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Discussion Paper
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***Session II: “War by accident”? –
How to (de-)escalate conflicts with neighbors?***

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Contest without Management: Gridlock of Japan-China Relations

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I. Contested Asia, without 'Never Again' Resolve

IISS Asia Security Summit, so-called Shangri-La Dialogue, has established its reputation as the stage of battle of words by Asia Pacific leaders. This year, journalists have paid much attention on the keynote speaker Mr. Shinzo Abe, who made the first speech at this summit as the Japanese Prime Minister and has attracted heavy dose of praise and censure by his economic and foreign policies, and on US Secretary of Defense Chuck Hagel, whose remarks, just after President Obama's major foreign policy remark at West Point, inevitably tried to dispel the growing distrust on the sincerity and sustainability of its commitment to Asia. Even though both remarks mostly intend to defend their own foreign and security policy, in his speech of the following day session, Lieutenant General Wang Guanzhong, Deputy Chief of General Staff Department, People's Liberation Army, criticized harshly but honestly at them, saying "I feel that the speeches of Mr. Abe and Mr. Hagel have been pre-coordinated...Assertiveness has come from the joint actions of the United States and Japan, not China."²

Diplomatic considerations or pretended friendship, which usually obscure the difference of national priorities and hostilities at each other at multilateral forums, does not exist here. Hence, the remarks by Singaporean Defense Minister Ng Eng Hen at the very last session, sounds apocalyptically. He cites the words from former French President Valéry Giscard d'Estaing and former US Secretary of State Henry A. Kissinger at this year Munich Security Conference.

Mr Kissinger had observed... 'I would say Europe is in a position of a post-modern period, reluctant to engage in military conflict. Asia is more in a position of 19th Century Europe. It is the state of Asia to not exclude military conflict' ...Asia does not have the equivalent of the 'never again' resolve that bound all of Europe after two world wars, and that translated

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² Speech delivered by Lieutenant General Wang Guanzhong, "Major Power Perspectives on Peace and Security in the Asia-Pacific," IISS Asia Security Summit, June 1st, 2014, available at <<https://www.iiss.org/en/events/shangri%20la%20dialogue/archive/2014-c20c/plenary-4-a239/wang-guanzhong-2e5e>>

into political will to create formal structures and alliances to avoid war, to eliminate, as President d’Estaing said, the concept of war in Europe.³

As Mr Ng Eng Hen described in his remarks, arms build-up and more proactive stance on national security has been observed among almost all nations in East Asia, from China, South Korea, Japan to ASEAN nations. Economic growth and territorial disputes contributes to this trend, ironically in the era of enhanced interdependence and supply-chain networks.

Multilateralism has been flourished last decade, most notably creating East Asia Summit and ADMM Plus, but it has not functioned enough to manage the seeds of conflicts in this region. In the bilateral relationship, important dyads, such as Japan-China, China-US, China-Philippines, and China-Vietnam do not have sufficient trust, or crisis management mechanisms to escape from escalation trap. On May, at the overlapped area of Air Defense Identification Zone over East China Sea, Chinese fighter made near-miss approach to Japanese patrolling airplanes, and this indicates the risk rooted in the lack of code of encounters at the commons. In addition, as shown in the recent case between China and Vietnam, the domestic factors have made it difficult for leaders to decide the back down. However, if “Asia does not have the equivalent of the ‘never again’ resolve that bound all of Europe after two world wars,” and if arms race and nationalism has been intensified without concerned parties efforts to avoid escalation, it would not be unimaginable to see more hazardous skirmish would be caused in the very near future.

How could East Asia escape from this jungle of contested regional environment? Some may wonder whether Japan is still a status quo power. This paper argues that, regardless of seeds of historical revisionism which the prime minister himself holds, most of security policy has been transformed by main-stream pragmatic security thinking, emphasizing the national security and the alliance with the US for defensive purposes. Japan also showed its nature of the status quo by proclaiming the rule-based order and envisioning further commitment for collective security. In short, Japan is still a status quo power. However, in fact, the Abe administration fails to solicitude both Chinese anxiety and Japanese domestic voices of caution. It could result in the prolonged tension between two major powers in East Asia, and split national opinions in Japan on grand design of new national security policy could urge leaders more to leaning on the one side. It is still uncertain whether China is a status quo power or revisionist, which is not the topic of this paper, so it is difficult to conclude what is

³ Speech delivered by Singaporean Defense Minister, the Honorable Ng Eng Hen, “Ensuring Agile Conflict Management in the Asia-Pacific,” IISS Asia Security Summit, June 1st, 2014, available at <<https://www.iiss.org/en/events/shangri%20la%20dialogue/archive/2014-c20c/plenary-5-8d14/ng-eng-hen-9a28>>

happening in East Asia as security dilemma or a road to another “June 1914” by an unsatisfied revisionist. This paper argues that Japan, even as a status quo power, as well as China, are partly responsible for heightened tension and the lack of communication.

II. Beyond *Abenomics*: Japanese ‘Leap’ in Security Policy

Since the inauguration of the second administration, Prime Minister Shinzo Abe and his team have invested its efforts mostly on the monetary and fiscal policy. Even though its growth strategy is criticized as weak reform of the regulations from liberal or business-centric policy against labor’s rights from socialism, and the stock market encounters the stagnation, public polls still shows the voters put the first priority on the economic growth.

Simultaneously, the administration has geared up transformation of its security policy. Surely, from the beginning, the prime minister and foreign and defense ministers have exceptionally spent times for their travel abroad. It is the record breaking that Japanese prime minister visited all ten ASEAN capitals within eleven months, simultaneously visiting the US, Europe, Middle East (several times), Africa, Russia, and India within less than eighteen months. Notably, Japan-ASEAN relations had two summit meetings in 2013 and they (multilaterally and bilaterally) agreed on the long list of political, economical, and to some degree strategic cooperation. The economic liberalizing negotiation, especially Trans Pacific Partnership, which previous Democratic Party of Japan administration started to commit, has been promoted, at the moment in the gridlock on agriculture and other regulations.

National Security Strategy was published as the first time in Japanese political history.⁴ It shares the basic analysis on the security environment and mission of Japanese defense policy with the renewed National Defense Planning Guideline and five year’s Medium Term Defense Program, both of which are approved and publicized at the same day.⁵ In short, they emphasize on deteriorated security environment in neighboring area and global commons, increasing potential of grey-zone contingencies over Japanese sovereignty and related-rights, hence introduce the new concepts “proactive contribution to peace” and “dynamic joint defense force.”⁶

⁴ National Security Strategy, December 17, 2013, available at <http://japan.kantei.go.jp/96_abe/documents/2013/_icsFiles/afiedfile/2013/12/18/NSS.pdf>

⁵ National Defense Program Guidelines for FY2014 and beyond, December 17, 2013, available at <http://japan.kantei.go.jp/96_abe/documents/2013/_icsFiles/afiedfile/2014/02/03/NDPG.pdf>.

⁶ On the interesting comparison between Japanese NDPG 2013 and US Quadrennial Defense Review 2014, see Sugio Takahashi, “New QDR, New NDPG, and New Defense Guidelines,”

Under the new policy, SDFs are acquiring the new capabilities, including amphibious ones to re-take the islands, while the defense budget has experienced, continuously in FY2013 and 2014, the slight increase as the first time in more than fifteen years.

Re-organized National Security Council and its back-up bureau at Cabinet Secretariat were established on January 2014.⁷ This “Japan-type NSC” was firstly planned under the first Abe administration seven years ago, but after the sudden retirement of the prime minister the plan was abolished by the succeeding administration. While the old institution at the cabinet secretariat called National Security Council was mainly to aim enhanced civilian control over Self-Defensive Forces, with far smaller personnel, the new NSC is envisioned to function strategic planning and contingency response and its staff members are recruited vastly from ministries and agencies, less than half from uniformed.

The arms exports policy is also relaxed. Since 1967, Japanese government prohibited the arms exports, as “Three Principles on Arms Exports and Their Related Policy Guidelines,” to states under communism, ban by UN resolutions or conflicts. In 1976, Prime Minister Miki enlarged the scope of regulations to prohibit all weapon-related exports. On 1st of April, 2014, the cabinet published “the Three Principles on Transfer of Defense Equipment and Technology”⁸, which replaces the old principles and guidelines. Criticism points out that under the new principles the government review system is the key but not designed sufficiently to prevent dubious transfer. *Asahi Shimbun* writes, “[u]nder the new guidelines, Japan can export weapons and other defense equipment to countries that are at great risk of involvement in international conflicts.”⁹ On the other hand, a security expert who supports this change argues, “[t]he contents of the new principles are conservative and restrictive compared to the US’ conventional arms transfer policy, issued in January 2014, and the EU Common Position on Arms Transfer. The Abe administration clearly rejects economic and policy utilization of the new rules, so rapid growth of defense exports is not to be expected.”¹⁰

On the Constitution, the administration established the wise men group to advise the prime minister on the legal foundation issues, including collective self-defense

AJISS Commentary (Association of Japanese Institutes of Strategic Studies), no. 198 (15th of May, 2014).

⁷ The revision of National Security Council establishment acts is completed as of December 4, 2012. New acts are available at <http://law.e-gov.go.jp/htmldata/S61/S61HO071.html> in Japanese.

⁸ http://www.mofa.go.jp/press/release/press22e_000010.html.

⁹ “Japan’s arms export rules come with pitfalls, secrecy, limited economic benefits,” *Asahi Shimbun* (also on *Asia& Japan Watch*), 2nd of April, 2014.

¹⁰ Heigo Sato, “From the ‘Three Principles of Arms Exports’ to the ‘Three Principles of Defense Equipment Transfer’”, *AJISS Commentary*, no. 197 (14th of May, 2014).

and collective security. The panel has submitted the final recommendation on May 2014.¹¹

Above are the snapshots of the recent development, or transformation, of Japanese foreign and security policy. It includes the institutional and key documents reforms, adopting cross-ministerial approaches, backed up by politicians' strong commitment¹². Why are they undertaken under the current administration? What are the motivations of top decision makers?

Surely, the management of the alliance with the US is the one external factor. As shown in the 2+2 meeting on October 2013, "The US 'welcomed' the recent efforts of Japan on establishing a National Security Council with its first documentation of a National Security Strategy, on making proactive contributions to global and Asian security, on increasing its defense budget and reviewing the National Defense Program Guidelines and, most importantly, on 'the matter of exercising the right of collective self-defense.'" US-Japan alliance has been positioned "within the broader context of a 'more balanced and effective' partnership in its Asian strategy."¹³ The flux of the balance of power in East Asia and the necessity to withdraw more burden-sharing from the ally would lie in Washington's intention.

However, while the US has requested the reform of Japanese security policy for a long time, it is rather important to know why Japan has moved now and what is the grand design of foreign and security policy of PM Abe?

The recent article by *Nikkei*, the leading business newspaper in Japan, depicts PM Abe strategy as three-fold: Japan-US alliance, TPP, and value diplomacy, all of which intend to "deter" China. He also makes the most of his occasions to meet foreign leaders to remind the rise of nationalism in China. Behind such policy, Mr Abe wants to take proactive stance to lead, not follow, the international society. His determined stance, however, makes it difficult to back down on historical and territorial issues with neighbors, but he accepts the risk of prolonged frozen relationships with two neighbors, this article says.¹⁴

At the same time, we should not take all changes of security policy as the results from prime minister's mindset. In fact, the introduction of new concepts such as grey zone contingencies and the related defense policy has long discussed in the

¹¹ The Advisory Panel on Reconstruction of the Legal Basis for Security, "Report of the Advisory Panel on Reconstruction of the Legal Basis for Security", Cabinet Secretariat, 15th of May, 2014. Available at < http://www.kantei.go.jp/jp/singi/anzenhosyou2/dai7/houkoku_en.pdf>

¹² Under the democracy, it is said that usually diplomacy and security policy are unpopular due to the voters' low interests.

¹³ Ryo Sahashi, "Japan-US Security Consultative Committee at Tokyo: From 'Quiet Transformation' to 'Noteworthy Institutionalization' of Alliance," *AJISS Commentary*, no.189, November 21, 2013.

¹⁴ Ken Sato, "Weak Point of Abe Diplomacy (Abe Gaiko No Shikaku)," *Nikkei*, 2nd of May, 2014.

government, from the previous administrations by other ruling party. This is also the case with principles on defense equipment transfer, for the purpose of joint international development and procurement and transfer of goods to post-disaster states and to ones building up coast guard. Enhancement of security partnership with Australia, India, ASEAN, and NATO/EU also started last decade.¹⁵ These changes are defensive¹⁶ and also aim to underpin the US-centered regional security architecture. In addition, the increase of participation by SDF to international activities, relating to PKO and counter-piracy has been the issue since 1990s. The difference can be found in the amount of political resources on external policies, tough stance vis-a-vis China and South Korea, much emphasis on “values”, and candid stance on the Constitution.

III. Grey Zone, Near-miss Clash, and Escalation Trap

Without any exaggeration, the stability of China-Japan relations has been the most crucial issue for Asia Pacific stability, as well as the US-China relations. US-China relations refer to the configuration of balance of power, ideological gaps, global governance, and advanced weaponry systems, which naturally require the long-term, order-centric thinking, while Japan-China relations concern narrowly on the sovereign rights and history issues. Yet, the contested relationship between two major powers have prevent the recreation of the regional order in East Asia¹⁷, and will have the potential to increase the risks in the area where the world economy expects as the engine for the growth.

In the recent book, former US Deputy Secretary of State James Steinberg and Dr. Michael O’Hanlon at Brookings Institution argue, “[c]risis instability is the danger that unanticipated events could trigger actions that inadvertently lead to conflict before each side can fully consider or adopt measures short of war to defuse the conflict.”¹⁸ We need to take into consideration the uniqueness of China-Japan relationships, and this paper constructs flows of research questions below.

¹⁵ Ryo Sahashi, “Security Partnerships in Japanese Asia Strategy: Creating Order, Building Capacity, and Sharing Burden,” *Asie. Visions* 61 (Paris: Institut français des relations internationales), February 2013, pp. 1-23.

¹⁶ In East China Sea, while China has increased the naval and aerial operations nearby and inside *Senkaku* area, Japanese government has not made any major policy changes after September 2012, before the tenure of Mr. Abe.

¹⁷ Evelyn Goh, *The Struggle for Order: Hegemony, Hierarchy, and Transition in Post-Cold War East Asia*, New York: Oxford University Press, 2013.

¹⁸ James Steinberg and Michael E. O’Hanlon, *Strategic Reassurance and Resolve: U.S.-China Relations in the Twenty-First Century*, Princeton: Princeton University Press, 2014, p. 11.

Firstly, what are the most instable crisis scenarios between Japan and China relations? What actors will play the key role in crisis? Secondly, to escape the danger of unanticipated events, what mechanism will contribute to “defuse the conflict”? Will relevant international law be helpful? Thirdly, is the nature of Abe and Xi administration today specifically making the matters different? Do Japanese new security policy and the US-Japan alliance contribute the escalation management and deterrence, or adverse effect?

For the debate concerning on Japanese and the US security and collective self-defense, over fifteen cases are presented in the meetings between two ruling parties. Cases under the category of grey zone situations, “in which a war has not occurred but it is difficult for Japanese police or the Japan Coast Guard to deal with the situation under existing legislation” suggest the scenarios which the government regard as likely on Japan’s homeland security.¹⁹ At the moment, the debate in the Diet and criticism of the media concentrate on the exercise of collective self-defense rights.

Cases of grey zone situations include island occupation by armed group, private-owned ships attacked in the High Sea, protect of US military vessels when a third country prepare missile launch. The occupation of remote islands by unspecified people is a really popular scenario when Japanese policy-circle discusses the grey zone. The case from the private research group, published in 2011, would give the clearer image of escalation ladder, while here the activists landing on the island are not specified armed or unarmed.

During when a U.S.-China Strategic and Economic Dialogue is taking place in Beijing, Chinese right-wing activists intentionally land on one of the islands of the Senkakus, build a shelter, hoist the Chinese flag, and broadcast their image over the Internet. The Japanese government decides to send members of the Okinawa Prefectural Police force to the island to arrest the activists; a Japan Coast Guard (JCG) patrol ship forcibly boards the Chinese fishing vessel that was carrying the activists and arrests the captain and crew. The Chinese government uses diplomatic routes to repeatedly demand the prompt extradition of all those in custody. The Prime Minister’s Office gets word that a Chinese patrol ship escorted by a Chinese naval vessel is steaming toward the Senkakus in the name of rescuing its citizens. It also gets information that a number of other PLA naval ships in the East Sea Fleet are starting to move out of their base. In order to ensure the safety of its police officers and Coast Guard vessel, the Japan Maritime Self-Defense Forces (JMSDF) dispatch an escort vessel to the site, and orders are given to strengthen patrols of the ocean region with P-3C aircraft that are stationed at the Naha base. However, before the

¹⁹ *Asahi Shimbun (Asia and Japan Watch)*, May 24, 2014. The cases are explained merely as ideal type.

Maritime Self-Defense Force can arrive, the Chinese ships arrive on site. The Chinese vessels warn the JCG ship that they must handover the activists and the captain of the fishing boat, and they surround the JCG patrol ship. In the meantime, JMSDF ship and the P-3C arrive at the scene, and begin circling around the island and the Chinese vessels. Word is received in Tokyo from the Chinese government that they are prepared to accept behind-the-scenes negotiations to resolve the situation. The U.S. ambassador to Japan delivers a message from the American President to the effect that Japan should take this opportunity to reach a mutually agreeable resolution with China. The Japanese cabinet engages in a lengthy debate over whether to enter into negotiations with the Chinese. The opposition party criticizes the Prime Minister, and warns that if he were to accept this negotiation, he would be officially conceding that there is a de jure territorial dispute over the Senkakus.²⁰

Grey zone situations are positioned between the situations requiring defense operation and ones requiring public safety/ sea patrol operation similar to policing. It should be noted that these cases do not relate to the exercise of collective self-defense right, but to the legal condition of armed attack and individual self-defense right. The report by wise men group to the PM Abe explains this flaw of the legislation.

[U]nder current domestic laws such as the SDF Law, a “Defense Operation Order” under which the use of force as the exercise of the right of self-defense may be permitted is premised on an “armed attack,” or the organized and planned use of force against Japan. Given this situation, the response to an infringement that does not amount to an “armed attack” does not resort to the exercise of the right of self-defense, but stops at the exercise of “law enforcement powers” in accordance with the principle of police proportionality. However, in cases in which a situation has arisen where it is difficult to determine whether an “organized and planned use of force” is being employed, it is impossible to deny that a sporadic situation may arise or a sudden escalation of a situation may occur. Even in the case of an infringement which cannot be judged whether it constitutes an “organized and planned use of force,” action to the minimum extent necessary by the SDF to repel such an infringement should be permitted under the Constitution. Under international law the actions that would be taken by the SDF may be classified as the right of self-defense or as law enforcement activities etc. permitted under international law depending on the situation or its characteristics.²¹

²⁰ Satoru Mori, Ryo Sahashi, et. al., *Japan's Strategic Horizon and Japan-US Relations*, Tokyo: Sasakawa Peace Foundation, 2011, p.53. The recent simulation by Canon Institute of Global Studies and scenario prepared by monthly magazine *Chuo Koron* also deal the similar case. “Chinese scenarios on How to Take ‘Senkakus’” *Chuo Koron*, 129(2), 80-87, 2014. [in Japanese]

²¹ The Advisory Panel on Reconstruction of the Legal Basis for Security, “Report of the Advisory Panel on Reconstruction of the Legal Basis for Security”, Cabinet Secretariat, 15th of May, 2014. Available at < http://www.kantei.go.jp/jp/singi/anzenhosyou2/dai7/houkoku_en.pdf> On the proposal concerning on grey zone situations, see also proposals one and two in “Maritime Security and the Right of Self-Defense in Peacetime Proposals for a National Security Strategy and the New National Defense Program Guidelines,” Tokyo Foundation, November 2013.

Criticism of the media points out that armed group landing on *Senkaku* islands, where Japanese Coast Guard patrolling heavily today, is unlikely, while in fact Chinese and Japanese nationalists landed on the islands successfully in the past.²² In addition to the case of armed group landing, submarines operating in the territorial waters and staying there even after detection constitutes the other case. SDF law and other policing laws do not allow its forces to expel foreign submarines without that use of weapons.

Under the existing laws, defense and public safety operations require the approval by cabinet meeting, which could create the time gap in the response. To cope with this “lack of legal measures” the administration and ruling parties have discussed, either introduction of the new category of SDFs activity or leaving the order to prime minister by pre-approving the necessary conditions.²³ Reportedly, among LDP MPs there is the strong voice to promote the new category by revising SDF law, but for the bargaining with coalition party New Komei it is probable to take the pre-approved discretion to PM. While this will not solve fully the problem concerning on what constitute the “armed attack” for the purpose of defense order, the escalation by calling defense order has been anticipated and early deployment for policing order is preferred.²⁴

“Near-miss” incidents, by naval vessels and military air planes of PLA and SDF, increase the risk of escalations. On 30th of January, 2013, People’s Liberation Army Navy (PLAN) *Jiangwei* II-class frigate had spotted its fire-control radar at the Japanese Maritime Self-Defense Force (JMSDF) destroyer *Yudachi* in the East China Sea. The radar lock was reported on the same month, according to Japanese Ministry of Defense. In the aerospace, Japanese scrambles against Chinese fighters and surveillance planes have dramatically increased, and the year 2013 counts more than 400 times, about 9 times bigger than from 2009. On November 2013, Chinese government ‘unilaterally’ declares its new Air Defense Identification Zone, which overlaps over South Korean ADIZ and Japanese ADIZ, including *Senkakus*. A sense of apprehension was rising. On May, 2014, during China-Russia military drills in East China Sea, in the overlapped ADIZ Chinese Su-27 made the near-miss approach, 30-50m, to Japanese OP3C and YS11EB, both flying for surveillance.

Grey zone debates focus on the ‘likely’ scenarios, but the likelihood of crisis by near-miss case seems bigger, where crisis could be caused without clear objectives

<English summary available at <http://www.tokyofoundation.org/en/articles/2014/maritime-security-and-self-defense-in-peacetime>>

²² *Asahi Shimbun*, 10th of April, 2014. [in Japanese]

²³ *Nikkei*, 5th of June, 2014. [in Japanese]

²⁴ *Nikkei*, 6th of June, 2014. [in Japanese]

and intensions. Without a lack of crisis management mechanism working, both governments do not have good steps to manage it.

IV. Crisis Management Possible?

If the PLA or government agencies of China intentionally dispatch armed groups to land on Japanese territory, the issue is how to control the escalation ladder, going up from low intensity conflicts to major scale of warfare. Crisis management mechanism does not work for these cases, if the one side is determined, and the flexible response, which Japanese experts recently favor to call as seamless response, should work. It would also enhance the deterrence. On the other hand, for the near-miss incidents between Chinese and Japanese government ships and planes, including military ones, the crisis management could work.

In this context, after both of the rock-on by PLAN frigates and near-miss approach by Su-27, Japanese Defense Minister Onodera insists maritime and air communication mechanism should be functioned as soon as possible, resuming the negotiation that has been suspended since the summer of 2012.²⁵ Japanese National Institute of Defense Studies, equivalent to US National War College as the education arms of defense authority, published its *China Security Report* 2013 on January 2014, and it also emphasizes on this point. It states, “how to establish and ensure an emergency communication mechanism with government and military departments as well as top leaders is an issue to be addressed in crisis management with China for any other countries.”²⁶ Considering the increase of the activities of policing authorities, “not only is a mechanism for the defense authorities to prevent the situation over the islands from escalating into a military incident necessary, but also continuing meetings on maritime issues at senior official level of related ministries and building an accident prevention mechanism between the maritime law enforcement agencies of both countries are becoming urgently needed.”²⁷

American experts also urge mechanism to manage the incidents between China and Japan. Unintended but escalated conflicts could be more likely than intended armed group attacks, they may assume. Jonathan Pollack, Richard Bush, and Bruce Jones write the public memorandum to President Obama on January 2014. It picks up South and East China Sea and states, “you should designate a senior national security official to (1) lead efforts to develop a maritime security framework that enables collaboration or engagement with China and other Asian actors apart from the South

²⁵ Press Conference by Defense Minister Onodera, 27th of May, 2014. [in Japanese]

²⁶ National Institute of Defense Studies, *China Security Report*, 2013 edition, p. 29.

²⁷ *Ibid*, p. 37.

China and East China Seas; (2) *identify dispute management mechanisms and procedures that could be brought to bear in both areas*; and (3) identify opportunities for leverage that derive from the American naval role in guaranteeing the flow of energy on which China and other regional actors depend.”²⁸

However, to establish crisis management mechanism, both of China and Japan complicate the issue. On the one hand, on Chinese side, the principles and goals are not easily compromised. “Regardless of whether China’s principle is accepted by the opponent, it is difficult for China to facilitate crisis management unless its claim is at least maintained.”²⁹ Secondly, the calculation during the crisis stages is influenced by the situation of bilateral political relationship. “China has a tendency to stress the importance of the political relationship before taking concrete actions to manage a crisis. China’s mechanism to manage a crisis might not function in a deteriorating political relationship.”³⁰ Thirdly, China perhaps makes the most of opportunities by other political events, such as PM Abe’s visit to Yasukuni shrine and repercussions on Japan by foreign media. An influential international relations scholar, Prof. Shi Yinhong recently argues on April, “[t]his has offered China an important strategic (or at least tactic) opportunity. Such a situation bestows on China the diplomatic initiative. What we need to do is just properly and timely easing military and quasi-military initiatives according to new conditions, while sustaining the struggles over the Diaoyu Islands and in the East China Sea, and paying special attention to the posture and rhetoric of the diplomatic endeavors that are destined to upgrade.”³¹

On the other hand, Japanese government seems not to accept any change on the claim of *Senkakus* as “no territorial disputes existed”, and never wants to bargain this position for promoting communication mechanism. Secondly, while Japan repeatedly calls the necessity of the communication mechanism, at the moment the administration seemingly prioritizes on creating leverage through international campaign on the importance of rules and international laws. Contested relationships between China, Vietnam and Philippines also prompt them to appeal Japan stance on East China Sea. The keynote speech by PM Abe at Shangri-La and Japanese efforts to

²⁸ Jonathan D. Pollack, Richard C. Bush III and Bruce Jones, “Big Bets & Black Swans - Memorandum to the President,” Brookings Institution, January 23, 2014. Emphasis added by the author.

²⁹ National Institute of Defense Studies, *China Security Report*, 2013 edition, p.21.

³⁰ *Ibid.*

³¹ Shi Yinhong, “Strategic Policy Adjustments and Sino-Japanese Relations,” *China-US Focus*, 1st of April, 2014. Available at <<http://www.chinausfocus.com/foreign-policy/strategic-policy-adjustments-and-sino-japanese-relations/>> This article can also be found at the government-sponsored website. < http://china.org.cn/opinion/2014-04/02/content_31978691.htm> China claims the *Senkakus* as Daiouyu islands.

include East and South China Sea to the joint statement by G7 summit are clear examples.

Hence, under this politicized frozen bilateral relationship, both administrations are responsible for not achieving the communication mechanism. Both China and Japan seek to attain the international support on their territorial rights and sovereignty over *Senkakus* and history issues, through diplomatic campaigns.³² Both appeal to third parties, defending their own behaviors and historical legitimacy. But the bigger risk has been neglected.

Different understanding of international laws also makes difficult to expect stability in East China Sea. On May 2014, prestigious professors on international public law from China and Japan completed the final report for maritime safety dialogue. Japanese legal interpretation allows its authority to take prevention of the course and body check if necessary against foreign vessels in its territory doing not-innocent passage, and to use the weapons under the conditions. Chinese one insists to avoid any compulsory measures against foreign vessels since the territorial disputes exist, and to avoid use of weapons under any circumstances. Chinese position could read to make efforts to lower the tensions, but their interpretation implicitly requires the existence of territorial disputes over *Senkakus* which Japanese government refuse, and also allow Chinese government ships to enter into the *Senkakus* area without any fear of attacked and make *fait accompli*. In short, it has political motivations. They also disagree on the application of INCSEA (1972); Japan side insist this treaty, originally targeting for US-Soviet Union, do not apply for legal authorities, and for the safety of navigation the customary laws and good seamanship can work. The report suggests the confidence building and crisis management through information sharing, staff exchange, hot line at the local authority level, and understand the other side legal understanding. However, they fail to agree on the critical legal interpretations.³³

Multilateral forums might be another avenue for setting up the norms and rules to help the communication and common understanding on operations. *China Security Report* of Japan concurs, saying “it is important to discuss and share with China the safety standards of military operations within a multilateral practical framework, which is less susceptible to political confrontation... establishing an international standard in terms of the safety measures when naval and civilian ships and aircraft

³² Keiko Iizuka, “PR Battle by China and Japan: Selling ‘Senkakus’ in Washington,” *Chuo Koron*, 129 (2), 110-113. [in Japanese]

³³ *Final Report of Japan China Maritime and Aviation Safety Dialogue*, Sasakawa Japan-China Friendship Fund, May 2014. (Available in Chinese and Japanese.) At this round, the legal aspects of aviation safety have not been discussed.

encounter one another.”³⁴ Defense Minister Onodera, in the press conference after Su-27 near-miss incident, mentions the code for unplanned encounters at sea (CUES), the normative, non-binding rules which navies in West Pacific recently agreed upon. He even claimed that the same kind of normative rules should be created for aviation.³⁵ However, it is suspicious that non-binding rules can really regulate PLA actions.

To sum, without the top leaders rapprochement, it is very difficult for China and Japan to achieve the crisis management mechanism, which can work effectively. Theorists of interdependence believe the amount of trade and social interactions between two countries shall create the incentives for such change; in fact, until this moment, there is no strong sign to change the basic condition, while top-level business leaders and influential politicians visiting the other side only play the role of messengers. Heated national opinions also make it difficult to “lose face” for the purpose of negotiation. More importantly, paradoxically, both leaders might assume that each side, and the US, will not take the really tough actions in East and South China Sea at this moment, and they make the most of opportunities for their own sakes. At this juncture, ‘post 1972 system’ between China and Japan, is going to put an end.

V. Conclusion

To exit from this jungle, trust building might not work well since top-leaders do not have any intention, and the past friendship since 1972 has almost been wiped out. Management and communication mechanism should be established, but to achieve the binding consensus between two, including PLA, seems unlikely at the moment. Considering each domestic political atmosphere and the long time to achieve the formal negotiation and bargaining, unilateral, voluntary restraints are also useful ways to stabilize the bilateral relations, in theory.³⁶ But it is optimistic to expect inward-looking politicians to sacrifice their reputation for not yet materialized conflict: to build up the capability looks better option for them.

What could be game changers for realizing China-Japan top-level determination and management mechanism? Two possibility this paper wants to suggest: firstly, a crisis similar to EP3 incident in 2001 between naval or air force would leave the

³⁴ National Institute of Defense Studies, *China Security Report*, 2013 edition, p. 37.

³⁵ Press Conference by Defense Minister Onodera, 27th of May, 2014.

³⁶ On unilateral restraint, see Steinberg and O’Hanlon, *Strategic Reassurance and Resolve*. Denying the dependence on the trust approach, they claim each government take unilateral actions to reassure the other, not infringing the other’s vital interests, before undertaking bilateral actions through time-consuming negotiations, in multi-move game of US-China relations.

experience for learning for both governments. It could be the situation where the management of crisis would be almost out of control. Secondly, if Beijing perceives the contested situations in East and South China Sea end up deteriorated environment for its own national interests, including upgraded Japanese national security posture, US-favored alliance networks and regional architecture, it would inevitably reduce activities in the contested areas.

However, it is Japan who believes the second case to happen or be happened by its own efforts in the short time span, and is ill-prepared for negotiation with China. China seems still opportunistic. Both China and Japan has not taken the risk of miscalculated escalation seriously. Contest is here to stay.