

REGIONAL FOCUS & CONTROVERSIES

Territorial Issues on the East China Sea

A Chinese Position

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There are several issues of dispute between China and Japan regarding the East China Sea. Among these issues, the maritime delimitation issue, the territorial sovereignty dispute over the Diaoyu Islands (also known as Senkaku Islands in Japanese), the resource development issue, and the divergent perspectives on the legal status of the Oki-no-Tori Shima (called Chong Zhiniao Rock in Chinese) may be typical yet important ones. These issues are of different levels and categories, which need to be resolved through different ways.

Keywords

Maritime Delimitation, Territorial Disputes, Joint Development, Oki-no-Tori Shima

1. Introduction

China and Japan share coasts of which the widest sea areas between the two countries are less than 400 nautical miles. According to international law, in particular, the 1982 United Nations Convention on the Law of the Sea ("UNCLOS") state that in order to establish the boundaries of Exclusive Economic Zone ("EEZ") and continental shelf,

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China and Japan shall resolve the delimitation issues by virtue of an agreement.¹

The long existence of the territorial sovereignty dispute over the Diaoyu Islands has complicated the maritime delimitation issue in East China Sea between China and Japan. Diaoyu Islands and adjacent islets in the East China Sea belong to the Chinese territory since ancient times, and China has the indisputable ownership over these islands. Japan not only uses the Diaoyu Islands as a base point for its EEZ and continental shelf claim, but also takes actions to strengthen the actual control of the islands, which undermines the sea border demarcation process.

Undetermined maritime boundaries and overlapping sovereignty claims are in the way for China and Japan to develop and utilize the abundant marine resources, especially the oil and gas deposits, in the East China Sea. Through consultations on an equal footing, and without discriminating the respective legal positions on the East China Sea delimitation, on June 18, 2008, China and Japan reached a principled consensus on the East China Sea issues, which included joint development of a certain block in the East China Sea.² This is a big progress, and will promote the two sides to continue their negotiations for the settlement of the disputes.

The *Oki-no-Tori Shima* issue is different from the issues mentioned above. It does not involve a direct conflict of national interests of China and Japan. It is a legal issue that should be concerned by the international community rather than a dispute between China and Japan.

Disputes do exist, but are not irresolvable. As neighboring countries, China and Japan share important mutual interests, and the East China Sea disputes are just one of the issues that the two sides need to settle. With joint efforts, China and Japan can handle the East China Sea disputes properly, and finally turn the East China Sea into a sea of peace, cooperation and friendship.

¹ Article 74(1) of UNCLOS stipulate that: "The delimitation of the exclusive economic zone between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution. Article 83 (1) of UNCLOS stipulate that: "The delimitation of the continental shelf between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution."

² The consensus includes three parts, the first part is "Cooperation Between China and Japan in the East China Sea," the second part is "Understanding Between China and Japan on Joint Development of the East China Sea," and the last part is "Understanding on the Participation of Japanese Legal Person In the Development of Chunxiao Oil and Gas Field In Accordance with Chinese Laws." See *China and Japan Reach Principled Consensus on the East China Sea Issue*, available at <http://www.fmprc.gov.cn/eng/xwfw/s2510/t448632.htm> (last visited on Feb. 13, 2010).

2. The Maritime Delimitation Issue

A. Single Line or Separate Line

The maritime delimitation in the East China Sea between China and Japan includes two aspects. One is on the delimitation of the continental shelf and the other is regarding delimitation of the EEZ. Continental shelf and EEZ are of different legal systems. In contrast to the relatively long standing of the continental shelf legal system that is prescribed in the 1958 Geneva Convention on the continental shelf, it was not until 1982 that the EEZ legal system was established by UNCLOS. Article 78(1) of UNCLOS implicates the difference of these two systems and stipulates that “the rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters or of the air space above those waters.”

The boundary of the EEZ and that of the continental shelf of a state can be different. According to Article 57 of the UNCLOS, EEZ shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. While in accordance with Article 76 of the UNCLOS, if the outer edge of the continental margin of the continental shelf of a coastal State does not extend up to 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, it can extend up to 200 nautical miles, and if the margin extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, the coastal State shall establish the outer edge of the continental margin, and the line of the outer limits of the continental shelf either shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured or shall not exceed 100 nautical miles from the 2,500 metre isobath, which is a line connecting the depth of 2,500 meters.³

Considering that the maximum distance between the east and west coasts of the East China Sea is within 400 nautical miles, both the EEZ and the continental shelf that China and Japan claimed need to be delimited.

In the Sino-Japan East China Sea maritime delimitation issue, Japan claimed the maritime boundary should be established on the basis of the median line in waters less than 400 nautical miles in distance,⁴ while China maintained that the maritime boundaries of the EEZ and the continental shelf should be decided separately, taking all relevant factors into consideration, so as to achieve an equitable result.

³ According to Article 76(6) of the UNCLOS, on submarine ridges, the outer limit of the continental shelf shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured.

⁴ MINISTRY OF FOREIGN AFFAIRS IN JAPAN, DIPLOMATIC BLUEBOOK 2006, Ch.2 (Japan's Regional Diplomacy), at 43, available at <http://www.mofa.go.jp/policy/other/bluebook/2006> (last visited on Feb. 13, 2010).

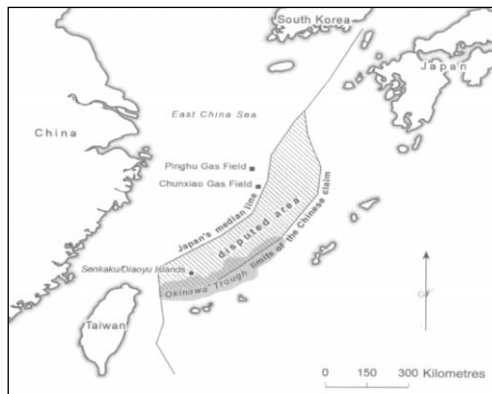
In international practice, there are some cases which applied a single line, especially a median line or an adjusted median line, to delimitate both EEZ and the continental shelf.⁵ However, this is just one of many methods that can be used in maritime delimitation, which is neither a principle widely accepted by the international community nor that will blur the legal system and status of the EEZ and the continental shelf.

As for states that share coasts or have adjacent coasts and whose claimed boundaries of EEZ or the continental shelf overlap with each other, no matter what method they may choose, they should take measures to achieve an equitable solution.

B. Median Line Method or Equitable Solution Principle

There are lots of factors to be considered when states that share costs or have adjacent coasts delimitate their maritime boundaries, such as geography, history, politics, economy, security, and etc. Until now, no method has been deemed as a primary or standard one accepted by the international community. However, no matter what method is used, the results shall be equitable and acceptable by all involved parties, and the International Court of Justice has confirmed this in the Greenland-Jan Mayen case. In this case, the Court stated: “that statement of an ‘equitable solution’ as the aim of any delimitation process reflects the requirements of customary law as regards the delimitation both of continental shelf and of exclusive economic zones.”⁶

Map 1: Disputed Area in the East China Sea⁷



⁵ *E.g.*, in the 1984 Gulf of Marine maritime boundary case, a single line was used to delimitate both the fishery zone and the continental shelf. In the 1985 Guinea/Guinea-Bissau maritime boundary case, a single line was used to delimitate both the boundary of EEZ and that of Continental shelf.

⁶ Greenland-Jan Mayen case (Den. v. Nor.), 1993 I.C.J. 59, para. 48.

⁷ James Manicom, *Sino-Japanese Cooperation in the East China Sea: Limitations and Prospects*, 30 CONTEMP. SOUTHEAST ASIA 459 (2008).

In Sino-Japan East China Sea delimitation, Japan unilaterally claimed a median line to delineate both the boundaries of the EEZ and the continental shelf. Single line itself is not a big deal, and by agreement, states can make choice of employing a single line or separate line to delimitate their maritime boundaries. However, Japan claimed that a median line entails many problems and leads to an inequitable or unfair solution.

First, the median line is unilaterally put forward by Japan which is not based on an agreement between China and Japan. Therefore, it is reasonable for China to deny the median line. Just as the International Court of Justice, in the Gulf of Maine case, stated, “[...] any delimitation must be effected by agreement between the States concerned, either by the conclusion of a direct agreement or, if need be, by some alternative method, which must, however, be based on consent.”⁸

Second, the median line claimed by Japan takes Diaoyu Islands, over which China has indisputable sovereignty rights, as a base point. This will certainly arouse the strongest protest from China.

Third, the median line claimed by Japan completely deprives Taiwan of the 200 nautical miles EEZ and the continental shelf of natural prolongation that was established by UNCLOS.⁹

Fourth, the median line claimed by Japan neglects many geographical and geological conditions of the East China Sea, which could play very important role in achieving an equitable solution to the Sino-Japan East China Sea maritime delimitation. Among the factors that should be taken into consideration, the practice of states shows that “geographical considerations are, in most cases, the main considerations taken into account by States when concluding their maritime boundary delimitation agreements. Even when other elements...are taken into account, they are normally used as a way to refine a previous line constructed on the basis of geographical considerations.”¹⁰ As for the maritime boundary delimitation in the East China Sea between China and Japan, the comparative lengths of relevant coastlines of each state must be considered along with other factors, especially the fact that the continental shelf of the East China Sea is the natural prolongation of China’s land mass, and that the Okinawa Trough is the natural limits of the continental shelf of the East China Sea and the Ryukyu Islands. This must be given due considerations when delimitating the continental shelf between China and Japan.

So the median line claimed by Japan is unacceptable, and no matter what method is

⁸ Gulf of Main case (U.S. v. Canada), 1984 I.C.J. 292, para. 89.

⁹ Zhang Haiwen, *Legal Issues Concerning the East China Sea Delimitation-A Chinese Perspective on the Sino-Japanese the East China Sea Dispute*, 51 JAPANESE Y.B. INT’L L. 138 (2008).

¹⁰ U.N. DIVISION FOR OCEAN AFFAIRS & THE LAW OF THE SEA OFFICE OF LEGAL AFFAIRS, *HANDBOOK ON THE DELIMITATION OF MARITIME BOUNDARIES* 25 (2000).

employed, even if a method of median line is applied, the results of the East China Sea maritime delimitation between China and Japan must be equitable, and effected by agreement.

3. The Diaoyu Islands Issue

A. Claims on the Diaoyu Islands

Diaoyu Island and its affiliated islands lie in the East China Sea, around 92 nautical miles Northeast of Chilung City, Taiwan Province of China, which are mainly composed of Diaoyu Island, Huangwei Yu, Chiwei Yu, Nanxiao Dao, Beixiao Dao Island and some reefs, covering an area of 6.3 square kilometers altogether. Of all the islands, Diaoyu Island is the biggest one with an area of about 4.3 square kilometers.¹¹ The Diaoyu Islands and adjacent islets have been Chinese territories since ancient times and there is overwhelming evidence of geography, history, and usage to indicate that.

The Diaoyu Islands were once illegally seized by Japan during its aggressive military expansion in the late 19th century. After World War II, the U.S. Occupation Forces incorporated the Diaoyu Islands into the occupied territory of Okinawa. When the time came to return Okinawa to Japan in 1972, the US government included the Diaoyu Islands in the package. Thus, sovereignty over the Diaoyu Islands was given to Japan even though it was rightfully returned to China through the Potsdam and Cairo Declarations.

In 1970s, to normalize the diplomatic relations between the two countries, China and Japan reached an agreement to resolve the Diaoyu Islands issue at a later date. To settle the Diaoyu Islands disputes, China put forward the concept of “setting aside dispute and pursuing joint development,” that is, for China and Japan to jointly develop the resources adjacent to the Diaoyu Islands without touching upon its territorial sovereignty. In June of 1979, China formally proposed the concept of joint development of resources adjacent to the Diaoyu Islands to the Japanese side through diplomatic channel.¹²

However, the concept of “setting aside dispute and pursuing joint development” regarding the Diaoyu Islands was not realized, and the Diaoyu Islands are now occupied by Japan, who has since then taken actions to strengthen the actual control

¹¹ Ministry of Foreign Affairs of the People's Republic of China, *Some Sensitive Issues* (2002), available at <http://www.fmprc.gov.cn/eng/wjlb/zjzg/yzs/gjlb/2721/2722/t15974.htm> (last visited on Feb. 13, 2010).

¹² Ministry of Foreign Affairs of the People's Republic of China, *Set Aside Dispute and Pursue Joint Development* (2000), available at <http://www.fmprc.gov.cn/eng/ziliao/3602/3604/t18023.htm> (last visited on Feb. 13, 2010).

over the islands and the adjacent waters, where Chinese people or vessels are hard to approach today. On March 14, 2008, Japan deposited with the Secretary-General charts and a list of geographical coordinates of points concerning straight baselines and outer limits of territorial sea, of which the chart No. W210 illegally marks Diaoyu Islands as Senkaku Shoto and delimits their territorial seas.¹³ Recently, Japan is considering sending an army unit to Yonaguni Island near the Diaoyu Islands, to “defend” the disputed islands in the East China Sea.¹⁴ However, China has never given up its inherent ownership over the Diaoyu Islands. On February 25, 1992, the Standing Committee of the National People’s Congress adopted the Law on the Territorial Sea and the Contiguous Zone of the People’s Republic of China, which definitely declared, “the PRC’s territorial land includes the mainland and its offshore islands, Taiwan and the various affiliated islands including Diaoyu Island.”¹⁵ In addition to the legislation, the Chinese government also takes actions to show its determination to maintain its sovereignty over the Diaoyu Islands. On December 8, 2008, two Chinese government ships, from China Marine Surveillances, entered into the 12 nautical-mile sea areas around the Diaoyu Islands to conduct their usual patrolling missions.

Actions from Japan to strengthen defacto control over the islands are actually blocking and damaging the Sino-Japan East China Sea maritime delimitation, and will not only harm the peaceful settlement of the Sino-Japan East China sea disputes but also endanger the peace and stability in the region.

B. Diaoyu Islands and the Maritime Delimitation Issue

Geographically, the Diaoyu Islands lie 410 kilometers from Japan’s Okinawa Islands, about 300 kilometers from the Chinese mainland and less than 100 kilometers from Taiwan.¹⁶ Due to the geographical location, whether the sovereignty of the Diaoyu Islands belongs to China or Japan, this issue will have a certain impact on the contention of each side on marine areas in the East China Sea maritime delimitation.

As is mentioned above, Japan takes the Diaoyu Islands as a base point of its claimed median line, which complicates the existing East China Sea maritime delimitation disputes between China and Japan. However, if both sides have a strong political will to delimitate their maritime boundaries, the sovereignty disputes over the Diaoyu Islands

¹³ U.N. DIVISION FOR OCEAN AFFAIRS & THE LAW OF THE SEA OFFICE OF LEGAL AFFAIRS, 28 LAW OF THE SEA INFORMATION CIRCULAR (Oct. 2008), available at http://www.un.org/Depts/los/LEGISLATIONAND_TREATIES/losic/losic28e.pdf (last visited on Feb. 18, 2010).

¹⁴ *More troops to E. China Sea*, CHINA DAILY, July 3, 2009, at 16.

¹⁵ Law on the Territorial Sea and the Contiguous Zone of the People’s Republic of China, art. 2.

¹⁶ Tong Shen, *The Truth of Diaoyu’s Ownership*, CHINA DAILY, Jan. 9, 2004, at 6.

can be separated from the maritime delimitation issue. “Recent legal development, international adjudications, state practices, and the ratification of the Law of the 1982 UNCLOS by the claimants point to the possibility of separating the two issues.”¹⁷ Considering the geographical situation of the Diaoyu Islands, the two sides still have to conduct negotiations to decide what effect should be given to the Diaoyu Islands when delimiting the maritime boundaries between China and Japan in the East China Sea.

4. The Resource Issue

A. Provisional Arrangements and Maritime Delimitation

Resource is one of the most important factors to be considered when states with opposite or adjacent coasts delimitate their maritime boundaries, and undetermined or disputed maritime boundaries and conflicting sovereignty claims to islands have negative effect on the development, utilization and management of the resources that lie in or even near the disputed sea areas.

Under these circumstances, joint development and other provisional arrangements will not only be a helpful way to resolve disputes over the delimitation of the sea areas, but also an effective way to peacefully make use of the resources. Such provisional arrangements, including joint development, which are widely applied in disputed sea areas that existing overlapping rights claim, will not jeopardize or hamper the positions or claims of the states concerned over the sovereign rights or jurisdiction, and will be without prejudice to the final delimitation.

B. Sino-Japan Provisional Arrangements on Resources

For fishery resources, China and Japan formally concluded a fishery agreement for cooperative fisheries management in the East China Sea in 1997, which took effect in 2000. The Sino-Japan fishery agreement was signed in accordance with UNCLOS and was based on two main objectives, that is, the peaceful settlement of fishery disputes and the establishment of a system for sustainable fishing for the communities of China and Japan in the East China Sea. This agreement has played an active role in maintaining the regular fishery order and protecting the fishery resources.

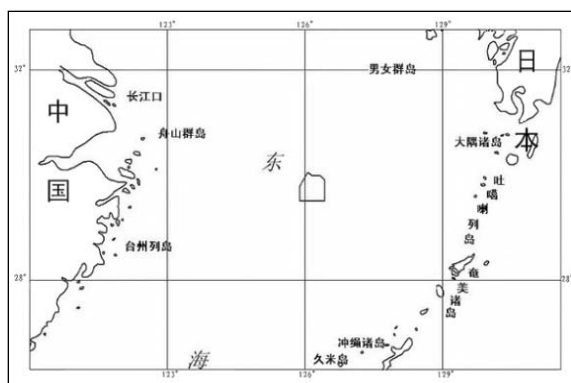
As for the oil and gas resources in the East China Sea, after eleven rounds of consultations since 2004, China and Japan finally reached a principled consensus on 18

¹⁷ Mark J. Valencia, *The East China Sea Dispute: Context, Clams, Issues, and Possible Solutions*, 31 *ASIAN PERSPECTIVE* 166 (2007).

June 2008. In this consensus, China and Japan agreed to select a block for joint development as the first step in the joint development of the East China Sea between China and Japan.

Usually, joint development is applied in disputed continental shelf areas that existing overlapping rights claim. In the situation between China and Japan, the joint development area should be limited to the disputed areas, that is, the area between the Japan-claimed median line and the China-claimed line of hitch which is the maximum depth of the Okinawa Trough. But out of the political will of the two governments, the consensus is in principle after all. To carry out the joint development in the selected block and to accelerate the joint development in other parts of the East China Sea, there are still lots of work to be done, and the two sides need to continue consultations.

Map 2: Block for Joint Development¹⁸



C. The Chunxiao Oil and Gas Field Issue

The Chunxiao oil and gas field is the China's largest offshore oil and gas field that lies in the west of the Japan-claimed median line. It is with no doubt that the sovereign rights of Chunxiao oil and gas field belong to China. However, for fear that China will "siphon off" gas from its side of the median line that Japan claimed, the Japanese government has officially protested the development of the Chunxiao field by China and demanded China to provide Japan with the relevant data on the Chunxiao field. Moreover, Japan has taken actual actions to confront the development of the Chunxiao field by China, including sending surveillance aircrafts to have aerial surveys on the Chunxiao field

¹⁸ See Xinhua news website, available at <http://news.xinhuanet.com> (last visited on Feb. 18, 2010).

and conducting surveys for submarine resources in disputed areas.

To solve this issue, in the principled consensus on the East China Sea issue, China and Japan reached an understanding on the participation of Japanese legal persons in the development of the Chunxiao oil and gas field in accordance with the relevant laws of China governing cooperation with foreign enterprises in the exploration and exploitation of offshore petroleum resources.

The participation of Japanese enterprises in the joint development of the Chun Xiao oil and gas field is just a commercial arrangement made according to the Chinese law. It is a common practice that complies not only with the Chinese laws but also with international practices, yet has no relations with the joint development in international law.

The Chunxiao oil and gas field to be developed in accordance with the Chinese law itself fully embodies that China has the sovereign rights over the Chunxiao oil and gas field. However, to fulfill this commercial arrangement at an early date, the Japanese government must respect China's sovereignty over the field.

5. The Oki-no-Tori Shima Issue

A. The Fact of the Oki-no-Tori Shima

Map 3: Bird's Eye View of Oki-no-Tori¹⁹



Oki-no-Tori Shima is located at 20° 25' N and 136° 05' E, or 1740 km (939 nautical miles) south of Tokyo, administratively. It is placed under the jurisdiction of the city of Tokyo

¹⁹ See Xinhua news website, available at http://news.xinhuanet.com/world/2007-06/20/content_6267674.htm (last visited on Feb. 18, 2010).

as a part of the Ogasawara Islands. Due to the erosion, today Oki-no-Tori Shima leaves only two of the five rocks that were currently above sea level at high tide. “The smaller is roughly the size of a twin bed and pokes only 2.9 inches out of ocean. The larger, as big as a small bedroom, manages to rise up to 6.3 inches.”²⁰ To prevent the rocks from submersion caused by erosion, the Japanese government had spent millions of dollars to launch an embarkment building project since 1987. Now the rocks have been encased with concrete and the smaller one been covered with titanium net to shield it from debris thrown up by the ocean’s waves.

According to Article 121(3) of UNCLOS, rocks unable to sustain human habitation or economic life of their own shall have no EEZ or continental shelf. Oki-no-Tori Shima, just as Dr. Jon Von Dyke, professor of law at University of Hawaii wrote, “consists of two eroding protrusions no larger than king-size beds, certainly meets the description of an uninhabitable rock that cannot sustain economic life of its own. It is not, therefore, entitled to generate a 200-mile exclusive economic zone.”²¹

B. Dispute over the Legal Status of the Oki-no-Tori Shima

There exists a dispute over the legal status of the Oki-no-Tori Shima between China and Japan. Japan insists that the Oki-no-Tori Shima is an island in accordance with UNCLOS and commits itself to make Oki-no-Tori Shima legally an ‘island’ by artificially producing economic life there and planning to accommodate habitation. Japan not only claims the EEZ and the continental shelf stemming from Oki-no-Tori Shima, but also claims the extended continental shelf beyond 200 nautical miles from it. On November 12, 2008, Japan submitted its submission concerning the outer limits of its continental shelf beyond 200 nautical miles to the Commission on the Limits of the Continental Shelf. In the submission, Japan takes Oki-no-Tori Shima as a base point to claim the continental shelf extended beyond 200 nautical miles. It aroused concerns of China and the Republic of Korea.

While not denying Japan’s territorial rights over the Oki-no-Tori Shima itself, China has presented its concerns over the legal status of the Oki-no-Tori Shima in many occasions. On February 6, 2009, the permanent mission of China to the United Nations presented a note to the Secretary-General of the United Nations with reference to Japan’s submission concerning the outer limits of its continental shelf beyond 200 nautical miles. In the note, China reiterated its stance that the Oki-no-Tori Shima is in fact a rock as referred to in Article 121(3) of UNCLOS, and cannot sustain human habitation or

²⁰ Leticia Diaz, Barry Dubner, & Jason Parent, *When is a ‘rock’ an ‘island’?*, 15 MICH. ST. J. INT’L L. v (2007).

²¹ YANN-HUEI SONG, OKINOTORISHIMA: A ‘ROCK’ OR AN ‘ISLAND’? RECENT MARITIME BOUNDARY CONTROVERSY BETWEEN JAPAN AND TAIWAN/CHINA 145-176 (2009).

economic life of its own, and shall have no EEZ or continental shelf, even less shall it have the right to the extended continental shelf beyond 200 nautical miles.

As a matter of fact, the Oki-no-Tori Shima issue is by no means just a dispute between China and Japan. If a rock, such as the Oki-no-Tori Shima, not involving territorial or maritime delimitation disputes between neighboring states, illegally delimits the EEZ, the continental shelf and even the extended continental shelf beyond 200 nautical miles, it will encroach the sea areas that ought to be parts of the high seas and the Area, and certainly will damage other country's rights that ought to be entitled in these sea areas, such as the freedom in the high seas and the rights to conduct certain activities in the Area. Otherwise, as is known to all, the Area and its resources are the "common heritage of mankind," and one country illegally extending its outer limits of extended continental shelf beyond 200 nautical miles will certainly encroach on the space of the Area and go against the overall interests of the international community as a whole. The dispute over the legal status of the Oki-no-Tori Shima should be concerned by the whole international community.

6. Conclusion

Both China and Japan are important countries in Asia and even in the world. As neighboring countries with opposite coasts, the overall situation of China-Japan relations remains good, but some problems also exist. The East China Sea disputes are just a part of them, which should not undermine the overall relationship between the two countries and need to be carefully treated.

On August 25, 2006, in accordance with Article 298 of the UNCLOS, China made declarations stating that China does not accept any procedures provided for Part XV, Section 2 (compulsory procedures entailing binding decisions) with respect to disputes referred to in Article 298, paragraph 1 (a), (b) and (c) of the Convention, including disputes relating to sea boundary delimitations, land territory, military activities and so on. That declaration shows that China would like to resolve the above disputes through negotiation and consultation with relevant disputed parties.

In the East China Sea maritime delimitation issue, all the relevant factors should be taken into consideration in order to achieve an equitable solution acceptable by both China and Japan. To promote the settlement of the maritime delimitation issue, Japan must abandon or revise its claimed median, and China should further put forward concrete methods or specific outer limit lines concerning the delimitation of the EEZ and

the continental shelf. Thus, the two sides can conduct negotiations and make deals on a more realistic basis.

Moreover, to settle the maritime delimitation issue between China and Japan, the Diaoyu Islands issue must be treated duly. The sovereignty disputes over the Diaoyu Islands cannot be settled in the near future. However, it will be beneficial for both China and Japan to delimitate their maritime boundaries, if the two sides can reach a consensus to separate the sovereignty disputes over the Diaoyu Islands from the maritime delimitation issue. To achieve this, the most important precondition is that Japan must cease its actions aiming to strengthen the actual control over the Islands. It will create good conditions for both sides to sit around the table for negotiation and consultation.

For the exploitation and utilization of the resources in or near the disputed sea areas, China and Japan should work to fulfill the principled consensus and carry out the joint development in the selected block at an early date. The two sides need to continue their talks so as to realize the joint development in other parts of the East China Sea, especially in the sea areas surrounding the Diaoyu Islands. Besides these provisional arrangements, China and Japan also need to work together to find a lasting regime for the exploitation and utilization of the resources, which will still operate even if the maritime boundaries are decided.

As for the Oki-no-Tori Shima issue, Japan should fulfill the obligations assumed under UNCLOS and exercise its rights in good faith and in a manner which would not constitute an abuse of right. Nowadays, it is easy for other countries to do the same thing as Japan did to the Oki-no-Tori Shima. If all these countries take a rock, such as Oki-no-Tori Shima, to illegally delimit the EEZ, the continental shelf and even the extended continental shelf beyond 200 nautical miles, the legal systems founded by UNCLOS will collapse.

