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**Taiwan's policy towards the East and South China Sea Disputes:
Implications for Cross-Strait Relations**

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Taiwan's policy towards the East and South China Sea Disputes: Implications for Cross-Strait Relations

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Within a few months in 2013, the Ma administration concluded a fishing agreement with Japan and launched negotiations with the Philippines over fishing rights in disputed maritime territories. These important developments occurred within the broader context of continued deterioration of maritime security in East Asia, with the risk of incident at sea between China, Japan and the Philippines increasing considerably in 2012 and 2013. This paper analyzes Taiwan's recent maritime security policy in light of Ma Ying-jeou's August 2012 "East China Sea Peace initiative", the conclusion of the fishing agreement with Japan in April 2013, and Taiwan's strong retaliation against the Philippines after the killing of a Taiwanese fishermen by the Philippines Coast Guards in disputed waters in May 2013, which eventually led to the initiation of a first round of bilateral fishing rights negotiations in June 2013.

The paper argues that the rationale underpinning recent actions by the Ma administration has been the survival of Taiwan as an independent strategic entity in regional security affairs. In addition, the Ma administration has taken advantage of the deterioration of regional maritime security to protect and advance Taiwan's economic interests. However, the impact of Taiwan's maritime diplomacy on cross-strait relations is minimal. Two main conclusions can be drawn from these recent developments. First, after a period of ambiguity, the Ma administration has finally sent the clear signal that Taipei would not support China's maritime security policies, despite similar sovereignty claims. On the contrary, Taipei is willing to exploit the opportunities arising from China's tensed relations with some of its maritime neighbors. Second, Beijing will not strongly oppose Taipei's maritime diplomacy initiatives as long as they can be justified by an economic narrative, but Taipei's cooperative approach to maritime security is very unlikely to influence China's policies in the East and South China seas.

Ma Ying-Jeou's East China Sea Peace Initiative

In a speech delivered on August 5, 2012, Ma Ying-jeou proposed an "East China Sea Peace Initiative".¹ The initiative builds on Taiwan's longstanding position that the Diaoyu/Senkaku disputes should be "shelved" in order to pursue "peace and reciprocity", and specifically suggests "joint exploration and development" of

¹ MOFA Statement, "The government of the Republic of China (Taiwan) proposes the East China Sea Peace Initiative", August 5, 2012.

resources located in the vicinity of the islands, in line with the UN Charter regarding settlement of international disputes by peaceful means. The initiative recommends a number of concrete steps to all parties concerned:

- Refrain from taking any antagonistic actions;
- Shelve controversies and not abandon dialogue;
- Observe international law and resolved disputes through peaceful means;
- Seek consensus on a code of conduct in the East China Sea;
- Establish a mechanism for cooperation on exploring and developing resources in the East China Sea;²
- President Ma also specifically mentioned “protecting the marine environment, conducting search and rescue operations, combating crime and so forth”.³

The East China Sea initiative brings together all known instruments of the maritime security toolbox: preventive diplomacy, confidence building, cooperation against non-traditional threats, and the international law as a basis for conflict prevention. It is important to note that the initiative was launched just after the first round of China-Japan maritime affairs high-level consultations in Hangzhou in May 2012.⁴ The timing suggests an ambition to maintain the relevance of Taiwan as an actor and a claimant in the East China Sea dispute. However, since the purchase of three of the five disputed islands by the Japanese government in September 2012, dialogue, confidence-building and cooperative security have disappeared from the China-Japan diplomatic agenda and the risk of incident between the two countries has considerably increased.

The release of the East China Sea Peace Initiative revealed some of the priorities of the Ma administration:

- Raise Taiwan’s profile in regional security affairs when cross-strait relations are so low on the regional security agenda that Taiwan starts facing a visibility issue, especially in the US and Japan;
- Support Taipei’s negotiating positions vis-à-vis the fisheries agreement with Tokyo (discussed below);
- Gain the moral high ground as a responsible stakeholder in regional security affairs;
- Better align with US security interests in the region;

² MOFA, *ibid.*

³ Remarks by President Ma Ying-Jeou at the Opening Ceremony of the Special Exhibition on the 60th Anniversary of the Coming Into Force of the Treaty of Peace between the Republic of China and Japan.

⁴ “Put sea disputes under control”, *China Daily*, 17 May 2012.

- Send to Beijing a message of strategic independence from the PRC when there was some degree of expectation in China that Taipei would support Beijing's maritime security policies.

Although the Taiwanese MFA actively engaged in efforts to garner support for the Ma administration's initiative, it attracted little attraction from the international community. Since September 2012, the East China Sea security agenda has been dominated by the risk of collision between Chinese and Japanese maritime law-enforcement agencies and by the interruption of communication channels between the two countries. Instead of mitigating China-Japan competition, the main outcome of Taiwan's East China Sea initiative was to help create the conditions for the final negotiation of a fisheries agreement with Japan.

The Taiwan-Japan Fisheries Agreement

The Interchange Association of Japan and Taiwan's Association of East Asian Relations signed a "Taiwan-Japan Fisheries Agreement" (台日漁業協議, *Tai-Ri yuye xieyi*) in Taipei on 10 April 2013,⁵ 17 years after the first round of negotiations took place in early 1996. At that time, the launch of bilateral negotiations was an indirect consequence of Tokyo's ratification of UNCLOS, which prompted enforcement by the Japanese Coast Guards of fisheries control in Japan's claimed 200 nautical miles EEZ around the Diaoyu/Senkaku islands. In a position of strength, the Japanese side rejected all propositions advanced by the Taiwanese side while continuing to enforce controls. Against this backdrop, the acceptance by Japan of the Taiwanese supported notion of "joint management of resources" is a significant concession, given Japan's previous insistence on splitting off the disputed maritime territories into two law-enforcement areas across the median line.⁶ Both Japanese and Taiwanese officials and media described the agreement as a substantial gain of fishing rights by Taiwan.⁷ The head of Taiwan's Coast Guards even suggested Taiwan-Japan cooperation against Mainland China's fishing boats and law-enforcement agencies, when he noted the obligation of the two sides to work together to interdict access to fishing boats from all other parties.⁸ In practice, such cooperation appears unlikely given Taiwan's current Mainland policy.

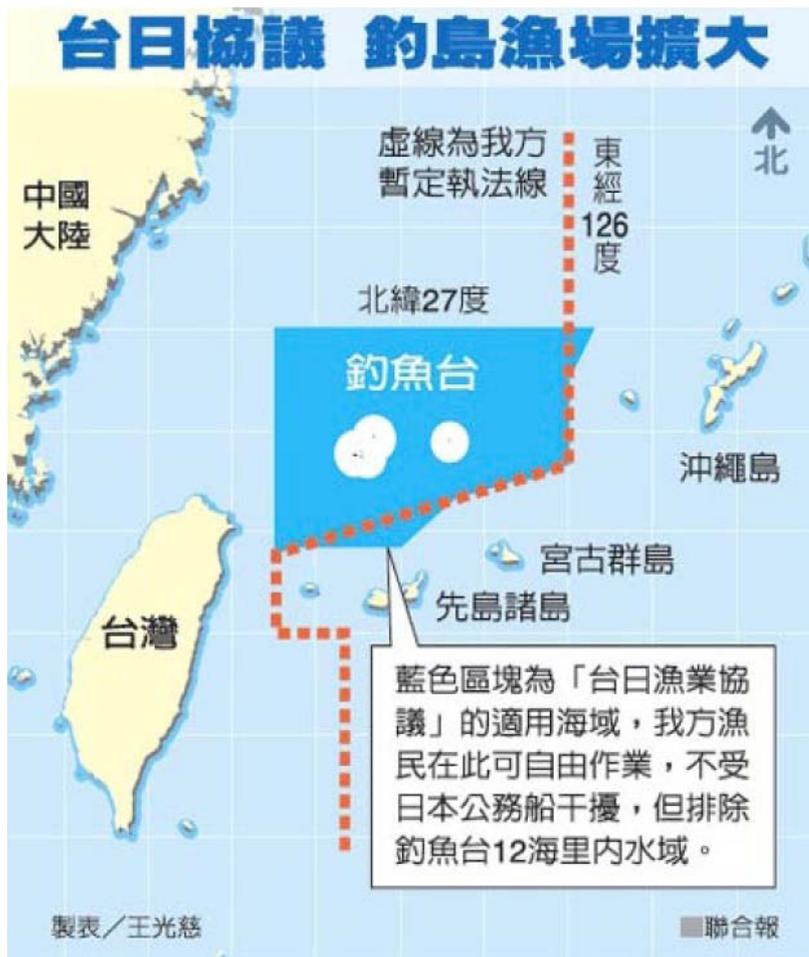
⁵ The full text of the agreement (in Chinese) can be found on CNA's website: <http://www.cna.com.tw/News/aIPL/201304100383-1.aspx>

⁶ "Taiwan, Japan Ink Fisheries Agreement", *Taipei Times*, 11 April 2013.

⁷ For example: "Japan gives priority to Senkaku issue over fishing interests", *Asahi Shimbun*, 11 April 2013.

⁸ "Taiwan would expel mainland trawlers under Japan fishing deal", *South China Morning Post*, 12 April 2013.

Map 1: Geographical area covered by the Taiwan-Japan Fisheries Agreement⁹



The key notion appears in article 2.1: the “maritime zone of application of the agreement” (協議適用海域, *xieyi shiyong haiyu*). This zone, as illustrated by map 1 above, lies south of 27 degrees north latitude, east of the Japan-China median line, northwest of the boundary claimed by Taiwan, and covers an area of approximately 4530 km².¹⁰ Article 4 of the agreement specifically mentions that the measures agreed under the text of the accord do not affect the sovereignty claims of the two sides and their respective interpretations of international law.

Experts from China, Japan and Taiwan broadly agree on the main factors that prompted the conclusion of the agreement. From a Japanese perspective, the rationale for concluding negotiations that had been stalled for the past 17 years was clearly to avoid a cross-strait united front against Japan over the disputed

⁹ Source: website of *Lianhebao*.

¹⁰ Source: website of Taiwan’s MOFA,

islands.¹¹ Japan was able to take advantage of the relative good atmosphere in cross-strait relations, anticipating a mild reaction from Beijing.¹² Taiwanese experts invoke US influence, with Washington trying to defuse regional tensions between Japan and Taiwan, both key elements of the US alliance system in East Asia. Some see the agreement as part of a Japanese containment strategy directed at China, with Taiwan the only Japanese option in Northeast Asia, given Japan's maritime disputes with the ROK and Russia. Others note that Ma Ying-jeou's ambiguous stance (based on non-denial) regarding cooperation with China over the islands had made Tokyo insecure.¹³ In China, the development of Japan-Taiwan relations is always perceived with great suspicion, but rhetoric was toned down in order to preserve the positive dynamics in cross-strait relations. The MFA's spokesperson Hong Lei declared: "as for the fishery issue between China and Japan, the two countries signed a fishery agreement as early as in 1997. China opposes Japan's unilateral actions in relevant waters and urges Japan to properly deal with Taiwan-related issues in strict accordance with the principles and spirit of the China-Japan Joint Statement".¹⁴

Chinese experts were more outspoken in expressing distrust of Japanese ultimate strategic intentions. In addition to noting the prevention of a cross-strait united front in the East China Sea, some experts suggested that Tokyo's ultimate strategic objective was to disrupt the peaceful development of cross-strait relations.¹⁵ On the contrary, some other experts downplayed Japan's strategic independence and pointed up the decisive influence of the US.¹⁶ The most virulent criticism came from Wang Jianmin, who argued that the agreement was "a victory in appearance but a defeat in reality" (名贏實輸, *mingying shishu*) for Taiwan because it contained a tacit recognition of Japan's sovereignty over the islands.¹⁷

How is the agreement impacting regional security in East Asia? Obviously, it reduces unpredictability in one of the potential flashpoints of maritime Northeast Asia. The agreement can be interpreted as a declaration of strategic neutrality by Taiwan regarding China-Japan rivalry. While it significantly reduces the risk of incident at sea between Japanese and Taiwanese Coast Guards and trawlers, it also

¹¹ Madoka Fukuda, "The Japan-Taiwan Fisheries Agreement Will Not Contain China", Commentary no. 179, the Association of Japanese Institutes of Strategic Studies, 19 June 2013.

¹² Ibid.

¹³ Tsai Meng-han, Chen I-chung, "Tai-Ri yuye xieyi de zhenxiang", *Pingguo Ribao*, 13 May 2013 (The Truth about the Taiwan-Japan fisheries agreement).

¹⁴ Foreign Ministry Spokesperson Hong Lei Regular Press Conference, 12 April 2013. Source: Website of China's MFA, <http://www.fmprc.gov.cn/eng/xwfw/s2510/t1031012.shtml>

¹⁵ "Zhongping luntan: Ri-Tai yuye xieding da liang'an xiezi", *Zhongguo pinglun*, 28 May 2013 (*Chinanewsreview* Forum: the Japan-Taiwan fishing agreement undermines cross-strait relations).

¹⁶ Ibid.

¹⁷ Wang Jianmin, "Tai-Ri yuye xieyi deshi pingduan", *Jinri Zhongguo*, 14 May 2013. (Assessing costs and benefits of the Taiwan-Japan Fisheries Agreement).

freezes Taiwanese sovereignty claims over the Diaoyu/Senkaku islands. This last point is also the most controversial. Although language contained in the agreement has been presented by the Taiwanese media as a mutual decision to exclude the 12 nautical miles territorial sea of the Diaoyu/Senkaku islands from the zone of enforcement, in reality, the Japanese Coast Guards continue to patrol the area while the Taiwanese Coast Guards have renounced to enforce Taiwan's sovereignty claims. By accepting to freeze the status quo in the 12 nm zone, Taiwan withdraws from the competition over security and sovereignty at times of heightened Sino-Japanese rivalry over the actual administration of the territorial sea around the Diaoyu/Senkaku islands, with maritime law-enforcement agencies of both countries facing a major risk of incident at sea.

In the short term, it seems very unlikely that the Japan-Taiwan agreement will help shape the conditions for the development of cooperative security mechanisms between China and Japan in their disputed maritime territories. Japanese experts have noted that the 1997 China-Japan fisheries agreement was a basis for the Japan-Taiwan agreement.¹⁸ The agreement defines a "maritime zone for tentative measures" across the median line of the East China Sea but which doesn't cover the maritime zones south of the 27th parallel.¹⁹ In the future, if China and Japan are to extend their fisheries agreement to the area covered by the Taiwan-Japan agreement, they may have to negotiate bilaterally with Taiwan. However, this is unlikely to happen in the short term as the policy of the Abe government towards China is increasingly based on deterrence. In addition, the thinking in Japan favors negotiations of an agreement to regulate the operations of law-enforcement agencies in the disputed areas rather than one to organize the joint development of resources.

The fishing boat incident with the Philippines

On 9 May 2013, the captain of a Taiwanese trawler fishing in an area claimed by both the Philippines and Taiwan as their Exclusive Economic Zone was shot dead by a Filipino Coast Guard (for the location of the incident, see map 2 below). The incident generated public outrage in Taiwan and the Ma administration adopted a package of retaliatory measures, which are still in place. Despite a tragic loss of life and heightened diplomatic tensions, the incident also created the conditions for the launch in June 2013 of the first round of fisheries negotiations between the

¹⁸ Yoshiki Mine, "Japan-Taiwan Fishing Agreement", Column, the Canon Institute for Global Studies, 30 May 2013.

¹⁹ Chisako Masuo, "Governing a troubled relationship, can the field of fisheries breed China-Japan cooperation?", *Japanese Journal of Political Science*, vol. 14, no. 1, March 2013, pp. 51-72.

- Recall the Taiwanese representative to the Philippines and expel the Filipino representative from Taiwan.
- The suspension of high-level exchanges and the suspension of selected exchanges in the economic sphere.
- Freezing of applications for work permits for Filipinos. 85,000 nationals from the Philippines work in Taiwan and the non-renewal of their work permits means that about 10,000 Filipinos lost their job in Taiwan between the adoption of sanctions and the end of July.²²
- The suspension of measures by the Taiwanese government in support of expansion of bilateral trade. (Bilateral trade was 11 billion USD in 2012, with Taiwan enjoying a surplus of 6.78 billion USD).²³
- The extension of the patrol area of the Taiwanese navy south of the Bashi Channel, except in the 24 nautical miles off the coast of the Philippines (territorial sea and contiguous zone).²⁴
- The issuance of a travel alert for the Philippines and the cancellation of visa-free procedures for several categories of Filipino tourists visiting Taiwan.
- The suspension of exchanges between major Taiwanese cities and their sister towns in the Philippines.²⁵
- A show of force, with joint exercises held in disputed waters on May 16 and involving air and naval vessels from the Taiwanese Navy, Air Force and Coast Guards.

In early August 2013, the sanctions were still in place. The Ma administration announced that they won't be lifted until the "four solemn demands" are met, and the Philippines are yet to make public the result of their investigation. So far, the only condition met by Manila has been the launch of fisheries negotiations, which Taipei not necessarily enters in a position of strength. Indeed, although the bilateral balance of power is clearly in Taiwan's favor, the Philippines are actively developing military ties with Japan and the US to respond to the rise of China. In the end, influence from Tokyo and Washington may help create favorable conditions for the conclusion of a Taiwan-Japan like agreement. During the first round of negotiations, the two sides agreed not to use force during their encounters in disputed maritime territories.²⁶

Some observers have argued that Taiwan's retaliation was out of proportions.²⁷ However, as the delimitation of Taiwan's maritime boundaries are yet to be

²² "Philippines delay in release of report stalls lifting of Taiwan hiring freeze", *Philippine Daily Inquirer*, 11 July 2013.

²³ "Philippine Sanction to Impact Taiwan", *The China Post*, 17 May 2013.

²⁴ "Taiwan's navy to extend patrols to Bashi Channel", *CNA*, 14 May 2013.

²⁵ "Taiwan's major cities suspend exchanges with Philippines", *CNA*, 14 May 2013.

²⁶ Interviews with Taiwanese diplomats, Taipei, July 2013.

²⁷ Philip Bowring, "Taiwan's reaction of killing of fisherman is out of proportion", *South China Morning Post*, 19 May 2013.

negotiated with Southeast Asian neighbors, the responsibility of any government in Taipei in a political system based on democratic accountability is to commit resources to defend the interests of the population. Although domestic considerations have clearly played out as a factor to explain the Ma administration's posture of strength, Taipei is pursuing a strategic objective that falls within the category of cooperative approaches to security in seeking a fisheries agreement with the Philippines.

Conclusion: Taiwan's maritime security policy and cross-strait relations

Taiwan's recent diplomacy in the South and East China seas has served two main purposes:

- Reaffirm Taiwan's existence as an independent geostrategic actor in East Asia in times of gradual disappearance of the "Taiwan issue" from the regional security agenda. The Ma administration's maritime security policy rejects alignment with Beijing, but without aligning with the US-Japan alliance, as there is a contradiction between Taiwan's claims and the South China Sea and the consolidation of US-Japan-Philippines security cooperation. However, the Ma administration has expressed a clear preference for policy choices that broadly coincide with American and Japanese security interests.
- Take advantage of China's disputes with Japan and the Philippines to protect and advance Taiwanese economic interests.

Beijing has not applied a zero-sum game approach to Taiwan's tactical gains. To some degree, Beijing's margin of maneuver was minimal. Public display of cross-strait divergences towards disputed maritime territories that both sides claim with very similar legal argumentation would neither have served Beijing's policy towards Taiwan, not its posture vis-à-vis Japan, the Philippines or even Vietnam. However, the main reason behind Beijing's low-key response is that Taiwanese actions have had no impact on the overall maritime security dynamics in the region and little if any on Chinese interests. If the current period of "peaceful development of cross-strait relations" relatively increases, albeit modestly, Taipei's space to pursue economic gains, it also gives Beijing a freer hand to carry out assertive maritime security policies in the East and South China seas. To a large degree, recent developments in Taiwan's handling of its maritime disputes with its neighbors have occurred precisely because they didn't disrupt this fragile cross-strait balance. Nevertheless, the Ma administration's efforts to garner regional support for cooperative security approaches based on joint exploitation of natural resources are unlikely to exert significant influence on Beijing's maritime security policies, which will continue to be determined by other factors.