

# QUEST FOR PEACE IN THE PACIFIC

Jayantha Dhanapala assesses the geopolitical shifts and tensions in the East Asian region

As the focal point of global political and economic power shifts to the Asia-Pacific region and the US feels constrained to pivot its strategic forces from the Atlantic to the Pacific, the relationship among major East Asian countries acquires critical importance. Residual Cold War disputes across the Atlantic are likely to be replaced by Pacific Ocean tensions in the coming years, spurring a regional arms race unless recourse to the International Court of Justice (ICJ) and the UN Convention on the Law of the Sea (UNCLOS) mechanisms defuse them without further delay.

The re-emergence of Shinzo Abe as Prime Minister of the revitalised Liberal Democratic Party in Japan's recent polls and the election of Park Geun-hye (daughter of the former South Korean dictator Park) as President of South Korea, signifies the return of nationalist right-wing political forces at the helm of two important East Asian countries.

Historical memories of Japanese imperialism are still raw with the Chinese and Koreans, especially since extreme right-wing groups in Japan show no signs of apologising for past misdeeds. Indeed, the obeisance to World War II heroes of Japan at the Yasukuni Shrine and history textbooks with nationalist biases in Japan continue to cause strong reactions in



China and Korea. To add to these historical hostilities are the new disputes over islands in the South and East China Seas affecting not only China and Japan, but also the two Koreas, the Philippines, Taiwan and other ASEAN countries.

To complicate matters, Japanese right-wing extremists acquired some of the disputed islands, forcing the previous

Japanese Government to intervene by buying the islands – ostensibly to stabilise the situation, but without satisfying China.

**ISLANDS IN DISPUTE** There are two groups of disputed islands, but all of them are uninhabited, rocky and barren outcrops sitting atop reportedly huge deposits of oil and gas. In the first group are the South China Sea Islands

consisting of over 250 islands, many of which are naturally under water at high tide and some of which are permanently submerged.

According to Wikipedia, they are grouped as follows: Spratly Islands – disputed among China, Taiwan and Vietnam, with Malaysia, Brunei and the Philippines claiming part of the archipelago; Paracel Islands –

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**CASE IN POINT** Filipino residents and municipal employees recite their oath of allegiance to the country – Thitu Island (which is part of the disputed Spratly Islands, in the South China Sea, located off the coast of western Philippines) in July 2011. Philippine lawmakers flew to an island in the disputed Spratly chain, despite warnings from China that the trip would destabilise the region and damage ties.

disputed among China, Taiwan and Vietnam; Pratas Islands – disputed between China and Taiwan; Macclesfield Bank – disputed among China, Taiwan, the Philippines and Vietnam; and Scarborough Shoal – disputed among China, the Philippines and Taiwan.

China appears to have created problems within ASEAN at the July 2012 ASEAN Summit, with pro-Chinese host Cambodia urging all not to internationalise the

islands issue despite the Philippine's insistence. The result was there being no consensus over a final document. In response to a submission by Vietnam and Malaysia, informing the United Nations of the demarcation of their continental shelf boundary, China reiterated its territorial claims and submitted a map with nine dash lines enclosing most of the South China Sea. This was the first time the map was circulated as a UN

document, although it was based on a 1947 Kuomintang Government map. The Chinese move unsettled several ASEAN states, especially the Philippines, Vietnam, Malaysia and Brunei, which have competing claims.

The second group is in the East China Sea, where the main dispute is over the Diaoyu Islands or Senkaku Islands between Japan and China. China, Japan and South Korea also contest the extent of their Exclusive Economic

Zone (EEZ) under the UNCLOS. Islands occupied by South Korea – known as Dokdo in South Korea and Takeshima in Japan, and situated in rich fishing grounds – are also disputed, and a visit by the South Korean President to them last year created tension. A visit by an envoy of the new Japanese Government to Seoul as a fence-mending exercise is a good start.

The dispute between China and Japan concerns the different application of the

1982 UNCLOS, which both nations have ratified. China proposed the application of UNCLOS considering the natural prolongation of its continental shelf. Japan, based on UNCLOS, proposed the median line division of the EEZ.

Interestingly, the claims of both China and Taiwan coincide. Taiwan is not recognised as a state by the overwhelming majority that recognise the People's Republic of China, but the claims are seen as being common to both based on their historical records.

Under UNCLOS, China claims the disputed ocean territory as its EEZ due to it being part of the natural extension of its continental shelf, while Japan claims the disputed ocean territory as its EEZ because it is within 200 nautical miles (370 km) of Japan's coast and proposed a median line as the boundary between the EEZ of China and Japan.

About 40,000 square kilometres of EEZ are in dispute. China and Japan both claim 200 nautical miles of EEZ rights, but the East China Sea width is only 360 nautical miles.

China claims an EEZ extending to the eastern end of the Chinese continental shelf (based on UNCLOS

III), which goes deep into the Japanese-claimed EEZ.

In 1995, China discovered an undersea field of natural gas – the Chunxiao gas field – in the East China Sea which lies within the EEZ of China, while Japan believes it is connected to other reserves beyond the median line. In June 2008, both countries agreed to jointly develop the Chunxiao gas field.

The dispute between China and South Korea concerns Socotra Rock – a submerged reef on which South Korea has constructed a scientific research station. While neither country claims the rock as territory, China objects to Korean activity there as a breach of its EEZ rights.

**POSSIBLE SOLUTIONS** An entire Chapter (Chapter VI) in the UN Charter is devoted to the Pacific Settlement of Disputes, the first paragraph of which states: "The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall first of all seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their own choice."

In this context, there are two main avenues open to the disputants to settle these contesting claims peacefully. Where continental shelf claims are involved, UNCLOS exists as a mechanism for dispute settlement. The ratification of UNCLOS by China, Japan and others place all the countries within the jurisdiction of this UN convention.

The relevant Article 76 (8) of UNCLOS is very explicit: "Information on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured shall be submitted by the coastal State to the Commission on the Limits of the Continental Shelf set up under Annex II on the basis of equitable geographical representation. The Commission shall make recommendations to coastal States on matters related to the establishment of the outer limits of their continental shelf. The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding."

A BBC report dated December 2012 states: "China has submitted to the UN a detailed explanation of its claims to a disputed area

of the East China Sea. It argues that certain geological features prove its territory extends out to a group of islands near Japan. A UN commission of geological experts will examine China's submission but does not have the authority to resolve conflicting claims." That is an encouraging sign of pragmatism on the part of the new Chinese leadership which should be reciprocated by others.

It is also possible for the disputants to go to the International Court of Justice in The Hague, as many other countries have done. Finally, diplomatic discussions can also resolve disputes but the current state of relations among countries in the region are not conducive. As a major power, like India vis-à-vis its South Asian neighbours, China would like to deal with countries bilaterally. However in 2002, a code of conduct was agreed on within ASEAN with regard to the disputed islands and it is in everyone's interest that this should be observed.

What will certainly exacerbate matters is if the US tries to intervene, either because of its treaty with Japan or out of strategic imperatives to support ASEAN and 'contain' the rising power of China.