

Sharing Disputed Maritime Space in East Asia: Prospects for Regional Maritime Regime Building

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Organization gap in maritime East Asia

- In Europe,
 - Reasonably successful and comprehensive multilateral institutions for the Baltic, the North, and the Mediterranean Sea
- In East Asia,
 - Existing institutions that regulate maritime issues are either bilateral or multilateral (i.e. UNCLOS) in nature.
 - No effective regional institutions for East Asian seas

Troubled waters in East Asia

Sovereignty disputes

Dokdo/Takeshima,
Senkaku/Diaoyu, Southern
Kuriles/Northern Territories,
Paracels and Spratlys...

Maritime delimitation

UNCLOS: territorial sea, EEZ,
continental shelf
- normal vs. straight baselines
- equidistance vs. equitable

Resource sharing

Fisheries and hydrocarbon
potentials

Environmental protection

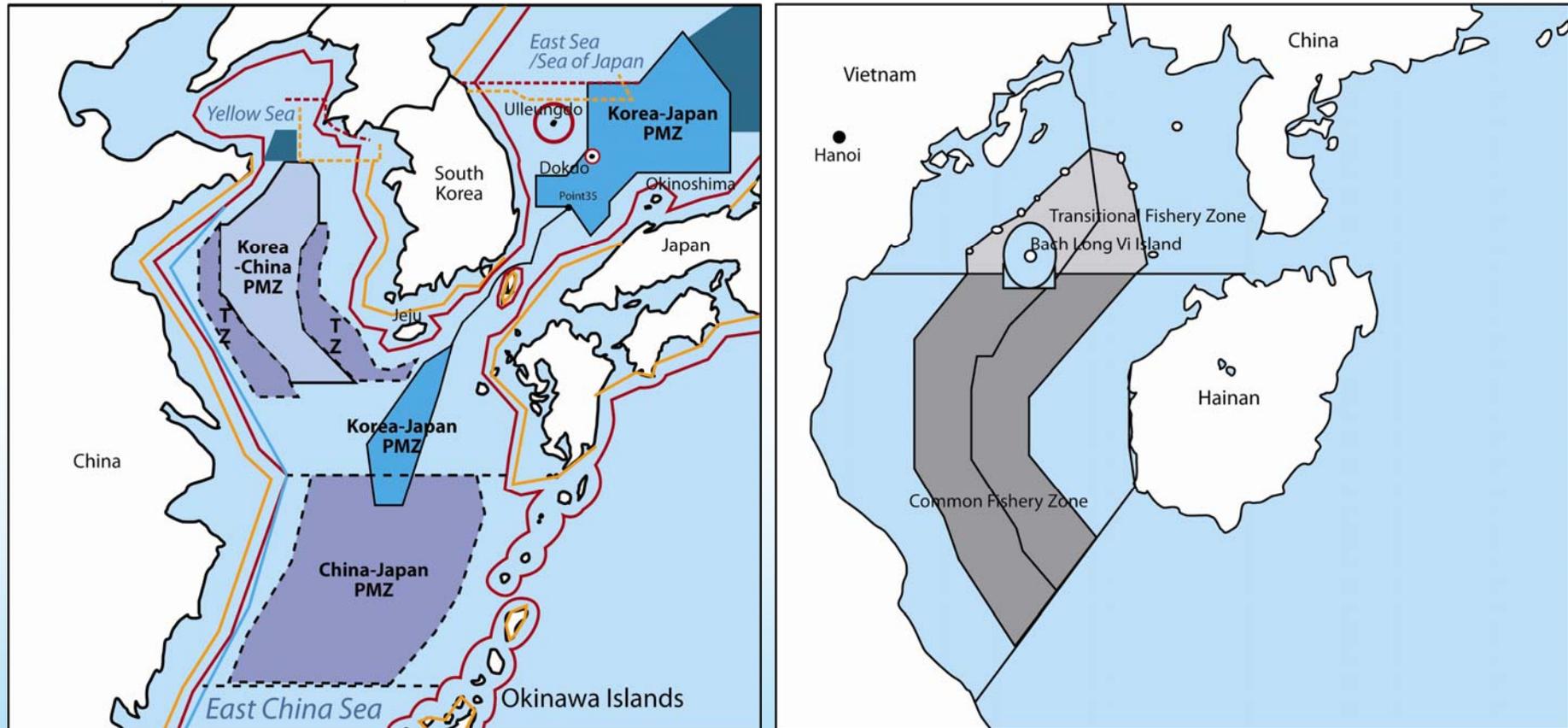
- Depletion of fishing stocks
- Trans-boundary nature of
maritime pollutions

Northwest Pacific
East Sea/Sea of
Japan
East China Sea
South China Sea

Sovereignty disputes

- Most disputes originated in colonial times, often exacerbated by the arbitrary map-making of colonial powers and exploited by post-colonial nationalists.
- In contrast to other parts of the world, few target states, whose territorial claim is challenged by revisionist states, recognize the existence of disputes at all, preventing claimant countries from engaging in negotiations.
- A periodic pattern exists in the iteration of disputes, repeating between initiation, escalation, and de-escalation, if not termination.
- Nevertheless, recurring crises have rarely increased the levels of escalation and hostility beyond control.
- Deng Xiaoping's 1978 statement: "Our generation is not wise enough to find common language on this question. Our next generation will certainly be wiser and will find a solution acceptable to all."

Resource sharing and provisional maritime delimitation



Limits of a bilateral approach

- An uncoordinated web of bilateral agreements on resource development can adversely affect third parties.
- A regional fishing organization is needed to regulate overfishing problem that has plagued the region over the past decades.
- The delimitation of EEZ and the continental shelf boundaries is much more than a twosome game because bilaterally agreed principles on the baselines/base points and the “equitable” or “equidistant” solutions might conflict with each other.

Environmental protection

- The Northwest Pacific Action Plan (NOWPAP)
 - adopted in 1994 as a part of the Regional Seas Program of the UNEP
 - ROK, Japan, China, and Russia
 - “The wise use, development and management of the marine and coastal environment so as to obtain the utmost long-term benefits for the human populations of the region, while securing the region’s sustainability for future generations”
 - Relatively successful and promising area, but funding problems and organizational issues...

Prospects for regional maritime regime building in East Asia

- “Sovereignty” and “sovereign rights” issues need to be addressed separately.
- There is a growing need to move beyond bilateralism, but third-party arbitration is unlikely.
- Therefore, multilateral regionalism in accordance with the UNCLOS regime is a way to go.
- A sequential scheme for multilaterally delimiting the maritime boundaries
 - Adopting a consensus-based code of conduct
 - Negotiating the principle of baselines and then setting up provisional lines and zones based on median lines
 - Modifying the provisional lines and zones as required by special circumstances existing in history and in law
 - Suspending without prejudice each party’s claims in favor of joint development