

**China and the UNCLOS: The Legal Status of
China's Claimed Area in the East China Sea
and Its Implications among the East Asian
Countries**

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Abstract

The United Nations Convention on the Law of the Sea(UNCLOS) sets out the legal framework applicable in demarcating the Maritime areas and activities in the oceans. However, since a couple of decades, the discovery of natural resources and national security concerns have made some countries to interpret the laws of convention based on their national interest and have resulted in overlapping claims and hostile situation. East China Sea is one of the hotspots for such claim, like Japan draws straight baseline for demarcating its maritime zones and China claims the major part of China seas on a historical basis. The overlapping maritime claims and hostile situation have resulted in military build-up in East China Sea, which is a matter of concern for the global community because China Sea is one of the mainstream sea route for the maritime transportation. Since, UNCLOS is an outcome of collaborated efforts of all the members countries. It is incumbent for all parties to reach an agreement and methods for an amicable solution based on International law and norms for the resolution of the maritime issues in the east China sea.

Keywords: East China Sea, UNCLOS, Law of the Sea, Senkaku, Diaoyu Dao

Introduction

The United Nations Convention on the Law of the Sea (UNCLOS) sets out the legal framework applicable in demarcating the Maritime areas and activities in the oceans. UNCLOS notes, “The codification and progressive development of the law of the sea are aimed to strengthen the peace, security, cooperation and friendly relations among all nations in conformity with the principles of justice and equal rights”. There are 168 nations as of 2016, who have signed and ratified UNCLOS. Gupta Sourabh (2018) argues, the jurisprudence and legal text of UNCLOS is compiled after political compromises of the participating sovereign states, which have resulted in unclarity in its approach towards solving the maritime issues. UNCLOS permits a littoral state to claim,

“12 nautical miles of Territorial Sea, 24 nautical miles of Contiguous Zone, 200 nautical miles of Exclusive Economic Zone (EEZ) and up to 350 Nautical miles of Extended Economic Zone from its baseline, under the jurisdiction of littoral states, beyond 350 nautical miles is assigned as International water”.

The above-mentioned area of jurisdiction in UNCLOS has created policy issues among the neighbouring country of East China Sea (ECS). The geography of ECS does not allow any of the littoral states to claim the prescribed EEZ and continental shelf areas, because the maximum stretch of East China Sea is below 400 nautical miles. In the ECS, the claims of EEZ of all three states China, Japan, and Korea overlap at a tri-junction which have resulted in more confusion than clarity in defining maritime borders, and sovereign zones among the littoral states.

In recent years, the Chinese government has been strategically implementing domestic laws to exert influence over disputed maritime zones. The competing claims and interpretation of the convention, based on one’s national interest over the East China Sea (ECS) are unable to define the jurisdiction area and delimitation of Exclusive Economic Zone (EEZ) as defined by UNCLOS. Furthermore, China also establishes claim on historical basis. Liu Dan (2018), a Chinese Scholar, argues that historically China has controlled the Diaoyu Islands and it was part of Chinese coastal defence of the Ming and Qing dynasty. In first Sino-Japanese War

(1894-1895), China lost the war and forced to sign Shimonoseki treaty, in which Qing court was forced to cede the island of Formosa (Taiwan), together with islands (Diaoyu, Penghu) appertaining or belonging to the said island of Formosa to Japan. Liu Dan (2018) further reports,

“The Supreme Commander of the Allied Powers Instruction (SCAPIN) No. 677 of 1946 defined Japan’s administration power to include the four main island (Hokkaido, Honshu, Kyushu and Shikoku) and the approximately 1,000 adjacent islands, including the Tsushima Islands and Ryukyu (Nansei) Islands north of 30 degrees north latitude. The Diaoyu Islands, lying within 25°40’ – 26°00’ of north latitude, were clearly not included into the regime defined by SCAPIN No. 677.”

Contrary to China’s historical claim, The Ministry of Foreign Affairs of Japan notes that from 1885, Japan conducted surveys of Senkaku Islands through the agencies of Okinawa prefecture. The surveys confirm that the Senkaku Islands had been uninhabited and they did not find any evidence proving the existence of Qing court control over those places. On 14 January 1895, in accordance with internationally accepted law (terra nullius), the Government of Japan erected markers on the islands to formally incorporate the Senkaku Islands into the territory of Japan. Ministry of Foreign Affairs of Japan further claims,

“The Senkaku Islands were not included in the territory which Japan renounced under Article 2 of the San Francisco Peace Treaty of 1951 that legally defined the territory of Japan after World War II. Under Article 3 of the treaty, the islands were placed under the administration of the United States as part of the Nansei Shoto Islands. The Senkaku Islands are included in the areas whose administrative rights were reverted to Japan in accordance with the Agreement between Japan and the United States of America Concerning the Ryukyu Islands and the Diaoyu Islands that entered into force in 1972.”

Wood (2021) describes the customary law under which a state gains the controls of inhabited islands under terra nullius is as,

nationality, different zones of the sea, and states responsibility and duty with an aim to strengthen the peace, security, and cooperation among the neighboring littoral states and create a secure transportation route for the global benefits. Further, the nomenclature and definition help in concluding the agreements within a wide range of scope for the delimitation of maritime borders among the states.

The bordering countries of the East China Sea, South Korea, China, and Japan have ratified the UNCLOS in 1996. The whetted appetite for maximum demands and claims makes the claimant countries define their exclusive economy, in keeping in view the economic, strategic, and geopolitical interests of their own, which have led to conflicting claims in the East China Sea and have resulted in sovereignty issues for other countries.

Each and every country's perception of laws and regulations are characterised by their geographical, political and social conditions, which makes the law of a country distinct from the other. Since, UNCLOS has been drafted in keeping the global perspective, and at some places does not clearly define the course of action and have resulted in vagueness in its definition which further makes it prone to be exploited by the vested interest parties for their own gain and benefit. Many issues like Senkaku/Diaoyu Islands sovereignty issues, Ieodo reef issue, and Spratly Islands issues are vivid examples.

The sovereignty issues over the Senkaku/Diaoyu Islands are the main contentious issues between Japan and China. Many Coastal states, in order to gain an advantage, and extend the maritime jurisdiction, resorts to the faulty demarcation of the baseline. Demarcation of the baseline is one of the main challenges before the international body because a faulty baseline gives affects maritime zones. As per UNCLOS, the baseline is the line from which the maritime zone or the outer limits of the territorial sea and other coastal zones like territorial water, contiguous zone, exclusive economic zone, and continental shelf are measured and defined. The usage right of the area inward the baseline is solely possessed by the coastal state but the outward maritime area (seaward) from the baseline can be used by the foreign nations for peaceful purposes. Coastal states are in the practice of extending the baseline seaward by giving conflicting interpretations of UNCLOS. UNCLOS defines two types of baselines, the normal baseline, and the straight baseline. Article 5 states, "The normal baseline for measuring

the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal state". Article 7 defines the conditionalities of straight baselines. It notes exceptional geographical conditions like deeply indented and cut into the coast, the presence of islands in the immediate vicinity, unstable coastline because of the presence of delta and other geographical conditions. It further gives conditionalities like, "Drawing of the straight baseline must not depart to any appreciable extent from the general direction of the coast and sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters". If a nation/state meets the criteria prescribed, their straight baseline is drawn. Many East Asian countries to gain advantage an extended maritime claim, give a contradictory interpretation of UNCLOS and claim a straight baseline, even where they do not meet with criteria of straight baselines which have resulted in maritime disputes because a faulty baseline creates maritime boundary issues. Office of Ocean Affairs USA (1998) notes,

"Japan in many locations do not comply with the UNCLOS regulation while drawing of the straight baseline because the most part, the waters enclosed by the new straight baseline system do not have a close relationship with the land, but rather reflect the characteristics of the territorial sea or high seas".

Reinhard et al. (2018) notes, that China terms the western part of Okinawa a 'trough' and does not validate it as a baseline for demarcating the maritime boundary, on the other hand Japan argues Okinawa as its baseline for demarcation of the maritime boundary and proposes the median line (equidistance line) accordingly. China proposes to apply the natural prolongation of the Continental Shelf principle of having a longest continuous coast, in this case, the interpretation of equidistance or median line would be in favor of China because in this interpretation Senkaku/Diaoyu Islands would fall within the area of China's claimed continental shelf, and establish the sovereign claim over the islands.

Article 15 of UNCLOS gives detailed notes about the method for demarcating the median line between the states with opposite or adjacent coasts. Article 15 States,

“Where the coasts of two states are opposite or adjacent to each other, neither of the two states is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two states is measured. The above provision does not apply, however, where it is necessary because of historic title or other special circumstances to delimit the territorial seas of the two states in a way which is at variance therewith”.

Article 59 of UNCLOS describes the mechanism of solving the dispute in ‘exclusive economic zone’ based on equity measure and interests of the contested parties. It notes,

“Conflicts arise in exclusive economic zones regarding the interests of coastal states and any other states, then conflict should be resolved on the basis of equity and in the light of relevant circumstances, resolution of disputes should be in accordance with prescribed norms, taking into account the interest of the parties and international community”.

Article 74 of UNCLOS gives details about the delimitation of the EEZ between states with opposite or adjacent coasts. Para 1 of the Article notes, “The delimitation of EEZ between states shall be effected by agreement based on international law, as referred to in Article 38 of the statute of the International Court of Justice, to achieve an equitable solution”. Para 4 further notes, “Where there is an agreement in force between the States concerned, questions relating to the delimitation of the exclusive economic zone shall be determined by the provisions of that agreement”. Article 76 defines the continental shelf, Para 6 notes, “Notwithstanding the provisions of paragraph 5, on submarine ridges, the outer limit of the continental shelf shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured”. Since all the three countries China, Korea, and Japan have opposite or adjacent coasts and a limited stretch (less than 400 nm) of the East China Sea, have become one of the contentious issues between the states because of overlapping territorial and sovereign claims.



Pic. 4. Diaoyu/Senkaku Island Distance from China, Taiwan, and Japan

Source: Ministry of Foreign Affairs Japan 2012

Reinhard Drifte(2018)notes,

“Uncertainty prevails in defining the continental shelf according to Article 76 of UNCLOS, no agreement has been reached between China and Japan for defining the continental shelf (CS). Since 2004, Japan has been pitching for negotiations of the zone up to 200 nautical miles according to Article 76 of UNCLOS until a final agreement is reached but China is adamant to not only a 200 nm EEZ, but an extended CS zone up to the Okinawa trough”.

Reinhard (2018) further notes about activities initiated by China in the East China Sea as per the n proposed ‘median line’.

“Since the 1990s, China, as per Japan’s proposed median line, has proceeded with exploration and exploitation of oil and gas reserves on its side. China claims the area of exploration and exploitation of oil and gas is clearly within her EEZ despite the lack of an agreement with either Japan and South Korea. Japan even provides loans through the Asian Development Bank (ADB) and directly through its Export-Import Bank for two oil and gas pipelines linking these fields to China’s coast”.

South Korea, a littoral state, has maritime issues with both China and Japan. PRC and South Korea also have overlapping claims of EEZ and submerged features (Jeodo Island). Terence Roehrig (2012) notes, “Disputed reef in East China Sea, called Jeodo by the Korean side and Suyan Rock by the Chinese”. Korea claims the reef is on its continental shelf (CS), and China also a claimant that the reef is on natural prolongation of its continental shelf. The Republic of Korea president, in 1952 drew a maritime ‘peace line’ and included the Jeodo under Korea administrative control. Terence Roehrig (2012) further notes, “In 2003, South Korea for research purposes and data collection built the Jeodo Ocean Research Station on the Jeodo reef”. South Korea claims, Article 60 and 80 of UNCLOS permits building research facilities, and construction of artificial islands and structures in one’s EEZ or CS. China challenged the South Korea claim, and in July 2011, sent three patrol ships to the reef and in December 2011 again, sent patrol ships to support its territorial claim on the reef. In November 2013, installed ADIZ, and Jeodo reef was included in China’s ADIZ, and in retaliation South Korea also extended the range of its ADIZ southward (Terence Roehrig 2015: 101). Gordon Houlden and Nong Hong (2018) notes about the Jeodo contention and states, “The contention prevails even today and both sides claim EEZ jurisdiction and deploys their coast guard vessels in the area”.

China is a signatory country of UNCLOS and it is bound by the UNCLOS regulations. Even though, China terms the maritime issues of China sea a bilateral issues and invokes UNCLOS Article 298 for the non-participation in proceeding at the permanent court of arbitration filed by Philippines regarding ‘South China Sea’. The clause for the non-participation in arbitration has been mentioned in Sub Para (a) (i) of Article 298 is, “Dispute concerning the interpretation or application of article 15, 74 and 83 relating to sea boundary delimitations, or those involving historic bays or titles, provided that a state has made such a declaration”. Further UNCLOS Article 299 notes, “The disputes excluded under article 297 and 298 can be submitted to procedures only by agreement of the parties to the dispute”

Since, Article 299 notes that proceeding for the dispute resolution, for the matter under Article 297 and Article 298 can be submitted to procedures only by agreements of the parties to the dispute, but even after declaration of 2006 and invoking the Article 298, ‘Hague-based Permanent Court of Arbitration’ continued the proceeding of the ‘South China Sea Arbitration’, and ruled against China. The Hague-based Permanent Court of Arbitration (PCA) Tribunal, on

12 July 2016, awarded a ruling on “The South China Sea Arbitration between The Republic of the Philippines v. The People’s Republic of China”. The ruling notes, “The award is final and binding, as set out in Article 296 of the convention and Article 11 of annex VII”. The Tribunal notes that it has jurisdiction, under which it can consider the South China Sea dispute, concerning historic rights and maritime entitlements. The Tribunal concluded that China historic rights under the claimed areas of ‘Nine-Dash Line’ were extinguished to the extent they were incompatible with the exclusive economic zone provided for in the convention.(Permanent Court of Arbitration, Press Release: 2016). The Ministry of foreign Affairs of People Republic of China reported, “Any verdict by the Arbitral Tribunal on the South China Sea will be of no legal validity, simply because the related parties have not all entered into an agreement to authorise the Hague-based arbitration body as a go between the dispute”.

The peaceful resolution of the China sea dispute is a requirement of the time. China emphasises on bilateral means of negotiations for the resolution of maritime disputes. The bilateral negotiation is to find quid pro quo, not winning a war/battle for the purpose of amicable resolution of disputes. China gives the example of Pakistan, Russia, Kazakhstan, Kyrgyzstan, Nepal with whom it has resolved its territorial dispute through bilateral agreements and negotiations. On the contrary, the smaller states of East Asia are apprehensive about China’s intentions and give more emphasis on arbitration over agreement and negotiation for the resolution of disputes. Moreover, UNCLOS emphasises ‘agreement’ and ‘negotiation’ for the settlement of maritime border issues among the contestant countries based on international law’, as referred in Article 38 of the statute.

The contemporary situation in the China sea makes it less likely to resolve the maritime dispute because the contestant countries interpret the law in keeping the geopolitics and geo-strategy coupled with economic benefits. Barthelemy Courtmount (2018) quotes Japanese Prime Minister Yoshihiko Noda (2011) concern of the East Asian Countries, “China’s rapid military build-up and expansion of the range of its military activities, coupled with a lack of transparency of its strategic intentions, are a cause of concern for Japan and the whole region”. The lack of transparency in one’s claim, increasing security concerns, and the establishment of dominance through one’s military might have led to a tense situation in China sea. The disputes in China sea are seemingly more difficult to resolve than other regions. Barthelemy further

states, “if it is the case, shall we interpret these disputes as the demonstration of the existence of an East Asian security Knot?”.

China’s Domestic Law and Its Implications in China Sea

China, to assert its claim implies a new strategic communication mechanism and using the term ‘a new type of great power relationship’ as a tool to averse the discourse and plays the role of big brother in the East Asian region. Richard Pearson (2014) notes, “China’s new strategic communication tool is also aimed towards US policy for discouraging the American foreign policy community from deliberating on risk-accompanying measures directed against China”.

China, on 22 January 2021, adopted Coast Guard Law (CGL), which came into effect on 1 February 2021. The new Coast Guard Law has been adopted with an aim to establish dominance over the East and South China Sea. China states that the Coast Guard Law is formulated with the purpose of safeguarding national sovereignty, security and maritime rights and interest. Under new Coast Guard Law, coast guard along with armed forces in collaboration with coast guard agencies are authorised to perform the work of law enforcement and protection of China’s maritime rights. The new Coast Guard Law creates an ‘area of jurisdiction’ without distinguishing the maritime zones set out in UNCLOS. Article 21 of CGL notes, “The coast guard has the right to take necessary precautions and control measures to stop foreign military ships and foreign government ships used for non-commercial purposes in violation of Chinese laws and regulations in waters under its jurisdiction”. It also authorises to take coercive action like forced eviction and forced tow if they do not comply with its request to leave and poses serious harm or threat. CGL (2021) depicts an ambiguous legal framework for the use of force in the China sea. Furthermore, the New Coast Guard Law permits the use of ‘weapon’ for the safeguard of ‘area of jurisdiction’. Article 83 of Coast Guard Law notes,

“The Coast Guard Agency shall perform the tasks such as defence operations in accordance with the National Defence Law of the People’s Republic of China, People’s Armed Police Law of the People’s Republic of China and it will perform the defence operation with the command of Central Military Commission”.

After implementing the Coast Guard Law (2021), the People's Republic of China within a span of six months revised and implemented the Maritime Traffic Safety Law (MTSL) on 01 September 2021.

Chen Xiangmiao (2021) reports that MTSL (2021) has important significance and it seeks to guide the maritime security in Asia-pacific region and build a rules-based global maritime order for the healthy development and maintain the security of Sea lanes in this region. Article 1 of MTSL (2021) notes that this law is enacted for the purpose of strengthening the management of maritime traffic, ensuring the safety of life and property, and safeguarding the rights and interests of People's Republic of China. Article 3 notes that China guarantees the use of the sea in accordance with law. Article 6 of this law also notes about the safety and protection of interest of labour and seafarers in accordance with law. Chapter II of the MTSL (2021) mainly talks about the ships, offshore Installation and Crew. Chapter III of the MTSL (2021) deals with maritime traffic conditions, and navigation support. Article 18 states, "The competent transport department under the State Council shall carry out overall planning and administration of the maritime traffic resources and promote the rational exploitation and effective utilisation of the maritime traffic resources. The maritime traffic resources plan shall be in conformity with the territorial spatial planning."

China reports that MTSL (2021) has been revised in keeping the traffic and safety measures at the sea. Nonetheless, many legal scholars and countries term the MTSL (2021) an impediment in the 'freedom of navigation' across the China sea because this law makes foreign vessels 'to report their information' while passing through its water and also talks about pilotage in specific circumstances. For example, Article 30 of the MTSL (2021) notes about pilotage requirements for the foreign vessels that intend to navigate, anchor or change berths in the pilotage area. Article 30 further notes that the pilotage area has been designated by the competent transport department under the State Council. Many foreign scholars and countries note that Article 30 is highly problematic because it imposes mandatory pilotage requirements. If some of the foreign vessels need exemption from pilotage then they need the approval form

the concerned department of the State Council. Further this article imposes mandatory pilotage for a number of foreign vessels like nuclear powered ships, ships carrying radioactive materials and ultra-large oil tankers, ships carrying bulk liquified gas. China depicts the pilotage zone in China sea does not mention the ‘zones’ which further causes ambiguities and opaqueness in defining the pilotage area. Pedrozo (2021: 960) states, “Compulsory pilotage is normally associated with ports and internal waters as a condition of port entry. MTSL (2021) is inconsistent with international law, including Article 24 of UNCLOS to require compulsory pilotage for foreign ships engaged in innocent passage that do not intend to enter the coastal state’s ports or internal waters. Such a requirement would have the practical effect of denying or impairing the right of innocent passage.” Furthermore, MTSL (2021) talks about imposing many restrictions on activities in China territorial waters, which is seen as an obstruction in the notion of ‘innocent passage’. Article 120 notes that violation of Chinese laws and regulations while sailing, berthing or operating in territorial waters of the PRC will be dealt with in accordance with the relevant Chinese laws and administrative regulations.

When both the laws ‘(CGL (2021) and MTSL (2021)’ are analysed then it gives a sense that China intends to use domestic law for the establishment and strengthening of ‘area of jurisdiction’ in the China sea. It is also perceived by many countries that China is creating an ‘Anti-access Area Denial mechanism’ with the purpose of creating a ‘Chinese zone’ in the China sea. Ahuja(2021) states, “The revised MTSL threatens to disturb the fragile peace in the area by a classic manoeuvre called ‘lawfare’, which simply means the use of laws as weapons of war”. The establishment of ‘area of jurisdiction’ by China will severely affect the claim of ‘overlapping maritime zones’ of neighbouring adjacent and opposite littoral states.

The new Coast Guard Law (2021) and Maritime Traffic and Security Law (2021) give Maritime enforcement agencies and authorities the legal foundation for establishing ‘areas under the jurisdiction in China sea, to operate in all waters without distinguishing the maritime zones set out in UNCLOS. The new CGL(2021) has the potential to create sovereignty issues among opposite and adjacent coastal states, who have overlapping claims over the China sea. China’s establishment of ADIZ and overlapping claims over the territories, seems that China is also taking deliberate and calculated steps to isolate the third party (USA) involvement in the

ECS by threatening and showing the risk-accompanying, if they interfere with China's strategic interest. Captain Wood (2001) quotes US views,

“The action of the United States and the statements by the US officials suggest and directly state that China has no legal claim to most of the SCS and that China is using its economic, diplomatic and military strength to force the other claimants to cede their legal claims of areas in the SCS. China’s claims in the SCS have even shaped the United States national security strategy, which notes the military outposts in the SCS endanger the free flow of trade, threaten the sovereignty of action and undermine regional stability. China has mounted a rapid military modernisation campaign designed to limit USA access to the region and provide China a freer hand there”.

Both Coast Guard Law (2021) and Maritime Traffic Safety Law (2021) have been compiled in such a way that it can be used to hold grip on the East and South China Sea. For example, The CGL (2021), Article 15 mentions about the use of armed forces, and Article 83 mandates the Chinese coast guard and maritime force to perform ‘defence operation’ in line with the ‘military regulations and orders of the Central Military Commission’. Article 15 and 83 clearly indicates China’s attempt to militarise the East and South China Sea. It cannot be wrong to say that the new Laws are militaristic in characteristics, while China continues to emphasise that CGL (2021) and MTSL (2021) are administrative in nature. The militarisation of the East and South China Sea will adversely affect the interest of the smaller countries in the region. Martinson (2016) notes about the ‘cabbage strategy’ which rear admiral Zhang Zhaozhong had first mentioned during a May 2013 Beijing TV news. Martinson says “The ‘cabbage strategy’ describes China’s coordinated use of its sea services to control maritime space, especially waters around disputed land features”. The enforcement of CGL (2021) has been termed by many scholars, a calculated step by China to influence the status quo of the East and South China Sea. Since, CGL (2021) mandates the use of arms and MTSL (2021) is aimed towards controlling the movement of foreign vessels in the China sea. It can also be understood as a system for further influencing and dominating the China sea by creating a layer like ‘cabbage’ and check and balances for USA military vessels and other countries movements in China sea. In this way, China’s domestic law can also be termed as a layer, described by admiral Zhang in ‘cabbage strategy’. A number of scholars have noted that

China's new Coast Guard Law is in defiance of UNCLOS. USA, Japan, South Korea, Philippines, Vietnam have given sharp reactions because the Coast Guard Law of China may have the potency to inflict sovereignty and security issues for the smaller littoral states of East and South China Sea.

In response of western scholars claims, Chinese scholar Ding (2021) reports, "China's revision of the Maritime Traffic Safety Law is a step forward in building a high-quality regulatory and services system of maritime traffic. It is also an important move with domestic legislation to improve the international system of maritime rules and participate in global ocean governance". Although claim and counter claim in China sea has resulted in militarisation of one of the busiest sea route of the world.

One-third of the world's maritime shipping passes through China sea and it holds a position of tremendous economic and geo-strategic importance. The nation, which controls the China sea, controls one of the mainstream sea routes of global transportation. In this sense, it also has an extremely significant role in geopolitics, which makes each and every country of east Asia and USA concerned about. Some European Scholars and academicians term Xi Jinping's pet project "China Dream" a step, for the 'great rejuvenation of Chinese Nation' and to establish the 'lost glory of China'. Since, China once known as the Middle kingdom and had influenced all the East Asian Countries with its philosophy, religion, and military might. Many scholars note that China does not make clear about its policy and ambiguity prevails in its policy and in the worst case scenario, it may influence the status quo of the region and may have the geo-political strategy for establishing dominance over the region. The claiming of a major part of "South and East China Sea" on historical basis may be understood as reasserting the historical facts, which is a major security concern for most of the East Asian countries.

CONCLUSIONS

All the bordering countries of East China sea, Japan, South Korea, and China are very apprehensive about the security of their territory. It would not be wrong to interpret the hostile situation of East china Sea a reason of the 'existence of an East Asian security knots', coupled with vested interest to capture the big portion of 'mineral rich' east China sea. In last couple of

decades, in east China sea, a couple of times, minor navy confrontation reported over the authority of 'Senkaku/Diaoyu' Islands. Ever after minor confrontation, East China Sea has not experience any 'status quo' change but the littoral states are very apprehensive about the security of their territory. The hostile situation in the east China sea is one of the biggest concerns this world is facing, because all the three largest economies of the world, United States, China, and Japan are contending for maritime areas in China sea. World largest economy, the USA, is one of the end-users of the East and South China Sea. The USA through treaties and agreements provides security to Japan, and South Korea. China the second largest economy and resurgent power perceives USA presence in China sea a major security threat. China is the largest country by area in East Asian region and seems that it want to play the role of a big brother and try to establish dominance over the China sea but the presence of USA makes it nervous. China keeps challenging USA domination in the China sea and tries to contain the movement of USA military vessels in the sea and planes in the sky over the China sea through 'lawfare'. It also time to time, keeps challenging USA by adopting different strategical and tactical means. In 2021, China revised its two domestic laws; 1) Coast Guard Law, and 2) Maritime Traffic and Security Law with an aim to establish and strengthen Chinese jurisdiction in China sea. China's revisited law also emphasises that in 'Chinese jurisdiction area' and mandatory pilotage of foreign ship is required in the 'area of Chinese jurisdiction'. China vaguely defines its 'area of jurisdiction' without mentioning the maritime zones defined by UNCLOS. China's defined 'area of jurisdiction' is not transparent in its approach and creates vagueness. China continuously claim that both law has been enacted with a purpose of better management and it don't have any intension to change the 'status quo' of the region. But the contradictory terms in the law says something else, and emphasises on creation of 'area of jurisdiction' in the china sea. It can also be perceived that both laws has been revised with a strategic intension and China implementing wait and watch policy to apprehend the reaction of the claimant states. China's aggressive policy in China see can also be understood a strategy to bring the smaller littoral states on negotiation table to have bilateral agreement to solve the dispute of the China sea. But the smaller littoral states are apprehensive about china move. So far all the three nations have been able to maintain the balance by avoiding the major conflict in the East China sea by their calibrated moves and action. Japan with its calibrated moves have avoided the major conflict but it is also strengthening its military buildup by increasing its defence budget. It is incumbent for all parties to reach an agreement

for an amicable solution based on International law and norms for the resolution of the maritime issues in East China sea.

UNCLOS is an outcome of collaborated efforts of all the members with a purpose to maintain global peace. The integrity of the 1982 UNCLOS and its universal code for the law of the sea, provides the much needed dispute settlement mechanism which emphasises the conflict settlement through negotiations and agreements. It is incumbent for all parties to reach an agreement and methods for an amicable solution based on International law and norms for the resolution of the maritime issues in East China Sea.

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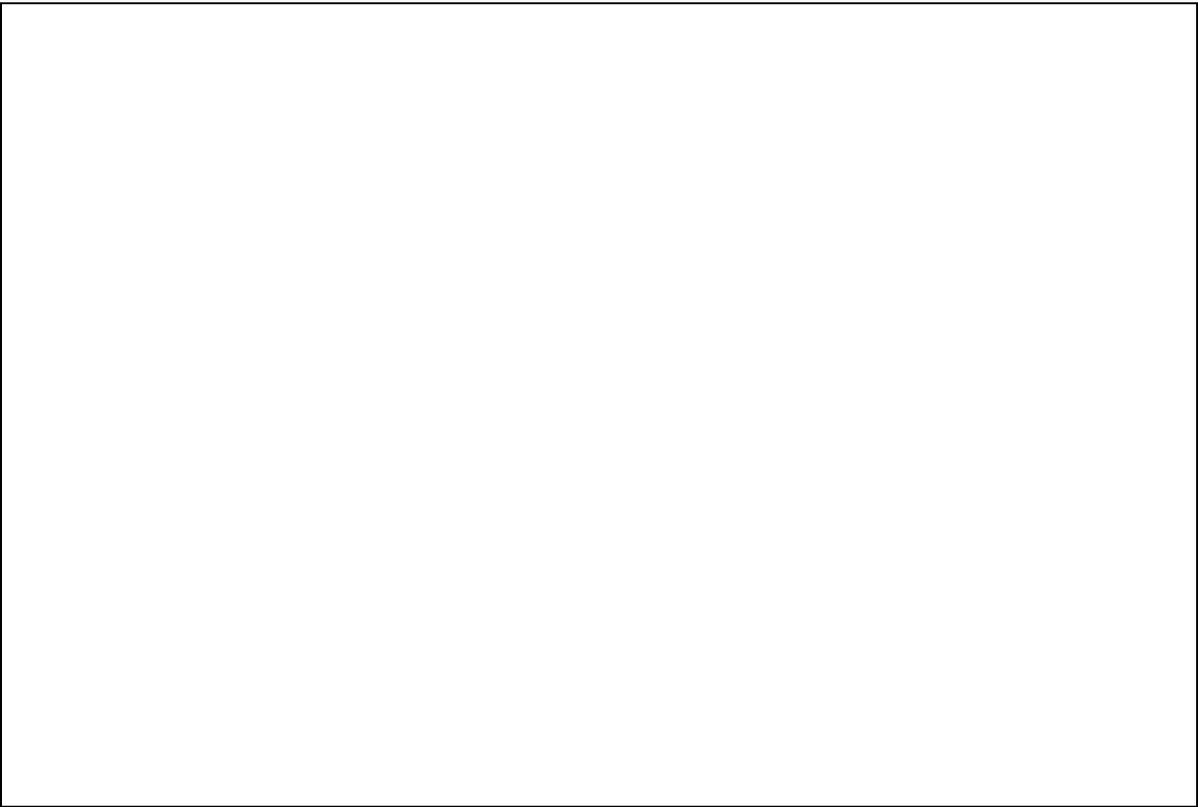
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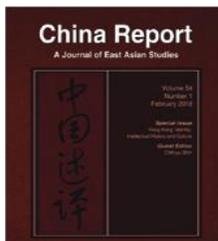


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