

# Dangerous Waters: China-Japan Relations on the Rocks

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## *Executive Summary*

The world's second and third largest economies are engaged in a standoff over the sovereignty of five islets and three rocks in the East China Sea, known as the Diaoyu in Chinese and the Senkaku in Japanese. Tensions erupted in September 2012 when Japan purchased three disputed islands from their private owner to keep them from the nationalist governor of Tokyo. In response, Beijing implemented a series of measures including the establishment of overlapping administration in the disputed waters. Both sides' law enforcement agencies and militaries currently operate in close proximity in disputed naval and aerial space. Unlike foreign ministries, these actors have less institutional interest in containing crises and enjoy an information monopoly allowing them to shape domestic perceptions. The two countries lack the mutual trust and communication mechanisms to manage incidents, let alone to discuss intentions or operating protocols. In the event of a skirmish, heightened nationalism, especially in China, could constrict the room for diplomatic manoeuvres to de-escalate the situation.

China's actions reflect a "reactive assertive" tactic used previously in the South China Sea, whereby it exploits perceived provocations in disputed areas by other countries to take strong countermeasures to change the status quo in its favour. Interpreting the Japanese government's decision to purchase the islands as a unilateral change to the status quo, China implemented a series of pre-planned actions with the goal of changing the facts on the ground. The most important was when Beijing declared territorial baselines around the islands in September, thus increasing the number and length of its law enforcement patrols to directly challenge Japan's de facto control of the area. Many Chinese strategists perceive Japan to be a former empire continuing on a downward slide while China's star is rising. For them, the time is right to respond resolutely and stake its ground with its eastern neighbour.

Nationalism makes the sovereignty dispute in the East China Sea a highly explosive issue for China, more so than the South China Sea. Due to the brutal Japanese occupation of China in the 1930s, sentiments over the status of the Diaoyu/Senkaku Islands run deeper in the Chinese psyche than any other territorial dispute in modern Chinese history, with the exception of Taiwan. Beijing has for years exploited anti-Japan sentiment through patriotic education campaigns and has used nationalism to justify assertive actions. But while in the past it could more easily dial up or down nationalism through control of state-run media, the rapid rise of Internet use has eroded that control and begun to shape the context of policymaking. The government must now satisfy increasingly outspoken and critical citizens.

Complementary economic ties – essential to both given China's prioritised commitment to strong economic growth and Japan's desire to rebuild its stagnated economy – have provided strong incentives to keep this dispute from escalating into armed conflict, a scenario neither side wants. But despite expressions by both governments that they wish to avoid a war, potential for escalation has increased and there is deepening pessimism on both sides over the prospects of a peaceful settlement. The strategic mistrust that characterises relations has been aggravated by their respective domestic situations. Without top leaders setting the tone for crisis mitigation, a tradition of back-channel diplomacy has disappeared. The rela-

tive weakness of China's foreign ministry complicates bilateral relations and prevents effective crisis management, as it is the official – and often the only – channel open to Tokyo. Meanwhile, the “China hands” in Japan who traditionally helped manage the relationship have been sidelined. While there is little hope of a resolution of the sovereignty dispute in the near future, Tokyo and Beijing urgently need to work toward establishing communication mechanisms and strengthening crisis mitigation in order to avoid a larger conflict.

**Beijing/Brussels, 8 April 2013**

# Dangerous Waters: China-Japan Relations on the Rocks

## I. Introduction: A Dormant Dispute Reignites

The dispute over the sovereignty of Diaoyu/Senkaku Islands in the East China Sea claimed by the People's Republic of China (hereafter China), Japan and the Republic of China (Taiwan) has brought China-Japan relations to a new low.<sup>1</sup> The island chain has significant strategic, historical and potentially economic value. Chinese naval analysts see control of the islands as critical to accessing the Pacific Ocean beyond the first island chain linking South Korea, Japan's Okinawa Prefecture, Taiwan and the Philippines.<sup>2</sup> Japan has been administering the islands and from its perspective, losing them would mean providing China a platform to monitor Japanese and U.S. military activities in Okinawa, about 400km in the east, and potentially curtail freedom of navigation.<sup>3</sup> With regard to economic value, a 1969 UN Economic Commission for Asia and the Far East report mentioned possible large hydrocarbon deposits in the seabed, but very limited exploration activities have been carried out because of the dispute.<sup>4</sup>

Adding sensitivity to the issue, both countries face additional maritime and sovereignty disputes and sense a general deterioration in overall maritime security.<sup>5</sup> China is engaged in heated quarrels with several countries in the South China Sea

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<sup>1</sup> This report mentions the Chinese and Japanese names for the islands in alphabetical order. The island group lies about 170km north of Japan's westernmost island Ishigaki, 330km south east of the Chinese mainland coast, and 170km north east of Taiwan (which China considers one of its provinces). "Full Text: Diaoyu Dao an Inherent Territory of China", State Council Information Office White Paper", September 2012. "Fact Sheet on the Senkaku Islands", Japanese foreign ministry, November 2012. For previous Crisis Group reporting on similar issues, see Asia Reports N°229, *Stirring up the South China Sea (II): Regional Responses*, 24 July 2012; N°223, *Stirring up the South China Sea (I)*, 23 April 2012; and N°108, *North East Asia's Undercurrents of Conflict*, 15 December 2005. For previous reporting on Chinese foreign policy, see Asia Report N°200, *China and Inter-Korea Clashes in the Yellow Sea*, 27 January 2011; Asia Briefings N°112, *China's Myanmar Strategy: Elections, Ethnic Politics and Economics*, 21 September 2010; N°100, *The Iran Nuclear Issue: The View from Beijing*, 17 February 2010; Asia Reports N°179, *Shades of Red: China's Debate over North Korea*, 2 November 2009; N°177, *China's Myanmar Dilemma*, 14 September 2009; N°166, *China's Growing Role in UN Peacekeeping*, 17 April 2009; and N°153, *China's Thirst for Oil*, 9 June 2008.

<sup>2</sup> Crisis Group interviews, Beijing, August 2012. See also Xu Qi, "Maritime Geostrategy and the Development of the Chinese Navy in the Early Twenty-First Century", *Naval War College Review*, vol. 56, no. 4 (Autumn 2006).

<sup>3</sup> Crisis Group interviews, Tokyo, October 2012.

<sup>4</sup> The U.S. Energy Information Administration estimates that the entire East China Sea has between 60 and 100 million barrels of oil and between 1 and 2 trillion cubic feet of natural gas in proven and probable reserves. "East China Sea", Analysis Brief, U.S. Energy Information Administration, 25 September 2012. See also Guo Rongxing, "Territorial Disputes and Seabed Petroleum Exploration: Some Options for the East China Sea", Center for Northeast Asian Policy Studies, Brookings (Spring 2010).

<sup>5</sup> Crisis Group interviews, Beijing, September 2012; Tokyo, October 2012.

and Japan has unresolved maritime disputes with Russia and South Korea.<sup>6</sup> Both feel compelled to demonstrate resolve to defend their claims over the Diaoyu/Senkaku for fear that other rival claimants would take advantage of any perceived weakness.<sup>7</sup>

The two countries claim the islands under different elements of international law. Japan's case rests on the principle of "occupation of *terra nullius*", or land without owner; it asserts that when it formally incorporated the islands through a January 1895 Cabinet decision, it had confirmed that they were uninhabited and showed no trace of having been under the control of China.<sup>8</sup> China claims historical title, stating it has evidence that it exercised sovereignty over the islands as they were discovered, named and used during the Ming Dynasty (1368-1644) and administered as a part of Taiwan by the Qing Dynasty (1644-1912).<sup>9</sup> It argues that the islands were ceded to Japan as part of the April 1895 Treaty of Shimonoseki that ended the First Sino-Japanese War, and therefore should be returned to China under the Cairo and Potsdam Declarations (1943 and 1945), which stated that Japan must return all territories seized through war.<sup>10</sup> The key question under international law appears to be whether China established historical title before 1895.<sup>11</sup> Taiwan also claims the islands based on the same historical title as China.<sup>12</sup>

After the Second World War, the islands were occupied, along with Ryukyu Islands, by the U.S. under the 1951 Treaty of San Francisco and were reverted to Japanese administration in 1972.<sup>13</sup> The U.S. plays an important role in the dispute as it asserts that the 1960 U.S.-Japan Security Treaty covers the Diaoyu/Senkaku Islands.<sup>14</sup>

Both sides also disagree over the delineation of their respective exclusive economic zones (EEZ) in the East China Sea.<sup>15</sup> With this level of complexity, a judicial or arbitration settlement would be the most logical solution.<sup>16</sup>

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<sup>6</sup> Crisis Group interviews, Beijing, September 2012; Tokyo, October 2012. China and Taiwan have a number of maritime disputes in the South China Sea with Vietnam, the Philippines, Malaysia and Brunei. For more analysis, see Crisis Group reports, *Stirring up the South China Sea (I)* and *Stirring up the South China Sea (II): Regional Responses*, both op. cit. Japan has a territorial dispute with North and South Korea over the Takeshima/Dodko islets and with Russia over the Northern Territories/Kuril Islands. However, while South China Sea tensions remain high, there have been no comparable incidents in recent years around the Takeshima/Dodko or Northern Territories/Kuril Islands.

<sup>7</sup> Crisis Group interviews, Beijing, September 2012 and Tokyo, October 2012.

<sup>8</sup> For Japan's full legal position, see "MOFA: Fact Sheet on the Senkaku Islands", Japanese foreign ministry, November 2012.

<sup>9</sup> For China's full legal position, see "Full Text: Diaoyu Dao an Inherent Territory of China", State Council Information Office White Paper, September 2012.

<sup>10</sup> "Full Text: Diaoyu Dao an Inherent Territory of China", op. cit.

<sup>11</sup> Steven Wei Su, "The Territorial Dispute over the Tiaoou/Senkaku Islands: An Update", *Ocean Development and International Law*, vol. 36 (2005), p. 49.

<sup>12</sup> See Appendix B, "Republic of China (Taiwan)'s claim to the islands".

<sup>13</sup> China and Taiwan were not invited to participate in the negotiations and are not signatories to the treaty. See Linus Hagström, *Japan's China Policy: A Relational Power Analysis* (New York, 2005), p. 119.

<sup>14</sup> Since the 1971 Okinawa Reversion Treaty, U.S. administrations have stated that while the U.S. takes no position on the territorial disputes, the treaty does cover the islands as they are under Japanese administration. See Section V, "The U.S. Factor as Seen by Tokyo and Beijing".

<sup>15</sup> China claims jurisdiction, which includes exclusive rights to resource exploration and development, based on the natural prolongation of its continental shelf, which it says extends to the Okinawa Trough. Japan claims an EEZ that extends to the median line that bisects the East

Yet, there is little chance that an international tribunal will be able to examine the issue. Japan does not formally acknowledge that a dispute exists and believes it would therefore be up to China – which it says is seeking to challenge Japan’s “valid control” of the island chain – to refer the issue to the International Court of Justice (ICJ).<sup>17</sup> Japanese officials also point out that, unlike Japan, China does not accept the compulsory jurisdiction of the court.<sup>18</sup> Chinese analysts say that Beijing has no faith in the ICJ’s fairness, as it is a “Western” system that will only produce results “biased against China”.<sup>19</sup>

Since the normalisation of Sino-Japanese relations in 1972, the two countries had followed a strategy of consigning any settlement to the distant future, preserving “the absence of escalation as well as the absence of compromise”.<sup>20</sup> They were able to prevent small incidents from spiralling out of control and damaging diplomatic relations through refraining from provocation and engaging in effective and often discreet diplomacy when problems arose. China claims this was due to an agreement between leaders, but Japan denies such an understanding existed.<sup>21</sup> Strong economic ties have also acted as a stabilising factor.<sup>22</sup>

In recent years, in the context of an ascendant China, many Chinese analysts increasingly thought Japan had the better end of this “gentlemen’s agreement” since it had been administering the islands alone while taking steps to reinforce

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China Sea. Both natural prolongation and median line principles are allowed under Article 15 and Article 76 of the UN Convention on the Law of the Sea (UNCLOS), which the two countries ratified in 1996. Their overlapping claims leave about 40,000 sq km west of the Okinawa Trough and east of the EEZ’s median line disputed. The Diaoyu/Senkaku Islands fall within the disputed area. “Part II: Limits of the Territorial Sea” and “Part VI: Continental Shelf”, UNCLOS, 10 December 1982. Steven Wei Su, *op. cit.*, p. 46.

<sup>16</sup> The UN Charter and UNCLOS provide several means for the peaceful settlement of maritime disputes: negotiation and conciliation, ie, taking the dispute to a state or international body such as the UN Secretary-General; arbitration, which can be done ad hoc or in a tribunal; and judicial settlement by the International Court of Justice (ICJ) or the International Tribunal for the Law of the Sea (ITLOS). “Methods of resolving maritime boundary disputes”, Chatham House International Law Discussion, 14 February 2006.

<sup>17</sup> “Press conference by Prime Minister Yoshihiko Noda on the occasion of the 67th Session of the United Nations General Assembly”, Opening Statement, Prime Minister of Japan and his Cabinet, 26 September 2012.

<sup>18</sup> Crisis Group interviews, Tokyo, October 2012. Japan recognises the jurisdiction of the ICJ as compulsory but “on condition of reciprocity” with the other state. “Declarations Recognising the Jurisdiction of the Court as Compulsory: Japan”, International Court of Justice, 9 July 2007.

<sup>19</sup> Crisis Group interviews, Beijing, August-September 2012. There has been some discussion in policy circles in Tokyo about a potential understanding whereby China would agree to submit the dispute to the ICJ and Japan would admit the existence of a dispute. Unfortunately this proposition is a non-starter in Beijing.

<sup>20</sup> M. Taylor Fravel, “Explaining Stability in the Senkaku (Diaoyu) Islands Dispute”, in Gerald Curtis, Ryosei Kokubun and Wang Jisi, (eds.), *Getting the Triangle Straight: Managing China-Japan-US Relations* (Brookings, 2010), pp. 144-164.

<sup>21</sup> For more information, see Section II.C “Timing”.

<sup>22</sup> Japan is China’s fourth largest trading partner while China is Japan’s largest with bilateral trade valued around \$340 billion in 2011. As of June 2012, Japan ranked first in cumulative investment in China, reaching \$83.97 billion. “The economics behind the China-Japan dispute”, The Financial Times Blogs, 24 September 2012; “Key Facts on China-Japan trade and economic ties”, Xinhua News Agency, 22 September 2012; “Diaoyu Islands rift takes toll on China-Japan economic ties”, Xinhua News Agency, 29 September 2012.

its claim.<sup>23</sup> They also saw a balance of power shifting in China's favour vis-à-vis Japan and felt more confident in asserting Chinese claims in the East China Sea.<sup>24</sup> An incident in September 2010 – when a Chinese fishing boat rammed two Japan Coast Guard (JCG) vessels near the islands – brought these issues to the forefront. Japanese analysts believe the fallout from this led to Japan's purchase of three of the disputed islands from a private owner in September 2012, which gave China the opportunity to alter the status quo.<sup>25</sup> By the beginning of 2013, the two countries were locked in a volatile standoff with Chinese and Japanese law enforcement vessels in close proximity, creating the risk for a dangerous clash. Despite expressions by both governments that they wish to avoid a military conflict, the potential for escalation has increased.<sup>26</sup>

This report is based on interviews conducted in Beijing, Shanghai and Tokyo. Crisis Group spoke with a wide range of individuals, including officials, government analysts, scholars, diplomats and journalists, most of whom requested to remain anonymous to comment on sensitive policy decisions. It analyses internal dynamics in both China and Japan that led to the deterioration in bilateral relations, missteps and misunderstandings that contributed to this latest round of tensions, as well as missed opportunities to establish crisis mitigation systems. This report does not take a position on China's and Japan's competing legal claims nor does it include discussion of Taiwan's claim to the islands in the main text.

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<sup>23</sup> Crisis Group interviews, Beijing, September 2012, February 2013.

<sup>24</sup> Ibid; See also Stephanie Kleine-Ahlbrandt, "A Dangerous Escalation in the East China Sea", *Wall Street Journal*, 4 January 2013.

<sup>25</sup> Crisis Group interviews, Tokyo, October 2012.

<sup>26</sup> Upon winning election, Japanese Prime Minister Shinzo Abe called the Sino-Japanese relationship "one of extremely important bilateral ties" and pledged to make efforts to restore the "mutually beneficial relationship". "Japan's incoming Prime Minister Shinzo Abe pledges to mend ties with China", Agence France-Presse, 22 December 2012. Commenting on Abe's victory, China responded by saying that "a healthy and stable Sino-Japanese relationship is in line with the fundamental interest of both countries and their people". "外交部例行记者会" ["Regular press conference of the foreign ministry"], Chinese foreign ministry, 25 December 2012.



## II. Divergent Views of the Island Purchase

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The September 2012 crisis started with widely divergent views held by Beijing and Tokyo on the latter's decision to purchase the disputed islands. Japanese officials said they began informing China of the plan and explaining its rationale in June, but months of communication failed to bridge differences. Despite analysis of more than twenty potential scenarios, taking into account military, economic, diplomatic and cultural consequences, Tokyo was still "shocked" by Beijing's strong reaction.<sup>27</sup> Two months after the purchase, a former senior Japanese diplomat said China's firm response was still "a mystery" to policymakers in Tokyo.<sup>28</sup>

### A. Tokyo's Perspective

Shintaro Ishihara, then-governor of Tokyo, announced on 16 April 2012 a plan for the Tokyo metropolitan government to purchase three of the Diaoyu/Senkaku Islands from the Kurihara family and build on them, citing the need to counter China's challenge of Japanese control.<sup>29</sup> The government of Prime Minister Yoshihiko Noda felt compelled to act pre-emptively for fear that if Ishihara purchased the islands and built structures on them, a far larger crisis would result and send tensions with China spiralling. The Noda government felt that it lacked the legal means to stop Ishihara, and due to the significant public support for the Tokyo governor's plan to purchase the islands, it decided in May to open its own bid to purchase them.<sup>30</sup> Noda was also reportedly driven by "a sense of responsibility" to defend the country's territory.<sup>31</sup> Tokyo had expected a negative reaction from China, but was trying not to "lose bigger" should Ishihara purchase and develop them.<sup>32</sup>

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<sup>27</sup> Crisis Group interviews, Tokyo, October 2012; Beijing, November-December 2012.

<sup>28</sup> Ibid; "Japanese prime minister admits 'miscalculation' over Diaoyus", *South China Morning Post*, 21 September 2012.

<sup>29</sup> This report presents Japanese names in the Western custom of given name followed by family name, in reverse of Japanese convention. In August 2012, Ishihara vowed to send a research team to land on the islands and dared the central government to stop him. "Ishihara says he will defy government orders, land on Senkaku Islands", *The Asahi Shimbun*, 25 August 2012. In September, he demanded that the central government build a port on the islands in exchange for him dropping his purchase bid. "Governor of Tokyo: Develop Senkakus, and I'll halt purchase", *The Asahi Shimbun*, 1 September 2012. Explaining the reasons that prompted his action, he pointed out that "China has embarked on radical movements in an attempt to knock down Japan's effective control on the Senkaku Islands. That's scandalous". "Ishihara, citing Chinese moves, plans to buy Senkaku Islands", *The Asahi Shimbun*, 17 April 2012.

<sup>30</sup> Crisis Group interviews, Tokyo, October 2012. A reported 70 per cent of the Japanese supported Ishihara's plan. Hitoshi Tanaka, "Politicising the Senkaku Islands a danger to regional stability", *East Asia Forum*, 19 August 2012. The Japanese public contributed over 70,000 donations, totalling ¥1 billion in two months. "Donations to metro government to buy Senkaku Islands top ¥1 billion", *The Japan Times*, 2 June 2012.

<sup>31</sup> "Inside Look: Japan tried but failed to avert disaster in China dispute", *The Asahi Shimbun*, 26 September 2012.

<sup>32</sup> Ibid; Crisis Group interviews, Tokyo, October 2012. The decision was not unchallenged, most notably by Uichiro Niwa, the Japanese ambassador to China, who publically warned that the island purchase would harm bilateral relations. "Tokyo warned over plans to buy islands", *Financial Times*, 6 June 2012.

Japan viewed the island purchase as an internal transfer of property from a private owner to the central government; “from the left hand to the right”.<sup>33</sup> While such an act altered the status of the islands under Japanese domestic laws, Tokyo believed that it was unrelated to issues of sovereignty and could not be considered a change to the bilateral status quo.<sup>34</sup> A former Japanese diplomat explained in further detail, “there are two types of ownership with regard to territories. There are property rights and there are sovereignty rights”. He said the state already had sovereignty rights to the islands, and was only acquiring the property rights through the purchase.<sup>35</sup>

### B. *Beijing’s Interpretation*

China’s interpretation was twofold. It felt that the islands’ ownership transfer aggravated an already unacceptable situation, Japan’s control over the islands and denial that they are disputed.<sup>36</sup> According to a Chinese analyst, Beijing never agreed that the private owner possessed the islands in the first place.<sup>37</sup> While a military analyst conceded that although China could understand that “legally there was no change to the status quo”, nevertheless “politically the action ... violated the basic agreement that both countries shelve the dispute and kick it into the long grass”.<sup>38</sup> In his October press conference, Chinese Vice-Foreign Minister Zhang Zhijun termed “absurd logic” the notion that “it is better for the government to ‘purchase’ the islands than the right-wing forces”, saying it amounts to “asking China to choose between two kinds of poison”.<sup>39</sup>

Beijing considered the purchase a deliberate unilateral change to the status quo.<sup>40</sup> Many Chinese analysts adopted the narrative of a “good cop, bad cop” conspiracy by Japan to solidify its claim.<sup>41</sup> Policy groupthink – where lower-level analysts and bureaucrats assess the leadership’s position and provide information and analysis accordingly – reinforced the theory that Noda engineered the drama with Ishihara to deal a blow to China.<sup>42</sup> This version was easily adopted by the Chinese

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<sup>33</sup> Crisis Group interview, Tokyo, October 2012.

<sup>34</sup> Crisis Group interviews, Tokyo, October 2012; Beijing, November 2012. There were two camps in the Japanese government regarding the course of action after Ishihara’s announcement and the subsequent outpouring of public support: the government could either let him buy the islands and claim that it could not stop him or buy the islands itself. Crisis Group interview, Tokyo, October 2012. “Inside Look: Japan tried but failed to avert disaster in China dispute”, op. cit. Some Japanese and Western analysts have offered other options, though it is unclear if they would have been able to prevent a similar response from China. Crisis Group interviews, Tokyo, October 2012.

<sup>35</sup> Crisis Group interview, Beijing, November 2012.

<sup>36</sup> Crisis Group interview, Beijing, October 2012.

<sup>37</sup> Crisis Group interview, Beijing, October 2012. The Chinese official position is: “Japan has no right to engage in any form of buying or selling Chinese territory”. “外交部副部长张志军就钓鱼岛问题举行媒体吹风会” [“Vice Foreign Minister Zhang Zhijun briefed Chinese and foreign journalists on the Diaoyu Dao issue (transcript)”], press conference, Chinese foreign ministry, 26 October 2012.

<sup>38</sup> Crisis Group interview, Beijing, December 2012.

<sup>39</sup> “外交部副部长张志军就钓鱼岛问题举行媒体吹风会”, [“Vice Foreign Minister Zhang Zhijun briefed Chinese and foreign journalists on the Diaoyu Dao issue (transcript)”], op. cit.

<sup>40</sup> “乐玉成：两国关系困难因日方单方改变钓鱼岛现状”，人民网 [“Le Yucheng: Difficulties in bilateral relations are due to Japan’s unilateral change to the status quo of the Diaoyu Dao”, *The People’s Daily* (online)], 28 September 2012.

<sup>41</sup> Crisis Group interviews, Beijing, September, November 2012.

<sup>42</sup> Crisis Group interviews, Beijing, August-October 2012.

policy apparatus given the very different political and legal systems in the two countries. In contrast with Japan, Chinese regional officials who oversee provinces are appointed and rotated by the central government, and “respond to signals set by the centralized party leadership”.<sup>43</sup> While they enjoy significant autonomy on economic issues, they are expected to heed the government line on important political and security issues. Furthermore, in China it would be impossible for a private individual to purchase an island, let alone one that is disputed.

### C. *Timing*

Japan had several more months to complete the purchase or even explore other options, but expedited the process in part to complete it before China’s once-in-a-decade leadership transition in November 2012. Japanese analysts said the timing was meant to avoid “punch[ing] the new [Chinese] leaders in the face”. Tokyo also calculated that a new leadership in Beijing might offer opportunities for reconciliation.<sup>44</sup> Unknown to Japan, then-incoming Chinese leader Xi Jinping had already been put in charge of the “Leading Small Group on the Protection of Maritime Interests”.<sup>45</sup>

Many in Beijing, however, suspected Japan had deliberately timed the purchase before its power transfer because it thought the leadership would be weak or distracted.<sup>46</sup> According to an account, Chinese leaders were focused on ensuring a smooth handover and did not wish to be forced to deal with Japan.<sup>47</sup> Adding to Chinese sensitivity, the run-up to the leadership transition saw ample signs of fierce factional struggles.<sup>48</sup> A government official responsible for security noted in September that the date of the eighteenth National Congress of the Communist Party of China (CPC), which would formalise the handover, had not yet been set – a sign of uncertainty. He asked, “does Japan want to exacerbate the dispute to disrupt the ... Congress?”<sup>49</sup> There was also a sense that if China were perceived as being too soft in its reaction, its rival claimants “will reach out for a yard after taking an inch” in the belief that Beijing might want to avoid external troubles during the transition.<sup>50</sup> Another analyst said that Japan had to be made into an example to prevent rival claimants from “exploiting us every time [there is a party congress]”.<sup>51</sup>

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<sup>43</sup> Yukong Huang, “China’s Conflict between Economic and Political Liberalization”, SAIS Review, vol. 32, no. 2 (Summer/Fall 2012), p. 53.

<sup>44</sup> Crisis Group interviews, Tokyo, October 2012.

<sup>45</sup> The group, “中央海洋权益工作领导小组” in Chinese, was set up sometime in the second half of 2012. “中国外交决策的基本过程”, 东方早报 [“Basic process of China’s foreign policy decision-making”, Oriental Morning Post], 18 March 2013.

<sup>46</sup> Crisis Group interviews, September-November 2012.

<sup>47</sup> Crisis Group interview, Beijing, September 2012.

<sup>48</sup> “China seals Bo’s fate ahead of November 8 leadership congress”, Reuters, 28 September 2012. “China faces new scandal over crash of a Ferrari”, The New York Times, 3 September 2012.

<sup>49</sup> Crisis Group interview, Beijing, September 2012.

<sup>50</sup> Crisis Group interview, Beijing, September 2012. At the time Japan completed the island purchase, on the eve of China’s leadership transition, both the size of the next Politburo Standing Committee (PBSC) and its membership – with the exception of two – were still uncertain and reportedly the subject of intense closed-door jockeying. See Cheng Li, “The Battle for China’s Top Nine Leadership Posts”, *The Washington Quarterly*, vol. 35, no. 1 (Winter 2012), pp. 131-145.

<sup>51</sup> Crisis Group interview, Beijing, November 2012.

Signals from both sides were misinterpreted. Prime Minister Noda had sent a secret envoy in early September to Beijing, which according to a Chinese source gave President Hu Jintao the impression that Japan could be persuaded to abandon the purchase plan.<sup>52</sup> This reportedly prompted Hu to agree to a meeting with Noda at the Asia-Pacific Economic Cooperation Summit in Vladivostok (8-9 September). Japanese officials had been surprised by the Chinese side's acceptance of the request for the meeting and interpreted it as a good sign. They had assumed that President Hu had been made fully aware of Japan's intentions to finalise the purchase the following day.<sup>53</sup> The Chinese side, however, had agreed to the encounter on the belief that Noda could still be convinced to back away from the move.<sup>54</sup> During the meeting, Hu stressed to Noda that nationalising the islands was illegal.<sup>55</sup> When Japan went ahead with the purchase, this was seen as a loss of face for Chinese leaders.<sup>56</sup> Shortly thereafter, Xi Jinping was put in charge of the issue.<sup>57</sup>

The purchase reignited the disagreement over the basis on which China and Japan had refrained for decades from trying to resolve the sovereignty issues. According to Beijing, there was a "gentlemen's agreement" between earlier high-level leaders to "shelve the dispute".<sup>58</sup> Japanese politicians at times have alluded to earlier Chinese leaders' statements that the dispute should be resolved by future generations, but Tokyo has explicitly denied the existence of an agreement with China to shelve the dispute.<sup>59</sup> Tokyo maintained that Japan followed a unilateral policy of

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<sup>52</sup> Crisis Group interview, Beijing, March 2013.

<sup>53</sup> According to a Japanese source close to Noda, because Japanese diplomats had been regularly briefing the Chinese foreign ministry about the timing of the island purchase, "our sense was that he [Hu] was supposed to know," thus Noda did not explicitly say it in his meeting with Hu. Another Japanese source said the meeting lasted only about ten minutes and was hastily put together, without the presence of the director of the Japanese foreign ministry's China and Mongolia Division. Nor was there a Chinese-Japanese interpreter, meaning that translation had to go through English, further limiting communication. Crisis Group interviews, Tokyo, October 2012; Beijing, November 2012.

<sup>54</sup> Crisis Group interviews, Beijing, March 2013; Tokyo, October 2012.

<sup>55</sup> In addition, Premier Wen Jiabao and Wu Bangguo, chairman of the Standing Committee of the National People's Congress (NPC) at the time, both issued separate warnings to Japan. "Absolutely no concession' on Diaoyu Islands, says Chinese premier", Xinhua News Agency, 10 September 2012; "Top legislator reiterates China's stance on Diaoyu Islands", Xinhua News Agency, 10 September 2012.

<sup>56</sup> Crisis Group interviews, Beijing, September-October 2012, March 2013.

<sup>57</sup> See Section V.A.1 "Challenges of Japan policymaking in China".

<sup>58</sup> China maintains that during the negotiations on the China-Japan Joint Communiqué (1972) between Zhou Enlai and Japanese Prime Minister Kakuei Tanaka and the China-Japan Treaty of Peace and Friendship (1978) under Deng Xiaoping, leaders of the two countries reached an agreement to shelve the dispute over the sovereignty of the Diaoyu/Senkaku Islands. "搁置争议, 共同开发" ["Shelve dispute, seek joint development"], Chinese foreign ministry, [www.mfa.gov.cn/chn//gxh/xsb/wjzs/t8958.htm](http://www.mfa.gov.cn/chn//gxh/xsb/wjzs/t8958.htm). Deng said, "it does not matter if this question is shelved for some time, say 10 years. Our generation is not wise enough to find common language on this question. Our next generation will certainly be wiser. They will certainly find a solution acceptable to all". Taylor Fravel, "Explaining Stability in the Senkaku/Diaoyu Islands Dispute", *op. cit.*, p. 157.

<sup>59</sup> On 22 October 1990, Chief Cabinet Secretary Misoji Sakamoto reaffirmed Japan's sovereignty claim but referenced Deng Xiaoping's statement that the islands dispute should be solved by a later generation. Kyodo News Agency, in Foreign Broadcast Information Service-East Asia (FBIS-EAS), 23 October 1990, p. 3 as cited in Erika Strecker Downs and Phillip C. Saunders, "Legitimacy and Nationalism: China and the Diaoyu Islands", in Michael E. Brown, Sean M. Lynn-Jones, Steven E. Miller (eds.), *The Rise of China* (Cambridge, MA., 2000), p. 56. After

“ensuring a peaceful and stable maintenance and management of the Senkaku Islands”.<sup>60</sup> The denial has always been taken by China as a political affront. Japan’s island purchase was seen in Beijing as final proof that Japan had disrespected the tacit understanding and, in the minds of Chinese analysts, freed Beijing from adhering to the status quo.<sup>61</sup>

The misunderstanding over the island purchase and resulting political frictions only served to catalyse tensions. At the root of problem, an ascendant China increasingly saw itself at the short-end of the gentlemen’s agreement as Japan enjoyed de facto administration of the islands.<sup>62</sup> Its growing capability provided China the confidence that the time was approaching to challenge Japanese control and the island purchase provided it the opportunity.

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China promulgated its February 1992 “Law of the People’s Republic of China on its Territorial Waters and their Contiguous Areas”, which included the Diaoyu/Senkaku Islands, then-Japanese Prime Minister Kiichi Miyazawa reportedly pointed to a prior understanding with Deng Xiaoping over the islands. The Japanese foreign ministry then issued a correction denying such an agreement existed. Reinhard Drifte, “Japanese-Chinese Territorial Disputes in the East China Sea—Between Military Confrontation and Economic Cooperation”, Working Paper, Asia Research Centre, London School of Economics and Political Science (2008), p. 8. The policy that “no dispute” exists reportedly arose from within the “legally-minded” Treaties Bureau in the Japanese foreign ministry. Linus Hagström, *Japan’s China Policy: A Relational Power Analysis* (New York, 2005), p. 132

<sup>60</sup> Crisis Group interview, Beijing, January 2013. “MOFA: Fact Sheet on the Senkaku Islands”, op. cit., Attachment 1: Map of the Senkaku Islands. Crisis Group interview, Beijing, January 2013.

<sup>61</sup> Crisis Group interview, Beijing, February 2013.

<sup>62</sup> Crisis Group interviews, Beijing, August-September 2012; January 2013.

### III. China's Strategy

#### A. From Japanese Control to Overlapping Administration

Immediately following the purchase of the Diaoyu/Senkaku Islands, China implemented a string of measures, termed “combination punches”, that bore the hallmarks of a well-planned campaign with multi-agency coordination and high-level decision-making.<sup>63</sup> Top leaders delivered harsh rebukes of Japan, with then-Premier Wen Jiabao vowing to “never yield an inch” and then-Vice President Xi Jinping calling the island purchase “a farce”.<sup>64</sup> The foreign ministry stated that the purchase was “illegal and invalid, and changed nothing about the historical fact that Japan had invaded and occupied Chinese territories”.<sup>65</sup> Defence Minister Liang Guanglie said China’s military “reserves the right to take further actions”.<sup>66</sup> The commerce ministry warned that Japan’s action “will inevitably affect and damage the normal development of Sino-Japanese economic and trade relations”.<sup>67</sup> Chinese provincial- and central-level officials were also ordered to cancel visits to Japan and meetings with Japanese counterparts.<sup>68</sup>

Other punitive measures were taken in which the Chinese government denied any official coordination. Tourist agencies, some state-owned, cancelled trips to Japan. Consumers boycotted Japanese products while goods from Japan faced delays at several Chinese ports due to longer customs inspections.<sup>69</sup> Violent anti-Japan protests erupted in dozens of cities, damaging some Japanese shops and factories.<sup>70</sup>

<sup>63</sup> “中国捍卫钓鱼岛主权有理有据”，*人民日报* [“China has every reason and right to defend sovereignty of Diaoyu Island”, *The People's Daily*], 27 September 2012.

<sup>64</sup> “中国在领土主权问题上绝不会退让半步”，新华社 [“China will not yield an inch on sovereignty issues”, Xinhua News Agency], 12 September 2012; “习近平称日方应悬崖勒马 停止损害中方主权言行”，新华社 [“Xi Jinping said Japan should pull back before it is too late, and stop saying or doing things that harm Chinese sovereignty”, Xinhua News Agency], 20 September 2012.

<sup>65</sup> “中国外交部就日本宣布‘购岛’发表声明”，新华社 [“Foreign ministry issues statement regarding Japan’s ‘island purchase’ announcement”, Xinhua News Agency], 10 September 2012.

<sup>66</sup> “中美防长面对面谈钓鱼岛问题 梁光烈称保留进一步行动权利”，新华社 [“Chinese defence minister talks with U.S. defence secretary, Liang Guanglie said Beijing reserves the right to take further action”, Xinhua News Agency], 19 September 2012.

<sup>67</sup> “商务部例行新闻发布会 2012 年 9 月 19 日”，中国商务部 [“Regular press conference of the commerce ministry on 19 September 2012”, Chinese commerce ministry], 19 September 2012.

<sup>68</sup> Crisis Group interview, Beijing, September 2012. “China cancels diplomatic event with Japan over islands”, BBC, 23 September 2012.

<sup>69</sup> “Japan’s spat with China takes big toll on tourism”, *The Wall Street Journal*, 27 November 2012. Chinese officials and scholars maintained that this was the result of “spontaneous market forces” rather than government coordination. Crisis Group interviews, Beijing, September and November 2012. Japanese officials and analysts saw these as “nasty actions” or “small tricks” for which Beijing refused to admit responsibility. Crisis Group interview, Tokyo, October 2012. “Japan Inc. losses mount over isle spat”, *The Wall Street Journal*, 1 November 2012; “Customs delaying some Japanese imports to China”, Associated Press, 24 September 2012.

<sup>70</sup> “Anti-Japan protests in China swell, turn violent”, Associated Press, 15 September 2012. The violence also alienated Japanese business leaders with deep-rooted ties in China. A Japanese scholar noted that it was especially shocking to see Chinese rioters target a Panasonic plant, as the company’s founder was asked personally by Deng Xiaoping to come to China to help the country develop its electronics sector. He said many Japanese are asking, “why do we now get this?” Crisis Group interview, Tokyo, October 2012.

State media trumpeted photos and video footage of military drills, including island-landing exercises in the Yellow Sea.<sup>71</sup>

But a quieter move may have had more serious repercussions. On 10 September, the day Tokyo formally declared it was purchasing the islands, Beijing announced territorial sea baselines around the islands.<sup>72</sup> According to Chinese law, the move placed the disputed islands under Chinese administration and was therefore a direct challenge to Japan's control of the islands.<sup>73</sup> This was the first time that China announced baselines for territories that it did not already control. Chinese experts explained that from then on, entrance by Japanese public service or Self-Defence Force (SDF) vessels into the area would be considered intrusions into China's territory and a violation of its sovereignty.<sup>74</sup>

Such an unprecedented move to formalise its claim obliged China under its own laws – and in the court of domestic public opinion – to assert jurisdiction over the waters surrounding the islands.<sup>75</sup> Its two largest maritime law enforcement agencies – the China Marine Surveillance (Marine Surveillance) and the Fisheries Law Enforcement Command (Fisheries) – which already competed with each other in the South China Sea for budget and clout, were further empowered to assert sovereignty in the East China Sea. They immediately increased their patrols in waters previously dominated by the JCG.<sup>76</sup> For Chinese experts, the immediate aim is to establish “overlapping control” in the disputed waters.<sup>77</sup> Some have stated that in this way, Japan would at least have to admit that a dispute exists.<sup>78</sup>

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<sup>71</sup> “海军、空军、陆军、二炮实兵演练 随时准备维护国家主权”, 新华社 [“Navy, Air Force, Army and Secondary Artillery Force conducted combat exercise, ready at all time to protect national sovereignty”, Xinhua News Agency], 12 September 2012.

<sup>72</sup> “中华人民共和国政府关于钓鱼岛及其附属岛屿领海基线的声明”, 新华社 [“Statement by the Chinese government on territorial sea baselines surrounding the Diaoyu and its affiliated Islands”, Xinhua News Agency], 10 September 2012. The baselines formed the basis from which China drew its territorial seas and other maritime areas under its jurisdiction. Crisis Group interview, Beijing, September 2012.

<sup>73</sup> Chinese officials declared that the move provided “the legal basis according to Chinese domestic laws and relevant international laws to administer Diaoyu Islands waters”. The last and only other time when China announced its territorial sea baselines was in 1996, around part of its mainland and the Paracel Islands. “外交部: 中国政府公布钓鱼岛等领海基线意义重大”, 新华社 [“Foreign ministry: Announcement by the Chinese government of Diaoyu Islands territorial sea baselines significant”, Xinhua News Agency], 13 September 2012. Under Chinese law, the area 12 nautical miles from the baselines is China's territorial sea. Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone (1992), Article 3.

<sup>74</sup> Crisis Group interviews, Beijing, September 2012; and “专家解读领海及毗连区法”, 法制日报 [“Experts explain the law on the territorial sea and the contiguous zone”, *Jurisprudence Daily*], 16 September 2012. Chinese law has stated that foreign non-military vessels have the right to “innocent passage” in China's territorial sea, but if foreign governmental vessels for non-commercial purposes violate Chinese laws or regulations during passing, they can be asked to leave immediately. “外交部: 中国政府公布钓鱼岛等领海基线意义重大” [“Foreign ministry: Announcement by the Chinese government of Diaoyu Islands territorial sea baselines significant”], op. cit.

<sup>75</sup> Stephanie Kleine-Ahlbrandt, “Dangerous Waters”, *Foreign Policy*, 17 September 2012.

<sup>76</sup> See Section V.D “Maritime Agencies in Ascendance”.

<sup>77</sup> “专家称中日较量可能致钓鱼岛交叉控制局面”, 京华时报 [“Experts say China-Japan contest may lead to overlapping control of Diaoyu Islands”, *Jinghua Times*], 21 September 2012. A former China Marine Surveillance chief went further by stating that Beijing's primary goal and task following the baseline announcement was to eventually drive Japan's coastguard out of the disputed areas. “前海监官员: 钓鱼岛不排除发生撞船等小冲突” [“Former Marine Surveillance

## B. *Reactive Assertiveness*

Beijing's responses to Japan's island purchase reflect a tactic that it has used in other maritime disputes, which can be termed "reactive assertiveness": Beijing uses an action by another party as justification to push back hard and change the facts on the ground in its favour.<sup>79</sup>

In April 2012, the Philippines maladroitly sent a warship to arrest Chinese fishermen operating near the disputed Scarborough Shoal, prompting China to send two civilian maritime patrol ships. Manila soon replaced the navy ship with a civilian coast guard vessel, and a standoff ensued between the two countries' law enforcement vessels. By mid-June, both sides withdrew on the pretext of rough weather, but Chinese Marine Surveillance and Fisheries vessels soon returned, roped off the mouth of the lagoon to keep Filipino fishermen from entering, and established routine patrols of the area. Previously, neither China nor the Philippines maintained a permanent presence in the area and fishermen from the Philippines, Vietnam, Taiwan and China operated untroubled in and around the large reef. Taking advantage of the Philippines's action of sending a warship to arrest Chinese fishermen, China established effective control of the shoal, thus changing the status quo in its favour.<sup>80</sup> All the while, the blame was laid on the Philippines for having responded to a fishing dispute by sending in a naval vessel.

Similarly, on 21 June 2012, Vietnam passed a maritime law with new navigation regulations covering the disputed Spratly and Paracel Islands. China reacted by establishing Sansha City to encompass the islands and 2 million sq km of the South China Sea, complete with a military garrison.<sup>81</sup> The China National Offshore Oil Corporation, a state-owned enterprise, then proceeded to offer oil exploration leases in nine blocks located within the disputed area in the South China Sea.<sup>82</sup> Chinese analysts have said that Beijing was made aware many months ahead of the impending law by Vietnam, giving it ample opportunity to craft its response. Vietnamese

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official: small clashes such as boat collision near Diaoyu Islands cannot be ruled out", China.com, 12 September 2012.

<sup>78</sup> Chinese analysts have further said that even if Japan admits a dispute exists, China will not withdraw its maritime surveillance vessels from disputed waters. Crisis Group interviews, Beijing, November 2012. This makes any such admission from Japan less attractive than it already is.

<sup>79</sup> Stephanie Kleine-Ahlbrandt, "Choppy Weather in the China Seas", *Le Monde Diplomatique*, December 2012.

<sup>80</sup> Taylor Fravel, "Redefining the Status Quo", *The Diplomat*, 2 November 2012. See also Carlyle A. Thayer, "South China Sea: Impasse at Scarborough Shoal", *Yale Global*, 12 April 2012.

<sup>81</sup> "Vietnam law on contested islands draws China's ire", *The New York Times*, 21 June 2012. "民政部发言人就国务院批准设立地级三沙市答问", 新华社 ["Civil affairs ministry spokesperson answers questions on State Council's approval to establish Sansha City", Xinhua News Agency], 21 June 2012. "Sansha military garrison established", *The China Daily*, 27 July 2012. China first established an administrative office over its claims in the South China Sea in 1959. It then established Sansha City in June 2012, giving it administration over 200 islets, sandbanks and reefs of the Xisha [Paracel Islands], Zhongsha [Macclesfield Bank] and Nansha Islands [Spratly Islands]. It covers 13 sq km of island area. "China's Sansha starts forming government", Xinhua News Agency, 17 July 2012.

<sup>82</sup> "Notification of part of open blocks in waters under jurisdiction of the People's Republic of China available for foreign cooperation in the year of 2012", press release, China National Offshore Oil Corporation, 23 June 2012. "Vietnam spars with China over oil plans", *The Wall Street Journal*, 27 June 2012. The bids attracted informal interest from international companies, but apparently none bid on the blocks due to its disputed status. "Analysis: China unveils oil offensive in South China Sea squabble", Reuters, 1 August 2012. Crisis Group interview, Beijing, March 2013.



officials said that communications with China began six months in advance of the law's passage, but that nothing in their conversations warned them that the response would be so drastic.<sup>83</sup>

China's dispute with Japan in the East China Sea showed a use of the same "reactive assertiveness" tactic. Chinese analysts confirmed that territorial baselines had been drawn long before but had been withheld from public release as Beijing had been concerned about appearing expansionist. The Japanese purchase announcement then provided an opportunity to implement the plan.<sup>84</sup> A scholar joked that he refers to Ishihara and Noda as "comrades" for giving China the chance to change the situation around the Diaoyu/Senkaku Islands in its favour.

Another feature of reactive assertiveness is that the measures taken by China were designed to be irreversible. Scarborough Shoal remains inaccessible to Filipino fishermen and the development of Sansha City continues apace.<sup>85</sup> With regard to the Diaoyu/Senkaku, Chinese officials and analysts have made it clear that there is no going back to the previous status quo of Japan administering the area alone.<sup>86</sup> The Chinese foreign ministry has urged Japan to "face the reality that the situation around the Diaoyu Islands has fundamentally changed".<sup>87</sup> The director of the State Oceanic Administration, which oversees the Marine Surveillance, stated in November 2012 that "there is no time limit" to Chinese patrols around the Diaoyu/Senkaku Islands.<sup>88</sup> According to an analyst, after months of regular patrols in the disputed waters, Beijing's goal became to wear down Japan into "accept[ing] the new situation" and making overlapping control "the new status quo".<sup>89</sup>

In each case, Beijing saw its actions as justified not only as responses to other parties' provocations, but also to rectify situations that it believed to be unacceptable. Many Chinese analysts describe a pattern in these situations as one of "small countries bullying a big country".<sup>90</sup> With regard to the Diaoyu/Senkaku, many Chinese

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<sup>83</sup> Crisis Group interviews, Beijing, November 2012, January 2013; Ho Chi Minh City, November 2012.

<sup>84</sup> Crisis Group interviews, Beijing, September, November 2012.

<sup>85</sup> "Philippines accuses China of chasing fishing boats", Associated Press, 26 January 2013. Following Beijing's provision of 10 billion yuan (\$1.6 billion), Sansha officials planned to build more piers, airports and other infrastructure projects and to increase tourism. "Investment in Sansha a provocative step for China", *Global Times*, 27 December 2012. "China's youngest Sansha City preparing tourism", *The People's Daily*, 28 January 2013.

<sup>86</sup> "军舰调海监 无期限巡钓鱼岛", *明报* ["Warships transferred to Marine Surveillance, no time limit to Diaoyu patrol", *Ming Pao*], 11 November 2012. Crisis Group interviews, Beijing, December 2012, January 2013.

<sup>87</sup> "2012年10月31日外交部发言人洪磊主持例行记者会" ["Foreign ministry spokesperson Hong Lei's regular press conference on 31 October 2012"], press release, Chinese foreign ministry, 31 October 2012.

<sup>88</sup> "军舰调海监 无期限巡钓鱼岛" ["Warships transferred to Marine Surveillance, no time limit to Diaoyu patrol"], op. cit. Crisis Group interviews, Beijing, December 2012, January 2013.

<sup>89</sup> Crisis Group interview, Beijing, March 2013.

<sup>90</sup> "戴秉国：小国（像）菲律宾也不能欺负大国", 中国日报网 ["Dai Bingguo: small countries (like the Philippines) cannot bully a big country", *China Daily* (online)], 16 May 2012. In stark contrast with the impression from outside China that its actions have become more assertive, the prevailing view among Chinese officials and analysts is that the tensions and disputes are attributable to the failure of regional states to respect Chinese interests as reflected in the collusion between the U.S. and regional claimant states targeted against China. "三位学者：中国须加速开发南海", 环球时报 ["China needs to accelerate development in the South China Sea, *Global Times*"], 23 June 2011.

analysts believed that Beijing had been too soft by allowing Japan to solely administer the disputed islands and solidify control over them for so long.<sup>91</sup> According to an analyst, China's strategy was motivated by a sense that time was running out and that regular patrolling would be necessary "or else China's sovereignty claim would become weaker and weaker".<sup>92</sup> This view reflects a widely held belief in China that Japan could cement its claim if its de facto control could run fifty years unchallenged, through the international legal doctrine of "acquisition prescription".<sup>93</sup>

Additionally, China's sense of a shifting balance of power has given it confidence to correct what it considered a disadvantage. The shift in the two countries' comparative economic strength left many in China with the belief that it no longer needs to appease Japan by treading carefully on the island dispute.<sup>94</sup> Analysts and policymakers in China have increasingly spoken of Japan as a second-class power while China is on its way to becoming a first-class power.<sup>95</sup> Some held the view that for many years China had been too conservative in shelving the dispute and had allowed Japan to solidify its control of the Diaoyu/Senkaku islands.<sup>96</sup> According to a newspaper affiliated with the Communist Party of China, "the time that the Chinese nation could be bullied by anyone is gone forever and China now absolutely has the capabilities to safeguard its territorial sovereignty".<sup>97</sup>

Such factors could have motivated Chinese actions starting in 2008 to send occasional civilian law enforcement vessels to the disputed waters, and was cited as a reason for continued patrols far before Japan's island purchase.<sup>98</sup> A Marine Surveillance East China Sea fleet commander stated in March 2012 that China had to "demonstrate presence, show administration and declare sovereignty" by patrolling near the islands in order to "foil Japan's attempt to cement its claim through

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<sup>91</sup> Another maritime scholar who advises the government said he and his colleagues "should thank Japan" for helping them get their policy proposals implemented. Crisis Group interviews, Beijing, August-October 2012, January 2013.

<sup>92</sup> Crisis Group interview, Beijing, October 2012.

<sup>93</sup> "专家称钓鱼岛被日'窃占'时效取得说法不成立", 人民网["Experts said theory on Japan 'stealing' Diaoyu Islands through acquisition prescription does not stand up to scrutiny", *The People's Daily* (online)], 25 July 2012. This principle allows a state to acquire territory by exercising sovereignty or administering the area over a period of time, but it sets conditions, including acquiescence of other interested parties. Acquiescence can either be expressed or implied. Implied acquiescence can take many forms, but broadly it is seen as the failure of another state to protest the claimant state's authority over the territory and the failure to refer the matter to the adequate international organisation or tribunal, such as the UN or the ICJ, within an appropriate period of time. See Surya P. Sharma, *Territorial Acquisition, Disputes and* (The Hague, 1997), pp. 108-111.

<sup>94</sup> According to an analyst with PLA ties, "before China had to look up to Japan but now China is at least Japan's equal". Crisis Group interview Beijing, October 2012.

<sup>95</sup> Crisis Group interview, Shanghai, December 2012. One scholar seemed to take some pleasure in Japan's misfortune; noting that following the March 2011 Tohoku earthquake/tsunami and Fukushima nuclear disaster, there were thankfully far fewer Japan-related conferences and gatherings that year. Crisis Group interview, Beijing, November 2011.

<sup>96</sup> Crisis Group interview, Beijing, October 2012.

<sup>97</sup> 钟声, "日本不要瞎折腾", 人民日报 [Zhong Sheng, "Japan should stop making futile efforts", *The People's Daily*], 9 January 2013.

<sup>98</sup> That mission originated from the East China Sea division of the State Oceanic Administration, which commands the Marine Surveillance. "亲历者讲述巡航钓鱼岛: 与日本船对抗航行", 瞭望东方周刊 ["Eyewitness recounts Diaoyu Islands patrol: Confronting Japanese vessels", *Oriental Outlook Weekly*], 18 September 2012.

establishing the so called ‘acquisition prescription’.<sup>99</sup> The Japanese purchase announcement offered China the opportunity to officially normalise such patrols and conduct them with regularity.

China’s reactively assertive approach likely reflects its desire to take firm actions to defend its maritime claims while maintaining a policy of peaceful development. Beijing repeatedly stated that Japan was “fully responsible for all consequences”.<sup>100</sup> As a Chinese maritime researcher put it, “the series of measures that China has taken to defend its rights has been mostly reactive and responsive and was necessary to respond to violation of our maritime interests”.<sup>101</sup>

### C. *A Maritime Power with Core Interests*

China’s firm approach reflects a larger strategy of shifting from a land-focused power in both economic development and defence terms to a maritime power, a key component of which is strengthening defence of maritime rights.<sup>102</sup> The change of focus from landward to seaward security has led maritime security interests to become the most important part of China’s strategic rationale. Former President Hu Jintao and Premier Wen Jiabao both stressed the importance of China becoming a maritime power in their final speeches, in November 2012 and March 2013 respectively.<sup>103</sup> New leaders Xi Jinping and Li Keqiang have also reinforced the “maritime power” concept.<sup>104</sup>

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<sup>99</sup> “中国海监称定期巡航将中断和打破日本对钓鱼岛的‘时效取得’企图”, *东方早报* [“China Marine Surveillance said regular patrols will break Japan’s attempt to take Diaoyu Island through ‘acquisition prescription’”, *Oriental Morning Post*], 22 March 2012.

<sup>100</sup> “外交部副部长张志军就钓鱼岛问题举行媒体吹风会” [“Vice Foreign Minister Zhang Zhijun briefed Chinese and foreign journalists on the Diaoyu Dao issue (transcript)”, op. cit.

<sup>101</sup> 吴继陆, “正确认识海洋维权形式, 坚决维护国家海洋权益”, 国家海洋局海洋发展战略研究所 [Wu Jilu, “Correctly understand formats to safeguard maritime rights, firmly defend national maritime rights and interests”, China Institute for Marine Affairs], 20 November 2012. But some moderate analysts have voiced concerns over China’s unyielding approach, as it “enlarged the public’s appetite” for more and stronger steps to defend and cement maritime claims, making diplomatic accommodation of Japan even less palatable. Crisis Group interview, Beijing, September 2012.

<sup>102</sup> Former President Hu Jintao first declared China “a maritime power” in a December 2006 speech to the navy and urged it to become a “powerful navy that adapts to the needs of our military’s historical mission in this new century and at this new stage”. “胡锦涛强调锻造适应历史使命要求的强大人民海军”, 新华网 [“Hu Jintao stressed building a strong people’s navy to adapt to the requirements of historical mission”, Xinhua News Agency], 27 December 2006. China’s 2006 White Paper on National Defence gave details on its intention of building a blue-water navy capable of operating far from its homeports, outlining goals such as “gradual extension of the strategic depth for offshore defensive operations” and building “mobile maritime troops”. “China’s National Defence in 2006”, Section IV, Information Office of the State Council of the People’s Republic of China, December 2006. Two other defence white papers reinforced such missions: “China’s National Defence in 2008”, Section V, 20 January 2009; and “China’s National Defence in 2010”, 31 March 2011.

<sup>103</sup> “十八大在京开幕 胡锦涛作报告”, *财新网* [“Eighteenth party congress opened in Beijing, Hu Jintao delivered keynote report”, *Caixin* (online)], 8 November 2012.

<sup>104</sup> “Premier Li Keqiang said, “building a maritime power is a necessity to build a modernised country”. He also urged the Marine Surveillance to “resolutely safeguard the nation’s maritime rights”. “李克强慰问我国极地大洋科考队员和海监工作人员”, *新华社* [“Li Keqiang greeted members of Chinese polar oceanic scientific expedition team and Maritime Surveillance staff”, Xinhua News Agency], 7 February 2013. President Xi Jinping spoke to the navy upon taking over control

Maritime agencies, coastal provinces and the People's Liberation Army (PLA) have all considered the leadership's initiative a licence to step up their own activities for ocean exploration, development and the defence of maritime rights and claims.<sup>105</sup> Alongside these developments, Beijing has expanded both Marine Surveillance and Fisheries agencies in order to strengthen routine patrols in disputed areas. In March 2013, it began restructuring and consolidating its maritime agencies in order to focus its resources and enhance coordination. Beijing has also established the National Oceanic Commission "to formulate oceanic development strategies".<sup>106</sup>

Although never officially stated by the government, Chinese commentators and state media in recent years have started to refer to maritime rights as part of China's "core interests (核心利益)", namely those strategic interests on which China will not compromise and which it would possibly be ready to protect by force. The phrase, broadly defined to include state sovereignty, national security, territorial integrity and domestic stability, had traditionally only been applied to Taiwan, Tibet and Xinjiang.<sup>107</sup> In his first foreign policy speech after becoming head of the communist party, Xi Jinping stated that China "will remain on a path of peaceful development", but warned that "no country should presume that we will engage in trade involving our core interests". A Chinese analyst interpreted this as a warning to countries that are challenging China's maritime rights and interests.<sup>108</sup> A few days later, a top-level PLA general warned that China's "main security threat comes from the sea", pledging "not the slightest harm can come to the core national interests".<sup>109</sup> In recent years, foreign diplomats have said Chinese officials repeatedly referred to the South China Sea as part of China's core interests, although Chinese researchers insist that Beijing has not made a policy decision to do so.<sup>110</sup>

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of the communist party and the army, and urged it to focus on "the dream of a strong nation, which... is the dream for a strong military". "习近平考察广州战区谈 '强国梦' '强军梦'", 新华社 ["Xi Jinping visited Guangzhou military region, spoke of 'strong nation dream' and 'strong military dream'", Xinhua News Agency], 13 December 2012.

<sup>105</sup> "十八大首提海洋强国 海南将加快建设海洋强省", *海南日报* ["Maritime power concept first mentioned in eighteenth party congress, Hainan will boost development into a maritime province", *Hainan Daily*], 12 November 2012; "国家海洋局与海军双方研讨相互合作建设海洋强国", *中国新闻网* ["State Oceanic Bureau and navy discussed cooperation to build maritime power", *Chinanews.net*], 20 February 2013; "争当建设海洋强国主力省", *广州日报* ["Strive to be main force in building maritime power", *Guangzhou Daily*], 23 February 2013; "国家海洋局党组对建设海洋强国进行研讨", *中国海洋报* ["Party committee of State Oceanic Administration held seminar on building maritime power", *China Ocean News*], 2 March 2013; "解放军代表呼吁尽快出台海洋法为'海洋强国'做支撑", *中国广播网* ["PLA delegate calling for ocean law in support of 'maritime power'", *cnr.cn*], 7 March 2013.

<sup>106</sup> "China to restructure oceanic administration, enhance maritime law enforcement", Xinhua News Agency, 10 March 2013. See Sections V.D. "Maritime Agencies in Ascendance.

<sup>107</sup> Core interests were defined by the State Council as: state sovereignty, national security, territorial integrity and national reunification, the political system established by the constitution and overall social stability, and the basic safeguards for ensuring sustainable economic and social development. "China's Peaceful Development", State Council White Paper, 6 September 2011. See also Wang Jisi, "China's Search for a Grand Strategy", *Foreign Affairs*, March/April 2011, p. 2; and Michael D. Swaine, "China's Assertive Behavior, Part One: on 'Core Interests'", *China Leadership Monitor*, no. 34 (Winter 2011), p. 2.

<sup>108</sup> "Xi vows no surrender on 'legitimate rights, core interests'", *The China Daily*, 30 January 2013.

<sup>109</sup> "戚建国: 国家核心利益不能损, 主权不能丢, 领土不能少" [Qi Jianguo: national core interests cannot be harmed, national sovereignty cannot be lost, territory cannot be compromised], Chinese defence ministry, 4 February 2013.

<sup>110</sup> See Crisis Group Report, *Stirring up the South China Sea (I)*, op. cit., pp. 4.

The government has avoided directly labelling the Diaoyu/Senkaku dispute an issue that involves its core interests, but the linkage is apparent. Such a connection was made for the first time by a January 2012 editorial in the government's mouth-piece, *The People's Daily*.<sup>111</sup> In October that year, when asked whether core interests apply to Diaoyu/Senkaku, Chinese Vice Foreign Minister Zhang Zhijun did not deny or confirm, and instead recited the definition of the phrase, repeated that those islands are Chinese territories and warned Japan "not to doubt, let alone to test" China's resolve to defend them.<sup>112</sup>

#### D. *Nationalism: A Double-edged Sword*

Nationalism makes sovereignty in the East China Sea a highly explosive issue, as sentiments over the Diaoyu/Senkaku Islands run deeper in the Chinese psyche than any other territorial dispute in modern Chinese history, with the exception of Taiwan. Anti-Japanese sentiment in China is a legacy of the Japanese invasion during the Second World War and has been reinforced by decades of government-driven patriotic education and mass media recounting Japan's brutal occupation and China's heroic triumph under the CCP's leadership. Beijing further weaves the Diaoyu/Senkaku issue into the historical narrative of Japan's refusal to repent for its past aggression.<sup>113</sup> This has ensured that more than 60 years after the war, the enmity of the past remains alive in today's younger generations.<sup>114</sup> A "feedback loop" has ensued whereby history education has stimulated the growth of nationalism, which in turn provides a larger market for nationalistic messages.<sup>115</sup> According to a Chinese scholar, "the main theme of Chinese nationalism is anti-Japan".<sup>116</sup>

Meanwhile, the rapid rise of Internet use and social media over the past decade has eroded Beijing's control over popular sentiments and begun to influence policymaking.<sup>117</sup> Internet users now track Chinese law enforcement vessels via satellite photos, mocking and criticising the government when they stop short of disputed waters, holding Beijing accountable to act in line with statements made during times of high public pressure.<sup>118</sup> The baseline announcement, for example, created expectations that China would take steps to assert sovereignty over the islands while

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<sup>111</sup> "China will not tolerate test of its will to safeguard sovereignty", *The People's Daily*, 18 January 2012.

<sup>112</sup> "外交部副部长张志军就钓鱼岛问题举行媒体吹风会" ["Vice Foreign Minister Zhang Zhijun briefed Chinese and foreign journalists on the Diaoyu Dao Issue (transcript)"], op. cit.

<sup>113</sup> According to Zheng Wang, the CCP "has used history education as an instrument for the glorification of the party, for the consolidation of national identity, and for the justification of the political system of the CCP's one-party rule in the post-Tiananmen and post-Cold War eras". Zheng Wang, *Never Forget National Humiliation* (New York, 2012), p. 8. See also Ming Wan, *Sino-Japanese Relations: Interaction, Logic, and Transformation* (Washington DC, 2006), p. 150. Chinese Foreign Minister Yang Jiechi denounced Japan's claim over the islands as "an outright denial of the outcomes of the victory of the World Anti-Fascist War [that] constitutes a grave challenge to the post-war international order". "Foreign Minister Yang Jiechi refutes Japan's distorted accounts on Diaoyu Dao issue at the Asia-Europe meeting summit", press release, Chinese foreign ministry, 6 November 2012.

<sup>114</sup> Zheng Wang, op. cit., pp. 209-210.

<sup>115</sup> Ibid, p. 204.

<sup>116</sup> Crisis Group interview, Beijing, August 2012.

<sup>117</sup> Crisis Group interviews, Beijing, August-September 2012.

<sup>118</sup> Stephanie Kleine-Ahlbrandt, "China and Japan's simmering island row is threatening to boil over", *The Guardian*, 20 August 2012.

pushing Japan out. After the announcement and before Marine Surveillance ships arrived near the islands, netizens questioned the government's resolve and mocked the Marine Surveillance for acting cowardly.<sup>119</sup> A netizen summed it up: Beijing "can't just verbally draw [the territorial sea baselines], then neglect them. That's humiliating".<sup>120</sup>

This in turn emboldens belligerent voices and constricts the space for diplomacy. Some current and former PLA officers regularly give vent to hardline rhetoric that borders on warmongering.<sup>121</sup> Internet users have gone so far as to ask for military intervention. Online posts refer to the foreign ministry as "Mai Guo Bu (卖国部)", "the ministry of traitors" – for calling for Japan to return to negotiations.<sup>122</sup> Chinese analysts said such statements do not represent the leadership's thinking, but are nevertheless allowed as "they are motivated by patriotism and not in violation of national principles".<sup>123</sup>

But the government takes measures to quickly curtail such expression as soon as it turns into criticism of its domestic policy. During the anti-Japan demonstrations that erupted across China in mid-September 2012, protesters held signs denouncing the government's record on food safety and land-grabbing by officials and calling for "corrupt officials" to be sent to defend the islands.<sup>124</sup> A Chinese analyst explained that the government had been under criticism for being "too hard on its own people and too soft facing outside", and therefore "wouldn't be able to answer to the public" had it not responded firmly to "Japan's provocation".<sup>125</sup> The New Left – a loose collection of officials, activists and intellectuals that broadly advocates

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<sup>119</sup> A post on Weibo (the Chinese equivalent of Twitter) cited Japanese media saying the Marine Surveillance vessels were not near the islands. It was reposted more than 15,000 times, and some comments mocked the ships as "submarines" or being equipped with "invisibility technology". Weibo post by @头条新闻 [Toutiaoxinwen], 9:12pm, 12 September 2012; and Weibo responses by @丛林一部落 [Conglin-buluo], 2:27pm, 16 September 2012 and @金风雨露一相逢 521, [Jinfengyuluyixiangfeng521], 12:42am, 23 September 2012. <http://weibo.com/1618051664/yBzrw3FsY>.

<sup>120</sup> "紧急呼叫：海监 46、49 您们在哪里？听到请回答！", 天涯社区 ["Emergency call: Marine Surveillance 46, 49 where are you? Answer if you hear us!"], Tianya.cn, 12 September 2012. Explaining the potency of popular online sentiment, a former high-level Chinese official said, "once [the government] hears common folks criticising our foreign policy as being soft, they want to harden it". Crisis Group interview, Beijing, August 2012.

<sup>121</sup> For example, responding to media reports that Japan might consider firing tracer shots to warn off Chinese flights approaching Diaoyu/Senkaku, PLA General Peng Guangqian said that action would be considered Japan "firing the first shot" and would mark the beginning of "a real war". "彭光谦：日方若发射曳光弹就是'打第一枪'", 人民网 ["Peng Guangqian: If Japan fires tracer shot, that would count as 'firing the first shot'", *The People's Daily* (online)], 14 January 2012. A commentary piece on the PLA-affiliated *China Military Online* admonished soldiers to prepare for war, saying, "the confrontation between China and Japan... has escalated from the original air force mutual monitoring over the waters around Diaoyu Islands to the verge of war". "Commentary: Soldiers should prepare for war", *China Military Online*, 17 January 2013.

<sup>122</sup> This happened, for example, when a Chinese foreign ministry spokesman in October 2012 urged Japan to acknowledge the disputed status of the islands and return to negotiations. 中华论坛 [Zhonghua BBS], [http://club.china.com/data/thread/1011/2747/71/14/5\\_1.html](http://club.china.com/data/thread/1011/2747/71/14/5_1.html). 天涯 [Tianya BBS], [www.tianya.cn/publicforum/content/worldlook/1/593049.shtml](http://www.tianya.cn/publicforum/content/worldlook/1/593049.shtml). 空军网 [Kongjun Wang], [www.ikongjun.com/s/diaoyudao//2012/1013/39400.html](http://www.ikongjun.com/s/diaoyudao//2012/1013/39400.html).

<sup>123</sup> Crisis Group interview, Beijing, February 2013.

<sup>124</sup> "图看反日游行中的标语", 共识网 ["Pictures of slogans in anti-Japanese protests", 21ccom.net], 20 September 2012.

<sup>125</sup> Crisis Group interview, Beijing, September 2012.

a return to Maoism and a stronger role for the state in the economy – utilised the protests to rally support for their cause and fuel opposition to the government.<sup>126</sup>

The government rapidly shut down the protests and restored order within a day.<sup>127</sup> If the central leadership were to adopt a clear and moderate policy, it could certainly take measures to sensitise the public to the need for such an approach and help dampen nationalist sentiment. The fact that it has done the opposite suggests it prefers to fan nationalism to justify assertive actions and convince its adversary that it cannot back down. It took until March 2013 for Beijing to make an effort to tone down harsh rhetoric against Japan.<sup>128</sup>

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<sup>126</sup> On 18 September 2012, hundreds of farmers appeared in Beijing alongside self-proclaimed “revolutionary leftist” intellectual Han Deqiang carrying Mao portraits and shouting anti-Japanese slogans. In Chengdu, protesters called for the return of recently purged leftist icon Bo Xilai; and prominent leftist blogger and university professor Zhang Hongliang wrote, “the conditions are now right for a large-scale movement to eliminate traitors”. “China government’s hand seen in protests”, *Los Angeles Times*, 20 September 2012.

<sup>127</sup> On 15-16 September, anti-Japan demonstrations erupted across China and turned into vandalising and looting in many cities. A *People’s Daily* front-page editorial on 17 September praised the patriotic passion of the demonstrators and urged them to “observe civility and the rule of law”. The same day, other official media outlets followed with their own editorials criticising the violence and calling for calm. On 18 September, the 81st anniversary of the Mukden incident (that led to the Japanese invasion of China in 1931), anti-Japan protests again took place in many Chinese cities, including a demonstration outside the Japanese embassy in Beijing, but this later round was much more orderly and controlled. “多地反日游行现暴力官方媒体纷纷呼吁理性”, *财新网* [“Anti-Japanese protests turned violent in several cities, official media appealed for rationality”, *Caixin* (online)], 17 September 2012. “用文明法治凝聚爱国力量”, *人民日报* [“Using civilisation and law to gather patriotic strength”, *The People’s Daily*], 17 September 2012; “多家媒体发表评论呼吁爱国要理性”, *财新网* [“Multiple media outlets publish commentaries urging for rational expression of patriotism”, *Caixin* (online)], 17 September 2012; “Fresh anti-Japanese protests in China on symbolic anniversary”, CNN, 19 September 2012.

<sup>128</sup> See Section V.A.1 “Challenges of Japan policymaking in China”.

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## IV. Japan's Equation

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Understanding Japan's perspective on the current crisis requires examination of the diplomatic row following the 7 September 2010 incident, also referred to as the "Senkaku shock" in Japan, when a Chinese trawler captain rammed two JCG vessels in disputed waters.<sup>129</sup> The captain was subsequently detained and charged under Japanese domestic law.<sup>130</sup> According to a Japanese analyst, this led to "a combination of unfortunate elements" causing the largest crisis in bilateral relations since the 2005 anti-Japan protests across China.<sup>131</sup> Beijing's demand for the immediate release of the boat captain, his crew and the trawler went unmet.<sup>132</sup> After releasing the crew and the boat on 13 September, Japan kept the captain and then prolonged his detention by nine days on 20 September.<sup>133</sup>

The episode appeared to be a departure from the way Japan had handled Chinese civilians who travelled to the disputed islands. In those cases, such as the March 2004 landing incident, Japan arrested the individuals and deported them without charge, allowing tensions to dissipate more quickly.<sup>134</sup> In those previous incidents, Chinese activists who tried to force their way onto the islands were processed under the immigration law.<sup>135</sup> The 2010 boat collision involved a higher-level violation under Japan's criminal code for "obstruction of public duties of an officer of the law".<sup>136</sup> Some Japanese analysts said it was a mistake for the three-month-old Naoto Kan government to allow legal procedures to play out a long course rather than treat the boat collision as a diplomatic incident and step in to manage it.<sup>137</sup> They said

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<sup>129</sup> Crisis Group interview, Tokyo, October 2012.

<sup>130</sup> For more information, see Sheila A. Smith, "Japan and the East China Dispute", Foreign Policy Research Institute (Summer 2012), p. 374.

<sup>131</sup> Crisis Group interviews, Tokyo, October 2012; Beijing, January 2013. The 2005 riots occurred after the Japanese education ministry approved a new junior high school textbook which, according to critics, provided a distorted account of Japan's colonial and wartime activities. Protests broke out in more than ten Chinese cities, the largest anti-Japanese demonstrations since the normalisation of diplomatic relations in 1972. Zheng Wang, *op. cit.*, p. 204.

<sup>132</sup> The Chinese foreign ministry apparently called in the Japanese ambassador at 3am on the night of the incident. Crisis Group interview, Beijing, November 2010. Chinese Foreign Minister Yang Jiechi first publicly demanded that Japan "unconditionally release and return the entire crew of the fishing boat, including the captain" on 10 September. "China-Japan sea dispute escalates as Beijing demands fisherman's release", Reuters, 10 September 2010.

<sup>133</sup> "Japan frees Chinese fishing crew", BBC News, 13 September 2010; "Japan extends China ship captain detention", Reuters, 20 September 2010. Chinese diplomats who arrived from Tokyo reportedly advised the skipper to remain silent, which prolonged the detention. Crisis Group interviews, Tokyo, October 2013.

<sup>134</sup> Seven Chinese activists landed on the islands in March 2004 and were arrested. The Chinese foreign ministry protested, and Japan deported them without charge. Reinhard Drifte, *op. cit.*, p. 17.

<sup>135</sup> Those activists were normally arrested and deported without charge under Article 65 of the Immigration Control and Refugee Recognition Law. This article only applies if there are no other charges (such as obstruction). "Immigration Control and Refugee Recognition Act (Cabinet Order No. 319 of 1951)".

<sup>136</sup> According to a high-level JCG official, the arrest was due to the extreme nature of the act – an aggressive and deliberate ramming of two JCG vessels – which caught the officers on duty "completely off-guard". Crisis Group interview, Tokyo, October 2012. Under Japanese law, a person who commits an act of assault or intimidation against a public officer can be charged with obstruction. Penal Code (Act No. 45 of 1907), Chapter 5: Crimes of Obstruction of Performance of Public Duty, Article 95 (Obstructing or Compelling Performance of Public Duty), effective 28 May 2006.

<sup>137</sup> Crisis Group interviews, Tokyo, October 2012.



such a blunder permitted a wider crisis, with one of them saying that the inexperienced government should have flashed a “new driver on board” sign.<sup>138</sup> According to a prominent Japanese expert, “the poor handling of this situation contributed to the DPJ’s image of ineptness on foreign policy, particularly with regard to China”.<sup>139</sup>

Beijing interpreted Japan’s reaction as a breach of the precedent of “capture and release” that had helped limit the impact of individual activist activity on bilateral relations, and struck back with a string of punitive measures.<sup>140</sup> These included the suspension of bilateral exchanges at the provincial and ministerial level, mass cancellations of trips to Japan by Chinese tourists and allowing protests in front of Japanese diplomatic missions and schools.<sup>141</sup> On 21 September, China reportedly suspended shipments of rare earth metals essential for Japanese high-tech industries. The embargo lasted approximately two months.<sup>142</sup> Beijing denied official involvement, but many Japanese analysts remain convinced that the Chinese government had tailored the export restriction to punish Japan.<sup>143</sup> Many Japanese were extremely shocked by the rare earths ban, particularly given previous practice of insulating the bilateral economic relationship from political tensions, a situation both sides referred to as “hot economics, cold politics”.<sup>144</sup> On 23 September, China arrested four Japanese for entering a military zone without authorisation.<sup>145</sup>

The next day, Japanese officials announced that the government had decided to release the Chinese skipper.<sup>146</sup> Even after this, China demanded apologies and monetary compensation, which became an additional sore point in a Japan already reeling from having yielded under Chinese pressure.<sup>147</sup> This incident came on the heels of the announcement in August 2010 that China overtook Japan as the world’s second largest economy, leading some in Japan to refer to 2010 as the year of the “China shock”.<sup>148</sup> Beijing’s tough response to the incident caused a spike in antipathy among

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<sup>138</sup> Ibid.

<sup>139</sup> Crisis Group email correspondence, March 2013.

<sup>140</sup> Crisis Group interviews, Beijing, August, September 2012; Tokyo, October 2012.

<sup>141</sup> The exchanges included talks aimed at expanding aviation routes and cooperation on coal. “Arrest in disputed seas riles China and Japan”, *The New York Times*, 19 September 2010.

<sup>142</sup> “China is blocking minerals, executives say”, *The New York Times*, 23 September 2010. The Japanese economy, trade and industry ministry first reported that shipments of rare materials to Japan were being stalled in customs. “China’s slower customs clearance seen as sanctions step vs. Japan”, *Kyodo News*, 19 September 2010; “China rare earth shipments back in works”, *The Japan Times*, 20 November 2010;

<sup>143</sup> “No ‘embargo’ of rare earths on Japanese firms”, *The China Daily*, 30 October 2010. Crisis Group interviews, Tokyo, October 2012.

<sup>144</sup> Crisis Group interviews, Tokyo, October 2012; Beijing, December 2012.

<sup>145</sup> “4 Japanese probed for illegally videotaping military targets”, *The China Daily*, 23 September 2010.

<sup>146</sup> “Japan frees Chinese boat captain amid diplomatic row”, *BBC*, 24 September 2012.

<sup>147</sup> Crisis Group interview, Tokyo, October 2012. “FM spokesman: China reiterates demands for Japan’s apology, compensation for seizure of trawler”, *The People’s Daily*, 26 September 2010. Japan, in turn, asked China to pay compensation for the damage to the JCG vessels. Sheila A. Smith, *op. cit.*, p. 374.

<sup>148</sup> The media first began reporting in August 2010 that China overtook Japan to become the world’s second largest economy and it became official in February 2011. “China passes Japan as second-largest economy”, *The New York Times*, 15 August 2010; “China unseats Japan as world No. 2 economy/ Late-year downturn was tipping point”, *The Yomiuri Shimbun*, 15 February 2011; “Japan’s Security Strategy Toward China: Integration, Balancing, and Deterrence in the Era of the Power Shift”, *The Tokyo Foundation policy proposal* (October 2011), p. 43.

the Japanese public towards China. Several surveys in Japan in the following years confirmed this trend, with half of those who expressed an unfavourable view in June 2012 citing the island dispute as the main cause.<sup>149</sup>

The release of the captain also left many Japanese feeling humiliated and deepened their disappointment with the leadership. According to a Japanese scholar, “we lost face in a big way”.<sup>150</sup> A *Yomiuri Shimbun* survey in October 2012 found nearly half of respondents thought the decision gave “the impression Japan will back down if pressure is applied”.<sup>151</sup> The souring public sentiment left a deep impression on the DPJ government, which subsequently was on the defensive from attacks by right-wingers, especially Tokyo Governor Ishihara.<sup>152</sup>

Public demand in Japan grew for the government to strengthen control and defence of the Diaoyu/Senkaku Islands. A Japanese analyst said the public feared that the next incident could involve “100 [Chinese] fishermen and we can’t stop them, so we have to solidify our claim”.<sup>153</sup> Another said the Japanese were worried that “if China takes over Senkaku, the next would be Okinawa”.<sup>154</sup> Such sentiment was shared in some corners of the diplomatic community in Japan, who felt that “as China rose, we couldn’t just be nice”.<sup>155</sup> Amid such domestic pressure, the Japanese government in January 2012 named some of the disputed islands, which resulted in protests from Beijing and *The People’s Daily* labelling the islands one of China’s “core interests”.<sup>156</sup> Growing public appetite for the government to better safeguard the islands provided a receptive audience for Ishihara.<sup>157</sup>

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<sup>149</sup> “Public opinion of China slumps/after Senkaku Islands incident, record-high 84% don’t trust country”, *Yomiuri Shimbun*, 5 October 2010. A June 2012 survey found that 84 per cent had an unfavourable opinion of China, surpassing the previous record of 78.3 per cent in 2011. The survey was conducted in Japan by door-to-door polling of 18 or older residents between 26 April-14 May with a total of 1,000 valid responses, and was supplemented with a separate questionnaire for corporate executives, academics, media people, government officials and others with 600 valid responses. It was conducted as a part of an annual joint survey by The Genron NPO, a Japanese non-profit organisation, and *The China Daily* newspaper. “Half of Chinese foresee military dispute with Japan, Genron NPO opinion poll shows”, *The Genron NPO*, 28 June 2012.

<sup>150</sup> Crisis Group interview, Tokyo, October 2012.

<sup>151</sup> 72 per cent of the 1,104 respondents thought that the decision to release the captain was inappropriate. “Yomiuri Shimbun October 2010 telephone opinion poll”, *Yomiuri Opinion Poll*, Mansfield Asian Opinion Poll Database, 1-3 October 2010.

<sup>152</sup> Crisis Group interview, Tokyo, October 2012.

<sup>153</sup> Crisis Group interview, Beijing, October 2012.

<sup>154</sup> Crisis Group interview, Beijing, September 2012. Some hardliners in China claim that Okinawa does not belong to Japan and was a vassal state of China. See for example, “罗援：琉球群岛不属于日本曾是中国藩属国”，*环球时报* [“Luoyuan: Okinawa does not belong to Japan but was a vassal state of China”, *The Global Times*], 26 July 2012.

<sup>155</sup> Crisis Group interview, Tokyo, October 2012.

<sup>156</sup> “Japan to name islets in disputed area”, Associated Press, 16 January 2012; “China will not tolerate test of its will to safeguard sovereignty”, *The People’s Daily*, 18 January 2012. It was the first time the term “core interests” was officially applied to these islands. China also responded by naming the affiliated islets itself. “国家海洋局公布钓鱼岛及其部分附属岛屿标准名称”，中国新闻网 [“State Oceanic Administration announces official names for Diaoyu Islands and some affiliated islets”, *Chinanews.com*], 3 March 2012.

<sup>157</sup> Crisis Group interviews, Beijing, August 2012; Tokyo, October 2012.

## V. The U.S. Factor as Seen by Tokyo and Beijing

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The U.S. has consistently asserted that the 1960 U.S.-Japan security treaty covers the Diaoyu/Senkaku Islands.<sup>158</sup> But both Japan and China project their own fears and hopes onto whether and how the U.S. would fulfil its treaty obligation. China's incremental escalation of the island dispute sowed fear in Tokyo that Beijing was aiming to test and expose the limits of the U.S.-Japan alliance.<sup>159</sup> Japanese officials and strategists expressed overall confidence in the U.S. commitment to the defence of the Diaoyu/Senkaku Islands.<sup>160</sup> But some voiced unease over a perceived delay by the Obama administration to reiterate that the treaty covered the islands, as well as an understanding that the U.S. would only come to Japan's defence "after the Self-Defence Force was bloodied".<sup>161</sup> They also expressed a desire for the U.S. to explicitly endorse Japan's sovereignty claim over the islands.<sup>162</sup> As the dispute wore on, some in both Tokyo and Washington became concerned about the possibility that China's game plan was to "provoke Japan to overreact; to make the U.S. nervous about Japan's overreaction; to generate insecurity within Japan regarding the U.S.; thus weakening U.S.-Japan solidarity".<sup>163</sup>

Many Chinese strategists believe that the U.S.-Japan security alliance is the largest obstacle to taking over the islands by force.<sup>164</sup> However, some of them have been searching for signs of strain in the alliance as well as ambiguity that China could exploit in Article V of the treaty, which states that the security alliance applies to "territories under the administration of Japan".<sup>165</sup> Some analysts questioned whether the treaty would apply if China successfully established overlapping administration, since they would no longer unquestionably be under Japanese control – a notion which the U.S. has taken steps to dispel.<sup>166</sup> Some analysts also wondered if the U.S.

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<sup>158</sup> Since 1972, U.S. administrations have not taken a position on the sovereignty of the islands, but have considered that the treaty covers the islets and that Japan administers the Senkakus/Diaoyu Islands. Under the treaty, the U.S. guarantees Japan's security in return for the right to station U.S. troops – which currently number around 50,000 – in dozens of bases throughout the Japanese archipelago. Although it is commonly understood that Japan will assume the primary defence responsibility, in the event of a significant armed conflict with either China or Taiwan, most Japanese would likely expect the U.S. to honour its treaty obligations. Mark E. Manyin, "Senkaku (Diaoyu/Diaoyutai) Island Dispute: U.S. Treaty Obligations", Congressional Research Service, 22 January 2013.

<sup>159</sup> Crisis Group email correspondence, March 2013.

<sup>160</sup> Crisis Group interviews, Tokyo, October 2012.

<sup>161</sup> Japanese officials felt the U.S. was "too nice" to China in the first two years of the Obama administration and unhappy it took until 2010 for then-Secretary of State Hillary Clinton to acknowledge the security treaty covers the islands. Crisis Group interviews, Tokyo, October 2012.

<sup>162</sup> Crisis Group interviews, Tokyo, October 2012.

<sup>163</sup> Crisis Group email correspondence, March 2013.

<sup>164</sup> Crisis Group interviews, Beijing, January and February 2013.

<sup>165</sup> Crisis Group interviews, Beijing, January and February 2013. "Treaty of Mutual Cooperation and Security Between Japan and the United States of America", Article V, 19 January 1960.

<sup>166</sup> Crisis Group interviews, Beijing, January and February 2013. In December 2012, the U.S. Senate passed an amendment to the National Defence Authorization Act, stating, "The unilateral actions of a third party will not affect United States acknowledgement of the administration of Japan over the Senkaku Islands". U.S. President Obama signed it into law in January. "National Defense Authorization Act for Fiscal Year 2013", Subtitle F. SEC 1286 (4). Also in January, then-Secretary of State Hillary Clinton stated, "we oppose any unilateral actions that would

would only nominally fulfil its treaty obligation in the event of a conflict by providing Japan weapons rather than soldiers and fleets.<sup>167</sup> After Abe's visit to Washington – during which he declared, “no one should ever doubt the robustness of the Japan-U.S. Alliance”, Chinese state media and commentators asserted that Obama had given Abe a “cold shoulder”, as he did not specifically mention the island issue.<sup>168</sup>

Harder-line analysts in China assert that Washington has encouraged Japan to stir up trouble in order to facilitate the U.S. rebalancing to Asia, which many Chinese are convinced is aimed at containing China.<sup>169</sup> Even moderates hold the view that the growing presence of the U.S. in the region has at least emboldened Japan.<sup>170</sup> Due to the belief that Japan is being used in a broader geopolitical strategy by the U.S. to encircle China, many in Beijing were less willing to give importance to internal Japanese politics as the reason that led the government to purchase the islands.<sup>171</sup> The tendency by Chinese policymakers and the state media to see foreign policy issues through the lens of a U.S.-China strategic struggle inhibits accurate analysis of underlying issues and irritates countries that do not feel treated as an equal player by China.

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seek to undermine Japanese administration”. “Remarks with the Japanese Foreign Minister Fumio Kishida after their meeting”, press release, U.S. State Department, 18 January 2013.

<sup>167</sup> Crisis Group interviews, Beijing, September, November 2012, January 2013.

<sup>168</sup> “‘Japan is Back’ Policy Speech by Prime Minister Shinzo Abe at the Center for Strategic and International Studies (CSIS)”, Japanese cabinet office, 22 February 2013. “安倍访美受冷遇 钓鱼岛问题奥巴马只字未提”, *人民日报* [“Abe was given cold shoulder during visit to the U.S.; Obama did not say a word about Diaoyu Islands”, *The People's Daily*], 24 February 2013.

<sup>169</sup> “钓鱼岛争端是美国战略重点东移的必然”, *国家智库* [“Diaoyu Islands dispute was an inevitable result of the U.S. eastward strategic pivot”, National Think Tank], 27 September 2012. Crisis Group interviews, Beijing, August-November 2012.

<sup>170</sup> Crisis Group interviews, Beijing, September-November 2012.

<sup>171</sup> Crisis Group interviews, Beijing, September-November 2012; January 2013.

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## VI. Weakening Crisis Mitigation

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Forty years of Sino-Japanese diplomatic relations have been dotted with disputes. While managing frequent, inevitable frictions, the two sides had developed a “ritualized” system that had prevented minor crises from spinning out of control.<sup>172</sup> Top leaders were setting the overall tone for peace and friendship, with dedicated high-level officials negotiating behind the scenes and diplomats providing expertise and logistical support. In recent years, however, this personality-driven system started to disintegrate, beginning from the very top. Attempts to forge more stable institutional linkages have largely failed. China’s increased naval presence in the East China Sea and the contest for administration of the Diaoyu/Senkaku Islands have expanded risks for frictions into new frontlines that involve more hardline actors, making future crisis management even more challenging. These factors have taken place in the context of the shifting balance of power between China and Japan.

### A. Leadership

#### 1. Challenges of Japan policymaking in China

Due to the countries’ fraught history, advocating for improved ties with Japan in China has always carried political risk. Strong leaders have had the most success. The normalisation of diplomatic ties in 1972 was led by Mao Zedong, who enjoyed a status akin to a deity. It was implemented under the close supervision of the People’s Republic of China’s first Premier Zhou Enlai.<sup>173</sup> This decision followed the deterioration of ties with Moscow and China’s need for financial and economic assistance from Japan. Top Chinese leaders carefully prepared propaganda guidelines, arguing, for example, that strengthening relations with Japan was “a beneficial move to contain U.S. imperialism and to strike against the Soviet Union”.<sup>174</sup>

Deng Xiaoping, another revolutionary leader who ruled the country from 1978 to 1989, presided over the negotiations leading to, and the signing of, the Treaty of Peace and Friendship with Japan in 1978, ushering in an era of booming trade, economic and cultural exchanges.<sup>175</sup> Deng knew well that China needed Japan’s intellectual capital and investment for his opening and reform policy to succeed.

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<sup>172</sup> Richard C. Bush, *The Perils of Proximity: China-Japan Security Relations* (Washington DC, 2010), pp. 15-16.

<sup>173</sup> Leaders and Japan specialists in Mao’s and Deng’s time were revolutionary elders, founding fathers of the People’s Republic of China and heroes who fought Japan in the Second World War. This, according to Chinese analysts, helped them reinforce ties with Japan without being accused of selling out national interests to a former enemy. Crisis Group interviews, Beijing, August, September 2012.

<sup>174</sup> Ahead of then-Japanese Prime Minister Kakuei Tanaka’s visit to Beijing, the foreign ministry issued “The Guidelines of Internal Propaganda Concerning Japanese Prime Minister Visit to China”. It stated that China’s suffering under the brutality of Japanese militarists could make it hard for many Chinese to understand why Beijing would invite Tanaka and argued that “the time had changed, and so did the world. Currently, the greatest threat to our country is the U.S. imperialism and the Soviet revisionism, especially the latter”. Xuanli Liao, *Chinese Foreign Policy Think Tanks and China’s Policy Towards Japan* (Hong Kong, 2006), pp. 143-145.

<sup>175</sup> He is officially described as the “core” of the second generation of Chinese leaders, after Mao, and continued to wield enormous political power in the first half of the 1990s after his retirement. “邓小平”, 新华资料 [“Deng Xiaoping”, Xinhua Archives], [http://news.xinhuanet.com/ziliao/2003-01/17/content\\_694863.htm](http://news.xinhuanet.com/ziliao/2003-01/17/content_694863.htm). Erza F. Vogel, “China under Deng Xiaoping’s leadership”, *East Asia Forum*, 27 September 2011.

During his visit to Japan in 1978, he said that China and Japan should set aside the Diaoyu/Senkaku issue and leave it to a future and smarter generation to solve.<sup>176</sup> “Shelving the dispute” thus became the guiding principle for managing maritime sovereignty issues for generations of Chinese leaders and diplomats until recent years.

Deng’s successors had less success in maintaining good Sino-Japanese relations. When Hu Yaobang tried to enhance ties between the two countries, he came under severe criticism from conservatives, particularly for inviting 3,000 Japanese youths to visit China and entertaining Japanese Prime Minister Nakasone and his family in his home when they visited China.<sup>177</sup> Hu lost power in a factional struggle, and his attempts to improve relations with Japan were used among other alleged misdeeds to justify his removal from office. While his downfall was primarily due to a conservative backlash against his efforts toward political reform, Chinese leaders and diplomats also read it as a cautionary tale on reaching out to Japan.<sup>178</sup>

Relations with Japan began to seriously deteriorate in the 1990s during the rule of Jiang Zemin. He launched a patriotic propaganda campaign centred on China’s suffering under and eventual triumph over Japan during the Second World War.<sup>179</sup> In a speech in front of the Japanese emperor in November 1998, Jiang brought up Japanese militarism and “reemphasize[d] historical issues” between the two sides, only aggravating bilateral tensions.<sup>180</sup> Many Chinese scholars think that Jiang’s childhood memory of family suffering and sacrifice during the Japanese invasion motivated this campaign.<sup>181</sup> Japanese and Western scholars, however, believe that the real driver was his desire to cement his power in the ideological void left after the 1989 Tian’anmen events, when the CCP’s legitimacy was under severe strain.<sup>182</sup>

Following Jiang, President Hu Jintao had a mixed record in attempting to enhance relations with Japan. He was able to overcome internal disagreement to reach a deal with Japanese Prime Minister Shinzo Abe, who privately promised not to visit the Yasukuni Shrine in exchange for a resumption of high-level summits.<sup>183</sup> Abe

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<sup>176</sup> “搁置争议，共同开发 [Shelve dispute, seek joint development]”, Chinese foreign ministry, [www.mfa.gov.cn/chn/gxh/xsb/wjzs/t8958.htm](http://www.mfa.gov.cn/chn/gxh/xsb/wjzs/t8958.htm).

<sup>177</sup> During his 1983 state visit to Japan, he addressed a joint session of the Diet (parliament) and visited the Nagasaki Peace Park, laying a wreath at a memorial to Nagasaki citizens killed by the atomic bomb. He organised trips for young Japanese guests to tour several Chinese cities in 1984 when Beijing celebrated the twelfth anniversary of Sino-Japanese relations. The conservatives attacked this move as being extravagant because Japan only hosted 500 Chinese youths the previous year. Khoo Choy Lee, “Pioneers of Modern China: Understanding the Inscrutable Chinese” (Singapore, 2005), pp. 312-313. See also Susan Shirk, op. cit., p. 163.

<sup>178</sup> Hu Yaobang’s downfall was given six reasons. Ezra Vogel, *Deng Xiaoping and the Transformation of China* (Cambridge, Massachusetts, 2011), p. 584; Susan Shirk, op. cit., p. 163.

<sup>179</sup> Ibid and Crisis Group interviews, Beijing, September, October 2012; Tokyo, October 2012.

<sup>180</sup> Masahiko Sasajima, “Japan’s Domestic Politics and China Policymaking”, in Benjamin L. Self and Jeffrey W. Thompson (eds.), *An Alliance for Engagement: Building Cooperation in Security Relations with China* (Washington DC, 2002), p. 81.

<sup>181</sup> Susan Shirk, op. cit., pp. 164-165; Ming Wan, op. cit., pp. 144-145.

<sup>182</sup> Crisis Group interviews, Tokyo, October 2012. See also Susan Shirk, op. cit., pp. 164-165. A Chinese analyst ascribed Jiang’s more muscular approach to an allegation that his biological father had been accused of collaborating with the Japanese, a fact denied by the family. Crisis Group interview, Beijing, January 2013. “High stakes in China’s game of throne”, *The Sydney Morning Herald*, 17 November 2012.

<sup>183</sup> The Yasukuni Shrine commemorates those who died for the Japanese empire, including fourteen Class-A war criminals from the Second World War. It also houses a museum dedicated

led an “ice-breaking” trip to Beijing in 2006, ending a five-year freeze of summit exchanges.<sup>184</sup> Subsequently, Chinese Premier Wen Jiabao led an “ice-melting trip” to Tokyo in 2007, followed by a “warm-spring trip” by Hu Jintao to Japan in 2008.<sup>185</sup> But one of Hu’s and Wen’s signature endeavours – to begin jointly developing oil and gas resources with Japan in the East China Sea – was halted after two years of negotiation due to domestic opposition.<sup>186</sup> By the time Hu and Wen left power, Sino-Japanese tensions had entered another downturn due to the 2010 and 2012 crises.

The challenges Hu encountered in sustaining good relations with Japan partly had to do with the transition of the Chinese governance model from the strong individual to a collective leadership, with major decisions made through consensus by members of the Politburo Standing Committee (PBSC).<sup>187</sup> Within the PBSC, rival factions compete for power and influence.<sup>188</sup> Hu Jintao was considered one of the PBSC’s most Japan-friendly members by both Chinese and Japanese analysts.<sup>189</sup> But he had a slow start in consolidating his power.<sup>190</sup>

Unlike Hu Jintao, current leader Xi Jinping was immediately put in charge of the PLA as chairman of the Central Military Commission.<sup>191</sup> By all accounts, he has been central to China’s current Japan strategy. Before he took over as head of the CCP in November 2012, he was put in charge of a maritime security group in mid-2012, and then of the “Office to Respond to the Diaoyu Crisis” in September.<sup>192</sup>

The first several months of Xi’s leadership gave few signs that he was ready to spend political capital to de-escalate the tensions in the East China Sea. Rather, one

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to the war, which some say presents a revisionist interpretation of history that downplays the atrocities committed. Richard C. Bush, *The Perils of Proximity*, op. cit., pp.146-147.

<sup>184</sup> “Japan’s Abe visits China, “turning point” in relations”, Xinhua News Agency, 9 October 2006.

<sup>185</sup> “温家宝抵达日本 ‘融冰之旅’启航”, 新华网 [“Wen Jiabao arrived in Japan, ‘ice melting trip’ took off”, Xinhua News Agency, 11 April 2007; and “中国国家主席胡锦涛结束访日‘暖春之旅’启程回国”, 中国新闻网 [“Chinese President Hu Jintao finished ‘warm spring trip’ to Japan, heading back home”, Chinanews.com], 10 May 2010.

<sup>186</sup> See Section V.E “Failure of Joint Development”.

<sup>187</sup> Broadly speaking, the process involves “a group of members instead of a single president, consists of a large number of organs instead of just one, relies on the wisdom of a team instead of an individual, and opts for collective instead of personal decision-making”. “Spirit of collective leadership”, *The China Daily*, 11 August 2012.

<sup>188</sup> Cheng Li, “Intra-Party Democracy in China: Should We Take It Seriously?”, *China Leadership Monitor*, no. 30 (2009), p. 1. He further argued that the Chinese leadership has been increasingly structured around two factions: the “populist coalition” and the “elitist coalition”. Cheng Li, “The Battle for China’s Top Nine Leadership Posts”, *The Washington Quarterly*, Center for Strategic and International Studies (Winter 2012), p. 132.

<sup>189</sup> Crisis Group interviews, Beijing, September 2012; Tokyo, October 2012. Hu Jintao was a protégé of Hu Yaobang. As head of the Chinese Communist Youth League, he received a delegation of 3,000 Japanese youth visiting China, including Yoshihiko Noda, who later became the prime minister who decided to purchase the islands. “Hu’s Japanese friend calls on him to remember their peace now”, *The Asahi Shimbun*, 1 October 2012; “Japan-China politics risk prolonging worst ties since 2005”, Bloomberg, 28 September 2012.

<sup>190</sup> Hu did not take over control of the military from Jiang until two years after he became head of the CCP. Zhengxu Wang, “Hu Jintao’s Power Consolidation: Groups, Institutions, and Power Balance in China’s Elite Politics”, *Issues & Studies*, vol. 42, no. 4 (December 2006), pp. 97-136.

<sup>191</sup> “Xi Jinping named chairman of CPC Central Military Commission”, Xinhua News Agency, 15 November 2012.

<sup>192</sup> Crisis Group interview, Beijing, February 2013. Linda Jakobson, “How involved is Xi Jinping in the Diaoyu crisis”, *The Diplomat*, 8 February 2013.

of his early speeches was to urge the military to be combat-ready.<sup>193</sup> However, in March 2013, PLA general Liu Yuan, a close ally of Xi, on several occasions warned against talks of war and said the island dispute “can be deferred, discussed and coordinated. It is not worth resorting to humanity’s most extreme and violent methods to resolve it”.<sup>194</sup>

Several factors could have contributed to Beijing’s desire to tone down the rhetoric. Although Xi took control of the CCP and the military in November 2012, it was not until the March 2013 National People’s Congress (NPC) that he became head of the state and major government posts, including the cabinet, were filled. The NPC allowed Xi to further consolidate power and place his allies in key positions. According to an analyst, the tensions on the Korean Peninsula since the third nuclear test in February 2013 encouraged Beijing to cool tensions somewhat with Japan, as the system is under strain with multiple foreign policy crises.<sup>195</sup> China also likely has an interest in reducing the heat over the dispute to attempt to regularise and legitimise its concept of overlapping control. By shifting international attention elsewhere, it could be easier for Beijing to cement the new status quo.<sup>196</sup> But although the rhetoric has been moderated, China’s actions on the ground have not changed and it has set in motion a series of expectations and institutional changes to assert its claims.<sup>197</sup>

## 2. Japan: Rapid succession of prime ministers

Japanese leaders have had difficulty making inroads in improving ties with China partly due to the rapid succession of prime ministers in the past two decades (with the exception of Junichiro Koizumi), with seven prime ministers from 2006-2013.<sup>198</sup> Koizumi presided over a period that witnessed a deep freeze of political exchanges with China (2001-2006), due to his several visits to the Yasukuni Shrine. The short reign of each prime minister after him made it challenging to forge stable personal ties and trust with Chinese counterparts. When the Liberal Democratic Party (LDP) was defeated by the DPJ in August 2009, Japan also lost many vital party-to-party ties and other political connections built up during nearly 40 years of unbroken LDP rule.<sup>199</sup> A Chinese scholar explained that because Chinese officials were “practical”, they were unwilling to waste too much time on “lame-duck or retired” foreign counterparts.<sup>200</sup>

The dramatic change in direction of the DPJ’s foreign policy affected China-Japan relations. When Prime Minister Yukio Hatoyama and DPJ Secretary-General Ichiro Ozawa took power in August 2009, they unveiled a vision for creating an “equal alliance” with the U.S. and a more “autonomous foreign policy” that empha-

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<sup>193</sup> “习近平考察广州战区谈‘强国梦’‘强军梦’”, 新华社 [“Xi Jinping visited Guangzhou military region, spoke of ‘strong nation dream’ and ‘strong military dream’”, Xinhua News Agency], 13 December 2012.

<sup>194</sup> “刘源指中日为面子闹僵 应让老百姓知道战争残酷”, 大公网 [“Liu Yuan said China-Japan stalemate was due to face, the people should know the cruelty of war”, Takungpao.com], 11 March 2013.

<sup>195</sup> Crisis Group interview, Beijing, March 2013.

<sup>196</sup> Crisis Group interview, Beijing, March 2013.

<sup>197</sup> See Section VI.D “Maritime Agencies in Ascendance”.

<sup>198</sup> Japan has had seventeen prime ministers since 1989.

<sup>199</sup> Crisis Group interview, Tokyo, October 2012.

<sup>200</sup> Crisis Group interview, Beijing, November 2012.



sised improving relations with Asia, especially China.<sup>201</sup> Hatoyama, while meeting with President Hu Jintao at the UN in September 2009, declared a wish to turn the East China Sea into a “sea of fraternity instead of a sea of disputes”.<sup>202</sup> The new ruling party promised to establish party-to-party ties with China, and Ozawa led a delegation of 600 to Beijing in December 2009.<sup>203</sup> Ultimately, Hatoyama’s campaign promise to relocate the Futenma U.S. Marine Corps Air Station in Okinawa proved untenable. His desire for a more even relationship with both the U.S. and China strained ties with the former, whose security alliance with Japan is traditionally seen as a main tenant of regional security.

China did not take advantage of this period in which Japan reached out its hand. It reportedly began drilling in the Chunxiao oil field in January 2010.<sup>204</sup> Hatoyama and Ozawa were forced to resign in June 2010 due to the failure to relocate the Futenma base and financial scandals.<sup>205</sup> Foreign policy reverted to a more pro-U.S. stance after Naoto Kan became prime minister, bringing pro-U.S. DPJ member Seiji Maehara into the foreign policy decision-making circle.<sup>206</sup> Some Chinese analysts interpreted the change as confirmation that the Japanese government was beholden to the U.S. and suggested that this made it difficult for Chinese leaders to trust their Japanese counterparts.<sup>207</sup>

The DPJ also started its tenure by curbing the influence of the bureaucracy and transferring power into the hands of politicians, to deliver on its campaign promise to correct political inertia.<sup>208</sup> Some Japanese analysts said the reform went too far in sidelining experienced bureaucrats.<sup>209</sup> This was compounded by the tumult around the Japanese leadership at the time of the September 2010 incident, which included a change of foreign minister.<sup>210</sup>

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<sup>201</sup> “The Democratic Party of Japan’s Platform for Government: Putting People’s Lives First”, 2009, p. 26. See also Tetsuo Kotani, “Turbulent Changes: The Democratic Party Government and Japan’s Foreign Policy”, *Russia in Global Affairs*, vol. 8, no. 4 (December 2010); and Daniel Sneider, “The New Asianism: Japanese Foreign Policy under the Democratic Party of Japan”, *Asia Policy*, no. 12 (July 2011).

<sup>202</sup> “China’s Hu, Japan’s Hatoyama agree to extend thaw in relations”, Bloomberg, 22 September 2009.

<sup>203</sup> Hu Jintao also took individual photos with nearly every DPJ lawmaker on the trip. “Ozawa-led group welcomed in China/Hu, DPJ officials look”, *The Yomiuri Shimbun*, 12 December 2009.

<sup>204</sup> “Japan threatens action on China gas project-media”, Reuters, 17 January 2010.

<sup>205</sup> “Hatoyama resigns and takes Ozawa with him”, *The Asahi Shimbun*, 3 June 2010.

<sup>206</sup> “Kan appoints Seiji Maehara as Japan foreign minister in cabinet reshuffle”, Bloomberg, 17 September 2010.

<sup>207</sup> Crisis Group interviews, Beijing, August, September 2012.

<sup>208</sup> “The Democratic Party of Japan’s Platform for Government”, op. cit., p. 2. See also Eric Heg-  
inbotham, Ely Ratner and Richard J. Samuels, “Tokyo’s Transformation: How Japan is Changing  
– and What it Means for the United States”, *Foreign Affairs* (September-October 2011), pp. 138-148.

<sup>209</sup> Crisis Group interviews, Tokyo, October 2012.

<sup>210</sup> At the time of that incident, the DPJ had been in power barely a year and Prime Minister Naoto Kan in office for three months. Kan was in the last days of campaigning against a challenger from his own party. He then reshuffled the cabinet, making Seiji Maehara the new foreign minister on 17 September, just one week after the skipper was arrested. Maehara had been an advocate of non-compromising policies toward China, and according to Japanese scholars, had no interest in moderating Japan’s treatment of the Chinese captain. Two weeks into the crisis, Kan travelled to New York to participate in the UN General Assembly. He apparently only left general advice on how to solve the crisis. Crisis Group interviews, Tokyo, October 2012. “Japanese PM Naoto Kan announces cabinet reshuffle”, BBC, 17 September 2010.

Each DPJ government experienced a sharp decline in popularity. Public support for then-Prime Minister Yukio Hatoyama eroded rapidly after his attempt to realign Japanese foreign policy failed, reaching 17 per cent at the end of May 2010, a near 50-point decline in eight months.<sup>211</sup> When Naoto Kan took over in June, support for his cabinet was at 60 per cent.<sup>212</sup> His statements supporting an increase in consumption tax upset voters, and the DPJ was defeated in the July 2010 upper house elections.<sup>213</sup> After the March 2011 Tohoku earthquake and tsunami and subsequent Fukushima nuclear crisis, public support for Kan dropped to 21 per cent.<sup>214</sup> The Noda government took over in August. By the time Ishihara announced his island purchase plan, public support for Noda had slumped to around 25 per cent and never recovered.<sup>215</sup> The unpopularity of the DPJ left a leadership vacuum that was exploited by populist and nationalist politicians.

Disappointment with traditional politics and frustration with the failure to restore Japan to a prosperous path made many long for stronger leadership.<sup>216</sup> This environment gave rise to populist and nationalist politicians who were seen as credible alternatives to ineffectual and ambiguous leaders. These movements have been driven, in part, by former Tokyo Governor Ishihara and Osaka Mayor Toru Hashimoto.<sup>217</sup> A Japanese analyst wrote that the Japanese wanted to “stop floating like a ghost in the sea of perpetual apologies for the Asia-Pacific War of 70 years ago”.<sup>218</sup> Ishihara captured popular opinion after the 2010 boat incident and forced the government’s hand over the Diaoyu/Senkaku Island purchase.<sup>219</sup>

Prime Minister Shinzo Abe, who took power after the LDP’s victory in the December 2012 elections, publicly stated, “there is no room for negotiation”.<sup>220</sup> But he

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<sup>211</sup> A poll released on 31 May 2010 found that only 17 per cent supported the Hatoyama cabinet, compared with 71 per cent in September 2009. “*The Asahi Shimbun* September 2009 Emergency Public Opinion Poll – The Start of the Hatoyama Cabinet”, *The Asahi Shimbun*, 16-17 September 2009; “*The Asahi Shimbun* May 2010 Emergency Public Opinion Poll on Futenma Relocation”, *The Asahi Shimbun*, 29-30 May 2010.

<sup>212</sup> “*The Asahi Shimbun* June 2010 Emergency Public Opinion poll on Inauguration of Kan Cabinet”, *The Asahi Shimbun*, 8-9 June 2010.

<sup>213</sup> “Japan’s new prime minister stumbles over consumption tax”, *The Christian Science Monitor*, 12 July 2010.

<sup>214</sup> Telephone poll conducted with 1,999 respondents. “*The Asahi Shimbun* Regular Public Opinion Poll April 2011”, *The Asahi Shimbun*, 16-17 April 2011.

<sup>215</sup> In a telephone poll conducted in April 2012, 25 per cent of the 1,779 respondents supported the Noda cabinet; one month before the December 2012 elections, the figure was as low as 18 per cent (1,611 respondents). “*The Asahi Shimbun* Regular Public Opinion Poll”, *The Asahi Shimbun*, 14-15 April 2012; “*The Asahi Shimbun* Regular Public Opinion Poll”, *The Asahi Shimbun*, 10-11 November 2012.

<sup>216</sup> Such feelings are especially acute among older generations who had devoted their youth to Japan’s post-Second World War revival, lived through the booming years and are pained by its economic stagnation. Crisis Group interview, Tokyo, October 2012.

<sup>217</sup> Ishihara is well known for his nationalist sentiments from his early days as an LDP politician and after he co-authored the book *A Japan That Can Say No* (1989), which called for Japan to become more independent, in particular from the U.S.

<sup>218</sup> Toshio Nishi, “The New Japanese Nationalism”, Hoover Institution, 19 December 2012. An opinion poll by *Jiji Press* conducted in January 2013 found that 56.7 per cent of those surveyed thought Abe should visit the Yasukuni Shrine, up from 43 per cent in 2006. Gareth Evans, “Japan and the politics of guilt”, Project Syndicate, 30 January 2013.

<sup>219</sup> According to a Japanese analyst, “rational foreign policy based on national interests” has become more difficult to pursue. Crisis Group interviews, Tokyo, October 2012.

<sup>220</sup> “Abe stresses resolve to defend Senkakus”, *Jiji Press*, 12 January 2013.

has nevertheless shown a willingness to mend bilateral relations and sent a personal letter to Xi Jinping, delivered by the New Komeito Party leader Natsuo Yamaguchi in January 2013. Xi received Yamaguchi and the two spoke of their desire to overcome difficulties.<sup>221</sup> Optimism inspired by the meeting, however, quickly dissipated after reports of dangerous military encounters in the East China Sea.<sup>222</sup> Added to that, Abe resumed nationalist rhetoric and gestures after he was elected, arousing the suspicion that he wanted to backtrack on Japan's Second World War apologies.<sup>223</sup> These decisions did not help to convince the Chinese public or leadership that Japan was sincere about mending ties.<sup>224</sup>

### 3. Attempts to establish a hotline

There have been several attempts to enhance communications by reestablishing a hotline between the Japanese and Chinese prime ministers. It was first inaugurated in October 2000, during a visit by Chinese Premier Zhu Rongji to Tokyo, in order to "increase trust and dispel suspicion in the political area".<sup>225</sup> It was never used throughout the Koizumi government during which Sino-Japanese relations grew frosty.<sup>226</sup> Subsequent Japanese prime ministers all attempted to reopen the hotline to then-Chinese Premier Wen, but left office after brief tenures.<sup>227</sup> An analyst said that Beijing has low expectations that even Abe will remain in office for long.<sup>228</sup>

To date, the hotline has not been effectively used in a time of crisis or high tension.<sup>229</sup> As a former Japanese diplomat explained, a hotline only works when the two countries have similar bureaucracies and strong mutual trust – both of which are lacking.<sup>230</sup> Part of the problem is a mismatch in the two systems: while the

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<sup>221</sup> "Xi Jinping meets with Natsuo Yamaguchi, leader of Japan's New Komeito Party", press release, Chinese foreign ministry, 25 January 2013.

<sup>222</sup> See Section VI "Risks of a Civilian or Military Clash".

<sup>223</sup> In 1995, then-Prime Minister Tomoiichi Murayama delivered an apology for Japan's war-time aggression, specifically for the use of comfort women by Japanese soldiers. Abe first questioned the validity of comfort women in 1997 and upon taking office in 2012 expressed the desire to revise the apology. "Japan's nationalist prime minister wants to revise war apology", *The Daily Telegraph*, 1 January 2013. In March 2013, he said verdicts of the International Military Tribunal for the Far East, after the Second World War, were victor's justice and not views "formed by the Japanese themselves." "Tokyo trials war crimes convictions were victors' justice: PM Abe", *The Mainichi Shimbun*, 13 March 2013. Abe's rhetoric has raised concerns among some Western scholars and officials. See for example, Gareth Evans, *op. cit.*

<sup>224</sup> Crisis Group interviews, Beijing, March 2013.

<sup>225</sup> "Premiers open hotline in Tokyo", *The China Daily*, 14 October 2000.

<sup>226</sup> James Przystup, "Japan-China Relations: Gyoza, Beans, and Aircraft Carriers", *Comparative Connections* (January 2009), pp. 1-9.

<sup>227</sup> In October 2008, Prime Minister Taro Aso agreed with Chinese leaders again to establish a hotline "to conduct frequent and timely exchanges of opinion". Less than a year later, Aso was out of office. His successor Yukio Hatoyama agreed in May 2010 with Chinese leaders to set up a hotline, reportedly "following a series of tense naval incidents". Hatoyama left office only a few days later and Naoto Kan took his place. Kan relaunched the hotline with a phone call to Chinese Premier Wen Jiabao. "Japan, China agree to set up leaders' hotline", *Agence France-Presse*, 24 October 2008; "China, Japan premiers agree hotline after naval incidents", *Agence France-Presse*, 31 May 2010; "China, Japan launch prime ministerial hotline", *Xinhua News Agency*, 14 June 2010.

<sup>228</sup> Crisis Group interview, Beijing, March 2013.

<sup>229</sup> Crisis Group interviews, Beijing, September, November 2012; Tokyo, October 2012.

<sup>230</sup> Crisis Group interview, Tokyo, October 2012.

prime minister in Japan heads the cabinet, the ruling party and the SDF, the Chinese premier does not head the communist party nor does he command the PLA. He would have to get his message approved before speaking in a crisis.<sup>231</sup> Efforts to establish a military-to-military hotline have similarly stalled.<sup>232</sup>

### B. *Disappearing Back Channels*

A tradition of back-channel diplomacy between high-level officials dating back to Zhou Enlai's time – and known as a “pipe” by analysts in both countries – had enabled China and Japan to reestablish diplomatic ties and mend relations in times of trouble. The interlocutors were individuals in each government's decision-making centre who were influential in their respective party. Their positions and communication allowed for the effective flow of information up the chain of command to facilitate moderate policymaking. Because of the channel's informal nature, sensitive discussions could be shielded from public pressure and provide space for diplomatic manoeuvres.

The last stable and effective channel, between Hiromu Nonaka, former chief cabinet secretary in Japan, and Zeng Qinghong, a former PBSC member and vice president of China, ran from the late 1990s until 2008.<sup>233</sup> Nonaka was a powerful figure in the LDP's largest faction and then-Prime Minister Keizo Obuchi's right-hand man.<sup>234</sup> Zeng, similarly, was a trusted protégé of Jiang Zemin and continued to be an influential powerbroker between factions in the CCP after Jiang retired.<sup>235</sup> The two men were known to meet “anytime there was trouble” to “extinguish it for the sake of bilateral relations”.<sup>236</sup> In one such episode, Zeng swiftly dispatched Chinese officials to investigate crimes reportedly committed by Chinese in Japan, after Nonaka made a complaint to him.<sup>237</sup>

The Zeng-Nonaka channel lost its pull in 2008 when Zeng retired from public life.<sup>238</sup> Subsequent efforts by the two countries to reestablish a high-level connection

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<sup>231</sup> A Chinese analyst said that no Chinese leader alone had the power to answer the phone and offer anything other than the official stance. Crisis Group interview, Beijing, December 2012.

<sup>232</sup> See Section V.I “Risks of a Civilian or Military Clash”.

<sup>233</sup> Crisis Group interviews, Tokyo, Beijing, October 2012. See also Ming Wan, *op. cit.*, p. 143.

<sup>234</sup> “Profile of Chief Cabinet Secretary Hiromu Nonaka”, Japanese foreign ministry website, [www.mofa.go.jp/about/hq/profile/nonaka.html](http://www.mofa.go.jp/about/hq/profile/nonaka.html).

<sup>235</sup> “Profile: Zeng Qinghong”, BBC, 14 November 2002. See also Cheng Li, “Was the Shanghai Gang Shanghaied? The Fall of Chen Liangyu and the Survival of Jiang Zemin's Faction”, *China Leadership Monitor*, no. 20, 28 February 2007.

<sup>236</sup> Crisis Group interview, Beijing, October 2012.

<sup>237</sup> According to a Japanese journalist, Nonaka told him that Zeng was “very fast at handling everything” and shared an anecdote with him as proof. “One evening, when I [Nonaka] had dinner with him [Zeng] in Beijing, I pointed out that the crime rate of Chinese people in Japan was very high. The next morning at 6am, some people from the 公安部 (Public Security Bureau) came to my hotel room. They explained that most of the problematic figures in Japan are from Fujian Province. After several weeks, I was informed that two officials from the Fujian Province Police Department had been posted to the Chinese embassy in Tokyo to tackle the issue”. Crisis Group interview, Beijing, October 2012. Nonaka retired in 2003, but maintained regular contact with Zeng as honorary adviser to the Japan-China Friendship Association. Public records show the two met at least once a year and contributed to the smoothing of bilateral relations.

<sup>238</sup> Zeng arguably could still exert influence on Chinese policy and politics as a retired but respected party elder, but he was reportedly tainted by revelations in 2007 of questionable financial dealings involving his son. John Garnaut, “A Family Affair”, *Foreign Policy*, 30 May 2012.

with similar influence have been interrupted. A connection first appeared to have been established between Hidenao Nakagawa, former LDP secretary-general, and Wang Jiarui, then-director of the International Department of the Central Committee of the CCP.<sup>239</sup> In an interview, Nakagawa stressed the importance of “pipes” between politicians in addition to regular diplomatic channels.<sup>240</sup> But the channel unravelled in 2009, when the LDP was defeated by the DPJ.

The absence of effective backchannels during the 2010 and 2012 crises deprived the two countries of a discreet means to avoid misunderstanding and foster trust. More important, personal interactions through backchannels had served to put human faces on events that otherwise would be solely considered cold political or geopolitical motivations. “If human beings meet, they can always find a way out, but the current situation is like a computer game with no human contact between the two parties”, said a former Japanese envoy to China.<sup>241</sup> Veteran diplomats in both countries have tried to revive the tradition of backchannels in order to thaw the current standoff, but such efforts have been derailed by escalatory events.<sup>242</sup>

Back-channel diplomacy naturally had its limits. It depended heavily on individuals, thus was vulnerable to politics. It could only be effective when there was will from top leaders to place higher priority on preserving bilateral ties than on scoring points on a single dispute. Nonaka, for example, was unable to dissuade Koizumi from visiting the Yasukuni Shrine, despite the expectations China placed on him.<sup>243</sup> Neither can personal ties negate changes in national objectives. China’s view on the utility of “shelving the dispute” changed, and instead it tries to erode Japanese administration of the islands. In fact, the disappearance of back-channel diplomacy can be seen as one symptom of these changes. According to a Chinese analyst, “leaders of the two countries just don’t trust each other anymore”.<sup>244</sup>

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<sup>239</sup> Crisis Group interviews, Beijing, October 2012. During a 2007 meeting, Wang commended Nakagawa as an “old friend”, while Nakagawa pledged to “commit relentless efforts to the improvement and development of Japan-China relations”. “Wang Jiarui meet with former LDP Secretary General”, press release, International Department Central Committee of the CPC, 26 October 2007. Wang reportedly ordered three photos showing Japanese cruelty during the Second World War at the Nanjing Massacre Museum to be removed after Nakagawa made the request to him in 2008. Japan had long protested to China that the photos were not from the Japanese occupation of Nanjing and were misleading. “日中外交、経済逆転見据えた戦略を 元自民党幹事長”, 中川秀直氏 [“LDP secretary general based Sino-Japanese diplomacy strategy with an eye towards economic reversal”, former LDP Secretary-General Mr Nakagawa Hidenao], *Nikkei*, 31 October 2009.

<sup>240</sup> 日中外交、経済逆転見据えた戦略を 元自民党幹事長 中川秀直氏 [“LDP secretary general based Sino-Japanese diplomacy strategy with an eye towards economic reversal”, former LDP Secretary-General Mr Nakagawa Hidenao], *Nikkei*, 31 October 2009.

<sup>241</sup> Crisis Group interview, Tokyo, October 2012.

<sup>242</sup> A former high-level China-school diplomat was dispatched to Beijing in late 2012 to open up communication channels through his old contacts. Crisis Group interview, Beijing, November 2012. Former Chinese Foreign Minister Tang Jiaxuan, a Japan hand, invited a Japanese delegation led by former Prime Minister Tomiichi Murayama to visit Beijing. “Murayama’s fence-mending delegation greeted by former Chinese official”, *Kyodo*, 29 January 2013.

<sup>243</sup> Ming Wan, op. cit., pp. 143-144.

<sup>244</sup> Crisis Group interview, Beijing, September 2012

### C. *Challenges Facing Foreign Ministries*

#### 1. Weakening Chinese foreign ministry

Another factor that has complicated the relationship between China and Japan and prevented effective management of crises is the relative weakness of the Chinese foreign ministry, which is the official – and often the only – channel open to Tokyo.<sup>245</sup> Although the ministry technically remains responsible for the formulation and execution of foreign policy, its leadership role, responsibility and authority on most strategic foreign policy issues have been diluted as China's global role has grown and many formerly domestically oriented agencies have acquired foreign policy responsibilities.<sup>246</sup> One example was the November 2012 issuing of new passports with a map including disputed territories in the South China Sea, which enraged other claimant states.<sup>247</sup> The decision had been made by the Public Security Bureau and the passports went to print over the objection of the foreign ministry, which was told, “passports are an issue of immigration and not foreign policy”.<sup>248</sup> As a government analyst said, “Chinese foreign policymaking has been fragmented”.<sup>249</sup>

In Japan, the foreign ministry holds a higher position. Therefore there has been a mismatch in the relative power of the diplomats who were tasked with discussing Japan's plan to purchase the islands and the aftermath. In Japan, a foreign ministry division chief overseeing China policy directly briefs the prime minister.<sup>250</sup> Conversely, in China, a state councillor in charge of foreign policy is responsible for liaising with the senior leadership.<sup>251</sup> The state councillor is one rank above the foreign minister and one rank below the vice premier. Although she or he is the highest-ranking official in charge of foreign affairs, she or he is not even a member of the CCP's 25-strong Politburo, the second-highest level decision-making organ in the party after the Politburo Standing Committee (PBSC).<sup>252</sup>

Japan began informing China of its intention to purchase the disputed islands in June through the Chinese foreign ministry.<sup>253</sup> While the Chinese side expressed its general opposition to the move, Japanese diplomats said that there was no signalling of planned reactions to the purchase.<sup>254</sup> It is plausible that the asymmetry of the two ministries' influence in their respective government contributed somewhat to Tokyo's inaccurate reading of Beijing's understanding and intentions. Japanese officials and diplomats came away with the impression that their Chinese counter-

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<sup>245</sup> Crisis Group interview, Tokyo, October 2012.

<sup>246</sup> See Crisis Group Report, *Stirring up the South China Sea (I)*, op. cit., p. 14.

<sup>247</sup> “Beijing's S. China Sea rivals protest passport map”, Associated Press, 23 November 2012. Apart from several South China Sea claimant states, India and Indonesia also protested the move. “Indonesia objected to Chinese passport move”, *Financial Times*, 29 March 2013.

<sup>248</sup> Crisis Group interview, Beijing, February 2013.

<sup>249</sup> Crisis Group interview, Beijing, October 2012.

<sup>250</sup> Crisis Group interview, Tokyo, October 2012.

<sup>251</sup> Dai Bingguo was in that position until March 2013 and thereafter, Yang Jiechi, who was elevated from the position of foreign minister. “会议投票决定杨晶、常万全、杨洁篪、郭声琨、王勇为国务委员”, 新华社 [“Congress elected Yang Jing, Chang Wanquan, Yang Jiechi, Guo Shengkun, Wang Yong state councillors”, Xinhua News Agency], 16 March 2013.

<sup>252</sup> The Chinese foreign ministry's powerbase in the CCP was not always this weak. From 1988 to 1998, Qian Qichen simultaneously held the positions of Chinese foreign minister and State Council vice premier.

<sup>253</sup> Crisis Group interview, Beijing, December 2012.

<sup>254</sup> Crisis Group interviews, Tokyo, October 2012; Beijing, December 2012.

parts had understood – yet of course opposed to – Japan’s rationale for making the move.

After the island purchase, communications between the two foreign ministries were reduced to very formulaic meetings. According to officials on both sides, diplomats spent entire meetings without any real dialogue, simply reciting their official stances.<sup>255</sup> *Démarches* have also become formulaic.<sup>256</sup> A Japanese envoy attempting to open up additional communication channels lamented that Chinese foreign ministry officials “may have lost almost all influence but we are only given access to them”.<sup>257</sup>

The foreign ministry’s job is made tougher by the fact that it is often outside of the information loop on incidents involving other agencies but which have foreign affairs implications. This happened with the *USNS Impeccable* incident in 2009.<sup>258</sup> Similarly, the ministry was reportedly not consulted or even informed about Hainan province’s new maritime security regulations empowering provincial border police to board and search foreign vessels when they were first announced in November 2012. When diplomats from other countries sought clarification, the ministry was unaware and unprepared.<sup>259</sup> It also apparently learned about the 30 January 2013 alleged radar-locking incident seven days later through the media, instead of the navy, and even then, it still lacked enough facts to comment.<sup>260</sup> Therefore, the agency with arguably the greatest interest in de-escalating tensions has limited room for manoeuvre.

One reason for the Chinese foreign ministry’s lack of authority is that domestic priorities, such as sustaining economic growth and political stability, still far outweigh foreign policy.<sup>261</sup> According to a Chinese analyst, “the Diaoyu Islands may be

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<sup>255</sup> The two ministries have held several meetings at the division chief and vice-ministerial level since September 2012. Crisis Group interview, Beijing, November, December 2012.

<sup>256</sup> Japanese diplomats inform their Chinese counterparts of the location of Chinese vessels near the disputed islands through *démarches* directed at different levels of the Chinese foreign ministry depending on the seriousness of the incident. When a Chinese civilian maritime agency boat enters the contiguous zone around the islands – which starts outside of the 12-nautical mile territorial waters and goes to the EEZ line – a Japanese official will telephone the director of the Japan desk in the Chinese foreign ministry. When Chinese boats enter territorial waters – the 12-nautical mile zone around the islands – the Japanese embassy protests to the director general of the Asia Department. The longer the boats stay, the higher up the protests go. On 7 January and 5 February 2013, when Chinese Marine Surveillance vessels stayed in territorial waters for extended periods of time – thirteen and fourteen hours – Tokyo summoned the Chinese ambassador. Occasionally, the Chinese foreign ministry protests over JCG boats that move too close (less than 100m) to Chinese boats. Crisis Group interview, Beijing January 2013. “Tokyo summons Chinese ambassador to protest 4 ships near disputed islands”, Associated Press, 8 January 2013; “Japan summons China envoy after ships enter disputed waters”, *South China Morning Post*, 5 February 2013.

<sup>257</sup> Crisis Group interview, Beijing, November 2012.

<sup>258</sup> In March 2009, the U.S. accused several Chinese vessels of harassing the *USNS Impeccable* vessel in the South China Sea. “Chinese vessels harass U.S. navy ship, Pentagon says”, Bloomberg, 9 March 2009. The foreign ministry learned about the incident from a Western embassy, not its own navy. Crisis Group interview, Beijing, August 2011.

<sup>259</sup> Crisis Group interview, December 2012.

<sup>260</sup> “Abe calls China radar targeting of Japan vessel provocation”, Bloomberg, 6 February 2013.

<sup>261</sup> With economic growth commonly regarded as a source of the government’s legitimacy, the foreign policy is primarily aimed at creating a favourable international environment for economic growth. David Lampton, “China’s Foreign and National Security Policy-making Process: Is it Changing, and Does it Matter?” in David Lampton (ed.), *The Making of Chinese Foreign and Security Policy* (Stanford, 2001), pp. 1-36. Crisis Group interviews, Beijing, November

the priority of Chinese foreign policy, but economic development is still the priority of overall Chinese policy”.<sup>262</sup> The foreign ministry is also often made the scapegoat for any problems that arise in foreign policy, even if the issue is not a result of its error. For example, it was blamed for having abstained from the 2011 UN resolution authorising the no-fly zone over Libya, allowing it to pass.<sup>263</sup> A Chinese analyst said the ministry was criticised for “placing too much importance on diplomatic relations while losing sight of the entirety of national interests”, and was further stripped of decision-making power.<sup>264</sup> A Chinese scholar remarked that the agency had been reduced to “a protocol department and is busying itself with administrative tasks”.<sup>265</sup>

## 2. Diminishing “China school” in the Japanese foreign ministry

Japan’s diplomacy with China has also suffered from the relative decline of a group within the foreign ministry known as the “China school”. Comprised of specialists equipped with extensive China-specific experience and language skills, they were known for their commitment to a good friendship with their neighbour. For many years, these diplomats headed the ministry’s China and Mongolia division as well as the Asian and Oceanic Affairs Bureau. These two departments, along with the vice foreign minister, formed the core of China policy within the ministry. China school officials for a long time also served as ambassadors to China and as heads of the Cabinet Councillors’ Office on External Affairs. These individuals were professionally committed to Sino-Japanese relations and had “a vested institutional interest in avoiding conflict under their watch”.<sup>266</sup>

The China school began to lose its influence in the late 1990s due to a hardening of the public’s attitude toward China and the chill in relations during the Koizumi era. The foreign ministry came under severe criticism for its handling of several China-related incidents, especially the Chinese police’s seizure of North Koreans who sought asylum in the Japanese consulate in Shenyang in May 2002, resulting in significant erosion of the diplomats’ credibility.<sup>267</sup> They were attacked by nationalists as “weaklings who would wag their tails when facing China”.<sup>268</sup> A Japanese analyst close to the government noted, “China school diplomats are always vulnerable to right-wing attacks” and it has become politically risky to be seen as belonging to this faction.<sup>269</sup>

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2012. A Chinese scholar said the new leaders were not looking to break new ground on foreign policy, and instead will focus on bringing the economy back on the fast track, fighting debilitating corruption and preventing social unrest. Crisis Group interview, Beijing, December 2012.

<sup>262</sup> Crisis Group interview, Beijing, January 2013.

<sup>263</sup> A Chinese government analyst described the top leaders as being “shocked and furious”. Crisis Group interview, Beijing, November 2012. As it is difficult to imagine that such a decision was not endorsed at a level above the foreign ministry, it is fair to assume that it was easiest to blame the ministry.

<sup>264</sup> Crisis Group interview, Beijing, November 2012.

<sup>265</sup> Crisis Group interview, Beijing, August 2012.

<sup>266</sup> Ming Wan, op. cit., pp. 145-146. For more on the China school, see Masahiko Sasajima, “Japan’s Domestic Politics and China Policymaking”, in Benjamin L. Self and Jeffrey W. Thomson (eds.), *An Alliance for Engagement: Building Cooperation in Security Relations with China* (Washington DC, 2002), p. 83.

<sup>267</sup> Murata Koji, “Domestic Sources of Japanese Policy Towards China”, in Lan Peng Er (ed.), *Japan’s Relations with China: Facing a Rising Power* (London, 2006), pp. 44-46.

<sup>268</sup> “Pro-China clique slammed”, *The Yomiuri Shimbun*, 17 May 2002.

<sup>269</sup> Crisis Group interview, Tokyo, October 2012.



Beginning with Koizumi, China school diplomats were gradually phased out of key positions, marking, in the words of a Japanese official, “a conscious shift by the government”.<sup>270</sup> Kunihiko Makita – the last China school diplomat who headed the Asian and Oceanic Affairs Bureau – told a newspaper in 2012 that since he left in 2001, his former post has been filled by “diplomats trained in America” who he worried “are not necessarily well-versed in China”.<sup>271</sup> Similarly in 2006, the director of the China and Mongolia division was not a Chinese-speaker – a first for that position – but was a specialist on Japanese-U.S. relations.<sup>272</sup> In 2010, Uichiro Niwa, a top business executive and the former chairman of ITOCHU corporation, one of the largest Japanese trading firms, was appointed ambassador to China, a break from the previous practice of filling the post with China school veterans. By the time Sino-Japanese relations entered their most challenging stretch in 2010, the traditional China school diplomats had lost influence, with their successors tending to be tougher on China.<sup>273</sup> The result was that certain decisions were made without what a former China school diplomat termed “the ‘feel’ of China”.<sup>274</sup>

#### D. *Maritime Agencies in Ascendance*

##### 1. China’s maritime law enforcement agencies

China’s maritime law enforcement agencies are its primary tool to strengthen its claims in recent disputes. Maritime law enforcement was historically divided among five agencies competing for funding, jurisdiction and political influence.<sup>275</sup> The rivalry between them created overlaps in their responsibilities, inefficiency in resource deployment and poor coordination.<sup>276</sup> The China Marine Surveillance (Marine Surveillance) and the China Fisheries Law Enforcement Command (Fisheries) have played the most active roles in asserting maritime claims. Marine Surveillance is under the State Oceanic Administration of the land and resources ministry. The Fisheries was overseen by the Bureau of Fisheries Administration of the agriculture ministry before restructuring began in early 2013 to place it under the State Oceanic Administration. Marine Surveillance and Fisheries for many years have been tasked with occupying or patrolling disputed areas in the South China Sea.<sup>277</sup> They are also

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<sup>270</sup> Crisis Group interview, Tokyo, October 2012.

<sup>271</sup> Makita said during his service, he was “once grilled by 30 conservative lawmakers, one of whom insulted me by asking me if I am a Japanese diplomat or Chinese”. “40 Years/Rocky Partnership: Interview with ex-diplomat to China Kunihiko Makita”, *The Asahi Shimbun*, 28 September 2012.

<sup>272</sup> Crisis Group interview, Tokyo, October 2012.

<sup>273</sup> A Japanese scholar said they “almost evaporated”. Crisis Group interview, Tokyo, October 2012.

<sup>274</sup> “40 Years/Rocky Partnership”, op. cit.

<sup>275</sup> See Crisis Group report, *Stirring up the South China Sea (I)*, op. cit., pp. 19-22.

<sup>276</sup> According to a Chinese analyst, “if we want to spend \$1 billion to enhance patrols in the South China Sea, we have to divide that funding into five and buy five inferior boats, instead of one big more capable boat”. The reform was aimed partly to solve that problem. Crisis Group interview, Beijing, December 2012. Another Chinese analyst relayed an anecdote: during the April 2012 Scarborough Shoal standoff with the Philippines, the Marine Surveillance and the Fisheries rushed to send their boats to disputed waters, but had no coordination. Both ran out of fuel at roughly the same time and had to rely on Chinese fishermen. Crisis Group interview, Beijing, September 2012.

<sup>277</sup> Other maritime law enforcement agencies are: the China Coast Guard formerly under the public security ministry, the China Customs Anti-Smuggling Police formerly under the General

at the forefront of the struggle with the JCG to administer waters around the Diaoyu/Senkaku Islands.

The Marine Surveillance and Fisheries have traditionally been rivals, competing not only for a larger share of the State Council's budget but also the leadership role among law enforcement agencies.<sup>278</sup> They had been expanding rapidly as China cultivated its growing maritime ambitions.<sup>279</sup> Both have institutional interests in demonstrating China's sovereignty in disputed areas, as defending maritime rights against foreign countries is one of the most important political achievements of both agencies.<sup>280</sup> They have also been compelled to justify the increase in quality and quantity of their fleets by showcasing their resolve and ability to patrol further and more frequently in disputed waters.<sup>281</sup>

The two agencies have profited directly from tensions in the East and South China Seas. In 2012, a dramatically increased budget allowed Fisheries to spend more on equipment procurement that year than the sum of the previous 60 years.<sup>282</sup> The same year, the number of Marine Surveillance vessels patrolling China-claimed waters increased from six to more than ten each day.<sup>283</sup> The announcement of the territorial baselines around the Diaoyu/Senkaku Islands further empowered the agencies directly while constraining the foreign ministry's ability to rein them in.<sup>284</sup> In November 2012, a new 3,000-ton boat *Haijian 137* was added to the Marine Surveillance East Sea fleet and began patrolling waters around Diaoyu/Senkaku the next month.<sup>285</sup> In December 2012, a new 5,000-ton boat *Yuzheng 206*, "one of the largest and most advanced fishery patrol vessels in China", began its maiden voyage

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Administration of Customs, and the Marine Safety Administration affiliated with the transportation ministry. See Crisis Group Report, *Stirring up the South China Sea (I)*, op. cit., pp. 8-9.

<sup>278</sup> Crisis Group interviews, Beijing, January 2011 and January 2012.

<sup>279</sup> Since 2000, the Marine Surveillance built thirteen new boats and received eleven retired naval vessels. It plans to build another 36 boats by 2015 and acquire more planes. "中国海监舰机这一年底气大增", *国际先驱导报* ["Chinese Marine Surveillance's vessel and plane capability grew significantly this year", *International Herald Leader*], 28 December 2012. The Fisheries plans to build five large patrol boats over 3,000 tons equipped with helicopters, compared with only nine patrol boats over 1,000 tons in 2010. "中国将永久性巡逻钓鱼岛, 建5艘3千吨级渔政船" ["China will permanently patrol Diaoyu Islands and build five Fisheries boats over 3,000 tons"], Eastday.com, 21 December 2010.

<sup>280</sup> "The normalisation of activities to safeguard sovereignty rights and patrolling of the Diaoyu Islands" and "continuing patrolling and safeguarding the Huangyan Island (Scarborough Shoal)" are listed as number three and six of the Marine Surveillance's top ten achievements in 2012. "2012 年度中国海监十件大事", 国家海洋局 ["China Maritime Surveillance's top ten events in 2012", State Oceanic Administration], 23 January 2013.

<sup>281</sup> Crisis Group interviews, Beijing, October 2012.

<sup>282</sup> "渔政队伍建设走向常态化、制度化、标准化", 中国渔业报, ["Fisheries Administration team-building regularised, institutionalised and standardised", *China Fisheries*], 4 February 2013.

<sup>283</sup> "中国海监舰机这一年底气大增", *国际先驱导报* ["Chinese Marine Surveillance's vessel and plane capability grew significantly this year", *International Herald Leader*], 28 December 2012.

<sup>284</sup> An analyst said, "if the Ministry of Foreign Affairs says this is China's territory, on what ground can it tell the agencies not to patrol it?". Crisis Group interviews, Beijing, September, October 2012.

<sup>285</sup> "3000 吨级海监 137 船入列中国海监东海总队", 国家海洋局网站 ["3,000-ton boat *Haijian 137* enlisted to China Maritime Surveillance East Sea Unit", State Oceanic Administration website], 15 November 2012. "国家海洋局组织中国海监编队在我钓鱼岛领海内巡航", 国家海洋局网站 ["State Oceanic Administration organised Chinese Maritime Surveillance fleet to patrol Diaoyu Islands waters", State Oceanic Administration website], 7 December 2012.

from Shanghai to patrol near the disputed islands.<sup>286</sup> A new opportunity for funding arises each time there is an incident or a major development in Japan's capability.<sup>287</sup>

Despite new capacity, regular patrols of the Diaoyu/Senkaku Islands have strained China's maritime law enforcement capacity. Vessels and personnel from the North Sea and South Sea fleets have been diverted to reinforce the East Sea fleet.<sup>288</sup> Marine Surveillance officials have often cited the need to compete with the JCG to advocate for faster expansion of its fleet.<sup>289</sup>

The PLA and the civilian maritime agencies maintain close linkages. The State Oceanic Administration was administered by the PLA Navy in the first sixteen years following its establishment in 1964, providing technical support for the navy.<sup>290</sup> Marine Surveillance personnel have received navy training.<sup>291</sup> In 2009, the PLA and Marine Surveillance signed an agreement to cooperate on maritime law enforcement and safeguarding maritime rights, joint surveillance and research, equipment supply and maintenance, and personnel exchange, and have since held annual meetings.<sup>292</sup> Retired naval vessels have been regularly re-outfitted to become law enforcement boats.<sup>293</sup> In October 2012, the PLA Navy's East Sea Fleet held a joint exercise with the Marine Surveillance and Fisheries – the third such drill aimed at safeguarding sovereign rights in disputed waters.<sup>294</sup>

Prior to the restructuring in March 2013, the Marine Surveillance emerged as the more powerful and influential of the two, seen as the "spearhead", with more vessels patrolling in disputed waters more frequently.<sup>295</sup> This is partly due to its considerably broader jurisdiction, while Fisheries' duties were technically tied to fishing activities (although that has not necessarily been respected in practice).<sup>296</sup> Marine Surveil-

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<sup>286</sup> "Patrol ships starts maiden voyage to Diaoyu Islands", *The China Daily*, 12 December 2012.

<sup>287</sup> Crisis Group interviews, Beijing, September-October 2012.

<sup>288</sup> Crisis Group interview, Beijing, January 2013.

<sup>289</sup> "中国海监舰机这一年底气大增" ["Chinese Marine Surveillance's vessel and plane capability grew significantly this year"], op. cit.

<sup>290</sup> "专家：中国海监装备与日本海保相比还有差距", *中国新闻周刊* ["Experts: Chinese Marine Surveillance is under-equipped compared with JCG", *China News Weekly*], 30 November 2012.

<sup>291</sup> "海监政委首次走进海军高等学府接受系统培训", *中国海洋报* ["Marine Surveillance commissars accepted into naval academy to receive systematic training for the first time", *China Ocean News*], 27 July 2011, as cited in Linda Jakobson, "China's Foreign Policy Dilemma", *Lowy Institute for International Policy* (February 2013), p. 10.

<sup>292</sup> "国家海洋局与中国人民解放军海军年度工作座谈会在京召开", 国家海洋局, ["State Oceanic Administration and PLA Navy held annual working conference in Beijing", State Oceanic Administration website], 19 February 2013.

<sup>293</sup> This includes the above-mentioned *Haijian 137* and *Yuzheng 206*, which recently joined Diaoyu/Senkaku patrolling. "3000 吨级海监 137 船入列中国海监东海总队" ["3,000-ton boat *Haijian 137* enlisted to China Maritime Surveillance East Sea Unit"], op. cit. "Patrol ships starts maiden voyage to Diaoyu Islands", *The China Daily*, 12 December 2012.

<sup>294</sup> "中国海军组织东海海上联合维权演习受关注", 中国新闻网 ["PLA Navy organised joint exercise in East China Sea defending maritime rights, attracting attention", *Chinanews.com*], 19 October 2012.

<sup>295</sup> Crisis Group interviews, Beijing, January, February 2013.

<sup>296</sup> Fisheries' duties include regulating the domestic fishing industry; safeguarding fishing vessels and land features, rocks and reefs claimed by China; preventing foreign vessels from fishing in areas claimed by China; and where necessary, expelling them. Marine Surveillance's duties include patrolling and surveying Chinese-administered maritime territories; investigating and processing illegal activities violating China's maritime rights, including illegal use of maritime territories and resources, activities that damage maritime facilities, environment and resources, and activities that disturb maritime order. "农业部渔政指挥中心职能简介", 中华人民共和国农业部 ["Missions of agriculture ministry Fisheries Administration Command Centre", Chinese agri-

lance also had larger and better-equipped vessels and enjoyed more political clout, as its parent agency, the State Oceanic Administration, had more independence and flexibility compared with other agencies of the same level.<sup>297</sup> The agency head, Liu Cigui, also has close ties to Xi Jinping.<sup>298</sup>

The State Oceanic Administration's dominant status was solidified in March 2013 during the annual National People's Congress, when it absorbed three additional law enforcement agencies including the Fisheries to create "the China Maritime Police Administration".<sup>299</sup> The consolidation, according to State Councillor Ma Kai, was aimed at correcting "diffusion of maritime law enforcement capabilities, overlapping [maritime] inspection, duplicative construction ... and insufficient ability to safeguard [maritime] rights".<sup>300</sup> Implementation of the reorganisation has begun, including the drafting of new regulations defining jurisdiction, criminal law enforcement authority, and levels of fleet weaponisation.<sup>301</sup> It will take place over several months, likely accompanied by new laws and regulations defining the duties, jurisdiction and operating procedures of the new State Oceanic Administration.<sup>302</sup>

Another key element in the reorganisation was the establishment of the National Oceanic Commission. Details of its configuration have yet to emerge, but it is likely to be under the direct supervision of the State Council and composed of high-level officials of agencies, such as the foreign ministry, the military, the State Oceanic Administration and the public security ministry, whose responsibilities

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culture ministry, undated]; and "高起点高标准打造一流海监队伍", *中国海洋报* ["Building a first-class China Marine Surveillance team", *China Ocean News*], 21 October 2008.

<sup>297</sup> The State Oceanic Administration was first created in 1964 by the State Council and was under its direct management. Although it was placed under the land and resources ministry in 1998, the State Oceanic Administration has enjoyed higher status and influence than same-level agencies that were created by ministries. Crisis Group interviews, Beijing, September 2012, February and March 2013. "海洋局历史沿革与职能", *新华网* ["Historical evolution and duties of the State Oceanic Administration", Xinhua News Agency], undated.

<sup>298</sup> They both served in the Fujian provincial government from 1993 to 1997.

<sup>299</sup> "China to restructure oceanic administration, enhance maritime law enforcement", Xinhua News Agency, 10 March 2013. "图表：国务院机构改革后国务院设置组成部门一览", *新华社* ["Chart: Structure of State Council-affiliated agencies after State Council organisational reform", Xinhua News Agency], 10 March 2013. Only the Marine Safety Administration under the transportation ministry still remains outside of the State Oceanic Administration. Before the NPC, three proposals had been made to reorganise maritime law enforcement: to create a new overarching agency similar to a unified coast guard; to place Marine Surveillance in charge of other agencies except Fisheries; or to simply enhance coordination. Implementation of the reorganisation has just begun but likely will be challenging due to frustration and resistance of other agencies who had to lose power. Crisis Group interviews, Shanghai, November 2012; Beijing, March 2013. Contrary to expectation, the State Oceanic Administration was not upgraded to a ministry, reportedly due in part to opposition from the foreign ministry, which feared further losing influence over maritime issues. Li Mingjiang and Zhang Hongzhou, "Restructuring China's Maritime Law Enforcement: Impact on Regional Security", S. Rajaratnam School of International Studies, Nanyang Technological University, no. 050, 1 April 2013.

<sup>300</sup> "马凯：重新组建国家海洋局 设立高层次议事协调机构国家海洋委员会", *新华社* ["Ma Kai: Restructure State Oceanic Administration, establish high-level coordinating agency State Oceanic Commission", Xinhua News Agency], 10 March 2013.

<sup>301</sup> Crisis Group telephone interview, March 2013. "中国海警局刑事执法权和武器配备问题即将明确", *中国新闻* ["Criminal law enforcement authority and weaponisation of China Maritime Police Bureau to be clarified soon", *China.com*], 20 March 2013.

<sup>302</sup> Crisis Group telephone interview, March 2013.

include maritime affairs.<sup>303</sup> It is expected to formulate China's first comprehensive maritime strategy, covering areas such as safeguarding maritime rights, developing maritime economy and projecting naval capabilities to protect the country's ever-growing overseas interests. As a Chinese analyst put it, the commission will define strategies and coordinate like "a brain" so that the consolidated maritime law enforcement capacity will become "a tightly clenched fist" – in contrast to the "open palm" of its previous fragmented existence – in safeguarding the country's maritime rights.<sup>304</sup> The consolidation was clearly not designed to dampen the ardour of the agencies, but to ensure that they are more focused, better coordinated, better equipped and more effective in defending maritime claims.

## 2. Japan Coast Guard

Japan's post-war constitution bars the government from having a military force, but it has worked around this restriction by maintaining the Self-Defence Force (SDF) with legal restrictions on its tasks, operations and use of force.<sup>305</sup> In the maritime domain, Japan has also built up the JCG and increased cooperation between military and civilian institutions. Some scholars thus believe it acts as a quasi-military force.<sup>306</sup>

The JCG, under the land, infrastructure, transportation and tourism ministry, has a traditional maritime law enforcement role, including policing and search and rescue missions. But it is also responsible for guarding Japanese territorial waters and EEZs, and is a first responder to incursions.<sup>307</sup> The JCG has acquired the right to fire direct warning shots at foreign vessels in certain circumstances.<sup>308</sup>

Japan has increased coordination between the SDF and the JCG through regular mutual training, information exchange and joint exercises, in part for crisis management.<sup>309</sup> This was apparent after Japanese radars failed to detect the Marine Surveillance plane that flew over the Diaoyu/Senkaku Islands on 13 December 2012.

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<sup>303</sup> Crisis Group telephone and email interviews, March 2013.

<sup>304</sup> 叶海林, "国家海洋委员会: 中国维护海洋权益的真正中枢", 人民日报 [Ye Hailin, "National Oceanic Commission: True central nervous system for the defence of China's maritime rights", *The People's Daily*], 14 March 2013.

<sup>305</sup> Article 9 of Japan's constitution states that it "renounces war as a sovereign right" and thus "land, sea, and air forces, as well as other war potential, will never be maintained". Chapter II, Article 9, Japan Constitution, 8 November 1946. Akihiko Tanaka, "Japan's Security Policy in the 1990s", in Yoichi Funabashi (ed.), *Japan's International Agenda* (New York, 1994), p. 30.

<sup>306</sup> A scholar called it a "de facto fourth branch of the Japanese military". Richard Samuels, "New 'Fighting Power!' for Japan?", *Audit of Conventional Wisdom*, MIT Center for International Studies, vol. 7, no. 14 (September 2007).

<sup>307</sup> See "Japan Coast Guard", Policy Evaluation and Public Relations Office, Japan Coast Guard, March 2012.

<sup>308</sup> Law No. 114 of 2 November 2001. Amendment to the Japan Coast Guard Law, Law No. 28 of 27 April 1948. In December 2001, Japanese armed forces, made up of a dozen patrol vessels and two navy destroyers, chased what they believed to be a North Korean spy ship. The JCG vessels opened fire, sinking the ship. It was the first time since the Second World War that Japanese forces had sunk a ship, and the vessel is now on display in the JCG Museum in Yokohama. "Japan sinks 'North Korea spying ship'", *The Daily Telegraph*, 24 December 2001.

<sup>309</sup> "Defense of Japan 2012", Japanese defence ministry, p. 200 [www.mod.go.jp/e/publ/w\\_paper/2012.html](http://www.mod.go.jp/e/publ/w_paper/2012.html). "National Defense Program Guidelines for FY2011 and beyond", Japanese defence ministry, 17 December 2010. Crisis Group interview, Tokyo, October 2012.

As the plane flew below Japanese radars, the Air Self-Defence Force (ASDF) was only alerted to its presence after a JCG vessel spotted it.<sup>310</sup>

After China stepped up regular patrols of waters around the Diaoyu/Senkaku Islands following the September 2012 purchase, Japan responded by increasing the number of JCG vessels patrolling the islands from three to 30.<sup>311</sup> There has been growing agreement among Japanese politicians that the JCG needs to be “reinforced” for fear that its capability will be “overtaken by the Chinese”.<sup>312</sup> The 26 October 2012 government economic stimulus plan gave the JCG the largest ever disbursement of special funds, and the first specifically for territorial water patrol.<sup>313</sup> The agency again received a 37 per cent budget increase for the financial year 2013 from the previous year.<sup>314</sup> A dedicated Senkaku Island team was created, with the aim of deploying ten new patrol boats to the area in the next three years.<sup>315</sup> The JCG has also received increased legal jurisdiction due to the island dispute.<sup>316</sup>

This build-up must be seen in the context of the September 2010 collision, which caused the Japanese government “great embarrassment” and led to changes in the jurisdiction of the JCG.<sup>317</sup> It was instructed by the government to be “more careful”, as it was responsible for preventing any further incident, and accordingly adjusted its engagement with Chinese vessels in order to minimise risks.<sup>318</sup> The JCG has adopted a “defensive mode” when patrolling the waters near the Diaoyu/Senkaku Islands so as to prevent an activist landing on the islands or a deliberate or accidental collision with Chinese ships.<sup>319</sup> It has enhanced manoeuvres including shadowing, which may give the JCG the capability to repel Chinese ships without having to use force.<sup>320</sup>

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<sup>310</sup> “Japan scramble jets in island dispute with China”, *The New York Times*, 13 December 2012.

<sup>311</sup> Crisis Group interview, Tokyo, October 2012.

<sup>312</sup> Tetsuo Kotani, “China’s Fortress Fleet-in-Being and its Implications for Japan’s Security”, *IFRI: Centre for Asian Studies* (February 2013), p. 24. Japanese analysts said most JCG vessels were built in the 1980s and before September 2012, very few had been replaced. One added, “China gave the Japan Coast Guard justification to expand”. Crisis Group interviews, Tokyo, October 2012. “Editorial: Govt must boost JCG power to control Senkaku Islands”, *The Yomiuri Shimbun*, 19 August 2012.

<sup>313</sup> According to Shuji Kondo, an official in the JCG’s budget office, the funds were the equivalent of \$181 million (¥17 billion) in new vessels, helicopters and equipment. “The race to beef up Japan’s Coast Guard”, *The Wall Street Journal*, 27 October 2012.

<sup>314</sup> “Budget to strengthen SDF in defence of Senkakus”, *The Asahi Shimbun*, 30 January 2013.

<sup>315</sup> By January 2013, four 1,000-ton class patrol vessels of the new force had begun construction under the reserve funds from 2012, with the remaining six to be constructed with funds from the new budget. “JCG to create 600-strong Senkaku unit”, *The Yomiuri Shimbun*, 30 January 2013; “Budget to strengthen SDF, Japan Coast Guard in defence of Senkakus”, *The Asahi Shimbun*, 30 January 2013.

<sup>316</sup> The Coast Guard Law was amended in 2012 to give the JCG the authority to arrest people who make an unapproved landing or conduct illegal activities in Japanese territory. Crisis Group interviews, Tokyo, October 2012. “Japan Coast Guard bill seeks more muscle for island dispute”, *The Wall Street Journal*, 16 August 2012.

<sup>317</sup> Crisis Group interview, Tokyo, October 2012.

<sup>318</sup> Crisis Group interview, Tokyo, October 2012.

<sup>319</sup> Crisis Group interview, Tokyo, October 2012.

<sup>320</sup> Another example is the “pincer move” in which it uses two vessels to stop a boat from either side. Crisis Group interview, Tokyo, October 2012.

Unlike its Chinese counterparts, the JCG has not demonstrated any desire to shape or get ahead of national foreign policy.<sup>321</sup> It was consulted only one week before the island purchase in September 2012, after the government had already made its decision, and was not enthusiastic about the plan.<sup>322</sup> It was also questioned in the Diet (parliament) following the 15 August 2012 activist landing incident to explain why it did not arrest the activists for obstruction.<sup>323</sup> However, as a frontline actor, it has the ability to shape information flow and influence the course of events. This was illustrated after the 2010 incident when a JCG guardsman uploaded a video of the collision against the government's decision, leading to a public uproar against the government for being too conciliatory toward China.<sup>324</sup>

#### E. *Failure of Joint Development*

With both legal and diplomatic means to settle the sovereignty dispute compromised, continued peace hinges upon effectively managing differences. Cooperation on joint resource management in the East China Sea while setting aside – but not renouncing – maritime claims could be a practical way to build mutual trust and reap tangible benefits. In addition to the sovereignty dispute over the islands, the two countries disagree over delineation of the EEZs. They have attempted to jointly develop resources, moving close to a deal in 2008. However, the agreement ultimately collapsed when China failed to overcome domestic nationalist opposition. In light of the tensions after the 2012 island purchase, another attempt at joint development appears further from reach.

The failure of joint development demonstrated the limits of the leaders' influence, the struggles of the foreign ministries and the ability of hardliners in China to derail the agreement. The unsettled delimitation in the East China Sea sparked several rounds of tensions as both sides accused the other of unilaterally drilling in disputed areas.<sup>325</sup> Despite confrontations, the two countries in June 2008 reached

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<sup>321</sup> The transport minister, whose ministry oversees the JCG, can give a directive to the commandant [the head] of the JCG but not the rest of the coast guard staff in order for the agency to be independent of political pressure. This provision only applies to the JCG, the police and public prosecutors offices. However, since the JCG also works in disputed areas, occasionally political decisions at the highest level are needed, hence the channel between the minister and the commandant. Crisis Group interview, Tokyo, October 2012.

<sup>322</sup> Crisis Group interview, Tokyo, October 2012.

<sup>323</sup> Crisis Group interview, Tokyo, October 2012.

<sup>324</sup> Guardsman Masaharu Isshiki, who uploaded the video on 4 November 2010, was arrested on the suspicion that he violated the National Public Service Law, and though he was not prosecuted, he was suspended by the JCG. Shelia Smith, "Japan and the East China Sea Dispute", *Foreign Policy Research Institute* (Summer 2012), pp. 378-379; "Coast guardsmen leak case ends next week", *The Japan Times*, 15 January 2011. Nearly 50 other JCG officers were investigated and reprimanded for their role in the leak. "Over 50 Coast Guard officials to be reprimanded for video leak", *The Wall Street Journal*, 20 December 2010. The discipline given to the JCG officer that leaked the video caused a public uproar and opened the government to attacks by opposition leaders for releasing the Chinese captain but pursuing legal action against Japanese coast guardsmen. This incident led the upper house to pass a no-confidence vote against Chief Cabinet Secretary Yoshito Sengoku and Transport Minister Sumio Mabuchi. "Sengoku refuses to be sunk by censure vote", *The Wall Street Journal*, 29 November 2010.

<sup>325</sup> See Xinjun Zhang, "Why the 2008 Sino-Japanese Consensus on the East China Sea Has Stalled: Good Faith and Reciprocity Considerations in Interim Measures Pending a Maritime Boundary Delimitation", *Ocean Development & International Law* (18 February 2011), pp. 53-

“principled consensus” to jointly develop resources in the sea, pending maritime delineation. This breakthrough was achieved through eleven rounds of bilateral consultations over three years and after mutual visits from top leaders.<sup>326</sup> Without affecting each country’s legal position on delimitation, the consensus stipulated that they jointly develop a block of about 2,600 sq km that straddles the median line in order to make the East China Sea “a sea of peace, cooperation and friendship”.<sup>327</sup> To implement the consensus, the two countries would have to “fulfil their respective domestic procedures” and finalise a bilateral treaty.<sup>328</sup>

According to a Japanese diplomat who participated in the negotiations, Japan was ready to sign an implementation treaty but the Chinese foreign ministry pulled back after it came under strong public criticism for “selling out” to Japan.<sup>329</sup> Because the block agreed for joint development sits astride the median line, part in the disputed area and part in the undisputed Chinese side, the consensus was seen by some in China as making too many concessions.<sup>330</sup> An activist group petitioned the National People’s Congress to repeal the consensus, saying it violated the Chinese constitution.<sup>331</sup> A Chinese scholar confirmed that public opposition was a significant factor in stalling the plan and he criticised the foreign ministry for making a hasty concession to “gild Hu Jintao’s visit to Japan”.<sup>332</sup> Others believe the then-head of the Chinese National Energy Administration – which would have been in charge of implementing joint development – Zhang Guobao, who speaks Japanese, was strongly opposed to the consensus, preventing a government working group from advancing the deal.<sup>333</sup>

High-level commitment to joint development seemed to have persisted for a while but failed to go beyond pledges. In May 2010, Wen and Hatoyama agreed in a meeting in Tokyo to launch negotiations on implementing the consensus.<sup>334</sup> But following the boat collision, China on 10 September cancelled negotiations scheduled to take place a few days after.<sup>335</sup>

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65. See also James Manicom, “Sino-Japanese Cooperation in the East China Sea: Limitations and Prospects”, *Contemporary Southeast Asia*, vol. 30, no. 3 (2008), pp. 455-478.

<sup>326</sup> Section V.A.1 “Challenges of Japan policymaking in China”.

<sup>327</sup> “China, Japan reach principled consensus on East China Sea issue”, Xinhua News Agency, 18 June 2008; “中日东海问题达成共识 专家即时解读”, *环球时报* [“China, Japan reach consensus on East China Sea issue, experts explain”, *The Global Times*], 19 June 2012.

<sup>328</sup> *Ibid.*

<sup>329</sup> Crisis Group interview, Tokyo, October 2012.

<sup>330</sup> Many online posts called it a document that “surrenders the country’s sovereignty rights under humiliating terms” and demanding that it be abolished. See for example, “杨芳州：再谈必须立即彻底废除‘东海共识’”, *共识网* [“Yang Fangzhou: ‘East China Sea consensus’ must be repealed immediately”, 21ccom.cn]; and “丧权辱国的东海共识!” 天涯社区 [“East China Sea Consensus humiliates the nation and forfeit its sovereignty!”, Tianya BBS], [www.tianya.cn/publicforum/content/worldlook/1/532128.shtml](http://www.tianya.cn/publicforum/content/worldlook/1/532128.shtml).

<sup>331</sup> “中日东海共识被指违宪 民间保钓联会上书人大 要求否决”, *明报* [“China Japan consensus on East China Sea is accused of being unconstitutional, civilian Diaoyu protection association wrote to NPC, demand veto”, *Ming Pao*], 11 October 2009.

<sup>332</sup> Crisis Group interview, Beijing, August 2012.

<sup>333</sup> Crisis Group interview Beijing, November 2012.

<sup>334</sup> “Wen Jiabao holds talks with Japanese Prime Minister Yukio Hatoyama”, press release, Chinese foreign ministry, 31 May 2010.

<sup>335</sup> “中方决定推迟第二次东海问题政府间谈判”, 中国新闻网 [“China postpones the second round of inter-governmental negotiation on East China Sea issue”, *Chinanews.com*], 11 September 2010.



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## VII. Risks of a Civilian or Military Clash

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With an increased number of vessels and aircraft patrolling in the disputed waters and air space, the possibility of an accidental clash has increased. Although so far both sides have refrained from taking actions to forcefully expel the other's law enforcement vessels around the Diaoyu/Senkaku Islands, a maritime collision could happen because of rough weather, low visibility, mechanical failures or miscalculations.<sup>336</sup> The lack of a mechanism to share and understand each other's intentions, protocols and bottom lines increases risks of misunderstanding. If an accident takes place, it could result in an armed skirmish, especially as JCG patrol vessels are armed with autocannons and certain Chinese law enforcement vessels are equipped with machine guns.<sup>337</sup>

If a collision or armed exchange occurs between law enforcement vessels, escalation and possibly military intervention cannot be ruled out, given the proximity of naval forces. Under Japanese domestic law, the SDF can be deployed for maritime security operations with the prime minister's approval.<sup>338</sup> What constitutes such a situation has not been clarified, though it has been invoked for incursions in Japan's territorial waters by foreign submarines and in anti-piracy operations.<sup>339</sup> Chinese laws are also unclear about when to call in the PLA Navy for reinforcement as official policies and laws on maritime security have yet to be fully developed.<sup>340</sup> The absence of clear legal standards could also reflect the PLA's aversion to having its hands tied by legal restrictions, as "the vaguer the law, the bigger the room to make achievements", said a Chinese maritime law expert.<sup>341</sup>

The risks are likely to be long-term, as both countries are determined to maintain their law enforcement presence in the disputed waters. As a Chinese analyst explained, China sees no need to back down as "now it's a matter of competing with comprehensive strength". He added, "China is not afraid of Japan on this front".<sup>342</sup> For its part, the Japanese side is committed to continuing to push back and, in the

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<sup>336</sup> When approaching one another, they flash electronic signs and demand through radio for the other side to leave. A high-level JCG official said Chinese ships flash their signs in both Chinese and Japanese, although the Japanese signs are "not very precise". He also said that the JCG has about 110 employees who speak Chinese. Crisis Group interviews, Beijing, September 2012; Tokyo, October 2012. Chinese vessels also typically exit the 12-nm zone before nightfall, when reduced visibility increases risks for accidents. Crisis Group interview, Beijing, December 2012.

<sup>337</sup> Crisis Group interview, Beijing, February 2013. A Chinese Fisheries cutter that entered service in 2010 was the first to be armed with a pair of 14.5mm machine guns. Lyle Goldstein, "China's approach to fisheries management", Testimony Submitted to the U.S. Congressional China Security and Economic Review Commission, 26 January 2012. JCG has 30-mm autocannons with reduced rotational speed in order to reduce power. Crisis Group email correspondence, March 2013. Crisis Group interview, Beijing, February 2013.

<sup>338</sup> "Defence of Japan 2012", Japanese defence ministry, 2012, p. 197.

<sup>339</sup> Japanese defence guidelines explicitly state that such an order from the prime minister can be issued if a foreign submarine is "navigating underwater in Japan's territorial waters", as was the case with a Chinese submarine on 10 November 2004. "Defence of Japan 2012", op. cit., p. 197. According to a Japanese maritime security analyst, if the coastguard cannot keep up with suspicious vessels that intrude into the territorial seas or if the suspicious vessels have more powerful weapons, an order for maritime security operations could be issued. Crisis Group interview, Tokyo, October 2012.

<sup>340</sup> Crisis Group interviews, Beijing, September-October 2012.

<sup>341</sup> Crisis Group interview, Beijing, October 2012.

<sup>342</sup> Crisis Group interview, Beijing, November 2012.

words of a former Japanese diplomat, is determined to “respond with strength” to see “which side will become exhausted first”.<sup>343</sup> Taiwan’s claim adds complexity and risks, as Taiwanese fishermen regularly sail into disputed waters and confront the JCG in order to affirm Taiwan’s claim.<sup>344</sup>

The risks for a military incident also exist in the air space above the East China Sea. On 13 December 2012, in the first direct military involvement after the island purchase, the SDF scrambled eight F-15 fighter jets in response to a China Marine Surveillance propeller aircraft conducting “sea-air 3-D patrol” together with a Marine Surveillance fleet.<sup>345</sup> On 19 January 2013, responding to a U.S. aircraft flying near the Japan-China median line in the East China Sea, China sent two J-10 fighters to tail it, triggering the Japanese ASDF to scramble its fighters.<sup>346</sup>

Military aerial encounters are far from isolated incidents.<sup>347</sup> Their overlapping EEZ claims in the East China Sea provide a source of friction. Japan has established its air defence identification zone (ADIZ), an area that it designates as sensitive to its national security, to the boundary of its claimed EEZ. When unidentified foreign planes enter the zone, the ASDF issues an order to scramble and its fighters can “issue warnings and force them to land” if they enter Japanese airspace.<sup>348</sup> China does not designate such a zone, but claims that it has the right to intercept foreign military flights in the airspace of its claimed EEZ, as they are said to pose a national security and “even electronic invasion” threat.<sup>349</sup> The unresolved maritime delineation in the East China Sea means one side’s patrols above its claimed EEZ can be seen as an infringement or potential threat by the other.

An unexpected aerial encounter carries a higher risk for incident than a maritime skirmish, due to the need for much faster decision-making and the attendant’s risk of a miscalculation.<sup>350</sup> A fighter pilot has more limited time to make manoeuvres to avoid a collision, and may have to interpret his rules of engagement and make decisions regarding his/her missions in defence of territorial integrity, in a much shorter timeframe than his maritime counterparts, meaning a situation could

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<sup>343</sup> Crisis Group interview, Beijing, November 2012.

<sup>344</sup> See Appendix B.

<sup>345</sup> “国家海洋局组织中国开展钓鱼岛海空立体巡航”，家海洋局网站 [“State Oceanic Administration organises sea and air 3D patrol on Diaoyu Islands”, State Oceanic Administration website], 13 December 2012. “Chinese airplane enters Japanese airspace over Senkakus for 1st time”, Kyodo News, 13 December 2012. Japan said it was the first time China violated its air space since monitoring of the area began in 1958. “China calls on Japan to halt entries into disputed waters”, Reuters, 13 December 2012. The Chinese flight exposed weaknesses in Japan’s aerial defence as the Marine Surveillance plane escaped SDF radar detection.

<sup>346</sup> “Japan, China scrambled fighters during Jan. 19 radar action”, *The Asahi Shimbun*, 6 February 2013.

<sup>347</sup> According to General Shigeru Iwasaki, the SDF joint chief of staff, SDF fighters were scrambled against Chinese aircraft approaching Japanese airspace 91 times between October and December 2012. “Japanese fighters scrambled 160 times to ward off Chinese planes April-Dec 2012”, Kyodo News, 24 January 2013.

<sup>348</sup> Richard C. Bush, *The Perils of Proximity*, op. cit. p. 68.

<sup>349</sup> 任筱锋, “专属经济区及海峡水道军事利用的法律问题”, 北大法律网 [Ren Youfeng, “Legal issues on military usage in EEZ and intra-coastal waterway”, *China Law Information* (online)], 2005.

<sup>350</sup> There are commonly used emergency or air distress frequencies for pilots to communicate through radio, as well as non-radio methods, such as internationally recognised manoeuvres that indicate emergency or degradation of equipment, or hand signals if within visual range of another plane. But when there are questions of intent, both sides need to know how specific signals will be interpreted by the other. Crisis Group email correspondence, January 2013.

develop faster than at sea, as the deadly 2001 EP-3 incident between the U.S. and China demonstrated.<sup>351</sup>

An accidental collision is not the only potential for escalation. Deliberate acts by frontline actors could also trigger an armed exchange. Chinese naval vessels reportedly twice locked weapons-targeting radars, which use radio waves to detect a target and direct weapons, at SDF targets in January 2013.<sup>352</sup> Such an act could be interpreted as “hostile intent” and trigger the use of force from the target.<sup>353</sup> China denied that such incidents took place.<sup>354</sup>

Frictions between the two militaries and risks for an armed incident did not begin with the island dispute and are unlikely to diminish soon. China’s naval modernisation comprises an emphasis on training and exercise, including in the East China Sea, in order to give the navy practical experience and to enhance combat readiness.<sup>355</sup> According to a Chinese analyst, PLA commanders do not see it necessary to communicate with their Japanese counterparts about such missions.<sup>356</sup> Japan observes these drills from what it describes as a “safe distance” that China often deems as too close.<sup>357</sup> A Japanese defence official said China takes “offence” at Japanese monitoring and sometimes acts proactively by flying

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<sup>351</sup> Crisis Group email correspondence, January 2013. On 1 April 2001, a Chinese F-8II collided with a U.S. reconnaissance EP-3 aircraft 105km south east of Hainan, resulting in the death of the pilot, Wang Wei, and the emergency landing of the U.S. aircraft on Hainan Island where the 24-member crew was detained for ten days. James Mulvenon, “Civil-Military Relations and the EP-3 Crisis: A Content Analysis”, *China Leadership Monitor*, no. 1 (Winter 2002), p. 2-3.

<sup>352</sup> “Extra press conference by Defence minister”, press release, Japanese defence ministry, 5 February 2013.

<sup>353</sup> “Hostile intent” is the threat of the imminent use of force. For more information, see “Rules of Engagement Handbook,” International Institute of Humanitarian Law, November 2009, Appendix 4 to Annex A.

<sup>354</sup> “日本舰机近距离跟踪监视是造成中日海空安全问题的根源”，新华社 [“Root cause of China-Japan sea and air security problems is close tailing and monitoring by Japanese vessels and planes”, Xinhua News Agency], 8 February 2013. A Chinese analyst with ties to the navy said radar painting was a decision that would be made by a frigate commander, but an order to fire would “have to come from way above”. China’s denial represents a tacit understanding that radar locking was a violation of international rules of engagement. Crisis Group interview, Beijing, February 2013.

<sup>355</sup> “East China Sea tension: China conducts naval exercise”, BBC, 19 October 2012; “China navy to carry out Pacific exercises”, BBC, 24 November 2011; “Chinese navy fleet completes largest-ever training in Pacific”, *Want China Times*, 25 June 2011; “PLA Navy’s live-ammunition training in East China Sea”, Xinhua News Agency, 7 July 2010. See also Richard C. Bush, *The Perils of Proximity*, op. cit., p. 54. Lyle Goldstein, “Non-Military Escalation: China Cultivates New Heft in Civilian Maritime Forces”, *The Jamestown Foundation: China Brief*, vol. 12, no. 23 (30 November 2012), p. 13.

<sup>356</sup> Crisis Group interview, Beijing, August 2012.

<sup>357</sup> Crisis Group interview, Tokyo, July 2011. There is no international norm against one country observing another country’s naval exercise on the high seas. The U.S. and Russia, for example, often watch each other’s drills. Crisis Group interview, March 2013.

close to SDF vessels.<sup>358</sup> The January 2013 alleged radar-painting incidents similarly followed observation by a Japanese unit of PLA Navy fleet exercises.<sup>359</sup>

More generally, China's rapid military modernisation has been fuelling suspicion in Japan about Chinese intentions.<sup>360</sup> Japan has boosted regional ties and focused on strengthening its own capabilities.<sup>361</sup> The cabinet in January 2013 requested from parliament a ¥40 billion (\$440 million) increase in the defence budget, the biggest increase in two decades and the first in eleven years.<sup>362</sup> The increase in military spending was calibrated to "ensure quick response capability" to "securely protect Japan's national land and territorial waters and airspace".<sup>363</sup> A former Japanese diplomat said, "it's the first time since the war that Japan awakened to see security so important".<sup>364</sup>

Stalled or abandoned efforts to establish military-to-military communications and maritime exchanges have prevented opportunities to lower mistrust and clear misunderstandings. A defence communication mechanism to prevent a maritime incident was first proposed in 2007 by Shinzo Abe and Wen Jiabao.<sup>365</sup> After several years of negotiation, some channels of the communications system were scheduled to begin operation by the end of 2012.<sup>366</sup> However, following the 2012 island purchase, talks were suspended and informal exchanges abolished.<sup>367</sup>

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<sup>358</sup> This happened in April 2010 and again in March 2011 in the East China Sea. Crisis Group interview, Tokyo, July 2011. "Japan protests over 'dangerous' China helicopter fly-by", BBC, 8 March 2011; "China denies helicopter flying too close to Japanese destroyer", Xinhua News Agency, 31 March 2011.

<sup>359</sup> Chinese state media reported that the PLA Navy North Sea Fleet began a live ammunition drill on 29 January 2013 in heavy fog. One of the frigates called *Yancheng* trained its radar on a Japanese destroyer the next day. "北海舰队联合机动编队破雾出征遭遇'猛张飞'", *中国军网*, ["North Sea Fleet drill through fog, met with 'intrepid Zhang Fei'", *PLA Daily* (online)], 6 February 2013. "日媒称中国舰船雷达'瞄准'日舰 双方当事舰机解读", 中国新闻网 ["Japanese media said Chinese frigate radar 'aimed' at Japanese ship, deciphering both parties' ships and planes", *Chinanews.com*], 6 February 2013.

<sup>360</sup> In its 2012 white paper, the Japanese defence ministry stated that China's military expansion and modernisation as well as its increased activities in surrounding waters, some near Japan, were a "matter of concern for the region and the international community". "Defense of Japan 2012", *op. cit.*, p. 28.

<sup>361</sup> "Japan's Abe turns to Southeast Asia to counter China", Reuters, 16 January 2013. Japan promised to give the Philippines patrol boats and communication equipment for help with surveillance in the South China Sea. "Philippines asks Japan for help amid China dispute", Associated Press, 10 January 2013. According to a Japanese analyst, a September 2011 agreement to strengthen maritime cooperation was designed to hedge against China. Crisis Group interview, Tokyo, October 2012.

<sup>362</sup> "Japan to boost military headcount amid China island row", Reuters, 27 January 2013.

<sup>363</sup> "Press conference with the Defence Minister", press release, Japanese defence ministry, 8 January 2013. "Defence budget to increase for first time in 11 years", Bloomberg, 30 January 2013.

<sup>364</sup> Crisis Group interview, Beijing, November 2012.

<sup>365</sup> "中日将加强防务联络机制 防止发生海上不测事态", 中国新闻网 ["China, Japan will strengthen defence communication mechanism to prevent maritime accidents", *Chinanews.com*], 11 April 2007.

<sup>366</sup> Between 2007 and June 2012, the two sides held three rounds of expert consultation, during which they "reached basic agreements on the objective, structure and method of communications, and discussed the overall framework and technical issues of such a mechanism". "中日防务部门海上联络机制第三轮专家组磋商在北京举行", 新华社, ["Third round of expert consultation on China-Japan defence communication mechanism was held in Beijing", Xinhua News Agency], 29 June 2012.

<sup>367</sup> "国防部就中日关系、多边军事交流等问题答记者问", 新华社 [Defence ministry answers journalists' questions on Sino-Japanese relationship and multilateral military exchanges], Xinhua

After the 2010 boat collision, both sides began to negotiate a separate communications mechanism that involved several layers including law enforcement agencies, militaries and foreign ministries.<sup>368</sup> They held a first round of talks in May 2012, involving the JCG meeting with Chinese law enforcement agencies, but the second round scheduled for the second half of 2012 in Japan was scuttled after the island purchase.<sup>369</sup> A high-level political agreement is required before ministerial or military-level talks can restart; this, Chinese analysts say, reduces the likelihood of a resumption of discussions.<sup>370</sup>

An incident, whether initiated deliberately or by miscalculation, would be very difficult to de-escalate. Both Chinese and Japanese frontline actors would have a monopoly over information; vested interests in emphasising the responsibility of the other side while exonerating its own; and would be influenced by ingrained beliefs about the other's intentions.<sup>371</sup> Top leaders therefore run the risk of receiving incomplete or inaccurate information that would encourage a certain response. Such a risk was demonstrated in the EP-3 incident.<sup>372</sup> China could fall into a "commitment trap", whereby the leadership issues ultimatums from which it can be difficult to walk back.<sup>373</sup> Its overall priority – foreign policy included – is maintaining domestic political stability and its own legitimacy, meaning that its leadership could easily feel compelled to take escalatory measures against Japan in the case of an armed skirmish rather than risk its legitimacy by appearing too soft.<sup>374</sup>

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News Agency, 25 October 2012. The Japanese think-tank The Nippon Foundation in October 2012 abolished a decades-old program of defence exchanges between the two countries' field officers after receiving a request from its Chinese counterpart to postpone the 2012 visits. "Nippon Foundation abolishes defence exchange program amid Japan-China row", Kyodo News, 19 October 2012. The exchange program had also been suspended after the September 2010 incident. "Japan-China military officer exchanges to resume", *The Asahi Shimbun*, 1 October 2011.

<sup>368</sup> "Japan-People's Republic of China summit meeting (summary)", press release, Japanese foreign ministry, 25 December 2011.

<sup>369</sup> "中日举行第一轮海洋事务高级别磋商" ["China-Japan met for first high-level maritime affairs discussion"], press release, Chinese foreign ministry, 16 May 2012. Crisis Group interview, Tokyo, October 2012. Japan has been urging China to return to such consultations.

<sup>370</sup> Crisis Group interview, Beijing, February 2013. David N. Griffiths, "Challenges in the Development of Military-to-Military Relationships" in Andrew S. Erikson, Lyle J. Goldstein and Nan Li (eds.), *China, the United States, and 21st Century Power: Defining a Maritime Security Partnership* (Annapolis, 2010), p. 45.

<sup>371</sup> Richard C. Bush, "China-Japan Security Relations", Brookings (October 2010), pp. 3-5.

<sup>372</sup> The Chinese version, reportedly provided by the PLA to the top leaders, was that the EP-3, a large propeller driven aircraft, suddenly veered and collided with the Chinese F-8II plane. The U.S. said that the pilot, Wang Wei, flew dangerously close to the EP-3 and later provided video evidence of previous incidents of Wang flying provocatively close to U.S. aircrafts. Washington also asserted its plane was slow and very large, thus making it unlikely to have performed the quick maneuver as described by China. James Mulvenon, op. cit., pp. 2-3.

<sup>373</sup> Michael D. Swaine, "Chinese Crisis Management: Framework for Analysis, Tentative Observations, and Questions for the Future" in Andrew Scobell and Larry W. Wortzel (eds.), *Chinese National Security Decisionmaking Under Stress* (Carlisle, 2005), p. 32.

<sup>374</sup> Linda Jakobson, "China's Foreign Policy Dilemma", op. cit., pp. 4-5.

## VIII. Conclusion

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The disputed waters around the Diaoyu/Senkaku Islands have been the scene of a volatile standoff since September 2012. Taking advantage of a move by the Japanese government to purchase three of the disputed islands, China began regularly dispatching law enforcement vessels to the area in a bid to establish overlapping administration. The Chinese response continued a tactic that Beijing has used in other maritime disputes; termed “reactive assertiveness”, it uses an action by a rival claimant as an opportunity to change the facts on the ground in its favour. In each case, Beijing intends to irreversibly establish a new status quo that enhances its administration over disputed areas. In the Diaoyu/Senkaku Islands dispute, Beijing has made it clear that it aims to make overlapping control a new reality that Japan must accept. The prolonged standoff has reinforced hostile public perceptions and popularised the notion that an armed clash could erupt.

However, both governments have, at least publicly, expressed the desire to avoid a military conflict and to mend bilateral relations. Additionally, negotiations on a China-Japan-South Korea free trade agreement continue uninterrupted, demonstrating mutual desire for robust economic ties. Economic growth continues to be a focus of Chinese leaders and an important national goal for Japan. The complementary economic relationship between the two countries can continue to be a point of stability in an otherwise unpredictable relationship.

Yet despite the two sides’ stated desire to avoid armed conflict, an increased number of vessels now patrol in close proximity in disputed waters, heightening the risk of an accidental clash. The risks are palpable, and the China-Japan dynamic remains one incident away from moving from dangerous escalation to full-blown crisis. The danger is not confined to seas around the Diaoyu/Senkaku Islands, with the international waters and air space in the East China Sea also theatres of friction. Stalled efforts to establish military-to-military communications and maritime exchanges have prevented opportunities to lower mistrust, clear misunderstanding and open channels of communication.

An incident, whether deliberate or by miscalculation, would be difficult to de-escalate. The traditional problem-solving and back-channel mechanisms that operated for decades have disappeared. Chinese and Japanese maritime or military actors would have a monopoly over information and a vested interest in accusing the other side. Top leaders thus would run the risk of receiving incomplete or inaccurate information that could influence their response. The asymmetrical position of the respective foreign ministries leaves them unlikely to be able to help defuse a crisis. Heightened nationalism, especially in China, could make diplomatic manoeuvres that are necessary for crisis mitigation politically perilous.

As a first step toward demonstrating a genuine intention to preserve peace, escalatory actions and aggressive rhetoric should cease. Given that a peaceful resolution to the sovereignty dispute is not immediately attainable, managing the dispute remains the most viable option. High-level diplomats from both countries have occasionally urged negotiations on crisis management mechanisms and top leaders need to provide the political space for behind-the-scenes diplomacy to focus on such talks. The shared desire to avoid a military conflict and complementary economic ties offer substantive incentive and common ground for the world’s second and third largest economies to engage in meaningful contact with each other.

Appendix A: Map of the East China Sea



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## Appendix B: Republic of China (Taiwan)'s Claim to the Islands

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The Republic of China (Taiwan) is another claimant to the Diaoyu/Senkaku Islands, which it calls the Diaoyutai. Its claim is based on the same historical title as the People's Republic of China (China), and states the islands were returned to Taiwan after the Second World War.<sup>375</sup> As tensions between China and Japan heated up in 2012, Taiwanese President Ma Ying-jeou announced a five-point East China Sea Peace Initiative proposal that August.<sup>376</sup> After Japan purchased the islands in September, approximately 40 Taiwanese fishing boats travelled to the islands to assert Taiwan's claim, escorted by ten Taiwan Coast Guard Administration (TCGA) vessels. TCGA and Japan Coast Guard cutters fired water cannons at each other.<sup>377</sup> Taiwanese Premier Jiang Yi-huah later instructed the TCGA to escort all Taiwanese fishermen operating around the islands.<sup>378</sup> In January 2013, Taiwanese activists travelled near the islands but were prevented from landing by the JCG.<sup>379</sup> After the incident, the Taiwanese foreign ministry said it did not want the dispute to damage relations with Japan.<sup>380</sup> It has also said that Taiwan will not align with the Mainland over discussions on the island dispute.<sup>381</sup>

Apart from the sovereignty dispute, fishing rights around the islands have been a source of contention between Taiwan and Japan. Taiwanese fishermen contend they have traditionally fished in the waters near the islands, but are often chased away by Japanese vessels. The two sides have been negotiating on a formal agreement for fishing rights since 1996. Taipei and Tokyo have held sixteen rounds of negotiations, the last of which took place in 2009. Preparatory meetings for the seventeenth round were held in November 2012 and March 2013 in Tokyo. No substantial progress was reported.<sup>382</sup>

China considers Taiwan a province, a stance that Japan states it "fully understands and respects".<sup>383</sup>

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<sup>375</sup> For Taiwan's full legal position, see "The Diaoyutai Islands An Inherent Part of the Territory of the Republic of China (Taiwan)", press release, Taiwanese foreign ministry, 9 April 2012.

<sup>376</sup> The East China Sea Peace Initiative includes: (1) refrain from taking any antagonistic actions; (2) shelve controversies and not abandon dialogue; (3) observe international law and resolve disputes through peaceful means; (4) seek consensus on a code of conduct in the East China Sea; (5) establish a mechanism for cooperation on exploring and developing resources in the East China Sea. "President Ma proposes the East China Sea Peace Initiative, calls on all parties concerned to resolve Diaoyutai dispute peacefully", press release, Taiwanese foreign ministry, 5 August 2012.

<sup>377</sup> "Local, Japan vessels clash off Diaoyutais", *The China Post*, 25 September 2012; "Japan, Taiwan in disputed isle water cannon duel", Agence France-Presse, 25 September 2012.

<sup>378</sup> "Cabinet, CGA safeguard Diaoyutai fishing rights", *Taiwan Today*, 22 February 2013

<sup>379</sup> "Japan turns Taiwan activists back from disputed islands", BBC, 24 January 2013.

<sup>380</sup> "Diaoyutai voyage should not affect fishery talks: MOFA", Central News Agency, 24 January 2013.

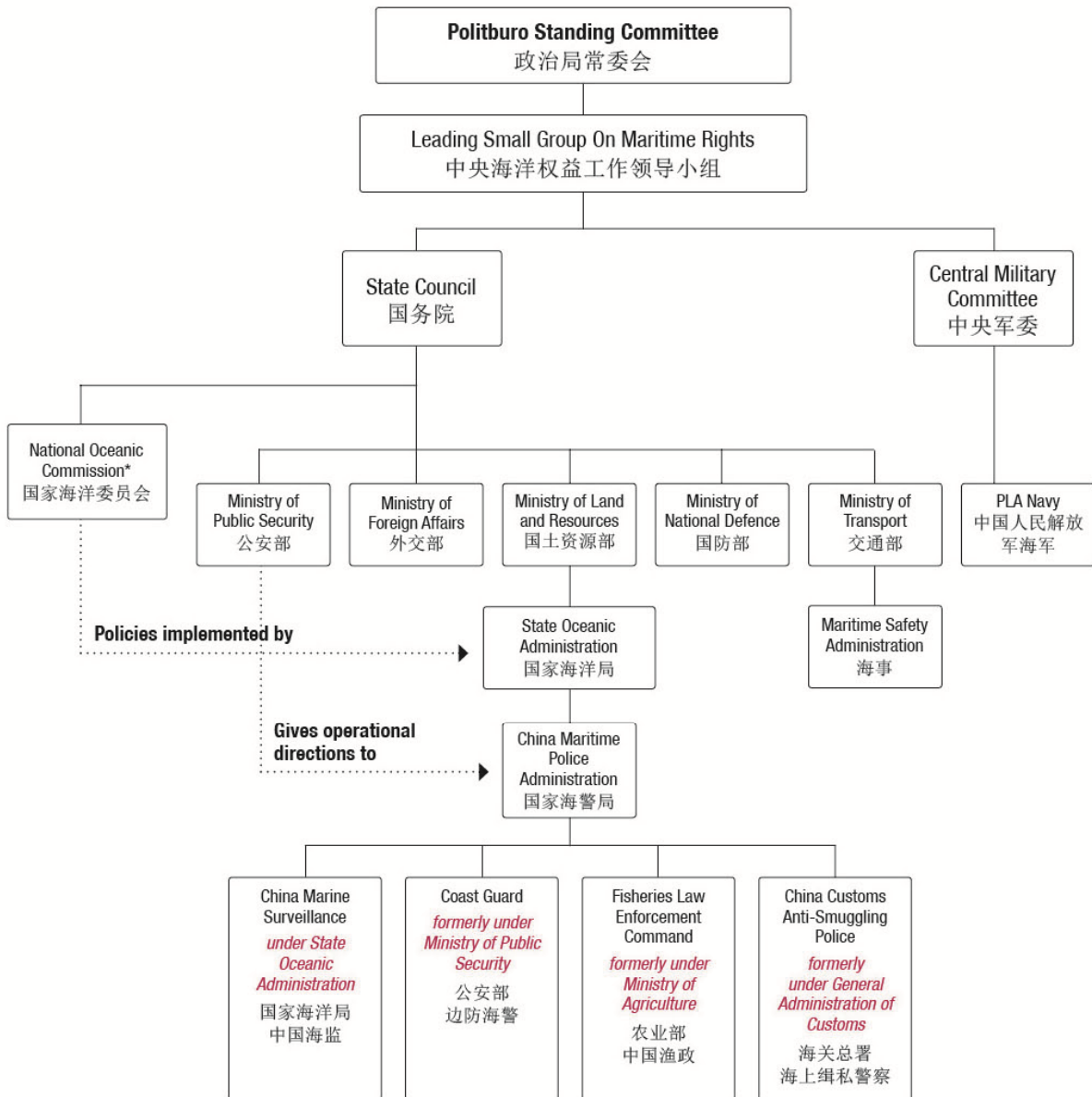
<sup>381</sup> "Taiwan insists it will not collaborate with China on the Diaoyutais", Central News Agency, 19 February 2013.

<sup>382</sup> "Taiwan still negotiating with Japan on expanded fishing rights", Central News Agency, 20 March 2013.

<sup>383</sup> "Joint Communiqué of the Government of Japan and the Government of the People's Republic of China", Article 3, 29 September 1972.



Appendix C: China's Maritime Law Enforcement Agencies



\* The National Oceanic Commission was established in March 2013 to formulate China's first comprehensive maritime strategy on safeguarding maritime rights, developing the maritime economy and projecting naval capabilities. It will also coordinate among agencies that have maritime responsibilities and jurisdiction. Maritime strategies will be implemented by the State Oceanic Administration.

## Appendix D: About the International Crisis Group

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Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

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