

PEACE, COOPERATION AND MARITIME SECURITY INITIATIVES IN THE EAST ASIAN SEAS: A STUDY OF THE PROPOSALS' CONTENT, PROGRESS AND ACHIEVEMENTS

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Abstract. The purpose of this article is to examine peace, cooperation, and maritime security initiatives proposed by China, Japan, the Philippines, Taiwan, and the United States during the period of time between 2006 and 2015. It consists of seven parts. Following introductory remarks, part II discusses rising concerns about maritime disputes in international relations. Part III describes the obligations of the parties to maritime disputes to cooperate and settle their differences by peaceful means in accordance with international law, particularly the Charter of the United Nations and the 1982 United Nations Convention on the Law of the Sea (“UNCLOS”). Part IV addresses peaceful means for resolving maritime disputes. In Part V, rising tensions in the East and South China Seas are briefly reviewed. Part VI examines the contents of these peace, cooperation and security initiatives that were proposed by China, Japan, the Philippines, Taiwan and the United States during the period of time between 2006 and 2015. The progress, achievements and challenges lying ahead of these initiatives are analyzed in Part VII. This article ends with brief concluding remarks in Part VIII.

Key words: Maritime security, South China Sea, East China Sea, United Nations Convention on the Law of the Sea, peace initiative

INTRODUCTION

Between 2006 and 2015, a number of peace, cooperation, and maritime security initiatives were announced or proposed by the national leaders or top government officials of the countries in the Asia-Pacific region that aimed to reduce tensions, manage potential conflicts, or address threats to maritime security in the East Asian seas.¹ In 2006, for example, Japanese Prime Minister Shinzo Abe

¹ These seas include the Sea of Japan, the Yellow Sea, the East China Sea, and the South China Sea.

and President Hu Jintao of the People's Republic of China ("PRC" or "China") proposed to make the East China Sea ("ECS") a "sea of peace, friendship, and cooperation."² In August 2012 President Ma Ying-jeou of the Republic of China ("ROC" or "Taiwan") proposed a peace initiative for the ECS.³

The idea for proposing peace, cooperation, and maritime security initiatives was prompted mainly by increasing territorial disputes over islands and the accompanying claims to the entitlement of rights and jurisdiction in different maritime zones drawn from or surrounding disputed land features/islands, which escalated tensions in the East Asian seas, in particular in the ECS and the South China Sea ("SCS"). As a follow-up, guidelines, policy measures, or legislative actions were announced or taken by the governments of the countries concerned, aiming to implement the proposed initiatives. For example, the East China Sea Peace Initiative Implementation Guidelines were announced by Taiwan's President Ma in September 2012.⁴

Due to policy or government changes, however, some of the initiatives proposed in the past were discontinued or dropped, for example, the "Spratly Initiative" announced by former Taiwan President Chen Shui-bian in February 2008⁵ and the ASEAN-China Zone of Peace, Freedom, Friendship, and Cooperation ("ZoPFF/C") in the West Philippine Sea [SCS] proposed by the Philippines' President Benigno Aquino III in September 2010.⁶

As tensions continue to rise in the East Asian seas, in particular the SCS, there have been new peace and cooperation initiatives proposed by China, Japan, Taiwan, and the United States.⁷ In May 2015, for instance, ROC President Ma Ying-jeou announced the South China Sea Peace Initiative ("SCSPI"), calling on all concerned

² In November 2006, Chinese President Hu Jintao and Japanese Prime Minister Shinzo Abe met in Hanoi, Vietnam when attending the APEC meeting. The two leaders agreed: (1) to speed up consultation on the ECS issue in line with the principle of mutual benefit and reciprocity; (2) to adhere to negotiation and dialogue; (3) to put aside disputes and pursue joint development; and (4) to make ECS the "sea of peace, cooperation and friendship." See *Chinese, Japanese Leaders Call for Maintaining Good Momentum of Bilateral Ties*, PEOPLE'S DAILY ONLINE (November 19, 2006), http://english.people.com.cn/200611/19/eng20061119_323010.html (last visited December 26, 2015). Similar proposals will be discussed in this paper *infra*.

³ See *East China Sea Peace Initiative*, MINISTRY OF FOREIGN AFFAIRS REPUBLIC OF CHINA (TAIWAN) (August 15, 2012), <http://www.mofa.gov.tw/en/theme.aspx?s=780E70E6D142B833> (access: 26.12.2015).

⁴ East China Sea Peace Initiative Implementation Guidelines, available in the website of Ministry of Foreign Affairs, Republic of China (Taiwan) at <http://www.mofa.gov.tw/en/cp.aspx?n=678FD6BB7AB0BB1E> (access: 21.10.2015).

⁵ Cheng-yi Lin, *Taiwan's Spratly Initiative in the South China Sea*, ASSOCIATION FOR ASIA RESEARCH (February 19, 2008), <http://www.asianresearch.org/articles/3115.html> (access: 05.05.2014)

⁶ Remarks of President Benigno S. Aquino III at the Council on Foreign Relations, September 23, 2010, New York City, available at <http://www.gov.ph/2010/09/24/speech-of-president-aquino-at-the-councilon-foreign-relations-new-york-city/> (access: 07.05.2014)

⁷ To be examined in Part 3 of this paper.

parties to work together to settle disputes peacefully.⁸ In the same month, Ash Carter, U.S. Secretary of Defense, announced a \$425 million dollar Southeast Asia Maritime Security Initiative to fund partner capacity building in the Asia-Pacific region.⁹ In October 2015, ahead of his state visit to the United Kingdom, Chinese President Xi Jinping responded to a question posed by *Reuters* about China's assertive moves in the SCS, stating that "We will together endeavor to make the South China Sea a sea of peace, friendship and cooperation."¹⁰ This was followed by a five-point initiative proposed by the Chinese Premier Li Keqiang when he attended the 10th East Asia Summit in Kuala Lumpur in November 2015. The initiative proposes to jointly safeguard peace and stability in the South China Sea.¹¹

The purpose of this article is to examine these peace, cooperation, and maritime security initiatives proposed by China, Japan, the Philippines, Taiwan, and the United States during the period between 2006 and 2015. It consists of eight parts. Following these introductory remarks, Part II discusses rising concerns about maritime disputes in international relations. Part III describes the obligations of the parties to maritime disputes to settle their differences by peaceful means in accordance with international law, particularly the Charter of the United Nations and the 1982 United Nations Convention on the Law of the Sea ("UNCLOS"). Part IV addresses peaceful means for resolving maritime disputes. In Part V, rising tensions in the East and South China Seas are briefly reviewed. Part VI examines the contents of the peace, cooperation, and security initiatives proposed by China, Japan, the Philippines, Taiwan and the United States. The progress and achievements of these initiatives are analyzed in Part VII. This article ends with brief concluding remarks in Part VIII.

RISING CONCERNS ABOUT MARITIME DISPUTES IN INTERNATIONAL RELATIONS

Maritime disputes are extremely common in the world's oceans and seas. Worldwide, over 400 disputed maritime boundaries can be found and fewer than half of them have been resolved.¹² It is likely that these disputes remain unresolved largely

⁸ President Ma proposes South China Sea Peace Initiative, MINISTRY OF FOREIGN AFFAIRS REPUBLIC OF CHINA (TAIWAN) (May 26, 2015) http://www.mofa.gov.tw/en/News_Content.aspx?n=8157691CA2AA32F8&sms=4F8ED5441E33EA7B&s=F71CA7963F189938 (access: 26.12.2015)

⁹ Shangri La Dialogue 2015, in Asian Maritime Transparency Initiative, CSIS, available at <http://amti.csis.org/shangri-la/> (last visited December 26, 2015).

¹⁰ Exclusive Q&A with Chinese President Xi Jinping, *Reuters* (October 17, 2017) <http://www.reuters.com/article/2015/10/18/us-china-britain-xi-q-a-idUSKCN0SC03920151018> (access: 20.10.2015).

¹¹ *Li's proposal for peace, stability in S. China Sea*, XINHUA (November 22, 2015), http://www.china.org.cn/world/2015-11/22/content_37129241.htm (access: 26.12.2015).

¹² See Status report on African maritime border disputes, The Ocean Data and Information Network for Africa (ODINAFRICA), <http://www.odinafrica.org/news/139-african-maritime-bor->

because of the parties' high stakes, including sovereignty concerns, valuable resources, strategic importance and history and national sentiment. There is likely to be an increase in maritime disputes as global population continues to grow, leading to higher demand for living and non-living resources from the seas. Accordingly, finding ways to resolve or manage maritime disputes and to peaceably allocate maritime marine resources has become an important concern in today's international relations.

There are two main causes for maritime disputes: (1) disputed sovereignty over island or land features located in the ocean or sea concerned; and (2) disputed or overlapping entitlements to rights and jurisdiction in different maritime zones that are claimed in accordance with the UNCLOS.¹³ Maritime disputes, if concerning territorial disputes, become more difficult to resolve or manage. These disputes create tensions between countries seeking control of natural resources and influence over political and international relations in the region concerned. When tension continues to escalate and there is no proper process or mechanism in place to help control or manage the situation, maritime disputes could lead to serious armed conflicts with the potential to disrupt peace and stability in the region concerned. Contrarily, if maritime disputes can be resolved successfully, cooperation on resource development in the disputed or overlapping area can begin and therefore benefit the nationals of the parties involved in the dispute.

Under international law, a "dispute is disagreement on a point of law or fact, a conflict of legal views or of interests between two person."¹⁴ Accordingly, a "maritime dispute" can be defined as "a disagreement on a point of law or fact, a conflict of legal views or interests between two or more States that is related to territorial sovereignty over inhabited or uninhabited islands or is involved with overlapping entitlements to rights and jurisdiction in different maritime zones such as territorial sea, contiguous zone, exclusive economic zone ("EEZ"), continental shelf, and high seas in terms of the use of ocean space and exploration and exploitation of the resources, both living and non-living"¹⁵

Under the Charter of the United Nations¹⁶ and the UNCLOS¹⁷ countries involved in maritime disputes are required to settle the disputes by peaceful means.

der-disputes.html (access: 18.12.2015). Also Methods of resolving maritime boundary disputes, A summary of a meeting of the International Law Discussion Group at Chatham House on February 14, 2006. David Anderson CMG, former judge of the International Tribunal of the Law of the Sea (ITLOS), introduced the discussion, at 1.

¹³ These are the two possible causes suggested by David Anderson. See Methods of resolving maritime boundary disputes, *id.*, at 1.

¹⁴ Publications of the Permanent Court of International Justice, Series A – No. 2, August 30th, 1924, Collection of Judgments, *The Mavrommatis Palestine Concessions*, at 11, available at http://www.icj-cij.org/pcij/serie_A/A_02/06_Mavrommatis_en_Palestine_Arret.pdf (access: 18.12.2015).

¹⁵ It is this writer's definition.

¹⁶ For the text of the Charter, visit the UN website at <http://www.un.org/en/sections/un-charter/chapter-i/index.html> (access: 21.12.2015).

¹⁷ For the text of the UNCLOS, visit the UN website at http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm (access: 21.12.2015).

They also have a duty to cooperate, in particular, in enclosed or semi-enclosed seas. Both the ECS and SCS are considered semi-enclosed seas in accordance with Article 122 of the UNCLOS.¹⁸ Very few countries involved in maritime disputes in the world's oceans or seas are not member states of the United Nations.¹⁹ Very few of them are non-parties to the UNCLOS.²⁰

OBLIGATIONS TO COOPERATE AND SETTLE MARITIME DISPUTES BY PEACEFUL MEANS

Under Article 2, paragraph 3, of the Charter of the United Nations, countries involved in maritime disputes should settle their disputes by peaceful means “in such a manner that international peace and security, and justice, are not endangered.”²¹ In addition, in accordance with paragraph 4 of the same article, they should refrain from “the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations” in their disputes.²² Moreover, in accordance with Article 33, paragraph 1, countries that are involved in maritime disputes must “first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice,” if the continuance of the disputes has the potential to affect the maintenance of peace and security in the region or area concerned.²³

The same obligations are found in the UNCLOS. Parties to this Convention must resolve their maritime disputes in accordance with Article 279, which provides that “States Parties shall settle any dispute between them concerning the interpretation or application of this Convention by peaceful means in accordance with Article 2, paragraph 3, of the Charter of the United Nations and, to this end, shall seek a solution by the means indicated in Article 33, paragraph 1, of the Charter.”²⁴

¹⁸ An enclosed or a semi-enclosed sea is defined in Article 122 of the UNCLOS as “a gulf, basin or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States.”

¹⁹ At present, it has 193 member states. For a list of UN member states, visit <http://www.un.org/en/members/> (access: 21.12.2015).

²⁰ As of December 27, 2015, the UNCLOS had 167 parties. See Status of the Convention as of December 20, 2015, available at https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&lang=en (last visited December 21, 2015).

²¹ For the text of the Charter, visit the UN website at <http://www.un.org/en/sections/un-charter/chapter-i/index.html> (access: 21.12.2015).

²² *Ibidem.*

²³ *Ibidem.*

²⁴ For the text of the UNCLOS, visit the UN website at http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm (access: 21.12.2015).

Member states of the UN also have duty to cooperate in the maintenance of international peace and security. Likewise, State parties to the UNCLOS have the duty to cooperate. Article 74(3) and Article 83(3) of this Convention provide that, “[p]ending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature.” Those State parties that are bordering an enclosed or a semi-enclosed sea²⁵ should cooperate in the exercise of their rights and in the performance of their duties under this Convention.

PEACEFUL MEANS FOR RESOLVING OR MANAGING MARITIME DISPUTES

Both the Charter of the United Nations and the UNCLOS identify a number of methods that can be used to resolve or manage maritime disputes, including negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, regional arrangements, or other peaceful means of their choice. Countries always begin with negotiation for the purpose of managing or resolving their maritime disputes. Under Article 283, paragraph 1, of the UNCLOS, when a maritime dispute arises between parties to the Convention, they should “proceed expeditiously to an exchange of views regarding its settlement by negotiation or other peaceful means.”²⁶ The parties to a maritime dispute bear the obligation to make genuine and reasonable efforts to reach a solution in good faith.

As far as “other peaceful means of their own choice” are concerned, examples include the adoption a bilateral or multilateral code of conduct (“COC”), making provisional arrangements, issuing joint statements, signing joint declarations, announcing or proposing peace initiatives, and organizing Track I, Track One-and-half, or Track II meetings or conferences. In 1995, for example, the PRC and the Philippines, and Vietnam and the Philippines, respectively, signed a bilateral COC for the purpose of managing their disputes in the SCS. In 2002, ten member states of Association of Southeast Asian Nations (“ASEAN”) and the PRC signed a declaration on the conduct of parties in the South China Sea.²⁷ Paragraph 4 of the declaration states that “The Parties concerned undertake to resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force, through friendly consultations and negotiations by sovereign

²⁵ An enclosed or a semi-enclosed sea is defined in Article 122 of the UNCLOS as “‘a gulf, basin or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States.’”

²⁶ *Supra* note 24.

²⁷ For the text of the declaration, visit <http://www.asean.org/asean/external-relations/china/item/declaration-on-the-conduct-of-parties-in-the-south-china-sea> (access: 21.12.2015).

states directly concerned, in accordance with universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea.”²⁸

In September 2004, the PRC and the Philippines issued a joint press statement saying that “[t]he two sides reaffirmed their commitment to the peace and stability in the South China Sea and their readiness to continue discussions to study cooperative activities like joint development pending the comprehensive and final settlement of territorial disputes and overlapping maritime claims in the area.” In January 2007, the PRC and the Philippines issued a Joint Statement that “the Tripartite Joint Marine Seismic Undertaking in the South China Sea serves as a model for cooperation in the region.” They agreed that possible next steps for cooperation among the three parties should be explored to bring collaboration to a higher level and increase the momentum of trust and confidence in the region.²⁹ In November 2015, the 25th Informal Workshop on Managing Potential Conflicts in the South China Sea, which is a Track 1.5 mechanism for ASEAN member states, PRC, and Taiwan to discuss maritime cooperation issues, was organized by the government of Indonesia and held in Jakarta. The main goal of this workshop was to manage maritime disputes in the South China Sea.

A number of peace and cooperation proposals, treated as “other peaceful means”, and maritime security initiatives announced or proposed by the national leaders or top government officials of the countries for the purpose of managing or resolving maritime disputes are examined in Part VI. Before proceeding to that discussion, a brief review of recent developments in the ECS and SCS, in particular, rising tension in these two East Asian semi-enclosed seas, is provided in Part V.

RISING TENSIONS IN THE EAST AND SOUTH CHINA SEA

Tensions in the ECS have risen since April 2012 when the former Tokyo governor Shintaro Ishihara announced his plan to purchase the islets in the disputed Diaoyutai/Senkaku island group.³⁰ Bilateral relations between China and Japan plunged to a post-war low following the Japanese Noda administration’s decision to “nationalize” three of the privately owned atolls in the Diaoyutai/Senkaku Islands. China responded by announcing its basepoints and baselines for the disputed islands, establishing an Air Defense Identification Zone (“ADIZ”) that covers most of the ECS, and increasing naval and air patrols in the vicinity of the islands. The United

²⁸ *Ibidem*.

²⁹ See Position Paper of the Government of the People’s Republic of China on the Matter of Jurisdiction in the South China Sea Arbitration Initiated by the Republic of the Philippines, available in the PRC Foreign Ministry’s website at http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1217147.shtml (access: 21.12.2015).

³⁰ Yuka Hayashi, *Tokyo Chief Plots to Buy Disputed Islands*, THE WALL STREET JOURNAL, April 17, 2012, <http://online.wsj.com/article/SB10001424052702304818404577348610456930238.html> (access: 31.12.2015).

States offered to play the role of mediator in the Sino-Japanese maritime disputes in the East China Sea, but this was rejected by the PRC. Maritime disputes in the ECS remain, with potential conflict erupting between China and Japan.

Another source of tensions occurred when the government of the Philippines dispatched a warship to detain Chinese fishing vessels in the waters near the disputed Scarborough Shoal in April 2012. China responded to the actions taken by other claimants in the SCS, in particular the Philippines and Vietnam, by sending more coast guard vessels to gain control over the disputed island, conducting regular patrolling activities in the disputed waters, undertaking large scale land reclamation projects on Chinese occupied islands in the Spratly Islands, arresting or expelling foreign fishing boats or vessels sent by an oil company, conducting military exercises, enacting new maritime or fisheries legislation, strengthening law enforcement measures, and others. In response to the assertive Chinese moves, the United States, beginning in 2010, adopted a new policy, namely the “pivot to Asia” or “rebalancing strategy in Asia”, aiming to foster a so-called new Asian NATO for the purpose of checking against Chinese moves in the South China Sea.

In January 2013, the government of the Philippines initiated an arbitration case against China in accordance with Annex VII of the UNCLOS. The legal approach is supported by the United States. However, China refused to participate in the arbitral proceedings, arguing that the tribunal lacked jurisdiction over the case. Stating in July 2014, the U.S. government urged China to stop its land reclamation activities in the occupied islands in the SCS. This was followed by US actions to challenge the Chinese sovereign and maritime claims in the SCS in May³¹, October³², November³³, and December 2015.³⁴

The U.S. continuously dispatched its warships and military aircraft to the Chinese claimed territorial waters and airspace near or above the Chinese occupied islands to challenge Beijing’s claims in the SCS. As a result of the Sino-American confrontation in the area, tensions continue to rise in this East Asian sea, which demonstrates further the need and importance of promoting and implementing peace and cooperation initiatives.

³¹ Ankit Panda, *China Issues 8 Warnings to US Surveillance Plane in South China Sea*, THE DIPLOMAT (May 20, 2015), <http://thediplomat.com/2015/05/china-issues-8-warnings-to-us-surveillance-plane-in-south-china-sea/> (access: 27.12.2015).

³² Jim Sciutto and Barbara Starr, *U.S. warship sails close to Chinese artificial island in South China Sea*, CNN (October 27, 2015), <http://edition.cnn.com/2015/10/26/politics/south-china-sea-islands-u-s-destroyer/> (access: 27.12.2015).

³³ *US B-52 bombers fly near disputed South China Sea islands*, BBC (November 13, 2015), <http://www.bbc.com/news/world-asia-34805899> (access: 27.12.2015).

³⁴ Jeremy Page and Gordon Lubold, *U.S. Bomber Flies Over Waters Claimed by China*, THE WALL STREET JOURNAL (December 18, 2015), <http://www.wsj.com/articles/u-s-jet-flies-over-waters-claimed-by-china-1450466358> (access: 27.12.2015).

PEACE, COOPERATION AND SECURITY INITIATIVES PROPOSED FOR THE EAST ASIAN SEAS

In response to the call for respecting international law, resolving disputes by peaceful means, and promoting maritime cooperation in the ECS and SCS, a number of peace, cooperation, and security initiatives have been proposed by the national leaders or top government officials of the ASEAN member states, China, Japan, the Philippines, Taiwan, and the United States since 2006. These include the following:

- The proposal by national leaders of the PRC and Japan to make the ECS a “sea of peace, cooperation and friendship”;
- The proposal by Chinese and ASEAN national leaders to make the SCS a “sea of peace, friendship and cooperation”;
- The “Spratly Initiative” by former Taiwanese President Chen Shui-bian;
- The ASEAN-China Zone of Peace, Freedom, Friendship and Cooperation (“ZoPFF/C”) in the West Philippines Sea [SCS] by the Philippine President Benigno Aquino III;
- The ECSPi by Taiwan President Ma Ying-jeou;
- The SCSPi by Taiwan President Ma Ying-jeou;
- The “Southeast Asia Maritime Security Initiative” by U.S. Defense Secretary Ash Carter;
- The “Shangri-La Dialogue Initiative” by Japan’s Defense Minister Gen Nakatani.

These proposals, if endorsed, agreed to, and further implemented, have great potential to help maintain peace and stability in East Asia. A brief examination of their contents is given below. This will be followed by a discussion of the progress and achievements in Part VII.

A. PEACE INITIATIVES PROPOSED BY CHINESE AND JAPANESE LEADERS FOR THE ECS

When Chinese President Hu Jintao and Japanese Prime Minister Shinzo Abe met in Hanoi in November 2006, they agreed (1) “to speed up consultation on the East China Sea issue in line with the principle of mutual benefit and reciprocity;” (2) to adhere to negotiation and dialogue; (3) to put aside disputes and pursue joint development; and (4) *to make East China Sea the “sea of peace, cooperation and friendship.”*³⁵

In April 2007, the Chinese Premier Wen Jiabao paid an official visit to Japan. During the visit, Japan and China reached the following five common understandings on properly addressing the East China Sea issue: (1) Both sides are committed

³⁵ *Chinese, Japanese Leaders Call for Maintaining Good Momentum of Bilateral Ties*, PEOPLE’S DAILY ONLINE (Nov. 19, 2006), http://english.peopledaily.com.cn/200611/19/eng20061119_323010.html.

to *making the East China Sea a sea of peace, cooperation and friendship*; (2) They agreed to carry out joint development based on the principle of mutual benefit as a temporary arrangement pending the final demarcation and without prejudice to the positions of either side on matters concerning the law of the sea; (3) They will conduct consultation at higher levels when necessary; (4) They will carry out joint development in larger waters acceptable to them; and (5) They will speed up consultations and hope to submit a detailed plan on joint development to the leaders of the two countries in autumn of 2007.³⁶

In December 2007, the Chinese and Japanese leaders reached a 4-point new consensus on the East China Sea issue: (1) To continue to adhere to the five-point consensus achieved by leaders of the two countries in April 2007 in a bid *to turn the East China Sea into a sea of peace, cooperation and friendship*; (2) The two sides have elevated the level of consultation, conducted earnest and substantive consultation on the concrete solution to the issue and made positive progress; (3) To conduct vice-ministerial-level consultation, if necessary, while maintaining the current consultation framework; (4) The solution to the East China Sea issue conformed with the interests of both China and Japan. The two sides agreed to strive for an early solution in the process of developing bilateral ties.³⁷

In May 2008, China and Japan issued a joint statement on promoting strategic and mutually beneficial ties. They pledged to work together and make the East China Sea a sea of peace, cooperation and friendship.³⁸

B. TAIWAN'S PEACE INITIATIVES IN THE EAST AND SOUTH CHINA SEAS

a. The Spratly Initiative

In February 2008, Taiwan President Chen Shui-Bin boarded the military C-130 cargo aircraft to visit Taiping Island and announced Taiwan's "Spratly Initiative".³⁹ Three policy goals under the initiative are: (1) To find a way for Taiwan to participate in the South China Sea security dialogue process and coopera-

³⁶ *Chinese Premier Advocates Five Principles for Promoting Sino-Japanese Ties*, PEOPLE'S DAILY ONLINE (Apr. 12, 2007), http://english.peopledaily.com.cn/200704/12/eng20070412_365829.html.

³⁷ *Chinese, Japanese Leaders Reach Consensus on East China Sea Issue*, GOV.CN (Dec. 28, 2007), http://www.gov.cn/misc/2007-12/28/content_846359.htm.

³⁸ Joint Statement between the Government of Japan and the Government of the People's Republic of China on Comprehensive Promotion of a "Mutually Beneficial Relationship Based on Common Strategic Interests", May 7, 2008, <http://www.mofa.go.jp/region/asia-paci/china/joint0805.html>.

³⁹ Cheng-yi Lin, *Taiwan's Spratly Initiative in the South China Sea*, 8 CHINA BRIEF, Issue 4, February 29, 2008, available at http://www.jamestown.org/programs/chinabrief/single/?tx_ttnews%5Btt_news%5D=4731&tx_ttnews%5BbackPid%5D=168&no_cache=1#.U4FWZ3KSyUU (access: 25.05.2015).

tive activities; (2) To prevent others from competing for the marine resources that Taiwan claims, including energy resources such as oil, gas, and gas hydrates, and other resources such as fisheries; and (3) To prevent the maritime environment in the South China Sea from being further damaged.

To achieve these policy goals, President Chen made the following proposals: (1) Taiwan is willing to accept the principles and spirit of the 2002 DOC on an equal footing of sovereignty; (2) A call for resolution of sovereignty disputes through peaceful means and the formulation of a regional code of conduct for the South China Sea, but priority should be given to maritime ecological conservation and sustainable development; (3) Taiwan would invite international ecologists and representatives of major environmental groups to make regular visits to the South China Sea islands held by Taiwan, including the Dongsha (Pratas) Islands, Taiping Island, and Zhong Zhou Reef; and (4) Sovereignty disputes in the South China Sea should not block the development of cooperation among the countries in the area, and a non-governmental South China Sea research center was to be established.⁴⁰

b. The ECSPI

In August 2012, largely in response to the rising tension in the East China Sea, and under increasing domestic political pressures to take stronger action to safeguard Taiwan's sovereignty over the Diaoyutai Islands and protect the right of fishermen to fish in the waters off the disputed islands, President Ma Ying-jeou proposed the five points East China Sea Peace Initiative, calling on all parties concerned to: (a) refrain from taking any antagonistic actions; (b) shelve controversies and not abandon dialogue; (c) observe international law and resolve disputes through peaceful means; (d) seek consensus on a code of conduct in the East China Sea; and (e) establish a mechanism for cooperation on exploring and developing resources in the East China Sea.⁴¹

The peace proposal, based on the principle of "safeguarding sovereignty, shelving disputes, pursuing peace and reciprocity, and promoting joint exploration and development,"⁴² was followed by implementation guidelines announced on September 7, 2012 at one of Taiwan's offshore islands in the East China Sea.⁴³ Taiwan's East China Sea Peace Initiative is to be implemented in two stages: (1) Peaceful dialogue and mutually reciprocal negotiation; and (2) Sharing resources and cooperative development. The first stage involves (1) promoting the

⁴⁰ *Ibidem.*

⁴¹ For the proposal, see *East China Sea Peace Initiative*, MINISTRY OF FOREIGN AFFAIRS REPUBLIC OF CHINA (TAIWAN), <http://www.mofa.gov.tw/EnOfficial/Topics/TopicsIndex/?opno=cc7f748f-f55f-4eeb-91b4-cf4a28bbb86f>.

⁴² *Ibidem.*

⁴³ *East China Sea Peace Institute Implementation Guidelines*, MINISTRY OF FOREIGN AFFAIRS REPUBLIC OF CHINA (TAIWAN) (Sept. 7, 2012), <http://www.mofa.gov.tw/EnOfficial/Topics/TopicsArticleDetail/9d66bed6-16fa-4585-bc7c-c0845f2dfc39>.

idea of resolving the East China Sea dispute through peaceful means; (2) establishing channels for Track I and Track II dialogue; and (3) encouraging all parties concerned to address key East China Sea issues via bilateral or multilateral negotiation mechanisms to bolster mutual trust and collective benefit.⁴⁴ During the second stage, the main task is to institutionalize all forms of dialogue and negotiation, to encourage all parties concerned to implement substantive cooperative projects, and to establish mechanisms for joint exploration and development of resources that form a network of peace and cooperation in the East China Sea area.⁴⁵

Key issues for the implementation of the peace initiative include the fishing industry, mining industry, marine science research and maritime environmental protection, maritime security and unconventional security, and an East China Sea Code of Conduct.⁴⁶ This is to be done by moving from three parallel tracks of bilateral dialogue (between Taiwan and Japan, Taiwan and China, and Japan and China) to one track of trilateral negotiations (among China, Japan and Taiwan) to realize peace and cooperation in the East China Sea.⁴⁷

On January 1, 2013, in his New Year's Day speech, President Ma reiterated his peace initiative and stated "[w]e look forward to working with the new leaders of mainland China, Japan, and South Korea to ease tensions so that economic cooperation will once again be the main focus of relations in East Asia, as it should be."⁴⁸ He also said that ongoing fishery talks between Taiwan and Japan are an "important first step" for tackling territorial and maritime boundary disputes in the East China Sea and turning it into a "sea of peace and cooperation."⁴⁹

c. The SCSPI

In May 2015, President Ma Ying-jeou proposed the South China Sea Peace Initiative, calling on all concerned parties to work together to settle the SCS disputes peacefully.⁵⁰ The initiatives ask all parties concerned in South China Sea to:

1. Exercise restraint, safeguard peace and stability in the South China Sea, and refrain from taking any unilateral action that might escalate tensions;
2. Respect the principles and spirit of relevant international law, including the Charter of the United Nations and the United Nations Convention on

⁴⁴ *Ibidem.*

⁴⁵ *Ibidem.*

⁴⁶ *Ibidem.*

⁴⁷ *Ibidem.*

⁴⁸ *Ma Calls Fishery Talks "Important First Step" Toward Peace in East China Sea*, THE JAPAN TIMES (Jan. 2, 2013), <http://info.japantimes.co.jp/text/nn20130102a6.html>.

⁴⁹ *Ibidem.*

⁵⁰ President Ma proposes South China Sea Peace Initiative, MINISTRY OF FOREIGN AFFAIRS REPUBLIC OF CHINA (TAIWAN) (May 26, 2015), http://www.mofa.gov.tw/News_Content.aspx?n=604CBAA3DB3DDA11&sms=69594088D2AB9C50&s=4589151C339E71C5 (access: 29.12.2015).

- the Law of the Sea, to peacefully deal with and settle disputes through dialogue and consultations, and jointly uphold the freedom and safety of navigation and overflight through the South China Sea;
3. Ensure that all concerned parties are included in mechanisms or measures that enhance peace and prosperity in the South China Sea, e.g., a maritime cooperation mechanism or code of conduct;
 4. Shelve sovereignty disputes and establish a regional cooperation mechanism for the zonal development of resources in the South China Sea under integrated planning; and
 5. Set up coordination and cooperation mechanisms for non-traditional security issues, such as environmental protection, scientific research, maritime crime fighting, and humanitarian assistance and disaster relief.

C. ZOPFF/C PROPOSED BY THE PHILIPPINES

In September 2010, in remarks made at the Council of Foreign Relations, the Philippines President Benigno S. Aquino III proposed to transform the SCS into a “Zone of Peace, Friendship, Freedom and Cooperation through sustained consultation and dialogue.”⁵¹ This proposal, submitted to the 44th ASEAN Foreign Ministers held in Bali, Indonesia in July 2011, put forward a two-step process. First, it proposed to segregate or ‘enclave’ disputed areas such as the Spratlys and Paracels from uncontested areas of the SCS. Second, it proposed that the claimants pull back their military forces from occupied features and put in place a joint cooperation area to manage maritime resources.

Under this initiative, once the territorially disputed islands are segregated, certain cooperative activities under the dual regimes of code of conduct and Part IX of the UNCLOS⁵² could be implemented in the enclaved area, which could also be designated as a Joint Cooperation Area, and other maritime areas of the SCS, respectively. The Joint Cooperation Area could also be the area for joint development and other activities including marine scientific research, protection of the marine environment, safety of navigation and communication at sea, search and rescue operations, humane treatment of all persons in danger or distress at sea, fight against transnational crimes as well as cooperation among military officials. A Marine Peace Park, if established in the enclave area, could be considered a concrete implementation of the Declaration on the Conduct of Parties in the SCS, signed by China and ASEAN member states in November 2002. In accordance with Article 123 of the

⁵¹ *Remarks of His Excellency Benigno S. Aquino III President of the Philippines at the Council on Foreign Relations, September 23, 2010, CFR Auditorium, New York City, DEPARTMENT OF FOREIGN AFFAIRS, REPUBLIC OF THE PHILIPPINES* <http://www.dfa.gov.ph/remarks-of-his-excellency-benigno-s-aquino-iii-president-of-the-philippines-at-the-council-on-foreign-relations> (access: 30.12.2015).

⁵² A legal regime of Enclosed or Semi-enclosed seas is established in Part IX of the UNCLOS.

UNCLOS, joint activities that could be undertaken in other maritime areas in the SCS include search and rescue, oil spill preparedness, marine scientific research, and other conservation projects. Structures for the purpose of coordinating activities in this area could also be established among the concerned states bordering the area.⁵³

D. PEACE INITIATIVES IN THE SCS PROPOSED BY ASEAN MEMBER STATES AND CHINA

In March 2005, the Tripartite Agreement for Joint Marine Seismic Undertaking in the Agreement Area in the SCS was signed between the national oil companies of China, the Philippines, and Vietnam – CNOOC, Philippines National Oil Company (PNOC), and PETROVIETNAM. The agreement related to seismic surveys and research in a 143,000-square-kilometer area in the SCS, including parts of the disputed Spratly Islands, for a period of three years (2005–2008). The Chinese, Philippine, and Vietnamese governments expressed their commitment to pursue peaceful efforts to transform the SCS into “an area of peace, stability, cooperation and development.”⁵⁴ Since 2005, the wording “a sea of peace, friendship and cooperation” has been included repeatedly in official Chinese statements.

In April 2012, during his visit to Brunei, Jia Qinglin, chairman of the National Committee of the Chinese People’s Political Consultative Conference (CPPCC), called for pragmatic cooperation between China and ASEAN countries to make the South China Sea “a sea of peace, friendship and cooperation.”⁵⁵ In November 2012, at the 10th Anniversary of the Declaration on the Conduct of Parties in the South China Sea (DOC), the national leaders of China and ASEAN member states agreed “to continue to uphold the spirit and principles of the DOC to contribute to the promotion of peace, friendship, mutual trust, confidence and cooperation between and among ASEAN Member States and China.”⁵⁶

In September 2014, Zhang Gaoli, a member of the Standing Committee of the Political Bureau of the CPC Central Committee and Vice Premier of the PRC

⁵³ For detailed information about this proposal, see Henry S. Bensurto, Jr., *Cooperative Architecture in the South China Sea: ASEAN-China Zone of Peace, Freedom, Friendship, and Cooperation*, June 30, 2011, paper is available at http://csis.org/files/publication/110630_Bensurto.pdf (access: 30.12.2015).

⁵⁴ The text of the Tripartite Agreement for Joint Marine Scientific Research in Certain Areas in the South China Sea By and Among China National Offshore, Oil Corporation Vietnam Oil and Gas Corporation, and Philippine National Oil Company, signed in Manila on March 14, 2005, is available at http://nghiencubiendong.vn/en/database-on-south-china-sea-study/cat_view/132-legal-documents/154-joint-development-agreements (access: 30.12.2015).

⁵⁵ *Jia makes 4-point proposal to further China-Brunei ties*, XINHU, April 20, 2012, http://www.china.org.cn/world/2012-04/20/content_25196611.htm

⁵⁶ For the text of ASEAN-China joint statement on 10th Anniversary of DOC in South China Sea, November 20, 2012, visit http://www.china.org.cn/world/Off_the_Wire/2012-11/20/content_27163485.htm

State Council, stated at the 11th China-ASEAN Expo, Business and Investment Summit in Nanning that:

China is ready to work with ASEAN countries to implement the Declaration on the Conduct of Parties in the South China Sea in a comprehensive and effective manner, actively advance the consultation on a code of conduct in the South China Sea, enhance dialogue and communication, promote practical cooperation, remove various disruptions and build the South China Sea into a sea of peace, friendship and cooperation.⁵⁷

In November 2014, the Chinese Premier Li Keqiang said at the 17th China-ASEAN Leader's Meeting in Nay Pyi Taw, Myanmar that "China is willing to work with ASEAN to make the South China Sea a sea of peace, a sea of friendship and a sea of cooperation."⁵⁸

In September 2015, PRC Vice Premier Zhang Gaoli reiterated the call for maritime cooperation between China and ASEAN at the 12th China-ASEAN Expo, Business and Investment Summit, saying that China and ASEAN "should take the 'Year of China-ASEAN Maritime Cooperation' as an opportunity to enhance practical cooperation on maritime economy, connectivity, science and environmental protection, security and culture, and promote joint development and strive to make maritime cooperation a new highlight and momentum for China-ASEAN relations."⁵⁹

In August 2015, in addition to the three-point initiative that aimed to uphold peace and stability in the SCS,⁶⁰ Chinese foreign minister Wang Yi announced a 10-point proposal on China-ASEAN cooperation at the ASEAN-China Ministerial Meeting (10+1) in Kuala Lumpur, Malaysia in August 2015. Proposals included that "peace and stability of the South China Sea shall be jointly upheld"

⁵⁷ Full text of Zhang Gaoli's speech at China-ASEAN Expo, Business and Investment Summit, September 17, 2014, available at http://english.gov.cn/news/top_news/2014/09/30/content_281474990742249.htm (access: 26.10.2015).

⁵⁸ "A Sea of peace, friendship and cooperation," News, The State Council, the People's Republic of China, November 13, 2014, available at http://english.gov.cn/premier/news/2014/11/14/content_281475009714009.htm (access: 20.10.2015).

⁵⁹ Full text of Chinese Vice Premier Zhang Gaoli's speech at China-ASEAN Expo, Business and Investment Summit, September 18, 2015, available at http://news.xinhuanet.com/english/china/2015-09/19/c_134640456.htm (access: 26.10.2015).

⁶⁰ These initiatives are: First, States in the South China Sea region undertake to fully and effectively implement the Declaration on the Conduct of Parties in the South China Sea (DOC) in its entirety, accelerate the consultations on a code of conduct in the South China Sea (COC), and actively explore "preventive measures on managing risks at sea". Second, states outside the region undertake to support the above-mentioned efforts by states in the region, and refrain from taking moves that could raise tension and complicate the situation in the South China Sea.

Third, all states undertake to follow the international law in exercising and upholding the freedom of navigation and over-flight in the South China Sea. See Wang Yi Put Forward a Three-point Initiative to Uphold Peace and Stability in the South China Sea, Ministry of Foreign Affairs of the People's Republic of China, August 6, 2015, available at http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1286713.shtml (access: 26.10.2015).

and that “[d]isputes shall be properly handled, peace maintained and cooperation boosted so as to produce win-win results”.⁶¹

In October 2015, ahead of his state visit to the United Kingdom, Chinese President Xi Jinping responded to a question posed by *Reuters* about China’s assertive moves in the SCS, stating that “We will together endeavor to make the South China Sea a sea of peace, friendship and cooperation.”⁶² In the same month, Chinese Vice Foreign Minister Liu Zhenmin reiterated China’s peace proposal at a welcome reception for participants attending the sixth meeting of Xianshan Forum in Beijing. He said, “China is ready to work with ASEAN countries in building the 21st Century Silk Road and promoting joint development in the South China Sea to make the South China Sea a sea of peace, friendship and cooperation.”⁶³

In November 2015, Chinese Premier Li Keqiang attended the tenth East Asia Summit at the Kuala Lumpur Convention Centre and put forward five initiatives on jointly safeguarding peace and stability in the South China Sea:

First, all countries promise to adhere to the purposes and principles of the Charter of the United Nations, defend the outcomes of World War II and the post-war order, cherish the hard-won peace and jointly maintain peace and stability in the world and regions including the South China Sea.

Second, sovereign states directly concerned promise to settle disputes of territory and governance through friendly consultations and negotiations in a peaceful way in accordance with the recognized norms of the international law including the 1982 ‘UN Convention on the Law of the Sea’.

Third, China and the ASEAN countries promise to implement the ‘Declaration on the Conduct of Parties in the South China Sea’ comprehensively, effectively and completely, accelerate the negotiations on codes of conduct in the South China Sea, achieve the codes of conduct as soon as possible based on the principle of consensus, and take measures to continuously improve the establishment of the regional mechanism of mutual trust and cooperation.

Fourth, countries outside the region promise to respect and support the efforts made by countries in the region in maintaining peace and stability of the South China Sea, and play a positive and constructive role rather than taking actions leading to regional tension.

⁶¹ Wang Yi Brought Forth a Ten-point Proposal on China-ASEAN Cooperation, Ministry of Foreign Affairs of the People’s Republic of China, August 5, 2015, available at http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1286715.shtml (access: 26.10.2015).

⁶² Exclusive Q&A with Chinese President Xi Jinping, Reuters (October 17, 2017) <http://www.reuters.com/article/2015/10/18/us-china-britain-xi-q-a-idUSKCN0SC03920151018> (access: 20.10.2015).

⁶³ Uphold Win-Win Cooperation and Promote Peace and Stability in the Asia-Pacific, speech of Liu Zhenmin, Vice Foreign Minister of China, October 17, 2015, available at: http://www.fmprc.gov.cn/mfa_eng/wjbxw/t1306891.shtml (access: 20.10.2015).

Fifth, all countries promise to exercise and maintain the freedom of navigation and flying over in the South China Sea in accordance with international law.⁶⁴

E. U.S. SOUTHEAST ASIA MARITIME SECURITY INITIATIVES

In May 2015, when attending the Shangri-La Dialogue in Singapore, Ashton B. Carter, U.S. Secretary of Defense, articulated his country's vision for a stronger regional architecture in the Asia-Pacific to address shared challenges. It consisted of five elements: reaffirming long-standing rules and norms; strengthening regional institutions; modernizing alliances and partnerships; enhancing capacity-building; and improving connectivity. To enhance maritime capacity of U.S. allies and security partners, the Secretary announced a \$425 million dollar Southeast Asia Maritime Security Initiative ("SAMSI").⁶⁵

The efforts undertaken by the U.S. government to help advance the maritime capabilities of its allies and partners in Southeast Asia include the following:

- Committing \$119 million in FY 2015 to develop Southeast Asian maritime capabilities and seeking to provide \$140 million in assistance during FY 2016 subject to appropriation, totaling more than \$250 million over two years.
- Developing regional maritime security programs and funds to rapidly respond to evolving challenges.
- Pursuing the Southeast Asia Maritime Security Initiative announced by Secretary of Defense Carter at the Shangri-La Dialogue, a new effort to work together with U.S. allies and partners in Southeast Asia to build a shared maritime domain awareness architecture that will help countries share information, identify potential threats, and work collaboratively to address common challenges.
- Coordinating with strong allies Japan and Australia on maritime security assistance to align and synchronize regional security and law enforcement assistance programs for maximum effect.

⁶⁴ Remarks by H.E. Li Keqiang Premier of the State Council of the People's Republic of China At the 10th East Asia Summit, November 22, 2015, PERMANENT MISSION OF THE PEOPLE'S REPUBLIC OF CHINA TO THE UNITED NATIONS OFFICE AT GENEVA AND OTHER INTERNATIONAL ORGANIZATIONS IN SWITZERLAND (November 23, 2015), available at <http://www.china-un.ch/eng/wjyw/t1317927.htm> (access: 26.10.2015).

⁶⁵ Secretary of Defense Speech, IISS Shangri-La Dialogue: "A Regional Security Architecture Where Everyone Rises," as delivered by Secretary of Defense Ash Carter, Singapore, May 30, 2015, available in U.S. Department of Defense's website at <http://www.defense.gov/News/Speeches/Speech-View/Article/606676/iiss-shangri-la-dialogue-a-regional-security-architecture-where-everyone-rises> (access: 21.10.2015).

- Funding will be allocated to Southeast Asian countries, including the Philippines, Vietnam, Indonesia, and Malaysia, as described below.⁶⁶

F. JAPAN'S SHANGRI-LA DIALOGUE INITIATIVE ("SDI")

In May 2015, Gen Nakatani, Japanese Minister of Defense, proposed the "Shangri-La Dialogue Initiative" (SDI) at the 2015 Shangri-La Dialogue. Its aim was to build a foundation for deeper security collaboration with Japan's partners in the Southeast Asia and consists of the following elements: First, wider promotion of common rules and laws at sea and in the air in the region; second, maritime and aerospace security; and third, improvement of disaster response capability.⁶⁷ The minister stressed in his speech that Japan is determined to put the SDI into practice, and to work closely with countries in the region. He also clarified by saying that the Japanese initiative is different from the U.S. 'Strategic Defense Initiative' that was proposed during the Cold War era. The main goal of the Japanese SDI is to tackle today's security issues in the 21st century.⁶⁸

PROGRESS AND ACHIEVEMENTS OF THE PROPOSED INITIATIVES

Some of the aforementioned peace, cooperation, or security initiatives ended with no chance of being implemented, or failed to get regional support due to changes in the government, policy position, security environment, strategic planning, or other considerations. But, some positive policy outcomes have been achieved as a result of follow-up implementation of the proposals, such as signing fisheries or law enforcement agreements, which helps reduce tensions in the disputed areas. For other peace or cooperation initiatives, there is a need to undertake more efforts so that concrete results can be achieved; otherwise the peaceful proposals will become merely lip service or empty political slogans. For several peace or security initiatives proposed in 2015, more time is needed before their success or failure can be assessed. However, possible change in governments after presidential elections in the region will bring challenges to the implementation of these peace, cooperation or security initiatives in the East Asian seas.

The progress, achievements, and possible challenges for implementing the initiatives introduced in Part VI are discussed below.

⁶⁶ FACT SHEET: U.S. Building Maritime Capacity in Southeast Asia, THE WHITE HOUSE OFFICE OF THE PRESS SECRETARY (November 17, 2015)

⁶⁷ "New Forms of Security Collaboration in Asia: Gen Nakatani," IISS Shangri-La Dialogue 2015 Second Plenary Session, May 30, 2015, available at <https://www.iiss.org/en/events/shangri%20la%20dialogue/archive/shangri-la-dialogue-2015-862b/plenary2-a5ab/nakatani-ecb0> (access: 30.12.2015).

⁶⁸ *Ibidem*.

A. THE INITIATIVES BY CHINA AND JAPAN TO MAKE THE ECS “A SEA OF PEACE, FRIENDSHIP AND COOPERATION”

In June 2008, after eleven rounds of serious consultation, China and Japan reached the Principled Common Understanding on the East China Sea Issues. Part I of the Understanding provides that:

In order to make the East China Sea, of which the delimitation between China and Japan is yet to be made, a “**sea of peace, cooperation and friendship**,” China and Japan have, in keeping with the common understanding reached by leaders of the two countries in April 2007 and their new common understanding reached in December 2007, agreed through serious consultations that the two sides will conduct cooperation in the transitional period prior to delimitation without prejudicing their respective legal positions. The two sides have taken the first step to this end and will continue to conduct consultations in the future [emphasis added].⁶⁹

In accordance with the Understanding, Japanese companies are allowed to participate in the development of *Chunxiao* oil and gas field in accordance with the relevant Chinese laws that govern cooperation with foreign enterprises in the exploration and exploitation of offshore petroleum resources. In addition, China and Japan agreed to establish a block for joint development in the ECS.⁷⁰ To carry out this joint development proposal, Beijing and Tokyo agreed to work to fulfill their respective domestic procedures and arrive at the necessary bilateral agreement at an early date. The two sides also agreed to continue consultations for the early realization of joint development in other parts of the ECS.⁷¹

In December 2011, at the China-Japan summit meeting held in Beijing, the Japanese Prime Minister Yoshihiko Noda expressed “six initiatives”⁷² to further deepen diplomatic relations between Japan and China. One of these initiatives was to promote the cooperation between the two countries for making the ECS a “Sea of Peace, Cooperation and Friendship.”⁷³ In July 2012, the Japanese Foreign Minister Koichiro Gamba and Chinese Foreign Minister Yang Jiechi met in Phnom Penh, Cambodia, on the sidelines of the ASEAN-related Ministers’ Meeting. Among other things, they talked about the disputed Diaoyu Dao/Senkaku

⁶⁹ MINISTRY OF FOREIGN AFFAIRS OF THE PEOPLE’S REPUBLIC OF CHINA, *China and Japan Reach Principled Consensus on the East China Sea Issue* (June 18, 2008), <http://www.fmprc.gov.cn/eng/xwfw/s2510/t466632.htm>.

⁷⁰ *Ibidem*.

⁷¹ *Ibidem*.

⁷² These initiatives include: (1) Enhancing Mutual Trust in the Political Area; (2) Promoting the Cooperation for making the East China Sea a “Sea of Peace, Cooperation and Friendship”; (3) Japan-China Cooperation in the Wake of the Great East Japan Earthquake; (4) Grading up of Mutually Beneficial Economic Relations; (5) Promoting Mutual Understanding between People in Both Countries; and (6) Strengthening Dialogue and Cooperation on Regional and Global Issues. See *Japan-People’s Republic of China Summit Meeting (Summary)*, MINISTRY OF FOREIGN AFFAIRS OF JAPAN (Dec. 25, 2011) <http://www.mofa.go.jp/region/asia-paci/china/meeting1112.html>.

⁷³ *Ibidem*.

Islands, repeating their respective basic stand on the issue. They also agreed to promote more cooperation and dialogue. The Japanese Foreign Minister Gemba strongly requested the early resumption of negotiations for the China-Japan agreement regarding the development of natural resources in the East China Sea. He also stated that the Japanese side hoped for the early start of the Japan-U.S.-China dialogue. In response, China's Foreign Minister Yang stated that China's position on implementing a principle agreement concerning the ECS remained unchanged, that he would like to continue working-level communications, and that China had been seriously considering the issue concerning the trilateral dialogue.⁷⁴

The wording regarding efforts to make the ECS a sea of peace, friendship, and cooperation has disappeared from the Chinese and Japanese official statements since the Noda administration's decision to nationalize the Diaoyutai/Senkaku islands in July 2012 and its implementation of the decision on September 11 of that year. Although the two countries resumed their maritime talks in January 2015, the idea of making the ECS a sea of peace, friendship, and cooperation has not been mentioned by Chinese or Japanese national leaders.

B. IMPLEMENTATION OF TAIWAN'S PEACE INITIATIVES IN THE ECS AND SCS

a. *The End of Taiwan's Spratly Initiative*

As a result of the 2008 presidential election in Taiwan, the "Spratly Initiative" announced by President Chen Shui-bian one month before the election was put to an end. The new KMT government paid less attention to the SCS issue, mainly because it adopted a new foreign and cross-Strait policy that aimed to establish a peaceful relationship with China and maintain a closer relationship with the United States. It is likely to put Taiwan into a difficult situation with regard to taking sides between China and the United States, if the tensions escalate in the SCS.

b. *Further Implementation of ECSPi*

On April 10, 2013, after 17 years of effort, Taiwan and Japan finally concluded a fisheries agreement. The purposes of the agreement included: (1) maintaining peace and stability in the East China Sea; (2) promoting friendly relations and reciprocity and cooperation between Taiwan and Japan; (3) ensuring conservation and rational utilization of marine living resources of the EEZs and (4) maintaining fishery operation order.⁷⁵ In addition, a special cooperation area was established.

⁷⁴ Ministry of Foreign Affairs of Japan, *Japan-China Foreign Ministers' Meeting (Overview)* (July 11, 2012), http://www.mofa.go.jp/region/asia-paci/china/meeting1207_fm.html

⁷⁵ For the text of the agreement, visit <http://www.rootlaw.com.tw/LawContent.aspx?LawID=A040270061040500-1020719> (Last visited May 26, 2014), Article 1 (in Chinese).

The agreement guarantees the rights of Taiwan fishing vessels in a long-disputed area of overlap between the two countries' claimed EEZs. It opens up a further 4,530 square kilometers of ocean within Japan's claimed EEZ to Taiwanese fishing vessels. Within the "special cooperation zone", the two sides will cooperate to manage fishery resources. A fisheries commission was established to consult on the specific management of the cooperation zone as well as other matters concerning the area designated by the agreement as a whole. More importantly, under Article 4 of the Agreement, its provisions and any measures that adopted in the future to implement it should not be deemed as having any bearing on the position on the law of the sea issues taken by the government agencies of either side. The signing of the Japan-Taiwan fisheries agreement is considered one of the positive responses of Japan to the ECSPI.⁷⁶

On May 7, 2013, Taiwan and Japan established a bilateral fisheries commission, which serves as an institutionalized negotiation mechanism for future talks on fisheries cooperation.⁷⁷ Both sides agreed to temporarily shelve the sovereignty dispute over the Diaoyutai/Senkaku Islands and designated the area between 27° north latitude and Japan's Sakishima Islands as waters where fishing by both Taiwanese and Japanese vessels would be allowed. The agreement expands the fishing grounds of Taiwanese fishermen by an additional 4,530 square kilometers beyond the so-called "temporary enforcement line." It was reported that Taiwanese catches of yellow fin tuna in waters off northeastern Taiwan had increased by 20% in May 2013 compared with the same period in 2012 following the signing of the agreement.⁷⁸ At the third session of Taiwan-Japan Fisheries Commission, the two sides reached an agreement and adopted "Operational Regulations for Fishing Vessels in the Designated Waters under Taiwan-Japan Fisheries Agreement" in January 2014.⁷⁹

c. Further Implementation of the SCSPI

In August 2013, in a speech delivered in Taipei celebrating the first anniversary of the ECSPI, President Ma said that the peace initiative was playing an important role in resolving disputes over the Diaoyu/Senkaku Islands. "The initiative is in the interests of all affected parties as without it, they would suffer regional unease

⁷⁶ Kawashima Shin, *The Implications for the Japan-Taiwan Fisheries Agreement*, NIPPON.COM (June 5, 2013), available at <http://www.nippon.com/en/currents/d00081/>

⁷⁷ Taiwan, Japan set up joint fishing commission, TAIWAN TODAY, May 8, 2013, available at <http://taiwantoday.tw/ct.asp?xitem=204842&CtNode=414>.

⁷⁸ *Catches rise since Japan fisheries agreement inked*, TAIPEI TIMES, May 26, 2013, available at <http://www.taipeitimes.com/News/taiwan/archives/2013/05/26/2003563216>.

⁷⁹ A copy of the Regulations is available at <http://www.links.taichung.gov.tw/public/data/119030/436160871.pdf> (Last visited May 9, 2014) See Satoshi Ukai, *Japan, Taiwan agree on fishing rules in waters around Senkaku*, THE ASAHI SHIMBUN (January 25, 2014), <http://ajw.asahi.com/article/asia/china/AJ201401250058>.

and miss out on the benefits of peace and stability,” Ma said. “It is also in line with the government’s commitment to acting as peacemaker.” In addition, he said, Taiwan does not rule out the possibility of applying a similar model to help manage sovereignty and maritime disputes in the SCS.⁸⁰ In his remarks at CSIS videoconference on April 9, 2014, President Ma reiterated the possibility, saying that “the spirit of the East China Sea Peace Initiative could also apply to the South China Sea.”⁸¹ This idea to apply the initiative to the SCS was mentioned again on April 17, 2014 when he attended an international conference held in Academia Sinica.⁸²

As mentioned in Part VI, President Ma announced the SCSPI in May 2015. In September 2015, it was reported that he had ordered government agencies to formulate a roadmap for SCSPI.⁸³ In November 2015, Taiwan and the Philippines signed the Agreement Concerning the Facilitation of Cooperation on Law Enforcement in Fisheries Matters, which entered into force on December 5 of that year. Under the agreement, the two sides agree to “avoid using violence or unnecessary force in the implementation of their fisheries laws and other relevant regulations consistent with international law and practice.” They also agree to establish a law enforcement cooperation mechanism, an emergency notification system, and a prompt release mechanism. The emergency notification and prompt release procedures for the two sides’ economic and cultural offices in the overlapping EEZ are also attached to the agreement.⁸⁴ This agreement is considered important for the further implementation of the SCSPI.

In January 2016, twelve days after Taiwan’s presidential election, Ma announced the roadmap for implementing the SCSPI when he visited Taiping Island (Itu Aba). Four months after, Ma stepped down from the office. On May 20, 2016, President-elect Tsai Ing-wen was sworn into office as the 14th president of the Republic of China. While Ma and Tsai have different views and principles

⁸⁰ *President Ma attends 2013 East China Sea Peace Forum*, OFFICE OF THE PRESIDENT REPUBLIC OF CHINA (TAIWAN), August 5, 2013, <http://english.president.gov.tw/Default.aspx?tabid=491&itemid=30548&rmid=2355>.

⁸¹ *President Ma’s Remarks at the Videoconference with the Center for Strategic and International Studies*, OFFICE OF THE PRESIDENT REPUBLIC OF CHINA (TAIWAN), April 9, 2014, <http://english.president.gov.tw/Default.aspx?tabid=491&itemid=32044&rmid=2355>.

⁸² *President Ma attends “Examining the Diaoyutai/Senkaku Islands Dispute Under New and Multiple Perspectives” international conference*, OFFICE OF THE PRESIDENT REPUBLIC OF CHINA (TAIWAN), April 17, 2014, <http://english.president.gov.tw/Default.aspx?tabid=491&itemid=32129&rmid=2355>.

⁸³ Ko Shu-ling, “Taiwan’s construction of lighthouse in S. China Sea nearly complete,” *Kyodo News*, September 30, 2015, available at <https://english.kyodonews.jp/news/2015/09/376970.html> (Last visited October 21, 2015)

⁸⁴ “Taiwan and the Philippines sign agreement on law enforcement cooperation in fisheries matters,” *News and Events*, November 19, 2015, in the website of the ROC MOFA at http://www.mofa.gov.tw/en/News_Content.aspx?n=1EADDCFD4C6EC567&s=200FD620B9CCE60B (access: 24.12.2015). A copy of the agreement and two attachments, both in Chinese and English, are on file of the author.

in managing cross-strait relations, they are taking a similar approach to deal with the South China Sea issue, in particular, promoting the idea of “putting aside the dispute and working on joint development”. However, it remains to be seen whether Ma’s SCSPi will be carried out or discontinued by the Tsai administration.

C. Failure of the ZoPFF/C Initiative for the SCS

In July 2011, the Philippines submitted the ZoPFF/C proposal for discussion at the 44th ASEAN Ministers meeting held in Bali, Indonesia. The ASEAN foreign ministers took note of the proposal and tasked the ASEAN Senior Officials Meeting (“SOM”), with assistance from maritime legal experts, to seriously study the ZoPFF/C proposal. They also welcomed the Philippine offer to host the maritime legal experts meeting in Manila in September 2011, report to the ASEAN SOM, and make recommendations to the Foreign Ministers prior to the 19th ASEAN Summit that was held in November 2011.⁸⁵

In September 2011, the ASEAN Maritime Legal Experts’ meeting discussed extensively the ZoPFF/C initiative. China protested the meeting and its state-run media criticized the initiative as a ‘trick’ and accused the Philippines of not being sincere.⁸⁶ Due to political and economic considerations, a number of ASEAN member states did not attend the meeting, which made it difficult for the association to reach a consensus on the proposal. In November 2011, at the ASEAN Ministers’ Meeting, despite the efforts made by the Philippines’ Secretary Albert F. Del Rosario to obtain support from member states for the ZoPFF/C initiative,⁸⁷ no consensus was reached. Philippine President Benigno Aquino III also brought up the proposal at the East Asia Summit (EAS) in the same month. Due to a lack of regional support, this initiative ended without any progress. The standoff between a Philippine warship and Chinese coast guard ships in the sea area near Scarborough Shoal in April 2012 and the decision of the government of the Philippines to initiate an arbitration case against China concerning their disputes in the SCS in January 2013 made it impossible for the ZoPFF/C to be re-considered.

⁸⁵ Joint Communiqué of the 44th ASEAN Foreign Ministers Meeting, Bali, Indonesia, July 19, 2011, available at <http://www.asean.org/images/archive/documents/44thAMM-PMC-18thARF/44thAMM-JC.pdf> (access: 30.12.2015).

⁸⁶ Ian Storey, *China’s Bilateral and Multilateral Diplomacy in the South China Sea*, in Patrick m. Cronin (ed.), *COOPERATION FROM STRENGTH: THE UNITED STATES, CHINA AND THE SOUTH CHINA SEA*, Washington, DC: Centre for a New American Security, January 2012, available at http://www.cnas.org/files/documents/publications/CNAS_CooperationFrom-Strength_Cronin_1.pdf (access: 31.12.2015), at 60.

⁸⁷ Statement of Secretary Albert F. Del Rosario at the ASEAN Foreign Ministers’ Meeting (AMM) 15 November 2011, Bali, Indonesia, available at <http://www.philembassy.no/news-item/statement-of-secretary-albert-f-del-rosario-at-the-asean-foreign-ministers-meeting-amm-1> (access: 31.12.2015).

D. PROGRESS IN IMPLEMENTING THE U.S. SOUTHEAST ASIA MARITIME SECURITY INITIATIVE

Less than three months after the announcement of the Southeast Asia Maritime Security Initiative by Defense Secretary Carter, the U.S. Department of Defense outlined its plan to implement the initiative in a report entitled “Asia-Pacific Maritime Security Strategy” in August 2015.⁸⁸ It is stated in the report that

As part of this initiative, DoD, in coordination with the Department of State, will consult with our allies and partners to ascertain their needs and requirements more effectively and to explore new opportunities for maritime collaboration. In particular, we are focused on several lines of effort: working with partners to expand regional maritime domain awareness capabilities, with an effort to work towards a regional common operating picture; providing the necessary infrastructure, logistics support, and operational procedures to enable more effective maritime response operations; further strengthening partner nation operational capabilities and resilience by deepening and expanding bilateral and regional maritime exercises and engagements; helping partners strengthen their maritime institutions, governance, and personnel training; and identifying modernization or new system requirements for critical maritime security capabilities. To support this initiative, the Department is working to maximize and rebalance Title 10 security cooperation resources to prioritize the Southeast Asia region more effectively.⁸⁹

This was followed by a November 2015 Fact Sheet on the White House website entitled “U.S. Building Maritime Capacity in Southeast Asia,” which provides information about U.S. plan to help expand its maritime cooperation with the Philippines and expand maritime assistance to Vietnam, Indonesia and Malaysia. It is U.S. policy to remain engaged and committed to improving maritime security capacities in Southeast Asia. The U.S. will work with its allies and security partners to develop the most effective mix of capabilities to provide credible maritime defense and patrol capabilities.⁹⁰

In October 2015, the bill – H.R. 1735, entitled “National Defense Authorization Act for Fiscal Year 2016” – a comprehensive defense spending bill, directing funding for procurement, research, and operation of defense technology, establish military policy, and address other matters pertaining to national defense was passed by the Congress. Section 1263 is entitled “South China Sea Initiative.” On November 25, 2015, President Obama signed the bill into law.⁹¹ Under Section

⁸⁸ For the report, visit the website of the U.S. Department of Defense at http://www.defense.gov/Portals/1/Documents/pubs/NDAA%20A-P_Maritime_Security_Strategy-08142015-1300-FINALFORMAT.PDF (access: 31.12.2015).

⁸⁹ *Ibidem*, at 26.

⁹⁰ FACT SHEET: U.S. Building Maritime Capacity in Southeast Asia, *supra* note 66.

⁹¹ Statement by the President, THE WHITE HOUSE (November 25, 2015), <https://www.whitehouse.gov/the-press-office/2015/11/25/statement-president> (access: 31.12.2015). For the text of the law, visit <https://www.gpo.gov/fdsys/pkg/BILLS-114s1356enr/pdf/BILLS-114s1356enr.pdf> (access: 31.12.2015).

1263 (South China Sea Initiative), the “Secretary of Defense is authorized, with the concurrence of the Secretary of State, for the purpose of increasing maritime security and maritime domain awareness of foreign countries along the South China Sea,

(A) to provide assistance to national military or other security forces of such countries that have among their functional responsibilities maritime security missions; and

(B) to provide training to ministry, agency, and headquarters level organizations for such forces.

The countries to receive this assistance and training include Indonesia, Malaysia, Thailand, the Philippines and Vietnam. Assistance provided by the United States may include equipment, supplies, training, and small-scale military construction. Under the law, it is possible for Brunei, Singapore, and Taiwan to receive training assistance from the United States. Based on this defense legislation and the maritime security strategy, it is expected that the U.S. Southeast Asia Maritime Security will be further implemented.

E. PROGRESS IN IMPLEMENTING THE SDI

At the 7th Japan-ASEAN Defense Vice-Ministerial Forum, held in Sapporo, Japan, in September 2015, participants senior defense officials and representatives from the ten ASEAN member states, the ASEAN Secretariat and Japan discussed, among other things, the SDI. Their shared view was that the Japanese initiative “is a useful guideline to promote regional cooperation.” It was also confirmed that they will continue their efforts related to the implementation of the SDI in bilateral and multilateral fora.⁹²

Japan’s Diet passed the government’s package of 11 security bills in September 2015. These included legislation related to the Japanese exercise of the right of collective self-defense which, along with the revised U.S.-Japan Defense Cooperation Guidelines, promises to transform the legal and institutional framework for Japanese defense policy and U.S.-Japan security relations.⁹³ It is therefore expected that the Japanese SDI will be further implemented in the years to come.

⁹² See Chairman’s Summary, the 7th Japan-ASEAN Defense Vice-Ministerial Forum, September 7, 2015, in particular para. 29, available in the website of the MINISTRY OF DEFENSE, JAPAN at http://www.mod.go.jp/j/approach/exchange/dialogue/asia_tokyoseminar/pdf/summary07_e.pdf (access: 31.12.2015).

⁹³ *Raucous Diet battle ends as Upper House passes security bills*, THE ASAHI SHIMBUN (September 19, 2015), http://ajw.asahi.com/article/behind_news/politics/AJ201509190014 (access: 31.12.2015).

CONCLUDING REMARKS

During the period between 2006 and 2015, a number of initiatives related to peace, cooperation, and maritime security in the East Asian seas have been announced or proposed by the countries in the Asia-Pacific, including China, Japan, the Philippines, Taiwan and the United States. While some of the proposed initiatives ended without effective implementation and no concrete results, for example, the Spratly Initiative and the ZoPFF/C proposal, others have created positive outcomes that help reduce tensions in the region concerned and improve diplomatic relations between the parties to a maritime dispute, in particular in the ECS and between Japan and Taiwan. At the same time, there are new proposals announced only recently in 2015, such as the U.S. Southeast Asia Maritime Security Initiative and Japan's Shangri-La Dialogue Initiative, which aim to improve maritime capabilities of the ASEAN member states.

From China's perspective, the main goal of the U.S. and Japanese proposals is to undermine its national interests in the SCS and therefore should not be supported. At the same time, it is important to take note of the efforts made by China to transform the ECS and SCS from a sea of confrontation to a "sea of peace, friendship and cooperation" which can be found in the official statements repeatedly made by the Chinese national leaders and top government officials at different international occasions, in particular, at the ASEAN-led security dialogue meetings.

Although we urge that maritime disputes in the ECS and SCS be resolved by the countries concerned using the methods provided for in the UN Charter and the UNCLOS, which include negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangement, the peace- and cooperation-related initiatives announced or proposed in the region should be welcomed as "other peaceful means". These proposals, if effectively implemented, will not only further bilateral or multilateral negotiations between the countries concerned, but also help maintain peace and stability in these two important East Asian semi-enclosed seas.

POKÓJ, KOOPERACJA I PROPOZYCJE BEZPIECZEŃSTWA NA MORZACH W AZJI
WSCHODNIEJ. ANALIZA PODJĘTYCH INICJATYW I ICH SKUTKI

Abstrakt. Celem artykułu jest analiza inicjatyw pokojowych proponowanych przez Chiny, Japonię, Filipiny, Tajwan i Stany Zjednoczone w okresie od 2006 do 2015 r. Artykuł składa się z ośmiu części. Po wstępie i wprowadzeniu w sytuację na morzach w Azji Wschodniej, część druga dotyczy wzrostu zainteresowania sporami morskimi w stosunkach międzynarodowych. Część trzecia opisuje zobowiązania stron do pokojowej współpracy, których podstawą są regulacje międzynarodowe, ze szczególnym uwzględnieniem Konwencji Narodów Zjednoczonych o prawie morza (UNCLOS). Kolejne części dotyczą pokojowych propozycji rozwiązania sporów, w odpowiedzi na wzrost napięcia w regionie. Ostatnie dwie części analizują zgłaszane inicjatywy pokojowe, przez pryzmat ich efektywności.

Słowa kluczowe: bezpieczeństwo morskie, Morze Południowochińskie, Morze Wschodniochińskie, Konwencja Narodów Zjednoczonych o prawie morza (UNCLOS)