

## Understanding Chinese maritime behaviour: Opportunities for Malaysia-Japan cooperation in the South China Sea

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*Abstract: In the East and South China Seas, actions undertaken by both claimants and non-claimants in the disputed waters have cultivated an environment of distrust, erecting more barriers to make progress diplomatically. China's increasing assertiveness over the years is often blamed for the deteriorating situation in both seas, but what motivates Beijing's maritime behaviour? This paper provides a historical analysis to China's maritime outlook and behaviour in both the East and South China Seas as an attempt to form a more comprehensive understanding of China's behaviour in order to guide a better response from claimant states, especially in the South China Sea disputes. This paper concludes with four policy recommendations aimed at enhancing Malaysia's and ASEAN's ability to respond to provocations and manage tensions in the South China Sea. It focuses on how Japan and Malaysia can cooperate to promote a more stable regional environment.*

**Keywords:** China, Japan, Malaysia Foreign Policy, South China Sea, East China Sea

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The South China Sea has consistently featured as a flashpoint in regional security over the past decade and more, yet tensions show no signs of abating. China has even been accused of exploiting the vulnerabilities arising from the Covid-19 crisis to further its expansion in the

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disputed waters. A similar situation exists in the East China Sea, where China's claims over the Senkaku/Diaoyu Islands have clashed with Japan's for decades. Although both the East and South China Seas are often analysed separately, there are similarities in the way China behaves in both areas. With growing distrust on all sides, there should be greater urgency in building understanding and consensus in order to find feasible solutions in managing the territorial disputes.

This essay seeks to understand the factors which motivate China's behaviour in the disputed waters of both the East and South China Seas as an effort to draw links in China's overall maritime behaviour. A true effort to understand China's maritime behaviour should be done through a Chinese perspective, which this essay seeks to pursue. As diplomacy is the preferred course of action by claimant states, this essay also seeks to analyse when and why diplomacy has not been able to make progress in managing the territorial disputes. Considering the large and complex history of both the East and South China Seas, this essay aims to highlight only key events and turning points in China's maritime behaviour in both seas. After forming a comprehensive understanding of China's maritime behaviour, this paper concludes with four suggestions for Japan-Malaysia cooperation that aim to bolster ASEAN's and its claimant states' ability to better respond to the growing uncertainty in the South China Sea.

### **1. The role of history in China's territorial claims**

It is pertinent to first understand why China claims these territories as its own before analysing the changes and continuities of its behaviour in the disputed territories. China's maritime behaviour in the East and South China Seas are strongly motivated by Beijing's understanding of its own history. This historical understanding is deeply rooted in its feeling of entitlement to the territories, partially due to China's experience during the period it calls the 'Century of Humiliation' at the hands of the nineteenth-century imperialists. The historical memory of the 'Century of Humiliation' evokes a sense of shame and victimhood from the fall of what was once a great empire. Therefore, in China's perspective, its recovery from this period of invasions and humiliation towards regaining its great power status necessarily entails reclaiming what it had lost, including territory.

History, or at least historical narrative, is the core to China's sense of entitlement in all its territorial claims. However, the way in which historical narrative is employed in territorial disputes varies, suggesting inconsistencies in China's approach. An example of inconsistency

is the historic right of China's nine-dash line, which was first used formally in its legal claims in 2009 but for which it has yet to provide an explicit explanation. China also utilizes historical narrative more frequently in the Senkaku/Diaoyu Island disputes than those in the South China Sea, not because it is strategically pragmatic but because of historical sensitivity in the Sino-Japanese relationship.

Another inconsistency is how China uses history in the disputes between China and the various claimant states. In the East China Sea, the historical narrative in China evokes Japan's past as a military aggressor and imperialist. This narrative is frequently used against Japan to demonstrate the historical sensitivity in China and to suggest that any provocation from Japan will be considered neo-imperialist behaviour, essentially framing the Senkaku/Diaoyu Islands issue as one between former aggressor and former victim. On the other hand, South China Sea claimant states were all formerly colonized countries, and therefore the dichotomy of victim-victor does not apply. As all South China Sea claimant states including China are formerly victims of imperialism, the disputes are instead approached as misunderstandings of historical record. This is further complicated by the multiplicity of colonial administrations, such as the French in Indochina, the British in Malaya, and the Americans in the Philippines. Therefore, China initially pursued diplomacy to resolve the conflicting territorial claims, as exemplified by efforts to participate in multilateral processes such as ASEAN's Declaration of Conduct. However, as diplomacy has progressed slowly while China's economic and military power has grown rapidly in recent decades, Beijing has become emboldened to act on its territorial claims in the South China Sea more assertively.

This begs the question: why does China continue to use historical claims if they have not proven to be strategically effective? Domestically, nationalism and censorship have impeded the Chinese public's awareness that Beijing's handling in the disputed waters have played a critical role in destabilizing the region (Yang & Li 2016). Moreover, historical sensitivity makes the disputes a nationally emotional issue that frames China as the victim (Kim 1998), thereby encouraging a hardline and assertive approach from the Beijing government. Within China, the assertive attitude and behaviour over these territories demonstrate the continued exercise of jurisdiction and effective control, reflecting their rightful governance. China does not need to be strategically effective for a domestic audience that views the disputed areas as their rightful and sovereign territory. From a broader international view, Beijing firmly believes that there is a legal and internationally recognized basis to citing historic rights to disputed waters. Beijing maintains the Cairo Declaration and Potsdam Proclamation as the legal bases for its territorial claims, especially in the Senkaku/Diaoyu

Islands. Although the declarations were signed by the Republic of China, Beijing contends that the agreements extend to the People's Republic of China under the One-China Policy.

## 2. Historical overview of China's maritime behaviour

A historical overview of China's maritime policy helps illustrate the continuities and evolution in China's maritime outlook and behaviour, providing a more holistic understanding as to why China behaves assertively in certain situations. Better understanding of China's outlook and behaviour could inspire more constructive solutions to the escalating tensions in both the East and South China Seas. This paper identifies three phases to China's maritime policy: the early years between 1949 and 1970, a shift in approach to maritime security from the 1970s to the 2000s, and growing assertiveness starting in the late 2000s.

### 2.1 The Early Years

In the **early years (1949 to 1970)**, China's maritime policy was in its infancy. The People's Liberation Army Navy (PLAN) was officially founded in 1950, after the army's victory which led the Chinese Communist Party to establish the People's Republic of China. However, this does not mean that Beijing was ignorant of the importance of the maritime domain. In the past, China's maritime vulnerability had been exploited by imperialist aggressors to invade China, leading to the 'Century of Humiliation'. This threat awareness carried through post-independence, when the Chinese Communist Party recognized the need to defend its coastline against possible threats from the Kuomintang regime that fled to Taiwan and the US presence in the Asia Pacific as well as the by-products of Cold War superpower rivalry (Cole 2000; Kim 1998).

Recognizing the need for greater maritime capabilities, Chairman Mao Zedong proclaimed in a 1953 Politburo meeting that China "must build a strong navy" to deter imperialist aggression and prepare for the recovery of Taiwan.<sup>2</sup> This suggests that China's

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<sup>2</sup> The People's Liberation Army Navy (PLAN) was formed to bolster the People's Liberation Army's overall military capabilities with the goal of recapturing Taiwan across the strait. Chairman Mao Zedong was also acutely aware of the need to build a powerful coastal defence to deter foreign invasion, to prevent history from repeating itself. However, Mao also noted that the navy should be built according to the developmental and financial capabilities of the People's Republic of China, which did not have a strong economy at the time. <http://www.commonprogram.science/art22.html>

maritime strategic thinking at this point centred on defence, while issues related to maritime sovereignty mainly targeted Taiwan. There is a lack of evidence that China had strategic focus on the East or South China Seas during this period.

Although there were efforts to modernize the PLAN following Chairman's Mao statement in 1953, the pace of progress was limited as the military's priority continued to be continental defence. This can be explained by certain geopolitical factors, such as the Sino-Indian border dispute in 1962 as well as the escalating situation in Vietnam. Therefore, despite efforts to modernize, the PLAN was limited in the early years to brown-water capabilities such as coastal defence. At this point, the PLAN did not resemble a modern navy that could project power beyond its coastal regions (Huang 1994).

### **2.2 Modernisation of the PLAN and shift in maritime thinking**

The second phase covers **the modernisation of the PLAN and China's integration into the international regime in the 1970s to the 2000s**. There was a shift in strategic awareness of the maritime space during this period, and China began to learn and adopt the norms of the international regime as Beijing was socialised into multilateralism.

#### **2.2.1 Shift in China's maritime strategic thinking**

From the late 1970s Chinese political elites and military leaders began recognising the advancement of military technologies and the need to develop the PLAN towards blue-water capabilities. This highlighted the maritime domain as an increasingly important aspect of national security. There is an economic element to bolstering maritime power as well. This period is characterised by China's rapid economic development under the Reform and Opening Up policy, which had a maritime orientation. Bernard Cole articulates that "China historically has viewed the sea as an invasion route for foreign aggressors, rather than as a medium for achieving national goals. This attitude appears to have changed in the post-Cold War years, as it focuses on offshore sovereignty, economic, and resource issues" (2000). Therefore, a strong PLAN was necessary to protect the flourishing coastal economy as well as offshore resources. China's fast-growing economy also provided the financial resources necessary to modernise the PLAN.

China then began to integrate into the global maritime regime. Beijing's first involvement started with the negotiations at the third United Nations Conference on the Law of the Sea (UNCLOS III), which concluded in 1982. Prior to this, the international maritime regime existed in the form of the 1958 Geneva Conventions on the Law of the Sea, in which Beijing did not participate and with which it had limited interactions. Therefore, China was not familiar with the norms and laws of the prevailing maritime regime. China's integration into UNCLOS in 1982 exposed Beijing to the legal issues and technicalities necessary for modern maritime governance, and this has shaped and reshaped its understanding and approach to the maritime domain (Li 2018).

According to Li Lingqun, in the initial years of China's participation in the UNCLOS III negotiations, "the Chinese delegation often used the debate floor for political purposes, condemning maritime hegemony and proclaiming China an integral part of the Third World" (p. 53, 2018). This indicates that Beijing did not see UNCLOS as an opportunity for shaping the rules of the international regime, but instead as a platform to rally the Third World against Cold War rivalry (Kim 1994). By 1978, China's socialisation into UNCLOS-led maritime governance saw its statements shift from condemning superpower rivalry towards more selective and specific issues. For example, the Chinese delegation objected to a compulsory dispute mechanism, preferring consensus and further consultations between the parties involved (Li 2018). This demonstrates China's socialisation into global governance, as well as Beijing's growing awareness that its national interests were not limited to its coastline.

### 2.2.2 Shift in China's maritime posturing

Other than a shift in maritime strategic awareness, the 1970s-2000s period also demonstrated a change in Beijing's posturing in the East and South China Seas, marking the initial stages of maritime territorial disputes. Despite both involving maritime territorial issues, developments and historical narratives in the two seas are distinct from each other. Therefore, analyses of developments will be detailed separately.

#### 2.2.2.a East China Sea

Tensions in the East China Sea began in the 1970s, though Japan and China hold a different perspective of the turning point due to different interpretations of history. According to Japan, the Senkaku/Diaoyu Islands had been under Japanese administration following the

formal incorporation of the islands into the territory of Japan on 14 January 1895. This occurred in the midst of the Sino-Japanese War and predates the Treaty of Shimonoseki signed in April 1895. Tokyo further iterates that the 1951 Treaty of San Francisco which detailed Japan's territory did not indicate that the Senkaku/Diaoyu Islands would be renounced. It is worth noting that neither the People's Republic of China nor the Republic of China are signatories of the 1951 Treaty of San Francisco. In the Japanese view, China began encroaching on the Senkaku/Diaoyu Islands after the 1969 report by the United Nations Economic Commission for Asia and the Far East which indicated possible large energy deposits near the islands. Soon after the report, China released a note through the state-run Xinhua News Agency in December 1970 criticising foreign exploration in the Senkaku/Diaoyu Islands where Beijing claims sovereignty. This represents the first instance in which China publicly asserted sovereignty over the Senkaku/Diaoyu islands (Chansoria 2018; Watts 2019). Japan hence criticises China's claims in the East China Sea as economically motivated, with poor evidence of administration and legal claims over the islands.

In contrast, China views the Senkaku/Diaoyu Islands as an unresolved issue of sovereignty left over from the 'Century of Humiliation'. In particular, the question of sovereignty over the islands is directly linked to Japan's invasion of China and Greater East Asia. While Tokyo views the incorporation of the Senkaku/Diaoyu Islands as separate from the Treaty of Shimonoseki, Beijing perceives the two as interrelated and inseparable as it represents Japan's imperialistic aggrandisement in China. Consequently, Beijing interprets that the Treaty of Shimonoseki detailed the cession of "the island of Formosa, together with all islands appertaining or belonging to it", which presumes the inclusion of the Senkaku/Diaoyu Islands.<sup>3</sup> Therefore, in Beijing's perspective, Japan effectively lost legal administrative rights over the islands when the Treaty of Shimonoseki became null.

Following this logic, the turning point of the East China Sea issue in Beijing's perspective was triggered by the 1971 Okinawa Reversion Agreement which saw the US transferring administrative rights to Japan, including the Senkaku/Diaoyu Islands. Beijing protested this move and issued a statement in December 1971 stating that "it is completely illegal for the government of the United States and Japan to include China's Diaoyu Dao Islands

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<sup>3</sup> The Treaty of Shimonoseki (1895) concluded the First Sino-Japanese War by setting out the terms of China's surrender to the Empire of Japan. Article II of the treaty called for the cession of the island of Formosa (better known as Taiwan) to Japan, together with all islands appertaining or belonging to Formosa, but it does not explicitly identify which islands these are.  
<https://worldjpn.net/documents/texts/pw/18950417.T1E.html>

into the territories to be returned to Japan in the Okinawa Reversion Agreement and it can by no means change the People's Republic of China's territorial sovereignty over the Diaoyu Dao Islands.”<sup>4</sup> Tensions further rose when Japan erected a lighthouse on the largest of the Senkaku/Diaoyu Islands in March 1978, to which Beijing responded by sending over 80 armed fishing boats to circle the islands. It is also reported that a PLAN commander had planned a major naval exercise near the islands as a show of force; this was overruled, however, as Deng Xiaoping was working towards the Sino-Japanese Treaty of Peace and Friendship which was signed in August later that year (van Kemenade 2006).

Despite the difference in historical narratives and interpretations of legal positions, the Senkaku/Diaoyu islands issue was managed diplomatically during this period by ‘shelving’ it, although this was never a formal or legal policy. When China and Japan normalised diplomatic relations in 1972, the issue of the Senkaku/Diaoyu Islands arose with disagreements between the two sides. However, Japanese Prime Minister Tanaka Kakuei and Chinese Premier Zhou Enlai decided not to discuss the issue then, preferring to focus on the status of Taiwan (Drifte 2013). Instead, the disputed area was managed through back-channel diplomacy among high-level officials, allowing for discussions of sensitive issues without public pressure (Hafeez 2015). During the negotiations for the 1978 Treaty of Peace and Friendship, Deng Xiaoping and Japanese Foreign Minister Sunao Sonoda similarly chose to ‘shelve’ the sensitive issue of the Senkaku/Diaoyu Islands in order to focus on joint development. In a 1978 press conference during Deng's visit to Tokyo, he claimed that “our generation is not wise enough to find common language on this [Diaoyu/Senkaku] question. The next generation will certainly be wiser. They will surely find a solution acceptable to all.” (Drifte 2014). Deng's successors followed suit on the unofficial policy of ‘shelving disputes and carrying out joint development’, and China did not take any concrete actions to challenge Japan's control of the islands for the next few decades (Yang & Li 2016). By doing so, the status quo of the Senkaku/Diaoyu Islands was essentially preserved even though disagreements remained. Nevertheless, it was clear that from the 1970s China made a shift in its posturing through more public assertions and clearer articulations of its claims in the East China Sea.

### 2.2.2.b South China Sea

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<sup>4</sup> The Okinawa Reversion Agreement (1971) returned all powers of administration over the Okinawa and Daito islands, including the Senkaku Islands, to Japan after the United States Civil Administration of the Ryukyu Islands that began in 1950.  
[https://www.fmprc.gov.cn/mfa\\_eng/topics\\_665678/diaodao\\_665718/201209/t20120926\\_701830.html](https://www.fmprc.gov.cn/mfa_eng/topics_665678/diaodao_665718/201209/t20120926_701830.html)

While the East China Sea was managed through diplomacy between the 1970s and the 2000s, Beijing was far more willing to flex military power in the South China Sea. Scholars have described Beijing's behaviour in the South China Sea as relatively restrained and driven by opportunistic gains, especially when opponents are either distracted or not likely to respond strongly (Ang 1999; Li, 2015; Raditio 2015; Yang & Li 2016). It is also important to recognise that, while China's military capabilities were growing quickly, the PLAN at this point had limited resources for projecting sustained power throughout the South China Sea (Cole 2000). Therefore, from the mid-1970s through the 1980s, China's actions in the South China Sea were directed against the more proximate Vietnam.

It began in the Paracel Islands, when a naval clash between China and South Vietnam in 1974 resulted in China's total control of Woody Island. China's military campaign in the Paracels took place shortly after the signing of the 1973 Paris Agreement to conclude the Vietnam War, when the US was not likely to intervene after its failed war. Later in 1988, China and Vietnam clashed again in the Spratly Islands, which led to Chinese occupation over several features. Despite geopolitical tensions during this period, China was not constrained by Cold War dynamics, as the Soviet Union began shifting its attention away from Vietnam while the US prioritised rapprochement with China. Hence, Beijing rightly calculated that its military confrontations in the Paracel and Spratly Islands would not attract external intervention in Vietnam's defence (Ang 1999).

At this point, China's activities in the South China Sea were perceived as a bilateral issue with Vietnam. Li Lingqun notes that there was a "tacit belief among ASEAN members that China would not take on claimants other than Vietnam" (2018, p. 101). ASEAN then comprised six members: Thailand, Indonesia, Malaysia, the Philippines, Singapore and Brunei. Thus, while China's territorial disputes with Vietnam in the South China Sea were flashpoints for regional instability, they did not interfere with ASEAN Centrality.

In the 1990s, developments in the South China Sea took a turn. Following UNCLOS 1982, China adopted the Law on the Territorial Sea and the Contiguous Zone in 1992 and the Law on the Exclusive Economic Zone (EEZ) in 1998. Firstly, the enactment of these laws reflects China's embrace of the international maritime regime. Second, these laws shifted China's approach towards a growing emphasis on historical claims instead of traditional international law and territorial acquisition (Li 2018). On the military front, the PLAN grew significantly in the 1990s. In 1993, China announced that it had developed an airstrip on Woody Island, suggesting that China had begun building structures on the islands that it claims. This

prompted concerns in Southeast Asia, with the Malaysian defence minister warning against the militarisation of the South China Sea (Koga 2022).

China's activities in the South China Sea also quickly expanded beyond its disputes with Vietnam. In February 1995, the Philippines discovered that China had been building structures on Mischief Reef, where both parties are claimants. This came after the US withdrew from Subic Base in 1993. Numerous scholars interpret China's occupation of Mischief Reef as the start of growing instability and China's increasing assertiveness in the South China Sea (Kim 1998; Storey 1999; Fravel 2011; Raditio 2015).

In response, President Fidel V. Ramos issued a statement that the Philippines would "prepare for the worst" and deployed warships and fighter planes to Mischief Reef. Given its limited military capabilities, the Philippines pursued diplomacy multilaterally by rallying support in ASEAN, culminating in the March 1995 Statement by the ASEAN Foreign Ministers on the Recent Developments in the South China Sea expressing "serious concern" over the developments on Mischief Reef. A month later, the first meeting of ASEAN and Chinese senior foreign-ministry officials convened in Hangzhou, where the Mischief Reef incident and other South China Sea concerns were raised. By July, Vietnam had formally joined ASEAN and participated in the 28<sup>th</sup> ASEAN Ministerial Meeting that month, which further complicated China's territorial disputes in Southeast Asia (Cheng 1999). The foreign ministers at that meeting issued a joint statement which expressed concerns over the South China Sea. This demonstrated a strong ASEAN consensus on the South China Sea issue. It also highlighted the region's turn towards multilateralism, a concept to which China was still adapting.

While China may have been prepared for a strong response from the Philippines, Beijing did not expect a unified and multilateral effort from ASEAN. Hoping to avoid the internationalisation of the South China Sea and feeling the pressure of a united ASEAN response, China shifted its diplomatic posture slightly at the second ASEAN Regional Forum in August 1995. Although Beijing maintained its rejection of multilateral negotiations, China agreed to shelve the territorial dispute in favour of joint development (Koga 2022). This mirrors Beijing's approach to the Senkaku/Diaoyu Islands dispute with Japan from the 1970s to the 2000s. China also indicated that it would comply with international law in managing the territorial disputes in the South China Sea, signalling a move away from Beijing's previous insistence on its sovereignty over the islands (Cheng 1999; Li 2018; Koga 2022). China's willingness to manage the Mischief Reef incident diplomatically with ASEAN illustrates Beijing's priority in maintaining good and stable relations with its neighbours. Regional stability was instrumental for China's continued economic development (Kim 1998; Yang &

Li 2016). Moreover, strong relations with ASEAN would also enable Beijing to play a more significant role in the Asia Pacific (Cheng 1999).

Overall, China's behaviour in the South China Sea during this phase can be characterised as "confrontation, cooperation, and compromise" (Li 2018). While skirmishes in the Spratly Islands continued to occur, diplomacy prevailed and the status quo was generally unchanged. Although there was no change in the basic positions of the disputing parties, regular multilateral exchanges between China and ASEAN member states had gradually transformed the atmosphere of negotiations "into a more relaxed and constructive space" (Cheng 1999; Li 2018). In August 1996, the Philippines and China agreed to a non-binding code of conduct which aimed to promote confidence-building measures and avoid future incidents in the South China Sea (Cheng 1999). Such discussions were soon adopted into ASEAN-China dialogues which lead to the signing of the non-binding Declaration of Conduct in the South China Sea in 2002. The changes in China's outlook on the South China Sea by the end of the 1990s reflect a growing multilateral awareness in China's policymaking.

In this second phase extending from the 1970s to the early 2000s, Beijing developed an increased strategic awareness of its maritime space beyond its coastlines and into the East and South China Seas. This follows China's assimilation into the international maritime regime, which has shaped Beijing's understanding and behaviour of its maritime interests (Li 2018). Acting on these expanded interests, China consequently increased incidences in the maritime space. This led to disagreements in both the East and South China Seas, where diplomacy had been prioritised in the management of disputes. In the East China Sea, the unofficial policy of 'shelving' in favour of cooperation was followed, reflecting Beijing's low-profile dictum in its foreign policy. In the South China Sea, though, China became more assertive, calculative and militaristic, as seen on Woody Island and Mischief Reef. As there were more parties concerned, Beijing was forced to adapt to multilateralism as ASEAN confronted China with a strong unified stance.

### **2.3 Growing maritime assertiveness**

The third phase corresponds to **China's growing assertiveness beginning in the late 2000s**. After its accession into the World Trade Organisation, China's economy flourished and grew rapidly. As a rising power, Beijing grew emboldened to act more assertively on its sovereignty claims in the East and South China Seas, especially when it felt that the status quo

was threatened. China's increasingly assertive behaviour also raised suspicion internationally about Chinese ambitions.

### 2.3.1 East China Sea

The situation in the East China Sea since the 2000s must be understood through the broader prism of the Sino-Japanese relationship, which had taken a turn in 2005 with the large-scale anti-Japanese demonstrations in China. Triggered by a mix of factors – such as the revision of Japanese history textbooks, Prime Minister Koizumi Junichiro's statement of intent to visit the controversial Yasukuni Shrine, and Japan's bid for a permanent seat on the UN Security Council – mass demonstrations took place in over 30 cities for over three weeks across China. The violent protests illustrated the underlying tensions in Sino-Japanese relations, with the Chinese Foreign Minister Wu Dawei acknowledging that bilateral relations had reached their lowest point since the normalisation of relations in 1972 (Chan & Bridges 2006). While the 2005 protests had no immediate consequences for the East China Sea, the strong anti-Japanese sentiment had implications for subsequent developments around the disputed islands in 2010 and 2012.

In September 2010, the Japan Coast Guard arrested the crew of a Chinese fishing boat near the Senkaku/Diaoyu Islands and remanded them to a Japanese court in Ishigaki City for prosecution. This “illegal detention” sparked anti-Japanese protests in China, while Beijing also responded swiftly with a hard-line stance by demanding the immediate and unconditional release of the Chinese fishing crew, suspending high-level talks with Japan, discouraging Chinese citizens from traveling to Japan, and taking retaliatory measures such as halting rare earth mineral exports and arresting four Japanese employees (Zhao 2013; Liff 2019). Beijing's strong response was partially motivated by the perception of its rising power vis-à-vis the West and Japan's declining power in the aftermath of the global financial crisis, as well as China's overtaking Japan as the second largest economy in 2010 (Johnston 2013). Tensions subsided after Japan released the Chinese boat captain, with a Tokyo official commenting that the continued detention would inappropriately damage relations with China.

Tensions flared again in 2012 when the Tokyo government purchased the Senkaku/Diaoyu Islands from a private Japanese individual, a move which China interpreted as an attempt by Japan to nationalise the islands and effectively alter the status quo. Evoking Japan's imperialistic past, the incident sparked another wave of violent anti-Japanese protests. In responding diplomatically, Beijing once again froze high-level diplomatic exchanges, a

pause which lasted for two years, and issued a formal declaration of territorial baselines in the Senkaku/Diaoyu Islands to the UN Secretary-General. To assert its sovereignty over the newly declared territorial baselines, China began regularly dispatching China Marine Surveillance vessels around the Senkaku/Diaoyu Islands (Hafeez 2015). In November 2013, Beijing announced an Air Defence Identification Zone (ADIZ) to further assert its jurisdiction in the East China Sea. During this time, China Marine Surveillance was merged with other agencies to form the China Coast Guard (CCG) as a civilian agency. Subsequent reforms in 2018 placed the CCG under the command of the Central Military Commission, demonstrating the increasing militarisation of the agency as well as creating closer institutional links to the PLAN. This has enabled China to more effectively deploy grey zone tactics in both the East and South China Seas. Overall, according to Adam Liff, four trends were seen in the East China Sea: (1) a quantitative surge in China's activity in the waters and airspace, (2) increasing grey zone operations, (3) the deepening of ties between the CCG and the military, and (4) an expansion of the PLA's capabilities and the geographical scope of its operations (2019).

The 2012 incident ushered in the era of a precarious instability in the East China Sea. The growing tensions and distrust between China and Japan aggravated uncertainty and the risk of a possible clash. When high-level talks resumed in 2014, Beijing and Tokyo issued a Four Point Agreement to restore the bilateral relationship. The agreement recognised the different views or positions of both sides on the Senkaku/Diaoyu Islands, refraining from labelling it a 'territorial dispute'. It also agreed to establish crisis management mechanisms to avoid future incidences. This led to the 2018 establishment of a defence liaison hotline to prevent accidents at sea and in the air, but progress on this stalled. The hotline was eventually completed five years later in 2023, with the first call held in May between the two defence ministers (Wang 2023).

To summarise, while the East China Sea largely remained a bilateral issue, it must be understood through the broader prism of the bilateral relationship. In particular, anti-Japanese sentiment and rising popular nationalism in China has positioned the Senkaku/Diaoyu Islands issue as inherently a historical question. The skirmishes in the East China Sea means that 'shelving' the issue is no longer a viable diplomatic option, while the sensitive nature of Sino-Japanese history has left little room for diplomatic progress.

### 2.3.2 South China Sea

Unlike the East China Sea, the situation in the South China Sea in the early 2000s was relatively stable. The signing of the Declaration of Conduct and the reduced US presence in the region allowed for a stabilised geostrategic environment and progressive developments on the territorial disputes (Li 2018). However, Chinese perceptions of an attempt to change the status quo in the South China Sea in the late 2000s triggered more assertive behaviour.

The turning point is what Nguyen Hong Thao coins the ‘Battle of the Diplomatic Notes’ (2020). It started with the 2009 joint submission by Malaysia and Vietnam to the UN Commission on the Limits of the Continental Shelf (CLCS) to extend their continental shelves, followed by a separate submission by Vietnam. The submissions aimed to meet the deadline for declaring territorial baselines under UNCLOS 1982 (Li 2018; Koga 2022). China responded immediately with a Note Verbale to the UN Secretary-General rejecting the joint submission as an infringement of Chinese sovereignty. Attached to the Note Verbale was a map of the nine-dash line, representing the first official use of the nine-dash line in China’s claims. Between 2009 and 2011, a total of twelve diplomatic notes were issued by China, Vietnam, Malaysia, the Philippines and Indonesia. These exchanges demonstrate the various interpretations of international law in the South China Sea. There have also been calls for China to clarify its legal position in the South China Sea, but Beijing has not provided an explicit explanation of the nine-dash line (Yang & Li 2016). Sensing a possible change to the status quo, China began increasing its maritime activities in disputed waters as a show of effective control to support its legal position conveyed through its UN Note Verbales (Li 2018). Beijing also pursued confidence-building initiatives, such as launching the China-ASEAN Maritime Cooperation Fund in November 2011 with a fund of RMB 3 billion (Cook 2012). Nevertheless, China continued to insist that the South China Sea disputes were bilateral issues between claimant states and rejected multilateral approaches.

During this time, the PLAN significantly increased its militarisation in the South China Sea by building up its South Sea Fleet and its surrounding military bases. There was also an increase in the number of incidents, such as arrests of fishermen by the CCG and harassment of survey vessels (Emmers 2014). Tensions reached a peak with the Scarborough Shoal standoff in April 2012 after China blocked an attempt by the Philippines to arrest Chinese fishermen accused of illegal fishing (Cook 2012). In response, both China and the Philippines deployed maritime vessels to Scarborough Shoal to demonstrate effective control. The standoff lasted two months, and diplomatic relations suffered. Although the standoff ended peacefully when both Chinese and Philippine vessels withdrew from the area, CCG ships remained, enabling Beijing to maintain its presence in the disputed area (Koga 2022). In addition, Beijing

established Sansha City on Woody Island in July 2012 to administer its territorial claims in the South China Sea. These actions are often read as Beijing's "creeping assertiveness" to alter the status quo in its favour. Ever since, China has attempted to defend its claims in the South China Sea through a combination of military, paramilitary, legal and diplomatic measures (Yang & Li 2016).

The Philippines once again sought unified diplomatic support through ASEAN, especially as the Scarborough Shoal incident violated the Declaration of Conduct, but Manila met with disappointment. Soon after the standoff, the ASEAN Ministerial Meeting in July 2012 failed to issue a joint communique for the first time when Cambodia as ASEAN Chair refused to include the South China Sea on the agenda. It should be noted that China is a close economic partner to Cambodia, and that Chinese President Hu Jintao had visited Cambodia earlier in March and both leaders had agreed that the South China Sea issue should not be "internationalised" at ASEAN meetings (Prak 2012).

The failure to form a consensus on the South China Sea issue created greater urgency within ASEAN to push for progress on the Code of Conduct, to which Beijing responded positively (Li 2018). However, such progress was complicated by the Obama administration's 'Pivot to Asia'. An increased US presence in the region and Washington's heightened interest in the South China Sea issue raised suspicions in Beijing of a US containment strategy and a lack of respect for China's legitimate interests (Cook 2012; Yang & Li 2016; Li 2018). Renewed US interest also ushered in the involvement of other powers, such as Japan and Australia, in the South China Sea. Suddenly the geopolitical theatre of the South China Sea became crowded with claimant and non-claimant states alike. This put greater pressure on Beijing to increase its commitment to multilateralism and the Code of Conduct negotiations (Li 2018). Although this was successful in giving the stability of the South China Sea higher priority on ASEAN's and China's agendas, such geopolitical developments deepened distrust in Beijing.

The failure to issue a joint communique reflected ASEAN's disunity and inability to respond to regional crises, in contrast to ASEAN's effective and united response to the 1995 Mischief Reef incident. This prompted the Philippines in 2013 to file for arbitral proceedings against China under Annex VII to UNCLOS 1982. Beijing rejected this move, suggesting that China was not ready or confident enough to defend its legal position in its South China Sea disputes. In 2016, the Tribunal ruled in favour of the Philippines, concluding that "there is no legal basis for any Chinese historic rights, or sovereign rights and jurisdiction beyond those provided for in the Convention, in the waters of the South China Sea

encompassed by the ‘nine-dash line’” (The South China Sea Arbitration, 2016, p. 255). The Tribunal declared that Mischief Reef is within the EEZ and continental shelf of the Philippines, thereby deeming China’s occupation of the feature in 1995 illegal, and further concluded that Scarborough Shoal is not entitled to an EEZ or continental shelf but recognised that China had “unlawfully prevented fishermen from the Philippines from engaging in traditional fishing” around the disputed area (The South China Sea Arbitration, 2016, p. 475). Beijing refused to acknowledge or accept the ruling. Despite the ruling being overwhelmingly in Manila’s favour, President Rodrigo Duterte chose to shelve the award in favour of strengthened relations with China. This dealt a further blow to ASEAN’s unity and ability to manage the South China Sea issue.

While President Duterte chose to disregard the 2016 tribunal ruling, other South China Sea claimants adopted its conclusions for their own respective agendas. In 2019, Malaysia issued a new partial submission to the UNCLCS which implicitly upheld the 2016 tribunal ruling while rejecting China’s nine-dash line claims. This marks a change from Malaysia’s silent diplomacy on its South China Sea claims against Beijing. Malaysia’s submission sparked the Battle of the Diplomatic Notes 2.0, in which non-claimant states such as the US and Australia also took part, signalling growing international support on the issue (Nguyen 2020).

The mounting internationalisation of the South China Sea has induced geopolitical developments, such as the announcement of AUKUS. AUKUS has further complicated the growing uncertainty in the disputed seas, with China, Indonesia and Malaysia criticising the move. Moreover, ASEAN unity is increasingly fragmented by major-power rivalry, further paralysing its ability to respond to escalating tensions in the region. Even during the unprecedented Covid-19 pandemic, China grew increasingly intimidating in the South China Sea (Tan 2021). For example, in March 2021, the Philippines called attention to what it described as a ‘Chinese maritime militia’ in Whitsun Reef for several weeks, illustrating another example of China’s grey zone tactics. An analysis by the Institute of International and Strategic Studies notes that the “Whitsun Reef incident is unprecedented in scale and notable for its duration” (Puri & Austin, 2021). China’s actions in the disputed waters have been criticised as expansionary at a time when ASEAN states have been distracted by the Covid-19-induced crisis (Tan 2021).

At the southern-most tip of China’s territorial claims, there have been several episodes with Malaysia as well. In April 2020 a ‘standoff’ took place in territorial waters claimed by Malaysia, Vietnam and China. The incident attracted the unwelcomed participation of the US and Australia, illustrating the growing international interest in the South China Sea disputes.

The incident ended a few weeks later when the Malaysian oil drilling ship left the waters after completing its work. Traditionally, Malaysia has sought back-channel diplomacy to manage its South China Sea disputes with Beijing. Both the Chinese and Malaysian governments denied that it was a standoff, likely to avoid bringing attention to the incident and risk further escalating tensions. Another incident took place a few months later in November when China and Malaysia met at another standoff in disputed waters after a CCG ship harassed a Malaysian drilling rig and its supply ships. The most alarming incident took place in May 2021, when 16 Chinese aircraft were detected flying in tactical formation into Malaysian airspace. Malaysia's Foreign Ministry immediately responded with a diplomatic note of protest, in reply to which China claimed that it was a part of routine flight training. While none of the three incidents triggered a crisis, instantly altered the status quo, or worsened Sino-Malaysian relations as similar incidents had with other Southeast Asian claimants, these developments do point towards increasing assertiveness and grey zone tactics employed by China at the southern-most tip of its territorial claims. Evidently, China is now able to project blue-water capabilities across East and Southeast Asia.

### 2.4 Characterising the current status quo

Shifting away from a unified ASEAN in the 1990s, the inability to issue a joint statement at the 2012 Ministerial Meeting exemplified the growing weakness of ASEAN's multilateralism. However, this has not prevented ASEAN claimant states from pursuing diplomacy through issuing diplomatic notes or filing for arbitration. In addition, geopolitical developments such as a renewed US interest in the region has deepened distrust. Under greater pressure, China has become increasingly active in the disputed waters, deploying grey zone tactics and refusing multilateral negotiations, even during the Covid-19 crisis. There are also indications that China is not fully confident in its legal position in the South China Sea, considering its refusal to acknowledge the arbitration process and ruling. Given the lack of progress on diplomatic negotiations and confidence-building measures, the instability in the South China Sea shows no signs of abating.

Similarly, mutual distrust and animosity continues to grow in the East China Sea, thereby increasing the risk of political miscalculation and accidents. The newly launched hotline has the potential to manage tensions and incidents, but only if the two sides remain committed to open communications. In both the East and South China Seas, geopolitical pressures have revealed the limits of diplomacy. The more China perceives that the status quo

is being altered, the more Beijing will double down on its assertiveness. This vicious cycle feeds on distrust, further exacerbated by intensifying major power rivalry in the region.

At present, the precarious status quo in both the East and South China Seas can be characterised by distrust and growing power asymmetry among all claimant states, especially those in ASEAN. China's maritime behaviour has been increasingly emboldened, while claimant states are increasingly unable to respond effectively to Beijing's assertions. As distrust deepens, Japan and ASEAN member states will find it ever more difficult to find a diplomatic solution with China. This challenge is further complicated by the heightened US presence in the region, indicating that the maritime domain in the East and South China Seas could potentially emerge as a key theatre of conflict for the US-China rivalry.

### **3. Moving forward: Opportunities for Malaysia-Japan cooperation**

Although the East and South-China Seas differ by geography and parties involved, recent developments indicate that the four trends identified by Adam Liff (in section 2.3.1) are applicable to both seas, thereby moving towards a situation where the status quo is potentially shifting in Beijing's favour. Considering the recent completion of the crisis-management hotline between the defence liaisons of Beijing and Tokyo, there is optimism that unintended incidences can be better managed in the East China Sea should both sides remain committed to open communication. Greater transparency and enhanced communication will hopefully deter the perception in China that Japan has intentions to alter the status quo in the Senkaku/Diaoyu Islands so as to ease Beijing's concerns and assertiveness in the East China Sea. On the other hand, the outlook for Malaysia in the South China Sea is not as optimistic. Although Malaysia's involvement with China in the South China Sea is not as strained as those of other claimants such as Vietnam and the Philippines, developments in recent years suggest that things may take a turn for the worse. The situations with Vietnam and the Philippines offer a glimpse of what is to come for Malaysia if China presses on with its claims. Therefore, it is important that Japan cooperate with Malaysia to strengthen maritime capabilities while also enhancing normative and diplomatic pressures that can positively influence China's maritime behaviour.

#### 3.1 Recommendations

Due to the number of parties involved, asymmetry in military capabilities and growing developments, there is more urgency to address the issues in the South China Sea. While priority should be given to enhancing the capabilities of Southeast Asian claimant states, it would not be realistic to try to match those of China's, which possesses the world's largest navy. The purpose of these recommendations is not to narrow the power asymmetry, but to enhance ASEAN claimant states' ability to respond to provocations and manage tensions in the South China Sea as well as foster greater regional cohesion. Therefore, the four recommendations below focus on how Japan and Malaysia can cooperate to promote a more stable regional environment.

First, Japan should assist Malaysia in improving its maritime capabilities, particularly its capacity for Maritime Domain Awareness (MDA) and Air Domain Awareness (ADA). A comprehensive understanding of how maritime threats intersect as well as inter-ministry and agency coordination on MDA and ADA are both lacking. Japan can assist Malaysia in improving cohesiveness among its maritime agencies and approaches to maritime security. This can be done through the framework of Japan's recently announced Official Security Assistance (OSA), which seeks to enhance the security and deterrence infrastructure of recipient countries in order to contribute to regional peace, stability and security. Further, Japan and Malaysia can pursue third-party cooperation in improving MDA and ADA with the rest of ASEAN, especially claimant states.

Secondly, Japan and Malaysia should cooperate to ensure a common understanding of international maritime law. Although all claimants in the South China Sea are signatories of UNCLOS 1982, their different positions on the territorial disputes suggest competing interpretations of international law. Therefore, it is important to foster an environment of common understanding and interpretation of international maritime law. This can contribute to confidence-building mechanisms in the South China Sea, as well as potentially affect the situation in the East China Sea.

Thirdly, Japan and Malaysia should demonstrate regional leadership. In recent years, ASEAN has suffered from a lack of leadership, which has allowed its unity to further fragment. Japan and Malaysia should not shy away from taking central leadership roles in the region as necessary to form consensus and strengthen multilateralism. ASEAN and its various platforms, such as the ASEAN Regional Forum or ASEAN Defence Ministers Meeting Plus, provide the ideal avenue to improve political coordination while also applying normative and diplomatic pressures to prevent any party from behaving provocatively in the maritime domain.

Finally, expanding on the third suggestion regarding taking leadership, Japan and Malaysia should consider resolving territorial disputes among ASEAN claimant states. The South China Sea disputes are a complex web of intersecting claims among various parties which are often deemed too difficult to solve. Japan and Malaysia can consider minilateralism as the first step to eliminating problems and animosities with ASEAN claimant states before building wider consensus at the regional level. This will help bolster ASEAN unity, improve cohesion on disputed issues, and enhance coordinate responses as the region navigates rising uncertainty.

### **4. Conclusion**

This historical overview of China's maritime behaviour shows that there has been a shift in China's maritime strategic thinking. In the first phase, China did not indicate any strategic focus on the East or South China Seas; however, this changed in the second phase when Beijing began to integrate into global maritime regimes. China's socialisation into global maritime regimes has played a role in the evolution of its maritime awareness, which has led to an increase in maritime activities and stronger rhetoric on the disputed waters. With China stepping up its presence and capabilities in the disputed waters, developments are also occurring more frequently than before. Nevertheless, it is important to note that this historical overview highlights China's tendency to act more assertively whenever it feels that the status quo is threatened, e.g., the 2012 'nationalisation' of the Senkaku/Diaoyu Islands. The increasing internationalisation of the South China Sea, exemplified by the US' rebalancing towards the region and growing international involvement through frameworks such as AUKUS, has also further antagonised China, leading Beijing to double down on its territorial claims. In both the East and South China Seas, measures taken by both claimants and non-claimants in the disputed waters have cultivated an environment of distrust, erecting more barriers to diplomatic progress.

If global maritime regimes have played a role in shaping and reshaping Beijing's maritime awareness, then current diplomatic and political developments have the potential to shape China's future behaviour. This can only happen if the regimes are empowered by its members, but this may be a challenge if the signatories of UNCLOS 1982 all hold varying interpretations of it. It is important that claimant states remain committed to forming consensus and are united in responding to developments around the region, whether provoked by China

or other powers. ASEAN has the opportunity to play a leading role in this, but the union suffers from fragmentation.

Despite growing distrust, there is still opportunity for diplomatic progress. The recently completed defence liaison hotline in the East China Sea highlights one such promising approach. Although the complexity of the South China Sea issues may appear too intimidating to address, there are ways to make progress at a smaller scale. Japan and Malaysia can cooperate towards strengthening capabilities and multilateralism in the region, as well as encouraging more spirited diplomacy. The four recommendations detailed in this paper are based on the hope that Japan and Malaysia can revitalise diplomacy through strengthened unity and coordination in the South China Sea.

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