been through bi-lateral discussions, negotiations and agreement. However, in both cases, issues of territory and sovereignty to the disputed maritime lands, a multi-lateral approach to dealing with these cases has potential. It is this area in which my research question is set. Why, in these cases among others, has China chosen to focus only on bi-lateral solutions? What are the general positive and negative outcomes that could emerge from multi-lateral approaches to these conflicts? How have these possibilities affected Chinese foreign policy? Answers to these questions seem to rarely be discussed in the relevant academic literature. Thus, as I engage these questions it is my intent to demonstrate why PRC leadership favors bi-lateral solutions and negotiations to these issues specifically, as models for general PRC approaches.

History of China-Japan Relations

Relations between China and Japan, historically, were clearly structured. One country was always more affluent or powerful than the other. Prior to the nineteenth century, China was usually the dominant of the two. However, since the 1868 Meiji Restoration, Japan has generally been the most successful. China and Japan being powerful and affluent at the same time is a recent phenomenon, for China’s influence and economy have grown rapidly, while Japan’s have remained stagnant. China is armed with nuclear weapons and intercontinental ballistic missiles, and its military budget has grown by double-digit rates for nearly two decades. China has also become a major regional power with global political impact, and is fast becoming a major economic power, while Japan is already one of the world’s leading economies, and now wants to become a major political and military power.

The contemporary relationship between China and Japan, however, begins first with the normalization of political relations. The PRC delegation took the seat of China in the United Nations, pursuant to the UN General Assembly Resolution 2758 of 1971, and replaced the Republic of China (ROC). The famous visit by U.S. President Nixon

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24 For a chronological list of important events pertaining to China-Japan relations, please see Appendix A.
26 Heazle and Knight, 36.
to Beijing was made in the spring of 1972, which was interpreted by many as signifying a new kind of alignment with China against the Soviet Union. The shift changed the world’s power structure immensely. Japanese Prime Minister Kakuei Tanaka viewed Nixon’s visit to China as a signal for Japan to reopen its relationship with China.\(^{28}\) Thus, Tanaka followed suit and reached a favorable peace accord with Beijing. With this formalization, Japanese exports rushed into China and soon after all Communist states. In the latter half of the 1970s, then, Japan’s economy took off, and surpassed all of the European countries.

Sino-Japanese relations have been a key component of the international system in East Asia since this time. The United States’ role as a key determinant of Sino-Japanese relations is due to US dominance over Japanese foreign policy. However, Japan has searched for a more independent space in its foreign policy, and this arena has been, and is increasingly, centered on its relations and policies with China. On the other hand, Japan’s usefulness for the US in the changing contexts of US-China relations has also affected Sino-Japanese relations. Amongst the many factors that affect contemporary Sino-Japanese relations, some are tangible threats, while others are intangible, historical and cultural factors.\(^{29}\) Chinese memories of Japan’s invasion of China have been manifested by general public opinion, but also through changing international power dynamics in the region and the changing Chinese policy toward Japan.


During the 1990’s deterioration in the China-Japan relationship arose, in a manner that suggested new factors were at work, due to elements beyond the frictions caused by system differences, the issue of Taiwan and history that plagued the decades of the 1970’s and 1980’s. Throughout this time, however, economic ties continued to grow. From 1990-2005, the volume of trade increased by more than ten times, from $18.2 billion to $267.0 billion. Throughout the same time period, cumulative Japanese foreign direct investment grew from $1.8 billion to $36.3 billion. By summer 2008, China had replaced the United States as Japan’s biggest export market. China’s expanding role in global manufacturing and in the emergence of a domestic market was the major factor in this dramatic increase in investment. However, as economic relations strengthened between the two states, issues of security became pressure points in the overall relationship.

First, from 1995-1996 China exploded nuclear weapons prior to signing the comprehensive test ban treaty. While they did sign the treaty on September 24, 1994, they still have not ratified it. These tests produced a strong public and political reaction in Japan while the Japanese government responded with a symbolic suspension of grant aid. Second, in June 1995, one month after the first nuclear test, Taiwan’s president, Lee

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32 Ibid.
33 Smith, 241-243. This is not to say that this was the first time that China tested nuclear weapons, as that occurred on October 16, 1964.
Tenghui, made an unprecedented visit to the US to give a speech at Cornell University. Beijing saw in Lee’s action a trend toward separatism, thus over the course of that summer and fall the People’s Liberation Army (PLA) conducted a series of exercises to deter future steps in this direction. China intensified its coercive diplomacy in March 1996 with a new round of exercises; most provocatively firing missiles near Taiwan ports, prompting the US to send two carrier battle groups into the area. Along with regional counterparts, Japan was alarmed by the forceful response to Lee’s political challenge by Beijing. Finally, later in the decade, increasing concern about Chinese military patrols in the Senkaku/Diaoyu area brought forth security conflicts between the two countries.35

Throughout this time, the most prominent response from Japan was to reduce assistance to China, because at the time the government regarded aid as its major leverage over Chinese behavior. Over time, however, Japan began to realize that aid no longer worked as a lever and ended yen loans to China altogether by 2008.36

China, during this time, saw itself as the target of Washington and Tokyo’s efforts in strengthening their security alliance, from the 1996 joint declaration on security by the US and Japan to agreements on defense cooperation. While not all of these moves were defensive toward China, they were actually targeted more toward North Korea, since the

35 Ibid.
36 Bush, 17.
1994 crisis had spurred these moves. However, China interpreted the broadening of the US-Japan alliance to encompass and include Taiwan, and that in the event it acted against Taiwan, it would have to plan for both US and Japanese intervention and involvement.

These security issues of the 1990’s did not produce the same five-year vacuum in diplomatic relations that Prime Minister Koizumi’s visits to the Yasukuni Shrine during his service did, from April 2001-September 2006. China’s harsh reaction to the Japanese leader’s visits to this shrine was not new, but Koizumi’s strong determination to pursue the visits demonstrated an externally assertive Japan and a new domestic political environment which supported Japan’s new direction. As one Chinese scholar wrote toward the end of Koizumi’s tenure:

“For Koizumi, visiting the shrine was neither a ‘historical preference,’ nor a religious belief. In today’s Japanese society, the Yasukuni Shrine is a banner for the Greater East-Asia Co-Prosperity Sphere, which stands for a political symbol for an attempt to restore the old dream of the great Japanese empire. Visiting the shrine as a Prime Minister, Koizumi aims to break away from the historical burden of its aggression war and head for a dream of being a political and military power.”

As the millennium commenced, the two militaries were becoming noticeably more capable. The modernization of the PLA was primarily a response to the situation with Taiwan. However, while the Taiwan issue is not irrelevant to Japan, today and in the trajectory of China’s military buildup, it affects Japan’s sense of its own security as

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39 Bush, 19.
well. (See Figure 1 below for data on China’s defense and military budget at the discussed time period.) Chinese “research ships” began sailing through Japan’s exclusive economic zone, and the Japanese government’s inference was that the ships were exploring passages for submarines. For a while there was an understanding that China would provide advance notice of such transits, but stopped doing so by 2004.\footnote{Manicom and O’Neil, 221.}

**Figure 1**: Estimate of China’s Defense Budget, 1994-2006, adjusted for inflation

China, however, could point to a number of worrisome trends. Japan already had a robust military capability by this time. There was a serious effort brewing to revise Article 9 of Japan’s constitution to remove its strictures on the use of Japan’s armed forces for collective defense. Furthermore, the alliance between Japan and China was deepening, including by cooperating on missile defense, which, if effective, would remove China’s main offensive advantage against Japan.

When Hu Jintao assumed Jiang Zemin’s top party positions in late 2002, some in Beijing saw a chance for change for the better and for “new thinking” on Japan policy. They believed that misunderstanding and mutual fear were promoting a vicious circle that did not serve China’s interests. However, their proposal to ignore history and focus on what the two countries had in common sparked a vigorous debate among scholars, as well as the public, which posted fierce attacks against the proposal on the Internet. Territorial disputes and energy exploration overlapped to further agitate bilateral ties. Many incidents throughout 2004 and 2005, which will be discussed in depth in the case studies, produced a growing mutual awareness that was evident in official statements from both sides.

The relations went from bad to worse, in April 2005, when the Chinese public entered the act. Responding first to a new Tokyo campaign to become a permanent member of the UN Security Council, and then to revisions in some Japanese textbooks

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41 Hsiung, 31.
42 Bush, 19.
concerning Japanese military tactics and actions during the occupation of China, crowds in a number of Chinese cities demonstrated and rioted for several days. Japanese shops and offices were vandalized and the embassy and ambassador’s residence were defaced.\textsuperscript{43} Asked for an apology, Chinese diplomats responded that Japan’s “incorrect handling of history” had spurred the riots and that there was no reason for China to apologize. While the Chinese government brought the disturbances under control soon after, Vice Premier Wu Yi, on a visit to Japan in May of that year, further offended Japan by canceling a scheduled meeting with Koizumi.\textsuperscript{44} Throughout that period, tensions over gas fields in the East China Sea festered, and Japan decided that China had become sufficiently developed to graduate from development assistance.

Following the era of Koizumi in September 2006, Shinzo Abe, former chief cabinet secretary, became prime minister. While he did not renounce worship at the shrine, he did move quickly to repair relations with Beijing, and Seoul, by making those the first capitals he visited after taking office.\textsuperscript{45} After having demanded an explicit pledge not to visit Yasukuni as a condition for the resuming high-level meetings, the PRC government was willing to accept Abe’s ambiguity in order to get back to a more normal relationship. When Abe proposed that the two countries build a “mutually beneficial strategic relationship,” on his visit to Beijing in October 2006, PRC leaders

\textsuperscript{43} Ibid, 20.
\textsuperscript{44} Drifte, 57-58.
\textsuperscript{45} Cooney and Sato, 103.
quickly agreed.46 It also sought to create momentum through reciprocal leadership visits, which would make it difficult for Abe to visit Yasukuni, because it might put such visits in jeopardy. Premier Wen Jiabao made a successful trip to Tokyo in April 2007. Among other things, “he adopted a softer stance on the history issue, which was welcome to the Japanese side: he balanced statements about the wartime disaster with others about the long positive past that preceded it and expressions of gratitude for Japanese assistance and inspiration in the latter part of the twentieth century.”47

Abe served only one year as prime minister before he was replaced by Yasuo Fukuda in late September 2007. China viewed Fukuda favorably because he was willing to explicitly pledge not to visit Yasukuni. Furthermore, he accelerated his predecessor’s efforts to improve ties with Beijing, which he visited in late December. He made a statement that the PRC had sought for a number of months concerning Taiwan that Japan did not support Taiwan independence, and he gave a well-received speech at Peking University.48 He was a leader after China’s liking, and his tenure was marked by some successes, namely, an exchange of visits by Fukuda and Hu Jintao and the conclusion in June 2008 of a political agreement on the East China Sea. However, there were also setbacks; most notably a conflict over tainted dumplings produced in China.

47 Bush, 21.
48 Dent, 37-38.
and exported to Japan, which some in Japan suspected had been deliberately poisoned, as well as the failure of the two sides to implement the East China Sea agreement. 49

Fukuda also lasted less than a year, and Taro Aso, an ally of Abe, became prime minister. Although relations continued without significant problems, there was also no significant progress during his reign. Nothing was done to implement the goals stated in the ECS agreement, and the China-led negotiations to restrain North Korea’s nuclear and missile programs collapsed, to the detriment of Japan’s security. 50

In August 2009, Japanese voters gave the Democratic Party of Japan (DPJ) a stunning victory in elections to the lower house of the Diet, ending the fifty-four year dominance of the Liberal Democratic Party. The DPJ proposed to create a better balance between Japan’s ties with the US and those with Asia; this however, further emphasized Fukuda’s China policy. Japanese Prime Minister Yukio Hatoyama spoke of “fraternity” as a guiding principle in Japan’s relations with Asia. At the same time, the party’s campaign statements emphasized the differences between Japan and China, not their commonalities. 51 The history of China-Japan relations however may be a larger obstacle for the new Japanese government to conquer, as a discussion of current affairs and discussions surrounding the ECS and territorial and resource disputes between the two states will demonstrate.

49 Bush, 22.
50 Ibid.
51 Ibid.
The disputes in the ECS are about the sovereignty of the Senkaku/Diaoyu Islands, the border of the exclusive economic zone (EEZ), which directly affects each nation’s ability to explore and drill for oil and gas in the area, specifically concerning the Chunxiao gas field. Creating resolutions for these two issues are linked extremely closely to each other, which is part of the reason for the study of both issues together in this paper. While I focus on the foreign policy concerning these issues between China and Japan, it is necessary to note that the Republic of Korea is also seeking agreements with China and Japan concerning competing claims to an EEZ in the northern part of the ECS.  

The Law of the Sea

The law of the sea, which governs maritime matters today, was established through an extremely long process. The codified laws that apply to the seas today were the result of three different UN Conferences on the Law of the Sea, which produced the UN Convention on the Law of the Sea (UNCLOS). Multiple rounds of negotiations were held from 1973 through 1982, when UNCLOS was finally adopted. The Convention came into force on November 16, 1994, one year after the sixtieth state signed it. China and Japan both became parties to UNCLOS in 1996.  

52 Smith, 234.  
Baselines, Internal Waters and Median Lines

UNCLOS defines how a state can draw its oceanic borders. There are three types of baselines that UNCLOS stipulates as zones of maritime sovereignty. A state’s “normal baseline” is the applicable to most states’ territorial borders, based on its low-tide perimeter. When a coast is “deeply indented or has “a fringe of islands,” the state may draw “straight baselines” between “appropriate points” in order to simplify the defining of maritime jurisdiction. Archipelagic states may also draw straight baselines “joining the outermost parts of their outermost islands” when the islands can “sustain human habitation or economic life of their own.” All waters inside this baseline are included as part of the state’s territory and this baseline is also used to chart the EEZ. Waters that are landward of straight baselines, bay and river-closing lines are considered internal waters. These waters are under full sovereignty of coastal states, similar to land


Ibid, Article 5.

Ibid, Article 7.


Ibid, Article 47 (1).

Ibid, Article 121 (3).

Ibid, Article 8.

Ibid, Articles 55-58.
Especially pertinent to disputes between China and Japan within the ECS is the concept of median lines. UNCLOS explicates that median lines between the opposite or adjacent coasts of two states should be equidistant, based on nearest baseline points, unless an agreement establishing different limits is recognized.

**Territorial Sea and Contiguous Zone**

Under UNCLOS, a coastal state can claim a territorial sea out to 12 nautical miles (nm) from the baseline. Within the territorial sea, a coastal state has full sovereignty over the sea bed, water column, surface and airspace above. Vessels from other states, however, have a right of innocent passage through a territorial sea. A coastal state may also claim a contiguous zone, extending up to 12 nm beyond the territorial sea. Thus, a coastal state has the right to apprehend vessels that may have “committed an offense within its territory or territorial sea, or to prevent infringement of certain laws within the territory and territorial sea, such as customs and immigration matters.”

**Exclusive Economic Zone**

The creation of the EEZ combined rights to the continental shelf with rights over the water column beyond the territorial sea. During the negotiations, this was a compromise between states that wanted more control over offshore areas and those that

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64 Ibid, Article 8.
65 Ibid, Article 15.
66 Ibid, Article 2.
67 Ibid, Article 19.
68 Ibid, Article 33.
69 Donaldson and Williams, 138.
70 UNCLOS, Article 56.
wanted to retain as large an area as possible as high seas.\textsuperscript{71} A coastal state can claim an EEZ extending up to 200 nm into the open ocean from the territorial baselines, allowing a state to harvest all of the natural resources, living and non-living, within the zone.\textsuperscript{72} A coastal state also had jurisdiction in the EEZ with regard to building and maintaining artificial islands, conducting scientific research and conserving the environment. Coastal states however, cannot restrict freedom of navigation within the EEZ, flight above or laying of submarine pipelines or cables through the zone.\textsuperscript{73}

\textit{Continental Shelf}

Article 76 of UNCLOS defines a coastal state’s continental shelf as “the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin.”\textsuperscript{74} All coastal states automatically have jurisdiction over the seabed and subsoil up to 200 nm from the baseline, regardless of whether the physical continental margin extends that far or not. States that have a continental margin extending beyond 200 nm must define the outer limit of the continental shelf and submit the claimed limit for approval by the UN Commission on Limits of the Continental Shelf.\textsuperscript{75} Regardless of the physical extent of the margin, state jurisdiction cannot extend beyond 350 nm from the baseline, or 100 nm beyond the 2,500-meter isobaths.\textsuperscript{76} The rights of the coastal state over the

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\textsuperscript{72} UNCLOS, Articles 55-58.
\textsuperscript{73} Ibid, Article 58.
\textsuperscript{74} Ibid, Article 76.
\textsuperscript{75} Ibid, Article 76 (8).
\textsuperscript{76} Ibid, Article 76 (5).
continental shelf are the same as in the EEZ: sovereign rights to explore and exploit the natural resources of the sea floor and sea bed of the continental shelf. However, these do not extend to the water column or to any other rights related to the surface or airspace. Unlike the EEZ, which must be claimed through legislation, rights over the continental shelf exist *ipso facto*, and do not require declaration.

*High Seas*

UNCLOS Part VII defines maritime areas beyond EEZs as the high seas, in which all states, land-locked and coastal, have freedom to navigate, overfly, construct artificial islands, lay submarine cables or pipeline, fish and conduct scientific research. UNCLOS also declares that the high seas are to be used for peaceful purposes only and no state can make a claim to sovereignty or jurisdiction over them.

*Dispute Settlement Under the UNCLOS*

An important section to the Convention that needs to be highlighted is the section concerning the settlement of disputes. UNCLOS created certain bodies, which serve as venues that disputes may be settled in, and which perform advisement functions. Part XV of the UNCLOS requires that parties to the Convention settle any dispute between them “concerning the interpretation or application of the Convention by peaceful means

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77 Ibid, Article 77.
78 Ibid, Article 78.
79 Ibid, Article 77.
80 Ibid, Article 87.
81 Ibid, Articles 88-89.
in accordance with Article 2, Paragraph 3, in accordance with the UN Charter, and shall
seek a solution by the means indicated in Article 33 Paragraph 1 of the Charter. \(^8^3\)

Where no settlement has been reached UNCLOS stipulates that the dispute be submitted
at the request of a party to the dispute to a court or tribunal deemed to have jurisdiction. \(^8^4\)

These courts or tribunals are defined as the following:

(a) the International Tribunal for the Law of the Sea established in accordance
with Annex VI;
(b) the International Court of Justice;
(c) an arbitral tribunal constituted in accordance with Annex VII;
(d) a special arbitral tribunal constituted in accordance with Annex VIII for one or
more of the categories of disputes specified therein. \(^8^5\)

If parties in a dispute have not accepted the same settlement procedure, the dispute may
be submitted only to arbitration in accordance with Annex VII, unless the parties agree
otherwise. China has not declared a choice of procedure from the above bodies, but
claims its disputes fall under Article 298, which grants optional exceptions to the
applicability of declaring a settlement of disputes mechanism choice, while Japan has not
made any claim for a mechanism to settle disputes. \(^8^6\)

Specific Issues Relating to the East China Sea Cases

According to UNCLOS Article 57, coastal states may claim an EEZ based on a
distance extending up to, but not exceeding 200 nm from their territorial baselines. \(^8^7\)

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\(^8^3\) United Nations Division for Ocean Affairs and the Law of the Sea, “Settlement of Disputes,”
\(^8^4\) UNCLOS, Article 287.
\(^8^5\) Ibid.
\(^8^6\) United Nations Division for Ocean Affairs and the Law of the Sea, “Settlement of Disputes Mechanism,”
\(^8^7\) Ibid, Article 57.
Japan relies on Article 57 for its proposal that China and Japan’s EEZs in the ECS stretch only to the median between China and Japan; the point where their two 200 nm claims intersect. While China declares that it has a 350 nm EEZ based off of Article 76, which allows a coastal state to declare an EEZ up to either a distance of 200 nm or the “natural prolongation” of its land territory to the outer edge of the continental margin, up to 350 nm. In the case of the Chunxiao gas field, China claims that the field does not cross the median, even if the Japanese method of demarcation is adopted, because Chunxiao is four kilometers from Japan’s claimed centerline. Japan, however, maintains that it may have a claim to a share of Chunxiao’s profits regardless of where China chooses to extricate resources if the extrication draws on resources currently located east of the median.

China’s claim of a continuous continental shelf rests heavily upon the geomorphology (shape, form and configuration) of the ECS. China must prove that there is a steady landmass throughout its asserted 350 nm zone to maintain its continental shelf claim. Essentially, the ECS is divided into two rift complexes: the East China Sea Basin and the Okinawa Trough. The Okinawan Trough is separated from the East China Sea basin by the Diaoyudao Uplift Belt, which raises the continental shelf,
resembling the middle of a “w” shape in the shelf.\textsuperscript{94} Thus, Japan may use the Diaoyudao Uplift Belt to dispute China’s claim to a 350 nm EEZ, especially if Japan can claim ownership of the Senkaku/Diaoyu Islands, which are located at the middle peak of the “w.”\textsuperscript{95} The Okinawa Trough is just miles away from Japanese territory, and if China can claim the waters up to the trough, China would be able to control virtually the entire ECS.\textsuperscript{96}

\textit{Legal Standards for Disputed Island Ownership}

In 2002 the International Court of Justice (ICJ) made a decision on the \textit{Pulau Ligitan and Pulau Sipadan} case that exemplifies an accepted rule of international law regarding island disputes: active occupation and effective control over territory supersedes ambiguous and ancient title.\textsuperscript{97} The ICJ examined modern control over the disputed islands in the case to determine claims of historical title. Relevant to the Sino-Japanese disputes is that displays of sovereignty are essential to prove ownership of such islands. In this case the ICJ focused on which state actually occupied and administered state functions over the disputed islands, as well as to what extent the states complied with the other’s authority.\textsuperscript{98}

The ICJ ruling, which awarded both disputed islands to Malaysia, illustrates what constitutes ownership under ICJ standards. The reasons for determining Malaysia owned

\begin{footnotes}
\item[94] Ibid, 145.
\item[95] Ibid.
\item[96] Schofield, 27.
\item[98] Ibid.
\end{footnotes}
the islands was because it licensed boats to use the islands, constructed and maintained lighthouses on the islands, and collected sea turtle eggs from the islands.\textsuperscript{99} The ICJ emphasized in this ruling that even sparse evidence of ownership can be persuasive in small islands cases. Most important to this study, however, is that the ICJ applied to this case what has become a sort of litmus test for island ownership: occupation and a rapid protest against foreign encroachment on land indicate ownership. Failure to execute those two actions results in forfeiture of possible title.\textsuperscript{100}

\textit{Legal Standards for Continental Shelf Delimitation}

In 1985, the ICJ made an important ruling concerning a shelf dispute between Libya and Malta.\textsuperscript{101} This case is applicable to delimitation issues of the ECS, because it illustrates how the ICJ may decide continental shelf disputes based on UNCLOS. The case addresses concepts of landmass, continental shelf delimitation and an island-state’s ability to have a continental shelf, all of which are factors in the disputes between China and Japan in the ECS. The Libya/Malta case established a major precedent for later rulings: when two 200 nm EEZs, based on distance, intersect between two opposite states, the legal concept of a continental shelf’s natural prolongation is irrelevant because each state has the right to explore and exploit the shelf’s resources up to 200 nm from its

\begin{flushleft}
\textsuperscript{99} Ibid.
\textsuperscript{100} Peterson, 452.
\end{flushleft}
baselines. Even though UNCLOS was not in force at the time of this dispute, the court recognized that both states had signed the treaty, so many of the UNCLOS principles were used to decide the case.

**East China Sea Gas Fields (Chunxiao)**

The oil and gas dispute concerning various oil fields in the East China Sea became a prominent concern of both Japan and China in 2003. (See Figure 2 below for a map of the East China Sea, highlighting disputed areas.) The state-owned China National Offshore Oil Corporation (CNOOC) and China Petroleum and Chemical Corporation (Sinopec) concluded contracts with two foreign oil companies, Shell and Unocal, to jointly explore for oil and gas in the East China Sea. These two Chinese companies held 30 percent shares each in the project, while the two foreign companies split the remainder with 20 percent stakes. The entire project covers 22,000 square kilometers in an area known as Xihu Trough. Premier Wen Jiabao met with representatives of all partners in a formal signing ceremony in the Great Hall of the People, which attracted an enormous amount of international attention, especially from Japan.  

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102 Ibid.
103 The Chunxiao gas field is focused on, as it is highly contested due to its location and potential resources, which are discussed in detail within this section.
104 Hsiu, 139.
Midyear in 2004, drillings were apparently underway in several offshore sites. There are at least seven existing or developing sites in the area, but three of these upset Japan because they are located a few kilometers west of the “median line” proposed by Japan. Chunxiao is among these three sites, which also include the Duanqiao and Tianwaitian fields. 105 All of these fields are situated on the Chinese side of the median line, but their proximity to the line created concerns in Japan because the oil and gas

105 These are the Chinese names for the gas fields, in Japanese they are referred to as Shirakaba, Kusunoki and Kashi. See Drifte, “Territorial Conflicts in the East China Sea: From Missed Opportunities to Negotiation Stalemate.”
reserves in the seabed on the Japanese side of the median line may be tapped by Chinese operations.\textsuperscript{106}

The median line concept proposed by Japan suggests a line that runs from north to south and separates the sea with equal distance from the shores of the two countries.\textsuperscript{107} China does not accept this median line, however, citing the reason that it was unilaterally drawn by Japan, without consulting China. Instead, China claimed its right to develop the subterranean resources on its continental shelf, the edge of which crosses the median line and extends further eastward toward the Okinawan Trough. As a result, there is an area of overlapping claims, with the western boundary being the median line proposed by Japan and the eastern boundary the edge of China’s continental shelf. This area of overlapping claims, as shown from satellite images of the continental shelf, is about 150 kilometers wide.\textsuperscript{108}

Recalling from the previous detailed section on the law of the sea, the UNCLOS allows for coastal countries to claim 200 nm from their shores as their EEZs.\textsuperscript{109} The ECS is hardly wide enough to allow Japan and China to do that without conflicting claims. In the north, the distance from Kagoshima to Shanghai is 862 kilometers; in the south, the distance from Naha in Okinawa Prefecture to Wenzhou in Zhenjiang Province is 726 kilometers. If the distance between the smaller islands of the Ryukyu chain was

\textsuperscript{106}Bush, 76.
\textsuperscript{107}Bush, 77-78.
\textsuperscript{108}Yusin Lee and Sangjoon Kim, “Dividing Seabed Hydrocarbon Resources in East Asia: A Comparative Analysis of the East China Sea and the Caspian Sea,” \textit{Asian Survey} 48, No. 5 (September/October 2008): 798.
measured, the sea would be even narrower. From the Japanese perspective, however, an EEZ based on the Senkaku/Diaoyu Islands would not only extend to China’s coastal waters, but cut across a portion of Chinese land as well.\textsuperscript{110}

The Japanese media has portrayed that, in order to avoid antagonizing China in the last several decades, Japan refrained from oil and gas exploration in the ECS even though it had the technological ability to do so. Tokyo waited for some sort of agreement or understanding with Beijing before taking action. Thus, the move by China to find oil and gas in that area was viewed by Tokyo as a unilateral move. Akira Chiba, Japanese Foreign Ministry’s assistant press secretary said, in reference to the Chunxiao gas field that Japan “does not welcome any unilateral move” and that “it is the Chinese side that has suddenly decided not to keep its word and to start exploiting that area.”\textsuperscript{111} At the time, Japan demanded a halt of the Chinese operation, but China said that the three controversial sites are not in any disputed area. As Japan protested, China continued its drilling activities.

In September of 2004, Shell and Unocal pulled out of the project, citing unexplained commercial reasons. This move, according to analysts, cast doubt on the potential of the Xihu Trough.\textsuperscript{112} CNOOC and Sinopec became the only players in the project as a result of the decision as well. In a joint statement, CNOOC and Sinopec said that Shell and Unocal had pulled out “since both sides have failed to agree on the existing

\textsuperscript{110} Ibid, 798-799.
\textsuperscript{111} Au, 225.
\textsuperscript{112} Ibid.
development plan.” However, it is an obvious possibility that the companies pulled out of the project because of a desire to not antagonize Japan. At the same time, the Chinese companies asserted their confidence in the project and held to projection of the Chunxiao field beginning production in the middle of 2005.

In April of 2004, then Japanese Foreign Minister Kawaguchi Yoriko visited China and demanded geological data on the drilling sites. In response, then Chinese foreign Minister Li Zhaoxing proposed joint development in the ECS. Li’s offer, however, was not readily accepted by the Japanese, which prompted the Japanese media to call for joint development. Within the subsequent talks, Tokyo modified its position and became more receptive to the idea of joint development, but the two sides did not agree on which are to develop and what form of cooperation should take place.114

Reports on the subsequent consultations revealed that Tokyo wanted to participate in developing the three Chinese sites through capital investment or technological assistance. But Beijing rejected that idea because these sites had already begun, or were about to begin production.115 In fact, a China-supported Hong Kong based newspaper reported in January of 2007 that Chunxiao gas field began to supply Ningpo and Shazoxing of Zhejiang Province with natural gas in September 2006. The report spurred great alarm in Japan and inquiries at several press conferences in the Chinese Foreign

113 Bush, 77.
114 Au, 225.
Ministry. The ministry’s spokesperson first said that she did not know the specifics, and later said the report was “not true,” in an effort, no doubt, to subdue Japan.\textsuperscript{116}

Prime Minister Koizumi said the “sea of confrontation” should be turned into the “sea of cooperation,” but Tokyo’s response was tit for tat. In mid-2005, the Japanese government granted Teikoku Oil Company the right to explore for oil and gas in the ECS. Teikoku and a number of other Japanese oil companies applied for drilling rights in the late 1960s, but Tokyo never gave them the green light, presumably because it, again, did not want to antagonize China.\textsuperscript{117}

With government approval, by July 2005, Teikoku had drafted plans to develop three fields along the Japanese side of the median line. Since China did not recognize the median line, such a move was viewed as a violation of Chinese territorial sovereignty because the sites were situated on China’s continental shelf. Furthermore, the positioning of the sites was provocative because they were just a few kilometers from the Chinese fields, and if developed, could siphon off the oil and gas in the seabed on the Chinese side.\textsuperscript{118} Beijing’s response was swift and strong. Huang Xingyuan, a spokesman for the Chinese Embassy in Tokyo, said that any move by Japan to explore for oil and gas in that area would be viewed by Beijing as an “invasion of Chinese territory and be viewed as a highly provocative act.” Beijing lodged a strong protest and

\begin{footnotes}
\footnote{Au, 226.}
\footnote{Ibid, 38}
\end{footnotes}
take further action against the Japanese move. Amid these heightened tensions, Teikoku refrained from exploration activities, citing safety and government support as necessary to development.\textsuperscript{119}

\textit{The Talks}

Between 2004 and 2007 alone, the two sides held 11 rounds of official talks in order to resolve the issues of the ECS. (See Table 1 below for a complete list.)

\textbf{Table 1:} Date and Venue of Talks

<table>
<thead>
<tr>
<th>Talks</th>
<th>Date</th>
<th>Venue</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>25 October 2004</td>
<td>Beijing</td>
</tr>
<tr>
<td>2nd</td>
<td>30–31 May 2005</td>
<td>Beijing</td>
</tr>
<tr>
<td>3rd</td>
<td>30 September—1 October 2005</td>
<td>Tokyo</td>
</tr>
<tr>
<td>4th</td>
<td>6–7 March 2006</td>
<td>Beijing</td>
</tr>
<tr>
<td>5th</td>
<td>18 May 2006</td>
<td>Tokyo</td>
</tr>
<tr>
<td>6th</td>
<td>8–9 July 2006</td>
<td>Beijing</td>
</tr>
<tr>
<td>7th</td>
<td>29 March 2007</td>
<td>Tokyo</td>
</tr>
<tr>
<td>Experts meeting</td>
<td>6 April 2007</td>
<td>Beijing</td>
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<tr>
<td>Tokyo summit</td>
<td>11 April 2007</td>
<td>Tokyo</td>
</tr>
<tr>
<td>8th</td>
<td>25 May 2007</td>
<td>Beijing</td>
</tr>
<tr>
<td>9th</td>
<td>26 June 2007</td>
<td>Tokyo</td>
</tr>
<tr>
<td>10th</td>
<td>11 October 2007</td>
<td>Beijing</td>
</tr>
<tr>
<td>11th</td>
<td>14 November 2007</td>
<td>Tokyo</td>
</tr>
<tr>
<td>Beijing summit</td>
<td>28 December 2007</td>
<td>Beijing</td>
</tr>
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</table>


The dispute has been negotiated by the middle-level career officials from the foreign ministries of the two countries, and they are assisted by officials responsible for natural resources.\textsuperscript{120} The Chinese team is led by Hu Zhengyue, director-general of the Department of Asian Affairs in the Chinese Foreign Ministry; the Japanese team is headed by Sasae Kenichiro, director-general of the Asian and Oceanian Affairs Bureau in

\textsuperscript{119} Ibid.
\textsuperscript{120} Au, 227-228.
Japan’s Foreign Ministry. Up to the third round of talks, however, Cui Tiankai, who during the talks, was promoted to the position of Assistant Minister of Foreign Affairs, actually led the Chinese team. He was succeeded by Hu Zhengyue as the head negotiator. On the Japanese team, the first round of negotiation was conducted by Yabunaka Mitoji (Ministry of Foreign Affair's Asian and Oceanian Affairs Bureau, Director-General), who was succeeded by Sasae Kenichiro (Deputy Director-General of Asian and Oceanian Affairs Bureau); and Kodaira Nobuyori (Director-General of the Agency for Natural Resources and Energy under the Ministry of Economy, Trade and Industry (METI)), always attended the talks as a prominent member of the Japanese team. After the fifth round of talks, Kodaira Nobuyori was replaced by Mochizuki Harufumi, the new Director-General of the Agency for Natural Resources and Energy, who occupied a prominent position in the Japanese team. When Prime Minister Fukuda Yasuo visited Beijing in December 2007, Mochizuki was a member of his party, which indicated the importance of energy talks between the two sides.121

The negotiation teams from both sides have, generally, been composed mainly of 17-18 people in total. While the negotiators are not top officials, they also are not junior officials. The Chinese Foreign Ministry has seven region-based departments plus one department dealing with regional organizations issues.122 The Department of Asian Affairs is one of the seven region-based departments and oversees affairs with 23 Asian

121 Ibid.
122 Ibid.
countries, including great powers like Japan and India. Japan’s METI, the successor to
the elitist MITI, is a powerful ministry with 13 bureaus and agencies, and the Agency for
Natural Resources and Energy is one of them. The head of this Agency participates in
the talks as a co-head of the Japanese team.\textsuperscript{123}

\textit{The 2008 East China Sea Agreement}

As tensions increased concerning Chinese explorations and extractions very close
to Japan’s proposed median line, and as a result of the many talks and meetings held, a
solution concerning the oil and gas extraction conflict was greatly needed. Following
President Hu Jintao’s visit to Japan in May 2008, China and Japan announced that they
had reached a “consensus” on joint exploration for oil in the ECS. They also announced
an “understanding” on Japanese participation, under PRC jurisdiction, in development of
the Chunxiao gas field. On June 18, 2008, both sides signed the Understanding on
Japan-China Joint Development in the East China Sea.\textsuperscript{124} While some revered the
agreement as a remarkable step that would greatly improve Sino-Japanese relations, there
were many criticisms, which placed a negative spin on the great compromise.

The two sides agreed to joint development in an area defined by seven measures
of longitude and latitude as a first step. Attached to the agreement is a map which shows
the area. Both sides declared their willingness to select sites for joint development in this
area through consultations, and to conclude a bilateral agreement to implement the joint

\textsuperscript{123} Lee and Kim, 802-803.
\textsuperscript{124} Drifte, “The Future of the Japanese-Chinese Relationship,” 60.
development. Important, specifically for Japan, is that the two sides will also consult about other areas outside the above area, for joint development.\textsuperscript{125} Furthermore, the Chinese side declared its willingness for Japanese legal persons to take part in the development of the Chunxiao oil and gas field, in accordance with Chinese laws, as the Chunxiao field lies just on the Chinese side of the Japan-proposed median line. However, Japan claims that the hydrocarbon resources straddle both sides of the median line, and that Japan should therefore share it with China.\textsuperscript{126} Since this was unacceptable to the Chinese side, the above formulation was chosen, but supplementary Chinese statements at the time made it clear that Japan had no legal claim to the field.\textsuperscript{127}

In Chinese news sources the agreement was spoken of as a “flexible and pragmatic” step that would serve the interests of both sides, without “prejudicing their respective legal positions.”\textsuperscript{128} In a Xinhua News Agency interview, Chinese academic Liu Nanlai pointed out three features of this agreement concerning international law. First, the block for the joint development is not too large, covering only 2600 square meters, yet it holds great symbolic meanings. Second, the jointly recognized “principle of reciprocity” is expected to help establish joint investment, exploration and sharing of resources within the block. Third, the understanding is of provisional and principled

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{125} Bush, 142.
\item \textsuperscript{126} Ibid.
\item \textsuperscript{127} Ibid, 143-144.
\end{itemize}
\end{footnotesize}
natures and requires equal consultation and pragmatic cooperation for future implementation.\textsuperscript{129}

On the surface, then, the ECS agreement appears to lay the groundwork for addressing an area that has been the focus of years of competing Sino-Japanese territorial claims and tense stand-offs. With this agreement, however, potential obstacles that could hamper future progress are still looming. Each country for example has interpreted the agreement in its own manner. China clarified quickly that it is not a “joint development project,” as Japan claims, but a “co-operative development” venture, which Beijing describes as a “very different thing.”\textsuperscript{130} According to the PRC side, private Japanese investment will have to recognize PRC sovereignty over the Chunxiao gas field and will be conducted in accordance with Chinese laws. Details concerning in what manner cooperation will move forward and how revenues will be shared have yet to be determined. At the base of this agreement, neither side has compromised on its core definition concerning its own sovereignty rights in the ECS, which leaves the issue essentially unsettled.

The ECS agreement has, however, continued to manage and control the situation quite well. The mutual mistrust and wariness about the longer-term intentions of the other, along with persistent societal antipathies, have prevented further meaningful diplomatic breakthroughs in the bilateral relations between China and Japan. However, in spite of the bilateral relations with one another, Japan and China share one of the most

\textsuperscript{129} Ibid.
\textsuperscript{130} Chantlett-Avery, Dumbaugh and Cooper,10.
interdependent relationships of any two states in the international system. “Political
leaders in Beijing and Tokyo have shown considerable determination and skillfulness in
navigating a course away from potential confrontation by not allowing tensions over key
issue areas to inhibit cooperation on security dialogues and defense exchanges.”¹³¹

Current resource expectations of the disputed areas are also not sufficient to
trigger the kind of confrontation which pessimistic onlookers would expect. While of
course this may change in the future, neither party has the military capabilities required
to exercise effective sea denial and control of a maritime area for the purposes of
conducting exploration and production activities in the ECS.¹³² The fact that Chinese
and Japanese leaders maintained their commitment to a negotiated solution in light of the
poor state of bilateral relations is an indication of their ability to manage precisely the
kinds of issues viewed to be destabilizing.

Both sides have compelling incentives to carefully manage the strategic
dimension of their relationship in the context of new and emerging challenges to the
regional security balance in Northeast Asia. As evident from the agreements made, the
hot and cold aspect of their economic and political relations, currently China and Japan
are willing to compromise with one another in order to avoid conflict, and give the
appearance of forward progression in negotiations. This also provides incentive for
continuing to deal with these two interlocked issues through bilateral means. Their
economic interdependence is winning currently over further resource development, and

¹³¹ Manicom and O’Neill, 227.
¹³² Ibid.
by maintaining a bilateral approach to these sovereignty and territorial disputes, they are able to ensure that no outside party will jeopardize the economic stability they provide for each other.

**Senkaku/Diaoyu Islands**

The Senkaku/Diaoyu Islands consist of five uninhabited islets and three barren rocks that are located about 120 nautical miles southwest of Okinawa. They are situated at the edge of the ECS’s continental shelf, fronting the Okinawan Trough to the south.\(^{133}\) Japan claims that they first incorporated the islands as *terra nullius* (vacant territory) in January 1895, having discovered them ten years earlier. The acquisition of the islands, which cannot be linked to the Sino-Japanese War Peace Treaty of Shimonoseki of April 1895, occurred after ten years of hesitancy by the Japanese government, in view of potential negative Chinese reactions. At the time the decision was not conveyed to other countries, but was eventually made public in 1952.\(^{134}\)

From 1945 to 1972 the islands were administered by the US as part of their Okinawan occupation and were returned to Japan when Okinawa reverted, which is the official Japanese position on the matter.\(^{135}\) While the US confirms that the islands are part of the territory covered by the Japan-US Security Treaty, no US administration has ever made a statement concerning the legal title of the islands.

\(^{133}\) Bush, 70-71.

\(^{134}\) Ibid.

\(^{135}\) Hsiung, 142.
China made its first claim to the islands in May 1970, after Japan and Taiwan had started talks on jointly exploring the energy resources around the islands, and the US had agreed to return the islands, together with Okinawa, to Japan. On December 30, 1971 the Chinese Foreign Ministry published an official statement claiming the islands. This was after the Committee for Coordination of Joint Prospecting for Mineral Resources in Asian Offshore Areas (CCOP), under the auspices of the UN Economic Commission for Asia and the Far East (ECAFE) had conducted a geophysical survey in 1968. The committee said in a May 1969 report that the continental shelf between Taiwan and Japan might be extremely rich in oil reserves. Since 1970, the PRC has asserted territorial rights to the islands, basing these on historical and legal arguments such as prior discovery and use, the ceding of the islands as part of Taiwan in the 1895 Shimonoseki Peace Treaty, and the ceding of any Japanese claims to Chinese territory at the end of World War II.\(^{136}\)

Japan refutes these arguments by referring to its uninterrupted administration of the islands since their incorporation into Japan in 1895. This uninterrupted administration refers to the incorporation of the islands before the Shimonoseki Peace Treaty, the lack of Chinese claims from 1895 to 1970, and the incorporation of the islands into the Nansei Shoto group of islands. This last claim, Japan feels, shows that

\(^{136}\) Ibid.
there was nothing to do with Taiwan and therefore, nothing to do with the 1951 San Francisco Peace Treaty.\textsuperscript{137}

Initially both China and Japan attempted to downplay the island dispute, especially in 1972 and 1978, while still making distinct legal claims. In 1972, both parties were interested in the normalization of diplomatic relations, and in 1978 they were eager to conclude their Treaty on Peace and Friendship.\textsuperscript{138} Since both of these agreements faced serious difficulties, the Chinese and the Japanese leaders did not want the Senkaku/Diaoyu Islands to create another problem at the time. In the end, the Japanese side agreed to shelve the territorial issue around the islands as displayed through their practices.\textsuperscript{139}

Since 1978, the dispute over the islands has led to a number of incidents involving nationalist and armed forces from both sides, as well as diplomatic protests. The Japanese side hardened its stance on the Senkaku/Diaoyu Islands by blocking several semi-private Japanese and Chinese attempts at joint development of hydrocarbon resources in the ECS, including official Chinese proposals seeking that result, and by demanding that said joint development only go forward with the confirmation of its own title to the disputed islands.\textsuperscript{140}

The general pattern of interaction throughout the early decades until 2004 was one based on restraint from the Japanese side, even in surveying the area in question on the

\textsuperscript{137} Drifte, “Japanese-Chinese Territorial Disputes in the East China Sea-between Military Confrontation and Economic Cooperation.”
\textsuperscript{138} Ibid.
\textsuperscript{139} Drifte, “The Future of the Japanese-Chinese Relationship,” 61.
\textsuperscript{140} Ibid.
eastern side of the proposed median line. Japan could have made better use of its access to off-shore exploration, extraction and transportation technologies yet chose not to, while China has been exploring energy interests in the ECS vigorously since the 1980s. This display of restraint on the Japanese side was apparent even before the UNCLOS was ratified in 1996 by the state, which advises partners to a maritime border dispute not to do anything which would jeopardize or hamper a final agreement. While Japan did not allow any company to explore the disputed area until 2004, there were also no attempts to retrieve something from China in return for their non-action. It appeared that the Japanese government seemed to be content, as long as the Chinese were implicitly respecting the median line, despite reports in 1995 and later, that Chinese exploration rigs had violated the boundary. The lack of reaction from Japan reinforced the Chinese perception that the Japanese government did not care much about China beginning explorations, and was instead implicitly condoning them through its public silence and its co-financing of the Chinese Pinghu field development, 60 km from the median line by the Asian Development Bank and ExportImporta Bank, between 1997 and 2001. Alternately, Japan’s sudden change in its official approach to the dispute from 2004 gave rise to Chinese suspicions about Japan’s own hunger for energy and its will to impede China’s developmental goals.

Despite such blatantly open issues, Japan and China concluded several fisheries agreements. The last one came into force in February 2000; however, it avoids the disputes concerning the Senkaku/Diaoyu Islands and the EEZ delimitation. One year following agreement’s entrance into force, both sides put into force a prior notification agreement for research vessels from either side, in order to reduce tensions arising from Chinese activities in dispute maritime areas of the ECS. However, again the agreement does not give the exact locations to which it should apply and, instead refers to “areas of interest to Japan.”

It has been argued that the economic interdependence between China and Japan has fostered the de-escalation of Sino-Japanese conflict over territorial and maritime rights. The 2004-2005 flare-up between China and Japan demonstrates that, in the context of China’s economic success and military buildup and the resurgence of Japan’s assertiveness, their bilateral differences in the ECS have and continue to become an intense competition for oil and gas.

Contrasting previous conflicts concerning the islands dispute, where Japanese ultra-nationalist groups or Hong Kong-based Chinese activists served as principal initiators, the 2004-2005 flare-up was catalyzed by a group of Chinese activists who landed on Uotsuri Island on March 24, 2004. The Japan Coast Guard arrested them for violating Japanese law and deported them to Shanghai after two days of detention.

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143 Ibid.
144 Ibid, 62.
145 Ibid.
Tokyo lodged a strong protest with Beijing only to find an even stronger accusation of arresting Chinese citizens.\textsuperscript{146}

This specific incident indicates that the opening up of Chinese society created more public space for bottom-up emotional venting and policy advocacy. Particularly, the advent of the Internet and information technology has made it easier for small, poorly financed activist groups, such as Protect the Diaoyu Movement, to mobilize support for their nationalist agenda.\textsuperscript{147} It is important to note, that like a chain reaction, ultra-nationalist activities emboldened the Japanese sense of indignation against China.

Intense resource competition in the ECS has further intensified the stormy clash of rival nationalisms. One example is the May 2004 controversy, which arose when the Japanese maritime authorities detected a Chinese maritime research ship operating in what Japan considers its own EEZ in the ECS. Japan’s request to end the survey activities notwithstanding, China began the construction of a natural gas drilling facility. In response, Japan launched a survey of the disputed area and started exploring for natural gas. In July, the Chinese held a series of emotionally charged demonstrations outside the Japanese embassy in Beijing to protest Japan’s ‘illegal’ oil exploration activities.\textsuperscript{148} For many commentators, the summer of 2004 marked one of the lowest points in Sino-Japanese relations in this post-normalization era.

\textsuperscript{146} Manicom and O’Neill, 219.
\textsuperscript{147} Ibid, 219-220.
\textsuperscript{148} Wan, 42-43.
The year 2005 did not bring improved relations, but worse. On February 9th of that year, the Japan Coast Guard took possession of the lighthouse built on Uotsuri Island because the private owner of the lighthouse had given up the ownership claim. China strongly criticized this action, but Japan played down China’s protest. The tension in the ECS came to a boiling point when a series of sometimes violent anti-Japanese rallies broke out in the major cities of China in April 2005, damaging the Japanese embassy in Beijing and consulates in other cities. China acknowledged that diplomatic relations with Japan were at a three-decade low, but blamed the dispute on Tokyo for refusing to face up to its militaristic past. Unmistakably, China’s reaction evoked Japanese anger over Beijing’s lack of regret for violent anti-Japanese protests.

In more recent years there has been further conflict and struggle over these disputed islands. In June 2008, a Japanese Coast Guard boat rammed a Taiwanese sport fishing boat, which had entered the territorial waters around one of the Senkaku/Diaoyu Islands, causing the boat to sink. Beijing and Taipei protested; both reiterated their territorial claim to the islands. Early on in 2009, a group of nationalists from mainland China, Hong Kong and Taiwan announced that they would send a boat to the islands to reinforce China’s claim in May 2009. This planned trip however, was abandoned after pressure from the governments of the Republic of China (ROC) and the

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149 Koo, 225. Japanese ownership claims over the island group are multilayered. Privately held Kuba-jima Island and the Islands of Uotsuri, Kita-kojima, and Minami-kojima have allegedly been rented out to the Japanese government since 1972 and 2002, respectively while Taisho-jima Island has always been owned by the Japanese government.

150 Koo, 226.

151 Ibid.

152 Drifte, “Japanese-Chinese Territorial Disputes in the East China Sea.”
PRC. For the Japanese governments, there is officially no territorial dispute to discuss, as they have de facto control over the islands. The de facto owner of disputed territory refutes as a matter of statecraft the existence of a territorial problem. Japan asserted this control when a Chinese fishing boat entered the disputed waters in September 2010; Japanese naval vessels attempted to intercept the Chinese boat, but instead took the boat’s captain in for questioning. Against Chinese wishes, but all in accordance with the law, according to the chief cabinet secretary, Yoshito Sengoku.

However, it is not only incidents like those discussed above, but also the existence of unknown quantities of hydrocarbon resources around the islands, and the impossibility of delimiting the maritime border in the southern part of the ECS without agreement on the status of the islands that have kept the issue at the forefront of relations.

The dispute about the mode for delimiting the maritime border revolves around the fact that Japan demands application of the equidistance approach, and China insists on application of the principle of the natural prolongation of the continental shelf. The latter approach allows claims of up to 350 nautical miles (nm) from the coast, while China claims an area that extends from its coast up to the Okinawa Trough, which is within the 350nm limit. Japan argues that the EEZ of both sides overlap because the width of the ECS is less than 400 nm, therefore the median line drawn through the

153 Bush, 74-75.
overlapping area should be the maritime border. As long as both sides do not agree upon a border, Japan claims potential authority over an area stretching up to 200 nm from its coast. For China, the disputed area is between Japan’s proposed median line and the Okinawan Trough, while for Japan is it the overlapping area of the 200 nm EEZ.

Figure 3: The East China Sea Continental Shelf


The Senkaku/Diaoyu dispute has unfolded over various rounds of distinct clashes, most recently the 2010 dispute concerning the Chinese fishing boat and the Japanese Coast Guard. As the de facto owner of the islands, Japan is unwilling to negotiate the


157 Ibid.
settlement of the territorial issue. To the Chinese, the Senkaku/Diaoyu dispute represents an attempt by Japan to keep from the Chinese what it stole from them during half a century of invasion and occupation.\textsuperscript{158}

According to conventional wisdom, the Senkaku/Diaoyu problem arose both directly and indirectly as a consequence of US Cold War policy in East Asia. As the architect of the island dispute during the San Francisco peace treaty negotiations, the United States has officially remained neutral on the sovereignty issue.\textsuperscript{159} However, the growing perception of China as a threat has resulted in Tokyo toughening its China policy over the years, which has consolidated China’s anti-Japanese (and anti-US) prejudice. Fueled further by energy competition, the Senkaku/Diaoyu dispute has the potential to inflict substantial damage not only on the strained Sino-Japanese relationship, but also on the fragile balance of power in East Asia.

The combination of fluid geopolitics and competitive domestic politics, fueled by contending territorial and resource nationalisms, has continuously hijacked Sino-Japanese bilateral relations. Ultra-nationalist groups on both sides have exerted considerable pressures for more assertive territorial and maritime policies. While major conflicts have not erupted thus far, the accumulation of grievances could escalate minor quarrels into major conflicts in the future.

\textsuperscript{158} Ibid.
\textsuperscript{159} Koo, 228.
A key aspect in understanding the Senkaku/Diaoyu dynamic is the multi-faceted nature of the dispute itself. Notwithstanding the destabilizing influence of resource competition, fluid geopolitics and contending nationalisms, the two countries have successfully managed to contain their respective territorial and maritime claims thus far. The two countries have been deterred from pushing for a more definitive political showdown with respect to the islands dispute in the interest of maintaining the lucrative trade and investment relations that both countries have enjoyed since 1972. Despite the fact that the dispute remains unresolved, both parties have found it a convenient strategy to shelve final resolution attempts rather than to risk the rupture of more consequential common strategic and economic interests.

Trade and Interdependence

The term interdependence is ambiguous which conceals many complex issues and difficulties; it has been used synonymously with openness, integration and mutual sensitivity.\(^{160}\) According to Richard Rosecrance and Arthur Stein there are at least three main definitions of interdependence; first, interdependence can be a relationship of interests so that if one state’s position changes another would be affected; second, interdependence can increase national sensitivity to external economic developments;

third, there is Kenneth Waltz’s definition of interdependence in terms of a relationship which is costly to break.161

Interdependent relationships are rarely in equilibrium, as one side is generally more dependent on the relationship than the other, resulting in asymmetrical interdependence.162 This notion of asymmetrical interdependence and its impact upon relations between states has been debated extensively by scholars since Albert O. Hirschman. Robert Keohane and Joseph Nye noted that trade asymmetries would allow the less dependent side an opportunity to wield power over the more dependent.163 Symmetrical trade relationships may create incentives for accommodation while asymmetrical relationships may actually increase tensions and the prospect for conflict. However, the bargaining opportunity created by asymmetrical interdependence may not necessarily be utilized or translated into power. Many interdependent relationships may be asymmetrical, but there is no question of a power advantage, or of a deliberate attempt to gain power over the more dependent side. This notion of asymmetrical interdependence is a deduction from trade inequality which may or may not be relevant to the political relationship.164

Sino-Japanese interdependence has developed rapidly over the past decade. Economics has functioned mainly as a binding factor in the relationship. Historically,

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164 Buszynski, 146.
China’s natural resources and market potential attracted the attention and capital of the industrialized world. Even during the days of the planned economy in China, Japanese did not forget the economic importance of their neighbor, with whom they signed long-term trade agreements on a private or semiofficial basis. The provision of Official Developmental Assistance (ODA) to China since the late 1970s supported China’s fledgling reform and opening policies, which Japan considered conducive to bilateral economic exchange as well as to stable Chinese economic growth. With growth and marketization of the Chinese economy, an increasing number of Japanese firms have moved their production facilities to China.

Leading up to the early 1980s, associated events fully displayed the complementary nature of the two economies: an exchange of Japan’s equipment and technology for China’s natural resources. There was a high degree of interdependency between the two. Due to this mutual reliance, Japan not only remained China’s chief trade partner throughout the 1980s, but also accelerated its activities during the following decade. Table 2 below shows that total trade between China and Japan increased tenfold, with an annual growth rate of 16.7 percent, exceeding the growth rate of 15 percent for China’s overall trade.

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166 Hsiung, 83.
China, replaced the United States as Japan’s major trading partner in 2004, while China, became Japan’s largest trading partner in 2007. (See Table 3 below, which lists data in Billion Yen, not US Dollars.) In 1996, Japan’s trade with the PRC was US$62.2 billion while trade with the US was US$193 billion; in 2007 trade with China reached US$236.6 billion while trade with the US dropped to US$208.2 billion. Japanese companies have relocated labor intensive industries in China and their products have been imported into Japan or exported to other markets. China’s comparatively lower

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wages and its willingness to serve as a production base for Japanese companies have been important factors in the maintenance of Japan’s global competitiveness, particularly in the electronics and telecommunications industries.\footnote{Buszynski, 153.}

### Table 3: Trends in Exports and Imports by Country/Region

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
<th>Asia</th>
<th>China</th>
<th>Korea, Rep. of</th>
<th>Taiwan</th>
<th>U.S.A.</th>
<th>EU 27 (^1)</th>
<th>Middle East</th>
<th>Oceania</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2005</td>
<td>65,657</td>
<td>31,796</td>
<td>8,837</td>
<td>5,146</td>
<td>4,809</td>
<td>14,805</td>
<td>9,652</td>
<td>1,823</td>
<td>1,714</td>
</tr>
<tr>
<td>2006</td>
<td>75,246</td>
<td>35,776</td>
<td>10,794</td>
<td>5,849</td>
<td>5,131</td>
<td>16,934</td>
<td>10,912</td>
<td>2,233</td>
<td>1,801</td>
</tr>
<tr>
<td>2007</td>
<td>83,931</td>
<td>40,400</td>
<td>12,839</td>
<td>6,384</td>
<td>5,274</td>
<td>16,896</td>
<td># 12,398</td>
<td>3,078</td>
<td>2,104</td>
</tr>
<tr>
<td>2008</td>
<td>81,018</td>
<td>39,966</td>
<td>12,950</td>
<td>6,168</td>
<td>4,782</td>
<td>14,214</td>
<td>11,430</td>
<td>3,508</td>
<td>2,200</td>
</tr>
<tr>
<td>2009</td>
<td>54,171</td>
<td>29,338</td>
<td>10,236</td>
<td>4,410</td>
<td>3,399</td>
<td>8,733</td>
<td>6,749</td>
<td>2,013</td>
<td>1,409</td>
</tr>
</tbody>
</table>

1) EU member countries were: \(25, \text{ before Jan. 2007; } 27, \text{ from Jan. 2007 onward.}\)  

Expansion of trade has been accompanied by the rapid growth of Japanese direct investment in China, which is illustrated in Table 4 below. Prior to 1993, Japan’s direct investment in China was quite moderate, accounting for less than one billion dollars per year. Most of the capital that flowed to China was in the form of government loans. Since 1998, as government loans have disappeared, direct investment has surged rapidly. It reached $1 billion in 1993, $2 billion in 1994, $3 billion in 1995 and $4 billion in 1997. The Asian financial crisis of 1997-1998 disrupted this upward trend until 2001,
when direct investment again reached $4 billion and then reached a new peak in 2003,

exceeding $5 billion, approximately ten times the amount of investment in 1990.\textsuperscript{169}

<table>
<thead>
<tr>
<th>Year</th>
<th>Direct Investment</th>
<th>Loans</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>0.50</td>
<td>2.50</td>
<td>3.00</td>
</tr>
<tr>
<td>1991</td>
<td>0.61</td>
<td>1.28</td>
<td>1.89</td>
</tr>
<tr>
<td>1992</td>
<td>0.75</td>
<td>2.43</td>
<td>3.18</td>
</tr>
<tr>
<td>1993</td>
<td>1.32</td>
<td>—</td>
<td>1.32</td>
</tr>
<tr>
<td>1994</td>
<td>2.09</td>
<td>0.97</td>
<td>3.06</td>
</tr>
<tr>
<td>1995</td>
<td>3.21</td>
<td>1.90</td>
<td>5.11</td>
</tr>
<tr>
<td>1996</td>
<td>3.69</td>
<td>2.40</td>
<td>6.09</td>
</tr>
<tr>
<td>1997</td>
<td>4.33</td>
<td>1.94</td>
<td>6.27</td>
</tr>
<tr>
<td>1998</td>
<td>3.40</td>
<td>0.04</td>
<td>5.44</td>
</tr>
<tr>
<td>1999</td>
<td>2.97</td>
<td>0.09</td>
<td>3.06</td>
</tr>
<tr>
<td>2000</td>
<td>2.92</td>
<td>0.15</td>
<td>3.01</td>
</tr>
<tr>
<td>2001</td>
<td>4.35</td>
<td>0.16</td>
<td>4.51</td>
</tr>
<tr>
<td>2002</td>
<td>4.19</td>
<td>0.17</td>
<td>4.36</td>
</tr>
<tr>
<td>2003</td>
<td>5.05</td>
<td>—</td>
<td>5.05</td>
</tr>
<tr>
<td>2004</td>
<td>5.43</td>
<td>—</td>
<td>5.43</td>
</tr>
<tr>
<td>2005</td>
<td>6.57</td>
<td>—</td>
<td>6.57</td>
</tr>
</tbody>
</table>

Source: James C. Hsiung, ed., \textit{China and Japan at Odds}, 84. See bibliography for complete citation.

Economic interdependence, and perhaps even integration, has been promoted by

the Japanese government through the means of ODA. Japan has by far been the largest

donor to China since it started providing China with ODA in 1979, despite its decision to
decrease the amount of ODA beginning in 2001. In the 1980s, many of the larger ODA
projects involved assistance to industrial infrastructure that would facilitate the
exportation of natural resources to Japan. With the growth of the Chinese economy and
increased wariness about China in the late 1990s, however, it was strongly argued within

the ruling Liberal Democratic Party that there was no longer any need to help China,

\textsuperscript{169} Ibid, 84.
which had allegedly not shown any gratitude for Japanese aid. This eventually led to a reduction of the amount provided and to the shifting of major target areas to those relating to social development and particularly to environment and poverty. (See Table 5 below.) The environment is more directly appealing to Japanese taxpayers as the risks of air pollution, since yellow sand and sea pollution are transnational concerns.

### Table 5: Japan’s ODA Disbursements to China (Net disbursement, US$ millions)

<table>
<thead>
<tr>
<th>Year</th>
<th>Loan Aid</th>
<th>Grant Aid</th>
<th>Technical Cooperation</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>591.08</td>
<td>50.80</td>
<td>322.80</td>
<td>964.69</td>
</tr>
<tr>
<td>2005</td>
<td>794.50</td>
<td>34.03</td>
<td>235.73</td>
<td>1,064.27</td>
</tr>
<tr>
<td>2006</td>
<td>231.51</td>
<td>19.05</td>
<td>310.52</td>
<td>561.08</td>
</tr>
<tr>
<td>2007</td>
<td>156.56</td>
<td>15.48</td>
<td>263.62</td>
<td>435.66</td>
</tr>
<tr>
<td>2008</td>
<td>-5.18</td>
<td>18.21</td>
<td>265.22</td>
<td>278.25</td>
</tr>
<tr>
<td>Total</td>
<td>14,159.69</td>
<td>1,163.00</td>
<td>5,503.68</td>
<td>20,826.39</td>
</tr>
</tbody>
</table>


For the foreseeable future, the Japanese dependence on the Chinese market will be greater than China’s dependence on the Japanese market. Japan’s long-term economic outlook is overshadowed by a rapidly aging population and a shrinking labor force. By 2040, Japan’s older population will double, making Japan one of the countries with the highest concentration of aged people in the world. The problem is intensified by a deteriorating rate of labor productivity growth. As a consequence, Japan’s economic

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\(^{170}\) Official ODA disbursements statistics from 2008 are the most recent. These numbers are consistent with the Organization for Economic Co-operation and Development’s (OECD) most recent statistics and the OECD Development Co-operation Directorate’s (DCD-DAC) 2010 report.
growth is expected to decline continuously, with Japan’s potential medium-term growth rate projected to be only 1.3 percent, the lowest of any industrialized country. In contrast, China’s economic growth rate is expected to continue at an annual rate of six to eight percent in the forthcoming three to four decades. While the Japanese economy is not expected to be much larger than it is today, China’s economy is expected to be 30 times larger.

**Conclusions**

*Multilateralism and Bilateralism*

In approaching the disputes concerning the Senkaku/Diaoyu Islands and the Chunxiao gas field, this study finds it apparent that the involved parties prefer to deal with the disputes in a controlled political, bilateral arena. It is clear that the option to use multilateral organizations and institutions to negotiate or legal forums with the authority to assist in dispute settlements is extremely undesirable. Overall it seems that the lucrative economic relationship described above weighs more importantly on the relations between China and Japan than do the resource dispute cases that have been studied.

Having looked at the manner in which China has approached the disputes in the ECS, and the nature of the relationship with Japan, there may also be an alternative hypothesis. Considering the claims that Japan has made in the ECS and the precedent set

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171 Hsiung, 92.
172 Ross and Feng, 222-223.
by the ICJ in the case between Libya and Malta discussed previously, there is a possibility that China may have concluded that in such a formal legal institution Japan may be awarded sovereignty as well as maritime rights over the islands and surrounding area. Obviously, this would play a major factor in determining how and through what institutions or forums would best support China in solving these disputes. However, due to the overwhelming importance and prominence of trade between the states, I have not pursued this further, but it is worth noting.

The UNCLOS places an obligation on contracting states to try their best to settle disputes over the delimitation of the sea area through any peaceful means.\textsuperscript{173} China and Japan, two important members of the UN and responsible powers in Asia, thus have the responsibility to maintain security of the region, for their own interests as well as surrounding neighbors; this is the main reason that it seems these issues have not been raised in a legal or multilateral manner. However, this brings into question the 2008 ECS agreement, and how much it has served in resolving either of the disputed issues.

For decades now, the method of consultation and agreement between the involved parties has been the main approach to “solving,” perhaps more accurately bringing these disputes to a stalemate. The almost intractable state of these conflicts suggests that the ITLOS or the ICJ have the potential to assist in resolving these disputes, especially given the legal standards established by the ICJ on the cases used as examples in this paper. However, China has submitted written declaration according to Article 298, opting out of declaring a settlement dispute mechanism, as spoken of previously. The two states could

\textsuperscript{173} UNCLOS, Article 279.
agree to submit the disputes to a third party for review by “mutual consent.” However, the parties have not been mutual in agreement to submit the disputed cases to an international judicial institution.

This then presents the opportunity for China and Japan to utilize trusted allies to serve in multilateral negotiations, in assisting to solve the disputes. While at times China and Japan have sat down together to discuss issues of the ECS with third parties, no real negotiating has occurred at such meetings. Thus, in order for both China and Japan to benefit economically from the other, neither can make moves that would jeopardize their political relationship. If Japan were to petition the UN on its own, or bring a third party in without approval from China, there would no doubt be grave consequences that would affect both political and economic standing. The same would occur if China would ever attempt such a move. Regardless of international law to which both states are parties, or of the multilateral institutions and resources that are available, the bilateral method is preferred, because of the continual benefits seen in the economic realm, and ever growing interdependence between China and Japan, and the constant focus on regional security.

China’s strong preference against multilateral negotiations and legal settlement avenues concerning these disputed cases is particularly interesting since they participated actively in the legal framework. Furthermore, they rely on legal framework established in the convention to support claims in the ECS, yet they will not utilize the legal

\footnote{UNCLOS, Article 298.}
apparatus created by UNCLOS, nor will they engage in multilateral negotiations in solving the disputes.

At this current state in Sino-Japanese relations, there is almost equality in the dependence each places on the economic benefits received from the other. This is why we see the political solutions approach rather than an approach through one of the multilateral organizations of which both states are members, or other legal forums. The profitability of the natural resources in the ECS pales in comparison with the other economic opportunities that abound from a more prosperous Sino-Japanese relationship overall. In order for a dramatic shift in the dealing with these disputed topics to be seen, a dramatic shift in the political and economic relationship between China and Japan would first need to occur. Such a shift, which would persuade one side to decide to change the atmosphere concerning these resource and territorial disputes, would also alter the regional climate in East Asia, which is a large deterrent in preventing these disputes from escalating into more disruptive conflict.

Prognosis: Future Steps toward Resolution?

The alluring resources of the ECS are important to both China and Japan. However, Japan’s declining population and the rapid population growth within China, as well as its economic growth, are major factors pushing development in the ECS. Although nationalism and notions of historical offenses have affected the politics of these disputes thus far, it seems likely that eventually China may decide that the economic benefits outweigh any political or regional repercussions. Since the 2008 agreement, in
which joint development of the Chunxiao gas field was declared, little to no action has occurred. This is in large part due to the way that China and Japan interpret the notion of joint development, notions that are not congruent. Furthermore, in order to resolve these two disputes, many agreements are needed concerning EEZ boundaries, continental shelf claims, joint development and the split of resources and responsibility.

Two possibilities that could greatly affect the manner in which these disputes unfold, concern whether or not the anticipated resources in the region actually are as great as expected. If the amount of extractable resources actually is not an amount that China has deemed important enough to justify such a drawn out conflict with Japan, then it seems probably the issue could disappear altogether. Alternatively, however, if there turns out to be more deposits than previous reports suggested this could create more tension and considerably more bold moves by either side, especially in the long-term perspective. This second alternative future may also provide a more tangible path toward armed conflict between the states.

Based on the precedent set by China in dealing with these disputed issues in the ECS, it seems highly unlikely that in the near future, and in the long-term for that matter, that they would be supportive either of a multilateral negotiating forum, or in pursuing a legal solution to these disputes. Over the past three decades China has shown that they prefer to manage these disputes in a political manner with Japan, and that the more than

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176 Ibid, 159.
the resource potential in the ECS, the economic relationship with their neighbor has been the most profitable for their people and economy.
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Appendix: Major Events in China-Japan Relations


September 29, 1972  Both the Chinese and Japanese governments issued the Sino-Japanese Joint Statement, restoring the diplomatic relations between the two countries.


November 1998  Chinese President Jiang Zemin made a state visit to Japan, which marked the first visit to Japan by a Chinese head of state. The two sides issued the Sino-Japanese Joint Declaration, declaring the establishment of a partnership of friendship and cooperation for peace and development.

August 13, 2001  Japanese Prime Minister Junichiro Koizumi paid homage at the Yasukuni shrine dedicated to the country’s war dead, including war criminals, which provoked protests from China and South Korea. The Chinese Foreign Ministry made a statement that Koizumi’s visit damaged the political foundation of Sino-Japanese relations and insulted the feelings of Chinese and other Asian people.

August 31, 2001  Chinese Ambassador to Japan Wu Dawei said that Sino-Japanese relations faced their “toughest situation” since the two countries normalized ties nearly 30 years ago due to history, trade and

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Taiwan issues. In a press conference, Wu criticized Japan for issuing a visa to former Taiwan President Lee Teng-hui, who visited Japan in April for medical treatment. He also criticized Japanese textbooks and Koizumi’s Yasukuni visit.

**October 8, 2001**
Koizumi met with Chinese President Jiang Zemin in China and tried to ease Chinese concerns over Japan’s policy of sending troops of its Self-Defense Forces for logistical support for antiterrorist operations by the United States. Koizumi and Jiang agreed to cooperate with each other toward the 30th anniversary of the restoration of diplomatic relations between the two countries next year.

**April 21, 2002**
Koizumi paid a surprise visit to Yasukuni Shrine, and Chinese Vice Foreign Minister Li Zhaoxing quickly summoned Japanese Ambassador Koreshige Anami to express China’s “strong dissatisfaction.” China put off a visit later in the month to Beijing by Japan’s Defense Agency chief Gen Nakatani and a call by Chinese warships to Tokyo port in May in order to protest Koizumi’s visit.

**April 15, 2002**
Five Japanese cabinet members visited the Yasukuni shrine to pay respects to the Japanese war dead on the anniversary of Japan’s WWII surrender. Koizumi did not attend, instead he visited the Chidorigafuchi national memorial in Tokyo for the unknown dead earlier in the week.

**November 15, 2002**
Hu Jintao assumed office as President of China.

**January 14, 2003**
Koizumi visited Yasukuni Shrine for the third time. Chinese Vice Foreign Minister Yang Wenchang quickly expressed China’s “strong displeasure and indignation” over the visit to Japanese ambassador Anami.

**August 15, 2003**
Four cabinet ministers attended, but Koizumi did not, a visit to the Yasukuni Shrine on the day marking Japan’s World War II surrender. Chinese Foreign Minister Li Zhaoxing praised Koizumi.

**March 30, 2004**
Chinese activists landed on Uotsuri Island, the largest of Japan’s Senkaku Islands. The House of Representatives Committee on Security unanimously adopted a resolution emphasizing Japan’s sovereignty over the East China Sea islands. The activists are arrested by Japanese officials and deported to China.
August 7, 2004  China and Japan faced each other at the Asia Cup final. Chinese fans burn Japanese flags, yelled “Kill! Kill! Kill!” and shouted various insults at the Japanese spectators. Japan won 3-1, leading to weeping Chinese fans and riots. Earlier in the tournament, in Chongqing, hostile Chinese fans booed the Japanese team throughout the games and surrounded the Japanese team’s bus after one match.

November 10, 2004  An unidentified nuclear submarine, later discovered to be Chinese, entered Japanese territorial waters near the Sakishima island chain off Okinawa, initiating a two-day chase. Japan’s navy went on alert for the first time in five years. Japan accused China of violating its sovereign rights and demanded a formal apology. Beijing expresses regret over the incident, saying that the sub was on routine maneuvers and that it made the incursion due to a technical error.

November 21, 2004  Koizumi and Hu met in a Japan-China summit in Santiago, Chile. The leaders agreed to develop economic and cultural bilateral ties, which are important for themselves and also for other parts of the world, and pledged to make efforts for the resumption of multilateral talks over North Korea’s nuclear ambitions.

January 6, 2005  Despite strong protests from China, Japan granted Taiwanese president Lee Teng-hui a weeklong visit to Japan. China postponed a visit by a group of Japanese lawmakers, claiming that the request was not made to protest Lee’s visit and that more time is needed to prepare for the trip.


April 9, 2005  Anti-Japan demonstrations continued in cities across China. 10,000 people marched in Beijing to voice their anger at the
textbooks, the city’s biggest protest since 1999. Protestors stoned the Japanese Embassy and the ambassador’s residence.

April 17, 2005  
Protestors hurled stones and eggs at the Japanese Consulate General building in Shanghai. Some 2,000 people took part in anti-Japanese demonstrations in Shenyang and 10,000 in Shenzhen.

April 20-21, 2005  
China ordered an end to anti-Japanese protests. Senior foreign diplomats are dispatched to all cities where protests occurred to calm sentiments and stress the importance of stability and observance of law. Officials urged its leaders to meet with Japanese leaders later in the week.

April 24, 2005  
Hu and Koizumi met for a 46-minute talk at the Asian-African summit in Indonesia in hopes of improving relations. One day earlier, Koizumi had apologized for Japan’s World War II aggression while addressing representatives of more than 100 countries at the summit. The two leaders agreed to develop bilateral ties based on the Sino-Japanese Joint Statement, the Peace and Friendship Treaty and the Sino-Japanese Joint Declaration. However, following Koizumi’s repeated visit to the Yasukuni Shrine where 14 Class A war criminals are honored, relations between the two countries became frosty, with high-level visits between the two sides suspended and exchanges in various areas severely affected.

May 24, 2005  
Chinese Vice Premier Wu Yi abruptly canceled a meeting with Koizumi, citing pressing domestic issues in China. China’s official Xinhua News Agency says China was extremely dissatisfied with remarks repeatedly made by Japanese leaders on visiting Yasukuni Shrine. China’s Assistant Foreign Minister Shen Guofang told Reuters that a “good atmosphere” is needed for Wu Yi to visit. Japanese ministers criticized the cancellation and lack of an apology.

September 9, 2005  
Five Chinese naval vessels, including a missile destroyer, are seen navigating near the Chunxiao gas field in the East China Sea.

October 16, 2005  
Koizumi visited the Yasukuni Shrine for the fifth time, sparking more protests from China, South Korea, and other Asian countries. China canceled Japanese Foreign Minister Nobutaka Machimura’s
visit to China scheduled for late October. Koizumi has repeatedly said that he visited in order to mourn the dead and to vow that Japan shall never wage war again. In response to criticisms, he has said that “other countries should not intervene on how (Japan) should pay tribute” to the dead.

October 25, 2005 Chinese Vice Foreign Minister Wu Dawei said that it would be “very difficult” to hold Sino-Japanese summits on the sidelines of upcoming international meetings in the future, due to Koizumi most recent visit to the Yasukuni Shrine. While past Yasukuni visits have stopped meetings by Japanese and Chinese leaders to their reciprocal countries, they have held talks on the sidelines of international meetings in third countries instead.

March 23, 2006 Japan delays a decision on providing further yen loans to China because of the two countries’ worsening relations. Japan’s aid had little financial importance but the delay was a symbolic gesture. Tokyo had given billions of dollars in loans for Chinese infrastructure projects over the past two decades but its aid declined in recent years as China’s economy grew.

September 26, 2006 Shinzo Abe took over, following Koizumi as Prime Minister of Japan.

October 8, 2006 Abe made his ice-breaking trip to Beijing, where he was greeted warmly. His visit was the first meeting between the Chinese and Japanese leaders since the Asia-Africa summit in Indonesia in April 2005 and the first bilateral summit between the leaders in five years.

January 11, 2007 China conducted an anti-satellite weapon test and destroyed an old Chinese weather satellite. Japan showed concern over use of space and national security and demanded that China explain the test and the country’s intentions. China claimed that it had informed some countries including Japan and the United States about the experiment.

April 12, 2007 Wen Jiabao became the first Chinese premier to address the Japanese parliament and the first Chinese premier to visit Japan since 2000. Wen urged Japan to face up to its World War II actions but said both sides have succeeded in warming relations.
August 30, 2007  Chinese Defense Minister Cao Gangchuan spent five days in Japan in talks with his counterpart Masahiko Komura. The defense chiefs agreed to steps to ease military tensions such as the establishment of a military hotline and reciprocal port calls by naval vessels.

September 2007  Chinese H-6 medium-range bombers flew into the Japanese air defense identification zone over the East China Sea to advance close to the Japan-China median line.

September 25, 2007  Yasuo Fukuda became Japan’s prime minister after the abrupt resignation of Shinzo Abe.

December 27, 2007  Fukuda visited Beijing. His engagements included a speech at Beijing University that was broadcast live on China Central Television, an unprecedented joint press conference with Hu, and a rare banquet hosted by the Chinese President—the first for a Japanese prime minister since the Nakasone visit in 1986. Fukuda called for increased co-operation with China in the future and said that he will not visit the shrine while Prime Minister.

May 6-10, 2008  Hu visited Japan and became the first Chinese President in over a decade to go to Japan on an official State visit. It was also the longest visit Hu had made to a single country. The imperial family held a welcoming ceremony and banquet for Hu. In a joint press conference, Fukuda praised China on a successful Olympics, and Hu offered to lend pandas to Japan as a symbol of bilateral friendship. Hu and Fukuda also issued a joint document and agreed to promote a “mutually beneficial relationship based on common strategic interests.” The statement stayed away from history issues and any mention of a Japanese apology while China notably recognized Japan as a peaceful postwar country for the first time in a political document.

June 18, 2008  Japan and China reached a deal for the joint development of the Shirakaba gas field, known as Chunxiao in China, in the East China Sea. The two governments agreed to divide profits according to their stakes.

September 17, 2008  Japanese Defense Minister Yoshimasa Hayashi and Chinese air force chief Gen. Xu Qiliang agreed that there was a need to enhance bilateral defense exchanges. Xu was the first commander
of the People’s Liberation Army Air Force to visit Japan since 2001.

October 24, 2008 A reception in commemoration of the 30th anniversary of the signing of the Treaty of Peace and Friendship between the People’s Republic of China and Japan was held in the Golden Hall of the Great Hall of the People in Beijing. Chinese President Hu Jintao and visiting Japanese Prime Minister Taro Aso attended and addressed the reception.

January 9, 2009 The Japan-China Strategic Dialogue was held in Tokyo to discuss bilateral relations, as well as the regional and international situation.

February 28, 2009 Japanese Minister for Foreign Affairs Hirofumi Nakasone conducted his first official visit to China.

April 30, 2009 China hosted Prime Minister Taro Aso in an official visit.

November 19-22, 2009 Japanese Foreign Minister Katsuya Okada held talks with Minister Yang Jiechi of China’s ministry of Foreign Affairs.

January 17, 2010 Japanese Foreign Minister Katsuya Okada conducted a Japan-China Ministerial Meeting with China’s Minister of Foreign Affairs.

September 7, 2010 Two Japanese naval vessels tried to intercept a Chinese fishing boat that entered waters near the Senkaku/Diaoyu Islands. The three boats collided; Japan retained the crewmembers and captain of the vessel.

September 22, 2010 China rejected the idea to have Prime Minister Wen Jiabao meet with Japanese Prime Minister Naoto at a United Nations conference in New York.

October 30, 2010 A three-way meeting between China, Japan and the US was led by US Secretary of State Hilary Clinton, in Vietnam in an attempt to ease tensions, which escalated from the September fishing vessel incident.

November 13, 2010 Chinese and Japanese leaders held their first formal talks in Yokohama, Japan, in an attempt to patch up differences that
escalated in the fall of 2010. The talks took place on the sidelines of a summit meeting of 21 Asia-Pacific nations that Japan hosted in Yokohama.

**January 20, 2011**  
Japan-China Security Dialogue held in Beijing. Each side exchanged views on the security and defense policy of the other and regional issues.

**March 11, 2011**  
Japan experienced a magnitude 8.9 earthquake and subsequent tsunami in the northern area of Sendai. The disasters devastated northern Japan, and also wreaked havoc on the Fukushima Daiichi nuclear facility.

**April 12, 2011**  
Japanese Prime Minister Naoto Kan held telephone talks with Chinese Premier Wen Jiabao, concerning the Great East Japan Earthquake, tsunami and the situation of Fukushima Dai-ichi Nuclear Power Plant.