

A Japanese Perspective of South China Sea Order

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East Asia is a huge seascape. As a result, the sea's connecting power is of a priceless importance to the entire region. The rules-based international maritime order is in everyone's interest, including Japan.

Japan's Interests in the South China Sea

Though not being a coastal state, Japan has a major stake in the security and maritime order of the South China Sea for three reasons. First, from the economic perspective, a maritime nation without natural resources like Japan sees the sea the large artery for energy supply indispensable for its own survival. In this regard, the South China Sea is of a vital importance for Japan. The South China Sea is also one of major important fishing grounds, which provides significant amount of protein for the Asians including the Japanese.

Second, from the security perspective, excessive seaward expansions of a continental power would narrow the security buffer with maritime powers and upset the current balance of power in the region. In Chinese strategic calculations, Japan is seen part of the first island chain between the Chinese mainland and the ocean, and the Senkaku Islands in the East China Sea and the Spratly Islands in the South China Sea considered part of China's "core interests." China's activities in the two seas are interrelated with each other. Japan has reasonably to be concerned about disruptions to the maritime order in the South China Sea.

And third, an open South China Sea is also essential in terms of ensuring unobstructed flow of US forces between the Pacific Ocean and the Indian Ocean. Such freedom of navigation is important particularly because the US military presence has been the major enabler of the regional security.

Situations after the Award of the Arbitral Tribunal

China defied the tribunal award of 12 July 2016. In the Sino-Japanese summit meeting in September 2016, Japan's Prime Minister Shinzo Abe urged China's President Xi Jinping to seek peaceful settlement of the dispute based on international law, but President Xi told Prime Minister Abe that Japan was not a party to the issue and should exercise caution in its words and deeds in regard to that matter. In the report to the 19th CPC National Congress, President Xi called China's building of artificial islands in the South China Sea a highlighted success of his first five-year term.¹

China reclaimed the reefs and continued to militarize its outposts in the South China Sea. Inappropriate actions of China's public vessels are also posing a menace to the activities by other coastal states' vessels. Reportedly, Chinese public vessels chased and rammed a Vietnamese fishing vessel operating in the Paracel Islands area in August, 2017, and assaulted another fishing vessel to destroy its fishing equipment and throw chemicals into its fish storage.²

Trump Administration's Maritime Security Policy

During his presidential campaign, presidential candidate Donald Trump did not seem to pay much attention to maritime security. However, his administration's position on the South China Sea is clearly stated in the National Security Strategy of December 2017. Based on the recognition that China's "efforts to build and militarize outposts in the South China Sea endanger the free flow of trade, threaten the sovereignty of other nations and undermine regional stability," the US strategy puts priority on the "commitment to freedom of the seas and the peaceful resolution of territorial and maritime disputes in accordance with international law."³ The US Navy under the Trump Administration has increased its Freedom of Navigation Operations in the South China Sea to demonstrate US commitment to uphold the rights under the established international norms.⁴

As far as the maritime security in East Asia is concerned, the US policy and strategy should be regarded as consistent with the traditional line of the previous US administrations, despite lingering anxiety about the possibility of US' reduced commitment to the region. In fact, regional countries do not have any viable alternative to replace US engagement in the entire Asia-Pacific including the South China Sea. It is particularly because the US as a resident maritime power has been the central piece of order at sea for decades. Thus, it is critically important for Asian like-minded countries to cooperate with the US for the rules-based maritime order based on UNCLOS. To drift away from the alliances and cooperative relationships with the US would endanger the region seriously. To strengthen such partnerships with the US will be the only viable option for the region.

Measures to Restore South China Sea Rules-Based Order

When Donald Emmerson discusses Philippine President Duterte's sway of position on the tribunal ruling, he points out "the chanciness of US deterrence" as a reason. He also refers to "the lack of a vigorous or sustained effort by Washington to mobilize international support for the court's ruling."⁵ If Emmerson is right, regional efforts to keep the US engaged in the East Asian maritime security is indispensable. Thus, regional stakeholders should work together by conducting a variety of measures in close cooperation with the US for maritime security. There are eight points as follows:

First, it is important to promote common understanding of the established international law of the sea.⁶ Of particular importance is common understanding of the principle of proportionality concerning law enforcement activities. Shawn Ho and Benjamin Ho argue, "... recent years have seen growing Chinese dissatisfaction with existing global norms and a desire to modify them to better account for the perceived transition in global power and national interests of non-Western players (of which China identifies itself as one)."⁷ If not being satisfactory toward existing norms and institutions, a party must not modify them by force or coercion. It is a basic element of a rules-based order. This basic principle should be the starting point to promote a common understanding of international law.

Second, it is important to keep rallying international public support for the tribunal award. The most important aspect of rule of law is the losing side's compliance with the decision of the court. Compliance will not be possible without continuous strong support of the international community to the decision. Unfortunately, the international attention has been diverted from this issue since 2017 because of another big concern of East Asia, i.e. North Korea. Thus, raising the public awareness of this ruling internationally and winning more public support to the ruling is must.

Third, the idea of lawful countermeasures would be important to induce compliance with UNCLOS. James Kraska argues, "The United States should ... withdraw recognition of coastal state rights under UNCLOS to the extent that they do not respect reciprocal U.S. rights in international law. Instead, the United States has afforded all other states, including China, their full rights to operate freely on the oceans, and in the U.S. territorial sea in innocent passage and in the U.S. EEZ without restriction, while the same states dangerously impede and hamper U.S. warships and military aircraft operating in their claimed maritime zones."⁸ It does not guarantee China's compliance, but this idea will be more instrumental to correct China's actions.

Fourth, proper efforts for crisis management continue to be critical. Lawful countermeasures might end up with crises if they are conducted without safety measures of crisis management. There are several measures worthy of serious consideration, for example, extending some elements, particularly Communication Procedure part of the current naval CUES (Code for Unplanned Encounters at Sea) to maritime law enforcement agencies, and concluding multilateral INCSEA (Agreement on the Prevention of Incidents On and Over the High Seas) to prevent incidents among military vessels and aircraft.⁹

Fifth, maritime domain awareness (MDA) must be improved. Ely Ratner convincingly argues, "Washington should also do more to shape the domestic politics of countries with claims in the South China Sea by publicly disseminating

more information about China's activities in the sea."¹⁰ The necessity of sharing and disseminating information is beyond domestic politics. MDA is necessary for crisis management and to meet various non-traditional security challenges.¹¹ Mustering the efforts of governments, including the US and Japan, and also of NGOs and private enterprises is necessary to establish an effective MDA framework.¹²

Sixth, more efforts should be invested to prevent power vacuum and to preserve the balance of power in the South China Sea region. History of this region in the past seventy years shows that China took opportunistic moves in the maritime front by taking advantage of power vacuum. Only when undergirded by power, does a rules-based order become stable and durable. Therefore, any efforts to maintain the balance of power will be important. Like-minded countries should do whatever they can to enhance presence, including more frequent joint exercises and port calls in the region. It is also important to help the littoral states improve their own maritime security capabilities and capacities. In this context, coordinated efforts by the military forces and law enforcement agencies should be more highlighted to generate sufficient capabilities to resist the coercion of China's para-military law enforcement vessels.

Seventh, reducing Southeast Asians' economic overdependence on China is critical. As China is the hub of the regional economic network, the regional countries are reluctant to offend China by taking bold steps to enhance their security. They might take seriously the possibility of Chinese economic retaliations. As Ely Ratner argues, "The only way for Washington to prevent this dangerous trend is to offer a viable alternative to economic dependence on China."¹³ This is not the task of the US alone. Japan and other regional economies should work together for this, too. The recent agreement on the Comprehensive and Progressive Trans-Pacific Partnership should be regarded as a very important step.

Eighth, last but not least, it is necessary to bolster regional security in a wider scope beyond maritime security. Some countries in the region have domestic security problems. Unless resolving or managing those internal issues, these countries do not afford to relocate resources to address external threats at sea. In concerted efforts to help these states, it is more important to create an environment in which they can focus more effectively on maritime security. For this reason, cooperation to stabilize domestic politics of the regional countries should be conducted in tandem with maritime security assistance.

Final Words

Today's world seems to be occupied with addressing North Korea's nuclear and missile ambition. No matter how urgent it is to cope with North Korea, East

Asian maritime security has its own lasting importance. The South China Sea is not a bargaining chip to induce Chinese cooperation to address North Korea. The world must continue to work together for maritime security in the South China Sea to uphold liberal rules-based order at sea, to which democratic values are central.

Maritime security has two aspects: traditional security and non-traditional security. Therefore, regional countries must place emphasis on maintaining the balance of power as well as fostering functional security cooperation. If these efforts are underpinned by shared values, they will gain much more momentum. Regional countries should unite to help the US live up to its role and take action against unlawful attempts on the basis of shared interests and values.

The author also served for the Government of Japan as the nation's first-ever Vice-Minister of Defense for International Affairs, after completing several senior assignments in the Ministry of Defense.

Notes

¹ Chris Buckley and Keith Bradsher, "Xi Jinping's Marathon Speech: Five Takeaways," *New York Times*, October 18, 2017, <https://www.nytimes.com/2017/10/18/world/asia/china-xi-jinping-party-congress.html>.

² *Yomiuri Shimbun*, August 17, 2017, 7.

³ *National Security Strategy of the United States of America*, December 2017, 46-47.

⁴ Sam Lagrone, "UPDATED: USS Stethem Conducts Freedom of Navigation Operation Past Triton Island in South China Sea," <https://news.usni.org/2017/07/02/u-s-destroyer-conducts-freedom-navigation-operation-south-china-sea-past-chinese-island>.

⁵ Donald Emmerson, "Matching power with purpose in the South China Sea: a proposal," *PacNet* #81, November 8, 2017, <http://mailchi.mp/pacforum/pacnet-1166317?e=0760186986>. Institute for International Policy Studies (IIPS), *Crisis Management at Sea: Urgent Proposals from the Field*, (IIPS, 2016), 11.

⁶ Institute for International Policy Studies (IIPS), *Crisis Management at Sea: Urgent Proposals from the Field*, (IIPS, 2016), 11.

⁷ Shawn Ho and Benjamin Ho, "After China's 19th Party Congress – implications for the regional architecture and order," *PacNet* #82, November 8, 2017, <http://mailchi.mp/pacforum/pacnet-1166325?e=0760186986>.

⁸ "Statement of Professor James Kraska before the Seapower and Projection Forces Subcommittee Hearing on Seapower and Projection Forces in the South China Sea, September 21, 2016", retrieved at: <http://docs.house.gov/meetings/AS/AS28/20160921/105309/HHRG-114-AS28-Wstate-KraskaSJDJ-20160921.pdf>.

⁹ About INCSEA, see IIPS, *Crisis Management at Sea*, 8-9.

¹⁰ Ely Ratner, "Course Correction: How to Stop China's Maritime Advance," *Foreign Affairs* 96, no. 4 (July/August 2017): 71.

¹¹ IIPS, "Crisis Management," 6.

¹² IIPS, "Crisis Management," 11.

¹³ Ratner, "Course Correction," 71.