<table>
<thead>
<tr>
<th><strong>Title</strong></th>
<th>Exclusive Economic Zone (EEZ) regime in East Asian waters: military and intelligence-gathering activities, marine scientific research (MSR) and hydrographic surveys in an EEZ</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Author(s)</strong></td>
<td>Yang, Fang</td>
</tr>
<tr>
<td><strong>Citation</strong></td>
<td>Yang, F. (2010). Exclusive Economic Zone (EEZ) regime in East Asian waters: military and intelligence-gathering activities, marine scientific research (MSR) and hydrographic surveys in an EEZ. (RSIS Working Paper, No. 198). Singapore: Nanyang Technological University.</td>
</tr>
<tr>
<td><strong>Date</strong></td>
<td>2010</td>
</tr>
<tr>
<td><strong>URL</strong></td>
<td><a href="http://hdl.handle.net/10220/6518">http://hdl.handle.net/10220/6518</a></td>
</tr>
</tbody>
</table>
No. 198

Exclusive Economic Zone (EEZ) regime in East Asian waters: Military and intelligence-gathering activities, Marine Scientific Research (MSR) and hydrographic surveys in an EEZ

Yang Fang

S. Rajaratnam School of International Studies

Singapore

21 May 2010
About RSIS

The S. Rajaratnam School of International Studies (RSIS) was established in January 2007 as an autonomous School within the Nanyang Technological University. RSIS’ mission is to be a leading research and graduate teaching institution in strategic and international affairs in the Asia-Pacific. To accomplish this mission, RSIS will:

- Provide a rigorous professional graduate education in international affairs with a strong practical and area emphasis
- Conduct policy-relevant research in national security, defence and strategic studies, diplomacy and international relations
- Collaborate with like-minded schools of international affairs to form a global network of excellence

Graduate Training in International Affairs

RSIS offers an exacting graduate education in international affairs, taught by an international faculty of leading thinkers and practitioners. The teaching programme consists of the Master of Science (MSc) degrees in Strategic Studies, International Relations, International Political Economy and Asian Studies as well as The Nanyang MBA (International Studies) offered jointly with the Nanyang Business School. The graduate teaching is distinguished by their focus on the Asia-Pacific region, the professional practice of international affairs and the cultivation of academic depth. Over 150 students, the majority from abroad, are enrolled with the School. A small and select Ph.D. programme caters to students whose interests match those of specific faculty members.

Research

Research at RSIS is conducted by five constituent Institutes and Centres: the Institute of Defence and Strategic Studies (IDSS), the International Centre for Political Violence and Terrorism Research (ICPVTR), the Centre of Excellence for National Security (CENS), the Centre for Non-Traditional Security (NTS) Studies, and the Temasek Foundation Centre for Trade and Negotiations (TFCTN). The focus of research is on issues relating to the security and stability of the Asia-Pacific region and their implications for Singapore and other countries in the region. The School has three professorships that bring distinguished scholars and practitioners to teach and do research at the School. They are the S. Rajaratnam Professorship in Strategic Studies, the Ngee Ann Kongsi Professorship in International Relations, and the NTUC Professorship in International Economic Relations.

International Collaboration

Collaboration with other Professional Schools of international affairs to form a global network of excellence is a RSIS priority. RSIS will initiate links with other like-minded schools so as to enrich its research and teaching activities as well as adopt the best practices of successful schools.
ABSTRACT

Military and intelligence-gathering activities, MSR and hydrographic surveys in an EEZ are problematic and controversial issues. There are at least two reasons for this situation. Firstly, the unresolved territorial and maritime boundary disputes mean that jurisdiction over an EEZ may be unclear. States may conduct all kinds of military operations and marine research in areas that might be claimed by other states. Secondly, some of the key terms and key expressions to define and regulate these activities under the United Nations Convention on the Law of the Sea (UNCLOS) are ambiguous. This creates opportunities for countries to interpret UNCLOS for their own interest. In the past few years, some actual incidents have shown conflicts of interest between different countries. This paper discusses the nature of these conflicts and the main concerns of the opposing parties.

Ms. Yang Fang is an Associate Research Fellow with the Maritime Security Programme at the S. Rajaratnam School of International Studies (RSIS), Nanyang Technological University, where she obtained her Master’s degree in Asian Studies in 2009.
Exclusive Economic Zone (EEZ) regime in East Asian waters: Military and intelligence-gathering activities, Marine Scientific Research (MSR) and hydrographic surveys in an EEZ

Introduction

Seventy-one per cent of the world is covered by water. Ironically, prior to 1982, a country was only allowed control over three nautical miles of territorial sea. Since 1982, however, the width of territorial sea had been extended to 12 nautical miles. However, this was not enough for coastal states that have just begun to realize the significance of fishery resources and natural resources under the sea. The 1982 UNCLOS established the EEZ as a relevant regime extending to a maximum of 200 nautical miles from territorial sea baselines. This means that “added together with the territorial sea and the contiguous zone, the EEZ, if claimed by all eligible nations, will comprise about one-third of the world’s oceans”. Despite this, more disputes have emerged with the implementation of the EEZ regime. Due to the accelerating pace of globalization, commercial trade has increased tremendously. Together with the expanded requirement of military modernization to defend national interests, the sea itself has become a more dynamic arena. Consequently, with regard to the East Asian waters, there are three general kinds of marine disputes that have served as obstacles in the implementation of the EEZ regime in this area.

First, countries are claiming more offshore territories and resources. This can be seen from the territorial disputes in the East China Sea and the South China Sea, where abundant natural resources have been discovered. Such disputes have escalated
into confrontations between China and Japan in the East China Sea, and between China and some Southeast Asian countries in the South China Sea. Although some joint exploration programmes have been proposed, the disputes are far from being resolved, at least at the fundamental level.

Second, more conflicts have emerged over coastal jurisdiction and the implementation of the resulting EEZ regime, and from the exercise of the freedoms of navigation and overflight. As coastal states tend to be more concerned with their control of resources and their sovereign rights in accordance with their respective EEZs, more states have promulgated domestic laws to regulate the activities of foreign vessels in their EEZ. Therefore, some other countries, especially the United States, which “is the most adamant to defend the freedom of navigation due to its importance for military mobility”, feel unhappy that their freedom is being restricted.

Third, with regard to military and intelligence-gathering activities, MSR and hydrographic surveys in an EEZ, the situation has been complicated even further. Though the Law of the Sea clearly confirms that MSR should be regulated under coastal states’ consent regime, it does not provide any specific legal regimes for military activities and hydrographic surveys. Worse still, the law itself does not define any of the key terms, even the term “MSR”, which gives room for countries to express their different understandings. Some coastal states insist that without their consent, other countries do not have any right to access their EEZs to conduct research. On the other hand, some countries distinguish their military-related activities and hydrographic surveys from MSR. While MSR is regulated by the conventions, they consider military-related activities and hydrographic surveys within the coastal states’ EEZs as legal and are part of their freedoms of navigation and overflight in an EEZ.

---

5 See Article 246 (2) of UNCLOS, “Marine scientific research in the exclusive economic zone and on the continental shelf shall be conducted with the consent of the coastal State”.
This paper will focus on the implementation of the EEZ regime in relation to the conduct of military and intelligence-gathering activities, MSR and hydrographic surveys in East Asian waters. In relation to this, the paper is structured as follows. First, a background on the military and intelligence-gathering activities, MSR and hydrographic surveys in an EEZ will be provided, with emphasis on the conflicts of interpretation. Second, the perspectives of the major countries in East Asia, especially the United States and China will be reviewed to analyse their positions with respect to these issues. Third, actual incidents related to the implementation of the EEZ regime in the East Asian region will be cited. In addition, analysis will be provided to explain the concerns of the different countries involved. Finally, a future-oriented conclusion will be presented.

**Part I: Background of the military and intelligence-gathering activities, MSR, hydrographic surveys in the EEZ and the ambiguous expressions of the law**

1. **Unclear EEZ boundaries in East Asia**

   Article 55 of UNCLOS defines the EEZ as:

   "an area beyond and adjacent to the territorial sea, subject to the special legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention".\(^7\)

   In Article 57, the EEZ coverage is clearly limited and “shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured”.\(^8\) However, the seas of East Asia are so problematic that many countries have overlapping EEZs, which are caused in some instances by the use of excessive territorial sea straight baselines. Some EEZs are relatively confined but countries continue contending for authorities over broader areas of waters. As a result, more conflicts have emerged over the undefined EEZs. These troublesome areas have

---

\(^7\) The United Nations Convention on the Law of the Sea (UNCLOS), Article 55.

become the arenas of conflict where the disputing countries compete in undertaking military and intelligence-gathering activities, MSR and hydrographic surveys. This is very notable in the rising conflict between Sino-Japanese relations over the East China Sea.

2. Rights and duties of the coastal and other states

According to Article 56, a coastal state has sovereign rights over resources and jurisdiction in respect to artificial islands; installations; MSR; and the preservation and protection of the marine environment. This indicates that the coastal state has the right to conduct MSR and has jurisdiction over research by other countries that launch MSR within their respective EEZs.

According to Article 58 (1), other states have certain rights referred to as freedoms in Article 87 (high seas freedoms of navigation and overflight and the laying of submarine cables and pipelines), and “other internationally lawful uses of the sea” related to those freedoms in this article. However, it is very difficult to identify activities which are within freedoms of “other internationally lawful uses of the sea” and which are not. In reality, it is still not clear whether activities involving weapons are included within those freedoms as countries’ attitudes towards these activities conducted within a coastal state’s EEZ are divergent.

With regard to their duties, Articles 56 and 58 state that both coastal states and other states shall have “due regard” to each other’s rights and duties. This means that the coastal states should not interfere with the freedom of other states’ navigation and overflight within their EEZs and other states should not hamper the rights and duties of the coastal state in their EEZs when exercising the freedom of navigation and overflight in and above EEZs.

However, the situation is more complicated than it seems, as conflicts emerged while coastal, as well as other states (especially the United States) express different

---

perspectives concerning the practice of the Law of the Sea with regard to military and intelligence-gathering activities, MSR and hydrographic surveys. These conflicts, especially those concerning military and intelligence-gathering activities and hydrographic surveys in an EEZ have remained and it is likely that these issues will not be resolved in the near future. “Part of the problem is that UNCLOS does not define key terms such as ‘military activity’, ‘MSR’ or ‘military survey’.”\footnote{Sam Bateman, “Clashes at sea: When Chinese vessels harass U.S. ships”, 13 March 2009, RSIS Commentaries.} Although UNCLOS has established a separate part to regulate MSR, we cannot find any definition about MSR. The definition of key terms is so essential that it determines whether these activities should be regulated by relevant provisions in UNCLOS as well as the scope of jurisdiction of coastal states and the freedom of other states. This opportunity has been seized by opposing parties who have different interpretations and contributed to the conflicts over activities such as military activities, military surveys, intelligence information collection, hydrographic surveys, etc.

The conflicts over hydrographic surveys have been revealed in the Council for Security Cooperation in the Asia-Pacific (CSCAP) Memorandum No. 6:

“Different opinions exist as to whether coastal State jurisdiction extends to activities in the EEZ such as hydrographic surveying and collection of other marine environmental data that is not resource-related or is not done for scientific purposes. While UNCLOS has established a clear regime for maritime scientific research, there is no specific provision in UNCLOS for hydrographic surveying. Some coastal States require consent with respect to hydrographic surveys conducted in their EEZ by other States while it is the opinion of other States that hydrographic surveys can be conducted freely in the EEZ.”\footnote{“Council for Security Cooperation in the Asia-Pacific Memorandum 6: The practice of the law of the sea in the Asia-Pacific”, (Marine scientific research and hydrographic surveying), p. 3.}

Similarly, conflicts over military-related activities have occurred between coastal states and other states. The United States and its supporters regard:
“military surveying as similar to hydrographic surveying and thus part of the high seas freedoms of navigation and overflight and other internationally lawful uses of the sea related to those freedoms, and conducted with due regard to the rights and duties of the coastal State.”

Some coastal states such as Bangladesh, Brazil, Cape Verde, Malaysia, Pakistan and Uruguay persist that other states should not conduct military exercises in or over their EEZs without their consent. Their major concern is that these activities are prejudicial to their national security and will undermine their marine resource sovereignty rights. Faced with the military modernization requirement, more countries have developed advanced military forces. Coastal states that do not have such sophisticated weapons and technologies tend to be sensitive to such activities as manifested by the desire to control their EEZs through the frequent patrolling of their respective zones. Moreover, they also view these activities as not being peaceful use of the seas. However, the U.S.-led states contend that their freedom extends to the conduct of military activities and should not be hampered by the “global EEZ enclosure movement”. Actual cases reveal that most of the time, coastal states have insisted that their sovereign rights have been hampered by the military activities or intelligence information-gathering activities carried out by the other states over their EEZs. On the other hand, the other parties argue that they are exercising their freedom of navigation and overflight. However, distinguishing the navigation and overflight freedoms from the military activities is a controversial issue. As such, the problems are far from being resolved.

Since a grey area has been caused by UNCLOS which has not mentioned military and intelligence-gathering activities and hydrographic surveys, there are discussions trying to clarify some controversial issues such as whether these activities should be governed by a consent regime and whether they are included within “other internationally lawful uses of the sea” since they are navigation-related. In order to facilitate the implementation of the EEZ regime in regional countries, the Ocean

---

14 Ibid, footnote, p. 3.
Policy Research Foundation in Tokyo published a text called “Guidelines for Navigation and Overflight in the Exclusive Economic Zone”. Though the text has no binding effect, it provides some principles which are aimed at creating some common understandings within this region. Referring to hydrographic surveys in the EEZs of coastal states, the text suggests that these activities should not be carried out without the consent of coastal states. As for military-related activities in the EEZs, the text proposes that the warships or aircraft that are going to undertake such activities should inform the coastal states in advance and if possible, invite observers from coastal states to witness their activities. This means that military activities are not subjected to coastal states’ consent while consent for hydrographic surveys is required. The reason why the text considers hydrographic surveys and military activities differently has been explained by Sam Bateman, who pointed out that military activities have essentially been regarded as part of the high sea freedom of navigation and overflight in this text while hydrographic surveys are of economic value to coastal states which should be regulated more strictly.

Part II: The perspectives of the major countries

Though the Cold War has ended, other traditional and non-traditional security issues have been challenging humanity every day. The “global war on terror” now has become the lexicon for many countries to stretch their powers to a wider area of the world. Other troubling elements, such as smuggling, piracy and the proliferation of weapons of mass destruction, have emerged as well. All these security issues have to some extent justified navies’ presence and operations at sea. The United States, China, Japan, India, the United Kingdom and some other major countries have become more active in participating in military activities and intelligence research, MSR and hydrographic surveys. However, divergent positions exist between these countries.

---


concerning all these activities within the EEZ waters. The major countries divided all concepts into three general categories of activities: military and intelligence-gathering activities, MSR and hydrographic surveys, albeit overlapping exists in their definitions. Based on these categories, attitudes are varied. Consequently, key issues are likely to be the causes of debates. One of these issues is the legality of conducting military and intelligence-gathering activities in or over other countries’ EEZs without prior consent of the coastal states. In relation to this, whether these activities should require consent from coastal states is another key issue. The third issue is concerned with distinguishing military and intelligence-gathering activities and hydrographic surveys from MSR and the related corresponding restrictions by the UNCLOS consent regime. Below, two contrary perspectives are presented to highlight the rising conflicts over these issues.

The U.S. perspective

As far as Asia-Pacific is concerned, all the countries are members of the 1982 UNCLOS, except for the United States, Thailand, Cambodia and North Korea. As the dominant sea power, the United States insists on its navigation and overflight freedom as well as unrestricted military activities and marine survey in other countries’ EEZs. Its activities are not effectively restricted by UNCLOS. “However, some jurisdictional claims have tended to develop at variance with the provisions of the Treaty. Regardless of whether the United States ever ratifies the treaty, it argues that many of its provisions have already become customary international law.”18

The United States insists upon at least two principles. First, military activities should be defined within navigation and overflight freedoms in an EEZ, and such freedoms should not be impeded by coastal states. Second, military activities and hydrographic surveys should be distinguished from MSR, thus they should not be regulated under the MSR consent regime.

With regard to the military and intelligence-gathering activities, the United States

---

insists on the mobility of its naval and air forces beyond its EEZ and continues to use the phrase “international waters”. The definition of “international waters” given by The Commander’s Handbook on the Law of Naval Operation is:

“For operational purposes, international waters include all ocean areas not subject to the territorial sovereignty of any nation. All waters seaward of the territorial sea are international waters in which the high seas freedoms of navigation and overflight are preserved to the international community. International waters include contiguous zones, exclusive economic zones, and high seas.”

The position of the United States regarding military activities, hydrographic surveys and MSR within coastal states’ EEZs has been expressed overtly in its report to the Senate by the Committee on Foreign Relations of the United States on 19 December 2007, in which some recommendations and comments regarding the resolution of ratification of the UNCLOS have been expressed. Though according to Article 309 and Article 310 of the UNCLOS the understandings and statements within this report do not have any legal effect, they at least contribute to our knowledge about U.S. interpretation of some of the key concepts in UNCLOS, inter alia, “military activities” and “MSR”, which is of significance to our understanding of U.S. policy orientation. With respect to the freedoms of navigation and overflight within EEZ, the fourth understanding of this report essentially expresses its interpretation of “other internationally lawful uses of the sea related to these freedoms” in UNCLOS Article (1) as follows:

“(A) All States enjoy high seas freedoms of navigation and overflight and all other internationally lawful uses of the sea related to these freedoms, including, inter alia, military activities, such as anchoring, launching and landing of aircraft and other military devices, launching and recovering water-borne craft, operating military

devices, intelligence collection, surveillance and reconnaissance activities, exercises, operations, and conducting military surveys; and (B) Coastal State actions pertaining to these freedoms and uses must be in accordance with the Convention.”

It implies that the United States considers the military activities as part of their navigation and overflight freedoms and such freedoms should not be obstructed by coastal states. This is one of the key differences between the United States and China in terms of the explanation of “other internationally lawful uses of the sea related to these freedoms” in Article 58 (1). The United States interprets them much more broadly and inclusively to its own favour, but China in a narrower and more exclusive way.

Further, in its fifth understanding, the United States asserts that

“‘Marine scientific research’ does not include, inter alia—

(A) prospecting and exploration of natural resources; (B) hydrographic surveys; (C) military activities, including military surveys; (D) environmental monitoring and assessment pursuant to Section 4 of Part XII; or (E) activities related to submerged wrecks or objects of an archaeological and historical nature.”

In this statement, the United States distinguishes military activities and hydrographic surveys from MSR, intending to exempt their military activities and hydrographic surveys conducted within other states’ EEZs from coastal states’ jurisdiction.

This means, as the United States has asserted, that these activities are not related to resource exploration and do not need consent from the coastal states. In addition, the United States claims that the results of the military and hydrographic surveys would not necessarily be published or released like scientific research.

21 Ibid, p. 21.
The Chinese perspective

China continues to argue that the freedoms of navigation and overflight in an EEZ should be qualified. It believes that the aforementioned activities are essentially forms of warfare, especially military-related activities which violate the “peaceful purpose” and threaten the coastal states’ security and their sovereign rights. Therefore, these should be strictly controlled by the coastal states.23

With regard to MSR, China’s principle is that these kinds of activities should be based on the respect for the sovereignty of the coastal states. Therefore, MSR should not be carried out without the prior consent or implied consent of the coastal states. As the largest developing country, China has contributed substantially to the regime of MSR in the 1982 UNCLOS through these formulations:

“The coastal States should have ‘exclusive jurisdiction’ in regard to marine scientific activities in their economic zones and that express consent should be obtained for such activities.”24

In addition, China considers that the research results should mutually benefit both parties; thus the coastal states should have equal rights to the results of a survey. Without the consent of the coastal states, such results cannot be published or released.

As to the hydrographic surveys, China and the other states “have specifically claimed that hydrographic surveys might only be conducted in their EEZs with their consent”.25 On 29 August 2002, China revised its Surveying and Mapping Law of the People’s Republic of China, Article 2 which states that:

“All surveying and mapping activities in the territorial air, land and waters of the People’s Republic of China, as well as other sea areas under its jurisdiction shall be conducted in

compliance with this Law.” 26

By using the term “all surveying and mapping activities”, this law has explicitly applied its legal effect to hydrographic surveys. Further, Article 7 of this law asserts that:

“Foreign organisations or individuals that wish to conduct surveying and mapping in the territorial air, land or waters, as well as other sea areas under the jurisdiction of the People’s Republic of China shall be subject to approval by the administrative department for surveying and mapping under the State Council and the competent department for surveying and mapping of the army, and they shall observe the provisions of relevant laws and administrative rules and regulations of the People’s Republic of China.” 27

Through this article, China established a consent regime over all of the surveying and mapping activities within its waters, and the term “other sea areas” implicitly means its inclusion of EEZ waters.

Furthermore, China’s EEZ and Continental Shelf Act of 1998 required foreign states to observe international law and the laws and regulations of the People’s Republic of China. 28 Although UNCLOS Article 58 (1) applies the high sea navigation and overflight freedoms to the EEZ, UNCLOS Article 58 (3) stresses that “states shall have due regard to the rights and duties of the coastal State and shall comply with the laws and regulations adopted by the coastal State in accordance with the provisions of this Convention and other rules of international law in so far as they are not incompatible with this part”. 29 Thus, China is concerned more about the Article 58 (3) of UNCLOS as limiting such freedoms and requires that the activities conducted within China’s EEZ by foreign countries should comply with China’s domestic law.

27 Ibid., Article 7.
Moreover, China has explicitly disagreed with the notion of “international waters”, which has been used by the United States. For the United States, it interprets the “international waters” as an area including the EEZs and high seas; whereas China considers the notion of “international waters” as a non-legal term as it is solely used by the United States rather than something to be addressed by the UNCLOS provisions.30

Basically, the United States and China’s conflict with each other over military and intelligence-gathering activities, MSR and hydrographic surveys in an EEZ, and eventually these fundamental conflicts have led to several incidents and confrontations in the past few years. Moreover, when observing all these incidents and confrontations between the United States and China, it will be easy to find that most of the incidents have taken place in the South China Sea, in areas that are claimed by China as EEZs but used routinely by the U.S. Navy. China is concerned that its national jurisdiction over parts of the South China Sea is increasingly challenged by the U.S. concern for the mobility of its navies and its status as the greatest maritime power in the world.

Recently, some scholars have suggested that, as a long-term interest, China should accept what the United States is doing in its EEZ now. As an emerging naval power, China will inevitably be a major player at the global levels to pursue its interests.31 In fact, it is believed that China has already undertaken many survey activities that are suspected as being military-related in the EEZs of Japan and other neighbouring countries. In the future, China definitely will engage in more survey activities in EEZs of other coastal states. This is essentially in the same way as what the United States has done to China in the past years.32

Currently China is actively participating in many global activities, especially issues related to maritime safety and security, such as combating piracy, protecting

31 This view has been expressed by Professor Robert Beckman who gave a presentation on the topic of “UNCLOS and the Maritime Security of China” in the conference of “China and East Asia Strategic Dynamics”. The conference was organised by S. Rajaratnam School of International Studies (RSIS) on 11–12 March 2010.
the marine environment and some other traditional or non-traditional issues. Therefore, it is in China’s interest to give its priority to the freedom of navigation and overflight and to review its position on military and survey activities in the EEZs rather than keep its navy at bay. However, such a view is not favourable for China if we consider more about China’s grand strategy and its national interests under the current situation. For decades, the sovereignty issue is the top consideration of China’s elites. Together with its historic experience, which is called “centuries of humiliation”, China tends to be sensitive and conservative to protect its national unification and territorial integration. So far, China has at least two kinds of issues that remain unresolved—the Taiwan issue and maritime boundary disputes with Japan and a number of Southeast Asian countries. The building of a naval base in Hainan province and the presence of military forces around coastal areas are evidence of China’s concern with consolidating and defending its national interest. From China’s perspective, the United States is the greatest obstacle in the Taiwan issue through its continuing arms sales to Taiwan and its military alliance with Taiwan.

Moreover, the United States is the main factor for China to think twice over its South China Sea issue, regardless of the intention of the United States to get involved in this dispute. From this perspective, China’s stance over U.S. activities within its coastal areas is more easily understood. Allowing foreign access to its EEZs may compromise China’s military security, especially if foreign powers exploit this access to conduct intelligence-gathering activities. This is the reason why China condemned the United States for violating the principle of “peaceful uses of the seas”. Therefore, at least in the foreseeable future, China’s position over military activities, hydrographic surveys and MSR within coastal states’ EEZ is not going to change.

Part III: Incidents in East Asian waters: reasons and arguments

The major incidents in recent years include: the Impeccable incident between China and the United States in China’s EEZ; the collision between the U.S. Navy EP-3E ARIES II signals surveillance aircraft and a People’s Liberation Army Navy (PLAN) J-8II interceptor fighter jet in Hainan within China’s EEZ; the Democratic People’s
Republic of Korea’s (DPRK) “spy ships” in Japanese waters that resulted in Japanese military violence in the Chinese EEZ; and the China-Japan MSR in disputed waters—the Okinotori Islands dispute.

An examination of these cases will explore the reasons behind difficulties faced in achieving agreement in implementation of the EEZ regime in this region. The analysis will be based on three aspects: the differences in positions and interpretations of the relevant principles of UNCLOS, the unclear territorial delimitation as another factor of the conflict on military surveys and military activities and national interest as the root reason which guides the countries’ behaviours.

1. The Impeccable Incident

On 8 March 2009, a brief confrontation occurred between Chinese vessels and the USNS *Impeccable* in the South China Sea, which is about 75 miles (120 kilometres) south of the Hainan province of China. The Pentagon accused the Chinese vessels of harassing its country’s ship. It considers their presence in the South China Sea as exercising their freedom of navigation, and the subsequent Chinese behaviour as “reckless and dangerous manoeuvre”. However, the Chinese Foreign Ministry spokesman, Ma Zhaoxa, countered that “the U.S. claims are gravely in contravention of the facts and confuse black and white, and they are totally unacceptable to China;” and the behaviour of the USNS *Impeccable* had violated the international law and threatened China’s national security. In the same period, similar incidents have been reported by the Pentagon, such as the ensuing tension between Chinese vessels and the USNS *Victorious* in the Yellow Sea on 4 March and 5 May 2009.

Many scholars who are interested in these incidents have expressed differing views about the nature of the incidents in China’s EEZ. The major concern is whether the activities of the *Impeccable* were indeed MSR-related. Some scholars considered

---


the activities to be different from MSR and believed that “the work by the *Impeccable* involved marine data collection for military purposes”. 36 Therefore, it should be defined as military-oriented activities and should not be restricted by the consent regime, which the MSR required. 37

However, other scholars such as Mark Valencia 38 and Ji Guoxing 39, stood by China’s position to argue on some aspects. First, the USNS *Impeccable*’s activities cannot be easily defined as MSR or military-oriented activities; therefore, these definitely should not be equated with navigational freedom. Second, the United States has been criticized due to its unwillingness to ratify UNCLOS; therefore, it “does not have much credibility interpreting it to its advantage”. 40 Third, what had been done within China’s EEZ is believed to be intelligence-gathering activities, which are often equated with espionage, and are certainly viewed as unfriendly acts. The real intention of the *Impeccable* has been identified as “probably tracking Chinese submarines” because of U.S. concerns about China’s Yulin submarine base (also known as Sanya submarine base) in Hainan. 41 Moreover, based on the missions that the *Impeccable* had undertaken, these were non-peaceful and thus violated the international law on the principle of “peaceful uses of the seas”. Finally, aside from China, there are quite a number of countries—including Brazil, India, Malaysia and Vietnam—that disagree with the U.S. concept of “international waters” and have therefore set appropriate restrictions against the U.S. activities.

Despite the differences in opinions, all the scholars are worried that the number of such incidents is likely to increase in the future due to the lack of trust and transparency in the China-U.S. relationship. 42 This is indeed the case as in May 2009 five similar confrontations have been recorded by the U.S. Defense Department. 43

40 Ibid 29.
41 Ibid 29.
42 Ibid. 29.
Most scholars believe that the best way to solve this problem is for both the U.S. and Chinese administrations to make some compromises to mitigate the tension. However, little progress has been achieved despite some effort made. In a dialogue which was held from 26 to 27 August 2009, China proposed that the United States should reduce and eventually end military surveillance by both aircraft and ships close to its shores after a series of territorial disputes earlier this year.\(^4^4\) However, given the growing profiles of China and the United States at sea, there is little possibility that both parties will make any concessions.

2. Hainan Island Incident: Collision between USN EP3 and a Chinese fighter

This is an earlier but similar incident to that involving the *Impeccable*. This is a collision between a U.S. EPS surveillance aircraft and China’s J-8II interceptor fighter jet. The incident occurred in China’s EEZ—70 miles (110 kilometres) south of the Hainan Island on 1 April 2001—and caused the death of a Chinese pilot. The EP-3 was forced to make an emergency landing in Hainan. After the event, both countries strongly defended themselves on various grounds. The United States asserted that its EP-3 was carrying on a routine reconnaissance mission off the coast of China and was exercising its overflight freedom over “international waters”. China, however, argued that such freedom is not absolute and defined the U.S. act as an illegal behaviour that violated international law. Furthermore, China demanded an official apology and called upon the United States to stop its frequent reconnaissance flights along its coast. The United States apologised but refused to stop flying over China’s EEZs and indeed its flights are continuing after the incident. In response to this incident, once again scholars held differing views.\(^4^5\)

Eight years later, the occurrence of the *Impeccable* incident at least explains to us that neither the United States nor China has changed their positions in this issue. Interestingly, both the *Impeccable* and Hainan Island incidents took place in the South China Sea, a volatile region claimed by China and five other competitors in Southeast

\(^{4^4}\) Ibid.  
Asia. This is because of the different understandings of the Law of the Sea; sovereignty sensitiveness and national interest are other factors impacting the maritime stability and resulted in quarrels while conducting activities within coastal states claimed as EEZs.

3. DPRK’s “spy ships” in Japanese waters

In December 2001, Japanese coast guard ships found an unidentified ship which resembled a fishing trawler in Japan’s EEZ. After the ship ignored their warnings, they pursued and fired at the unidentified 100-ton ship located in the East China Sea. After a fierce gun battle, the ship sank within China’s EEZ, taking 15 lives.\(^{46}\) Initially, 25 Japanese coastal guard vessels joined the chase. Finally, four ships cornered the suspected ship in China’s EEZ. More than 590 rounds of ammunition were fired by one of the closest Japanese vessels.\(^{47}\) According to Japanese officials, they began to suspect that the ship was a North Korean spy ship or a smuggling ship when it refused to stop after receiving warning messages from the Japanese Coast Guard. The Coast Guard ships were forced to resort to violence after the suspected ship ignored their warnings.\(^{48}\) This incident caused tension between Japan and DPRK, subsequently dragging China into yet another incident.

North Korea denounced Japan with angry remarks, calling it “a crime” that is “nothing but the brutal piracy and unpardonable terrorism of a modern brand that could be committed only by samurais of Japan in defiance of international laws”.\(^{49}\)

Japan’s concern was that the ship was detecting intelligence in its EEZ and should be expelled from its waters.\(^{50}\) The incident was further complicated with the


inclusion of China. Initially, the Japanese Coast Guard suspected that the ship was from China, as the ship was painted with Chinese characters and its crew waved red flags, which, at first glance, could be easily mistaken as Chinese flags. “Even when the pursuing coast guard vessels opened fire on the ship, they still thought the vessel was a Chinese fishing boat”.

Given the misunderstanding of the nationality of the ship, the intention of the Japanese pursuit was put into question. With the possible nationality of the ship identified, what was then the intention of the Japanese coast guards?

Although UNCLOS has granted the coastal states the rights to “board, inspect and arrest a foreign ship within its EEZ to ensure compliance with its laws and regulations … there is no Japanese domestic law allowing such use of force in its EEZ”. As indicated above, the number of vessels involved, along with the disastrous result, is incomparable in recent history. In other words, there was no right of such hot pursuit which could be conducted so violently into the EEZ of another country. Moreover, the legality of hot pursuit extended into a third state is disputable. Theoretically, the right of hot pursuit under UNCLOS Article 111 (3) is allowed to be conducted into the EEZ and even contiguous zone of the flag state or a third state as long as all the other conditions are met. But in reality, the current state practice is that many/most coastal states require prior notification and many/most foreign states provide prior notification as a sign of respect and in keeping with the principles of international law and “comity of nations”.

For China, its express concern was the violence of the pursuit which occurred in its EEZ. From its position, this incident put China in an unfavourable position because its coastal rights were not respected. This incident was further complicated because

---

53 Ibid.
54 The United Nations Convention on the Law of the Sea (UNCLOS), Article 111 (3) expresses that “The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own State or of a third State”.
55 Email dated 5 January 2010 from Dr. Maximo Q. Mejia Jr. who is Assistant Professor in Maritime Law and Policy at the World Maritime University (WMU).
of the overlapping EEZs. There is no clear EEZ boundary between Japan and China in
the East China Sea. The incident highlighted this sensitive issue. Both China and
Japan have contested for bigger marginal territories within the overlapped EEZ, and
so far the boundary issue is far from being resolved. According to Japanese statements,
they “recognize the median line between the Ryukyu Islands and the Chinese
mainland as a provisional EEZ boundary but China refuses to recognize this line, and
negotiations on the boundary are stalemated”. Therefore, the unclear boundary
resulted in ambiguous jurisdiction for both countries.

4. China-Japan MSR in disputed waters—the Okinotori Islands disputes

As mentioned above, China and Japan have overlapping claims and unresolved water
boundary issues in the East China Sea. In the past decade, China conducted some
MSR activities in what were considered as disputed waters in the East China Sea as
well as some other waters around the Asia-Pacific. As a result, the Sino-Japanese
official relations suffered a decline. “Tokyo alleged that China had unlawfully
incurred into Japan’s exclusive economic zone (EEZ), while Beijing indicated that
there were unsettled maritime boundaries.”

One of the most notable recent scenarios between China and Japan is the
Okinotori Islands dispute. The Okinotori Islands consist of two barren islets that are
located about 1,700 km. south of Tokyo, in the western Pacific area. The size of the
smaller islet is roughly equal to a twin bed, while the bigger one is merely as large as
a bedroom. In view of this, Japan claimed the 200-mile-EEZ surrounding these two
islands as part of their territory, effectively increasing Japan’s EEZ. Over the past two
decades, Japan had spent hundreds of millions of dollars to keep them above water.

One of the Japanese concerns is the strategic significance of these two islands
that are located between Taiwan and Guam, where a U.S. military base is located.

---

58 Steven Wei Su, “The Territorial Dispute over the Tiaoyu/Senkaku Islands: An Update”, Ocean Development &
59 Peter J Brown, “China all at sea over Japan island row”, Asia Times, 4 March 2010, available at:
More importantly, China’s vessels frequently conduct marine activities in this region, and this has aroused Japanese resentment. Therefore, the expanded EEZ brought about by these two islets will affirm the basis of Japan to exclude the entrance of Chinese vessels.

However, China challenged Japan’s position with the argument that the Okinotori Islands are merely “two rocks” and, according to UNCLOS Article 121, “rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf”. Moreover, China has long been sending their oceanographic vessels into the EEZ as claimed by Japan.

In the light of these events, together with some other territorial disputes, friction between China and Japan has become divisive over the years. In the past decade, however, both countries had agreed to negotiate, from which a series of frameworks had been conceived. One of these was the requirement of a prior notification for future MSRs in disputed waters and this resulted in an agreement between China and Japan on 13 February 2001. However, after April 2002, Japan had protested to China on various occasions because China’s frequent “incursions” had violated the agreement and hurt their relations. This is partly because “the 2001 notification agreement, a note verbale, sidesteps the issue noting that the agreement is binding in waters that are of ‘concern’ to the other party”. Therefore, much is left to be desired as both are not willing to compromise their fundamental interests.

Conclusion: The way forward

Overall, the situation in the East Asian waters remains problematic. First, different interpretations of the EEZ regime exist, especially on the issues of coastal state jurisdiction over military activities, MSR and hydrographic surveys, navigation and overflight freedoms. The distinction between these activities is often unclear and they...

---

are subject to different regimes. Second, the unclear EEZ boundary between some countries, especially China and Japan in the East China Sea and contenders in the South China Sea, makes jurisdiction over the EEZ more ambiguous. Furthermore, their contentions, as manifested either by aggressive military activities (violent or non-violent) make the security situation in the East Asian waters more unstable.

Solutions to these problems may not be possible for a long time. However, some principles should not be ignored as they may constitute positive factors to ease the tensions.

Firstly, coastal states should enhance the transparency of their national legislation. As some countries have ratified the conventions and have introduced their own domestic laws to regulate the activities of foreign vessels and aircrafts over their EEZs, these efforts will be better appreciated if their transparency is enhanced. This could be done by widely disseminating the related information.  

Secondly, dialogue and mutually acceptable resolutions or agreements are necessary. These can be achieved at the bilateral level and perhaps be expanded into the regional level if conditions are favourable. This can represent the best effort to forge a common interpretation of all the key principles, concepts and conventions.

However, one of the key points is the criterion for the definition of legal terms such as “due regard”, “peaceful purpose”, and especially the definitions of “MSR”, “military activities”, “hydrographic surveys” and other contentious terms. These terms should be clearly defined by all countries. This is the premise for any further negotiation. In the past few years, some research and academic institutions had tried to give us some definitions, such as the recommendations made by Ocean Policy Research Foundation of Japan. However, it is essentially important to promote them to a governmental level, to discuss them in a broader sense and eventually to reach a regional consensus.

---


Thirdly, a suggestion to ease tensions caused by frequent incidents at sea is to establish Incidents at Sea Agreement (INCSEA). A successful precedent has been provided by the United States and the Union of Soviet Socialist Republics (USSR) through the agreement of “Prevention of Incidents On and Over the High Seas” in 1972.69 The U.S.-Soviet INCSEA has been proven to be a very effective instrument for tension mitigation and confidence building since the frequency of incidents at sea between the two powers have been well managed and the concept has been applied by many other countries such as agreements between German and Poland, Turkey and Greece, India and Pakistan, etc. But so far there is no such agreement signed between the United States and China. Though they have signed the Military Maritime Consultative Agreement (MMCA)70 in 1998, the MMCA has failed to prevent incidents such as the EP-3 incident and the Impeccable incident. And after the incidents, both accused each other for violation of the agreement but neither of them incurred any legal responsibilities. The MMCA has no binding effect since it merely produces a consultation mechanism for regular meetings rather than any concrete measures to prevent or respond to unexpected incidents. However, the MMCA could be a useful mechanism for further negotiations between China and the United States to reach a substantive and enduring agreement like INCSEA to deal with their conflicts at sea.

Finally, referring to the quarrels within disputed EEZ waters in East Asia, the best solution definitely lies on the settlement of the disputes. However, in the near future, the delimitation of all the unresolved boundaries, such as the straight-line maritime boundaries in the South China Sea, is highly unlikely. This is partly because the nature of maritime boundary making in this region is quite problematic. The geographic conditions in this region are complex with many littoral and adjacent countries around the same body of waters and the delimitation of even a single

boundary usually involves more than two countries.71 Furthermore, take the situation of bilateral boundaries in Southeast Asia as an example that “of the approximately 60 maritime boundaries required in the region, less than twenty per cent have so far been fully resolved”.72

What is even more complicated is that some multilateral maritime boundary disputes involve more contenders and each country uses various reasons to defend their own arguments. This can be exemplified by the South China Sea dispute, which is very tricky and countries seem to have no specific expectation on it concerning the settlement of boundary issues in the short term. Thus, perhaps one of the most effective ways for contentious countries to deal with their disorders and quarrels at sea under the current situation is to establish interim agreements between themselves pending their final resolution of the boundaries issues. However, in order to grant the interim agreements enough binding effect, all details should be discussed and clarified, such as the location of the disputed areas, the procedures to implement the agreement, the penalty for any contravention of the agreement, etc.

Another approach could be the functional approach—a cooperative mechanism requires claimants to shelve the territorial disputes first and to start with joint development and some other non-traditional security cooperation projects, which definitely can be applied to joint military exercises, MSR and hydrographic survey in disputed areas as well. “Unfortunately, support for a functional approach in the South China Sea has been largely rhetorical so far without any good practical examples of it having effect.”73 Therefore, it is imperative for regional countries to lay down more concrete measures for existing proposals as well as any new initiatives in the future.

71 Sam Bateman, “Conclusion: the prospects for a cooperative management regime”, edited by Sam Bateman and Ralf Emmers, Security and international politics in the South China Sea: towards a cooperative management regime, Routledge, 2009, p. 236. Maritime boundaries are required when two countries are either adjacent to each other on the same body of land (e.g. Indonesia, Brunei and Malaysia on the east coast of Borneo) or opposite each other (e.g. Indonesia and Malaysia near the Malacca Strait).
72 Sam Bateman, Joshua Ho, and Jane Chan, “Good order at sea in Southeast Asia”, S. Rajaratnam School of International Studies (RSIS) policy paper, April 2009, p. 18.
73 Sam Bateman, Commentary on “Energy and Geopolitics in the South China Sea: Implication for ASEAN” by Michael Richardson, published in the Institute of Southeast Asian Studies Report No. 8, 2009, p. 44.
1. Vietnam-China Relations Since The End of The Cold War
   Ang Cheng Guan (1998)

   Desmond Ball (1999)

3. Reordering Asia: “Cooperative Security” or Concert of Powers?
   Amitav Acharya (1999)

4. The South China Sea Dispute revisited
   Ang Cheng Guan (1999)

   Joseph Liow Chin Yong (1999)

6. ‘Humanitarian Intervention in Kosovo’ as Justified, Executed and Mediated by NATO: Strategic Lessons for Singapore
   Kumar Ramakrishna (2000)

7. Taiwan’s Future: Mongolia or Tibet?
   Chien-peng (C.P.) Chung (2001)

8. Asia-Pacific Diplomacies: Reading Discontinuity in Late-Modern Diplomatic Practice
   Tan See Seng (2001)

9. Framing “South Asia”: Whose Imagined Region?
   Sinderpal Singh (2001)

10. Explaining Indonesia's Relations with Singapore During the New Order Period: The Case of Regime Maintenance and Foreign Policy
    Terence Lee Chek Liang (2001)

11. Human Security: Discourse, Statecraft, Emancipation
    Tan See Seng (2001)

    Nguyen Phuong Binh (2001)

13. Framework for Autonomy in Southeast Asia’s Plural Societies
    Miriam Coronel Ferrer (2001)
   Ananda Rajah (2001)

15. Natural Resources Management and Environmental Security in Southeast Asia: Case Study of Clean Water Supplies in Singapore
   Kog Yue Choong (2001)

16. Crisis and Transformation: ASEAN in the New Era
   Etel Solingen (2001)

17. Human Security: East Versus West?
   Amitav Acharya (2001)

18. Asian Developing Countries and the Next Round of WTO Negotiations
   Barry Desker (2001)

19. Multilateralism, Neo-liberalism and Security in Asia: The Role of the Asia Pacific Economic Co-operation Forum
   Ian Taylor (2001)

20. Humanitarian Intervention and Peacekeeping as Issues for Asia-Pacific Security
   Derek McDougall (2001)

21. Comprehensive Security: The South Asian Case
   S.D. Muni (2002)

   You Ji (2002)

23. The Concept of Security Before and After September 11
   a. The Contested Concept of Security
      Steve Smith (2002)
   b. Security and Security Studies After September 11: Some Preliminary Reflections
      Amitav Acharya (2002)

24. Democratisation In South Korea And Taiwan: The Effect Of Social Division On Inter-Korean and Cross-Strait Relations

25. Understanding Financial Globalisation
   Andrew Walter (2002)

26. 911, American Praetorian Unilateralism and the Impact on State-Society Relations in Southeast Asia
   Kumar Ramakrishna (2002)
<table>
<thead>
<tr>
<th>No.</th>
<th>Title</th>
<th>Author</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>27.</td>
<td>Great Power Politics in Contemporary East Asia: Negotiating Multipolarity or Hegemony?</td>
<td>Tan See Seng</td>
<td>2002</td>
</tr>
<tr>
<td>29.</td>
<td>International Responses to Terrorism: The Limits and Possibilities of Legal Control of Terrorism by Regional Arrangement with Particular Reference to ASEAN</td>
<td>Ong Yen Nee</td>
<td>2002</td>
</tr>
<tr>
<td>30.</td>
<td>Reconceptualizing the PLA Navy in Post – Mao China: Functions, Warfare, Arms, and Organization</td>
<td>Nan Li</td>
<td>2002</td>
</tr>
<tr>
<td>32.</td>
<td>11 September and China: Opportunities, Challenges, and Warfighting</td>
<td>Nan Li</td>
<td>2002</td>
</tr>
<tr>
<td>33.</td>
<td>Islam and Society in Southeast Asia after September 11</td>
<td>Barry Desker</td>
<td>2002</td>
</tr>
<tr>
<td>34.</td>
<td>Hegemonic Constraints: The Implications of September 11 For American Power</td>
<td>Evelyn Goh</td>
<td>2002</td>
</tr>
<tr>
<td>35.</td>
<td>Not Yet All Aboard…But Already All At Sea Over Container Security Initiative</td>
<td>Irvin Lim</td>
<td>2002</td>
</tr>
<tr>
<td>36.</td>
<td>Financial Liberalization and Prudential Regulation in East Asia: Still Perverse?</td>
<td>Andrew Walter</td>
<td>2002</td>
</tr>
<tr>
<td>37.</td>
<td>Indonesia and The Washington Consensus</td>
<td>Premjith Sadasivan</td>
<td>2002</td>
</tr>
<tr>
<td>39.</td>
<td>The Securitization of Transnational Crime in ASEAN</td>
<td>Ralf Emmers</td>
<td>2002</td>
</tr>
</tbody>
</table>
40. Liquidity Support and The Financial Crisis: The Indonesian Experience  
   J Soedradjad Djiwandono (2002)

41. A UK Perspective on Defence Equipment Acquisition  

42. Regionalisation of Peace in Asia: Experiences and Prospects of ASEAN, ARF and UN Partnership  
   Mely C. Anthony (2003)

43. The WTO In 2003: Structural Shifts, State-Of-Play And Prospects For The Doha Round  
   Razeen Sally (2003)

44. Seeking Security In The Dragon’s Shadow: China and Southeast Asia In The Emerging Asian Order  
   Amitav Acharya (2003)

45. Deconstructing Political Islam In Malaysia: UMNO’S Response To PAS’ Religio-Political Dialectic  

46. The War On Terror And The Future of Indonesian Democracy  

47. Examining The Role of Foreign Assistance in Security Sector Reforms: The Indonesian Case  
   Eduardo Lachica (2003)

48. Sovereignty and The Politics of Identity in International Relations  
   Adrian Kuah (2003)

49. Deconstructing Jihad; Southeast Asia Contexts  
   Patricia Martinez (2003)

50. The Correlates of Nationalism in Beijing Public Opinion  

51. In Search of Suitable Positions’ in the Asia Pacific: Negotiating the US-China Relationship and Regional Security  

52. American Unilaterism, Foreign Economic Policy and the ‘Securitisation’ of Globalisation  
53. Fireball on the Water: Naval Force Protection-Projection, Coast Guarding, Customs Border Security & Multilateral Cooperation in Rolling Back the Global Waves of Terror from the Sea
   Irvin Lim (2003)

54. Revisiting Responses To Power Preponderance: Going Beyond The Balancing-Bandwagoning Dichotomy
   Chong Ja Ian (2003)

55. Pre-emption and Prevention: An Ethical and Legal Critique of the Bush Doctrine and Anticipatory Use of Force In Defence of the State

56. The Indo-Chinese Enlargement of ASEAN: Implications for Regional Economic Integration
   Helen E S Nesadurai (2003)

57. The Advent of a New Way of War: Theory and Practice of Effects Based Operation
   Joshua Ho (2003)

   Irvin Lim (2004)

59. Force Modernisation Trends in Southeast Asia
   Andrew Tan (2004)

60. Testing Alternative Responses to Power Preponderance: Buffering, Binding, Bonding and Beleaguering in the Real World
   Chong Ja Ian (2004)

61. Outlook on the Indonesian Parliamentary Election 2004

62. Globalization and Non-Traditional Security Issues: A Study of Human and Drug Trafficking in East Asia

63. Outlook for Malaysia’s 11th General Election

64. Not Many Jobs Take a Whole Army: Special Operations Forces and The Revolution in Military Affairs.
<table>
<thead>
<tr>
<th>No.</th>
<th>Title</th>
<th>Author</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>65</td>
<td>Technological Globalisation and Regional Security in East Asia</td>
<td>J.D. Kenneth Boutin</td>
<td>2004</td>
</tr>
<tr>
<td>66</td>
<td>UAVs/UCAVS – Missions, Challenges, and Strategic Implications for Small and Medium Powers</td>
<td>Manjeet Singh Pardesi</td>
<td>2004</td>
</tr>
<tr>
<td>67</td>
<td>Singapore’s Reaction to Rising China: Deep Engagement and Strategic Adjustment</td>
<td>Evelyn Goh</td>
<td>2004</td>
</tr>
<tr>
<td>68</td>
<td>The Shifting Of Maritime Power And The Implications For Maritime Security In East Asia</td>
<td>Joshua Ho</td>
<td>2004</td>
</tr>
<tr>
<td>70</td>
<td>Examining the Defence Industrialization-Economic Growth Relationship: The Case of Singapore</td>
<td>Adrian Kuah and Bernard Loo</td>
<td>2004</td>
</tr>
<tr>
<td>71</td>
<td>“Constructing” The Jemaah Islamiyah Terrorist: A Preliminary Inquiry</td>
<td>Kumar Ramakrishna</td>
<td>2004</td>
</tr>
<tr>
<td>72</td>
<td>Malaysia and The United States: Rejecting Dominance, Embracing Engagement</td>
<td>Helen E S Nesadurai</td>
<td>2004</td>
</tr>
<tr>
<td>73</td>
<td>The Indonesian Military as a Professional Organization: Criteria and Ramifications for Reform</td>
<td>John Bradford</td>
<td>2005</td>
</tr>
<tr>
<td>74</td>
<td>Maritime Terrorism in Southeast Asia: A Risk Assessment</td>
<td>Catherine Zara Raymond</td>
<td>2005</td>
</tr>
<tr>
<td>75</td>
<td>Southeast Asian Maritime Security In The Age Of Terror: Threats, Opportunity, And Charting The Course Forward</td>
<td>John Bradford</td>
<td>2005</td>
</tr>
<tr>
<td>76</td>
<td>Deducing India’s Grand Strategy of Regional Hegemony from Historical and Conceptual Perspectives</td>
<td>Manjeet Singh Pardesi</td>
<td>2005</td>
</tr>
<tr>
<td>No.</td>
<td>Title</td>
<td>Author</td>
<td>Year</td>
</tr>
<tr>
<td>-----</td>
<td>-------------------------------------------------------------------------------------------</td>
<td>---------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>78.</td>
<td>Multilateralism, Sovereignty and Normative Change in World Politics</td>
<td>Amitav Acharya</td>
<td>2005</td>
</tr>
<tr>
<td>79.</td>
<td>The State and Religious Institutions in Muslim Societies</td>
<td>Riaz Hassan</td>
<td>2005</td>
</tr>
<tr>
<td>80.</td>
<td>On Being Religious: Patterns of Religious Commitment in Muslim Societies</td>
<td>Riaz Hassan</td>
<td>2005</td>
</tr>
<tr>
<td>81.</td>
<td>The Security of Regional Sea Lanes</td>
<td>Joshua Ho</td>
<td>2005</td>
</tr>
<tr>
<td>82.</td>
<td>Civil-Military Relationship and Reform in the Defence Industry</td>
<td>Arthur S Ding</td>
<td>2005</td>
</tr>
<tr>
<td>86.</td>
<td>Autobiography, Politics and Ideology in Sayyid Qutb’s Reading of the Qur’an</td>
<td>Umej Bhatia</td>
<td>2005</td>
</tr>
<tr>
<td>87.</td>
<td>Maritime Disputes in the South China Sea: Strategic and Diplomatic Status Quo</td>
<td>Ralf Emmers</td>
<td>2005</td>
</tr>
<tr>
<td>88.</td>
<td>China’s Political Commissars and Commanders: Trends &amp; Dynamics</td>
<td>Srikanth Kondapalli</td>
<td>2005</td>
</tr>
<tr>
<td>90.</td>
<td>Geopolitics, Grand Strategy and the Bush Doctrine</td>
<td>Simon Dalby</td>
<td>2005</td>
</tr>
</tbody>
</table>
91. Local Elections and Democracy in Indonesia: The Case of the Riau Archipelago
   Nankyung Choi (2005)

92. The Impact of RMA on Conventional Deterrence: A Theoretical Analysis
   Manjeet Singh Pardesi (2005)

93. Africa and the Challenge of Globalisation
   Jeffrey Herbst (2005)

94. The East Asian Experience: The Poverty of 'Picking Winners
   Barry Desker and Deborah Elms (2005)

95. Bandung And The Political Economy Of North-South Relations: Sowing The Seeds For
    Revisioning International Society
   Helen E S Nesadurai (2005)

96. Re-conceptualising the Military-Industrial Complex: A General Systems Theory Approach
    Adrian Kuah (2005)

97. Food Security and the Threat From Within: Rice Policy Reforms in the Philippines
    Bruce Tolentino (2006)

98. Non-Traditional Security Issues: Securitisation of Transnational Crime in Asia
    James Laki (2006)

99. Securitizing/Desecuritizing the Filipinos’ ‘Outward Migration Issue’ in the Philippines’
    Relations with Other Asian Governments
    José N. Franco, Jr. (2006)

100. Securitization Of Illegal Migration of Bangladeshis To India

101. Environmental Management and Conflict in Southeast Asia – Land Reclamation and its
    Political Impact
    Kog Yue-Choong (2006)

102. Securitizing border-crossing: The case of marginalized stateless minorities in the
    Thai-Burma Borderlands
    Mika Toyota (2006)

103. The Incidence of Corruption in India: Is the Neglect of Governance Endangering Human
    Security in South Asia?
    Shabnam Mallick and Rajarshi Sen (2006)
104. The LTTE’s Online Network and its Implications for Regional Security
   Shyam Tekwani (2006)

105. The Korean War June-October 1950: Inchon and Stalin In The “Trigger Vs Justification” Debate
   Tan Kwoh Jack (2006)

106. International Regime Building in Southeast Asia: ASEAN Cooperation against the Illicit Trafficking and Abuse of Drugs
   Ralf Emmers (2006)

107. Changing Conflict Identities: The case of the Southern Thailand Discord
   S P Harish (2006)

108. Myanmar and the Argument for Engagement: A Clash of Contending Moralities?
   Christopher B Roberts (2006)

109. TEMPORAL DOMINANCE
   Military Transformation and the Time Dimension of Strategy
   Edwin Seah (2006)

110. Globalization and Military-Industrial Transformation in South Asia: An Historical Perspective
    Emrys Chew (2006)

111. UNCLOS and its Limitations as the Foundation for a Regional Maritime Security Regime
    Sam Bateman (2006)

112. Freedom and Control Networks in Military Environments
    Paul T Mitchell (2006)

113. Rewriting Indonesian History The Future in Indonesia’s Past
    Kwa Chong Guan (2006)

114. Twelver Shi’ite Islam: Conceptual and Practical Aspects
    Christoph Marcinkowski (2006)

115. Islam, State and Modernity: Muslim Political Discourse in Late 19th and Early 20th century India
    Iqbal Singh Sevea (2006)
<table>
<thead>
<tr>
<th>Title</th>
<th>Author</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>“From Counter-Society to Counter-State: Jemaah Islamiyah According to PUPJI”</td>
<td>Elena Pavlova</td>
<td>2006</td>
</tr>
<tr>
<td>The Terrorist Threat to Singapore’s Land Transportation Infrastructure: A Preliminary Enquiry</td>
<td>Adam Dolnik</td>
<td>2006</td>
</tr>
<tr>
<td>The Many Faces of Political Islam</td>
<td>Mohammed Ayoob</td>
<td>2006</td>
</tr>
<tr>
<td>Facets of Shi’ite Islam in Contemporary Southeast Asia (I): Thailand and Indonesia</td>
<td>Christoph Marcinkowski</td>
<td>2006</td>
</tr>
<tr>
<td>Facets of Shi’ite Islam in Contemporary Southeast Asia (II): Malaysia and Singapore</td>
<td>Christoph Marcinkowski</td>
<td>2006</td>
</tr>
<tr>
<td>Towards a History of Malaysian Ulama</td>
<td>Mohamed Nawab</td>
<td>2007</td>
</tr>
<tr>
<td>Islam and Violence in Malaysia</td>
<td>Ahmad Fauzi Abdul Hamid</td>
<td>2007</td>
</tr>
<tr>
<td>Between Greater Iran and Shi’ite Crescent: Some Thoughts on the Nature of Iran’s Ambitions in the Middle East</td>
<td>Christoph Marcinkowski</td>
<td>2007</td>
</tr>
<tr>
<td>Thinking Ahead: Shi’ite Islam in Iraq and its Seminaries (hawzah ‘ilmiyyah)</td>
<td>Christoph Marcinkowski</td>
<td>2007</td>
</tr>
<tr>
<td>The China Syndrome: Chinese Military Modernization and the Rearming of Southeast Asia</td>
<td>Richard A. Bitzinger</td>
<td>2007</td>
</tr>
<tr>
<td>Contested Capitalism: Financial Politics and Implications for China</td>
<td>Richard Carney</td>
<td>2007</td>
</tr>
</tbody>
</table>
129. The De-escalation of the Spratly Dispute in Sino-Southeast Asian Relations
   Ralf Emmers (2007)

130. War, Peace or Neutrality: An Overview of Islamic Polity’s Basis of Inter-State Relations
   Muhammad Haniff Hassan (2007)

   Kirsten E. Schulze (2007)

132. Comprehensive Security and Resilience in Southeast Asia: ASEAN’s Approach to Terrorism and Sea Piracy
   Ralf Emmers (2007)

133. The Ulama in Pakistani Politics
   Mohamed Nawab (2007)

134. China’s Proactive Engagement in Asia: Economics, Politics and Interactions
   Li Mingjiang (2007)

135. The PLA’s Role in China’s Regional Security Strategy
   Qi Dapeng (2007)

136. War As They Knew It: Revolutionary War and Counterinsurgency in Southeast Asia
   Ong Wei Chong (2007)

137. Indonesia’s Direct Local Elections: Background and Institutional Framework
   Nankyung Choi (2007)

138. Contextualizing Political Islam for Minority Muslims
   Muhammad Haniff bin Hassan (2007)

139. Ngruki Revisited: Modernity and Its Discontents at the Pondok Pesantren al-Mukmin of Ngruki, Surakarta
   Farish A. Noor (2007)

140. Globalization: Implications of and for the Modern / Post-modern Navies of the Asia Pacific
   Geoffrey Till (2007)

141. Comprehensive Maritime Domain Awareness: An Idea Whose Time Has Come?
   Irvin Lim Fang Jau (2007)

142. Sulawesi: Aspirations of Local Muslims
   Rohaiza Ahmad Asi (2007)
<table>
<thead>
<tr>
<th>143.</th>
<th>Islamic Militancy, Sharia, and Democratic Consolidation in Post-Suharto Indonesia</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Noorhaidi Hasan</td>
</tr>
<tr>
<td>(2007)</td>
<td></td>
</tr>
<tr>
<td>144.</td>
<td>Crouching Tiger, Hidden Dragon: The Indian Ocean and The Maritime Balance of Power in Historical Perspective</td>
</tr>
<tr>
<td></td>
<td>Emrys Chew</td>
</tr>
<tr>
<td>(2007)</td>
<td></td>
</tr>
<tr>
<td>145.</td>
<td>New Security Dimensions in the Asia Pacific</td>
</tr>
<tr>
<td></td>
<td>Barry Desker</td>
</tr>
<tr>
<td>(2007)</td>
<td></td>
</tr>
<tr>
<td>146.</td>
<td>Japan’s Economic Diplomacy towards East Asia: Fragmented Realism and Naïve Liberalism</td>
</tr>
<tr>
<td></td>
<td>Hidetaka Yoshimatsu</td>
</tr>
<tr>
<td>(2007)</td>
<td></td>
</tr>
<tr>
<td>147.</td>
<td>U.S. Primacy, Eurasia’s New Strategic Landscape, and the Emerging Asian Order</td>
</tr>
<tr>
<td></td>
<td>Alexander L. Vuving</td>
</tr>
<tr>
<td>(2007)</td>
<td></td>
</tr>
<tr>
<td>148.</td>
<td>The Asian Financial Crisis and ASEAN’s Concept of Security</td>
</tr>
<tr>
<td></td>
<td>Yongwook Ryu</td>
</tr>
<tr>
<td>(2008)</td>
<td></td>
</tr>
<tr>
<td>149.</td>
<td>Security in the South China Sea: China’s Balancing Act and New Regional Dynamics</td>
</tr>
<tr>
<td></td>
<td>Li Mingjiang</td>
</tr>
<tr>
<td>(2008)</td>
<td></td>
</tr>
<tr>
<td>150.</td>
<td>The Defence Industry in the Post-Transformational World: Implications for the United States and Singapore</td>
</tr>
<tr>
<td></td>
<td>Richard A Bitzinger</td>
</tr>
<tr>
<td>(2008)</td>
<td></td>
</tr>
<tr>
<td>151.</td>
<td>The Islamic Opposition in Malaysia: New Trajectories and Directions</td>
</tr>
<tr>
<td></td>
<td>Mohamed Fauz Abdul Hamid</td>
</tr>
<tr>
<td>(2008)</td>
<td></td>
</tr>
<tr>
<td>152.</td>
<td>Thinking the Unthinkable: The Modernization and Reform of Islamic Higher Education in Indonesia</td>
</tr>
<tr>
<td></td>
<td>Farish A Noor</td>
</tr>
<tr>
<td>(2008)</td>
<td></td>
</tr>
<tr>
<td>153.</td>
<td>Outlook for Malaysia’s 12th General Elections</td>
</tr>
<tr>
<td></td>
<td>Mohamed Nawab Mohamed Osman, Shahirah Mahmood and Joseph Chinyong Liow</td>
</tr>
<tr>
<td>(2008)</td>
<td></td>
</tr>
<tr>
<td>154.</td>
<td>The use of SOLAS Ship Security Alert Systems</td>
</tr>
<tr>
<td></td>
<td>Thomas Timlen</td>
</tr>
<tr>
<td>(2008)</td>
<td></td>
</tr>
<tr>
<td>155.</td>
<td>Thai-Chinese Relations: Security and Strategic Partnership</td>
</tr>
<tr>
<td></td>
<td>Chulacheeb Chinwanno</td>
</tr>
<tr>
<td>(2008)</td>
<td></td>
</tr>
</tbody>
</table>
156. Sovereignty In ASEAN and The Problem of Maritime Cooperation in the South China Sea
   *JN Mak* (2008)

157. Sino-U.S. Competition in Strategic Arms
   *Arthur S. Ding* (2008)

158. Roots of Radical Sunni Traditionalism

159. Interpreting Islam On Plural Society
   *Muhammad Haniff Hassan* (2008)

160. Towards a Middle Way Islam in Southeast Asia: Contributions of the Gülen Movement
   *Mohamed Nawab Mohamed Osman* (2008)

161. Spoilers, Partners and Pawns: Military Organizational Behaviour and Civil-Military Relations in Indonesia
   *Evan A. Laksmana* (2008)

162. The Securitization of Human Trafficking in Indonesia
   *Rizal Sukma* (2008)

163. The Hindu Rights Action Force (HINDRAF) of Malaysia: Communitarianism Across Borders?
   *Farish A. Noor* (2008)

164. A Merlion at the Edge of an Afrasian Sea: Singapore’s Strategic Involvement in the Indian Ocean
   *Emrys Chew* (2008)

165. Soft Power in Chinese Discourse: Popularity and Prospect
   *Li Mingjiang* (2008)

166. Singapore’s Sovereign Wealth Funds: The Political Risk of Overseas Investments
   *Friedrich Wu* (2008)

167. The Internet in Indonesia: Development and Impact of Radical Websites

168. Beibu Gulf: Emerging Sub-regional Integration between China and ASEAN
   *Gu Xiaosong and Li Mingjiang* (2009)

169. Islamic Law In Contemporary Malaysia: Prospects and Problems
   *Ahmad Fauzi Abdul Hamid* (2009)
| 170. | “Indonesia’s Salafist Sufis” | Julia Day Howell | (2009) |
| 175. | The Spread of the Tablighi Jama’at Across Western, Central and Eastern Java and the role of the Indian Muslim Diaspora | Farish A. Noor | (2009) |
| 176. | Significance of Abu Dujana and Zarkasih’s Verdict | Nurfarahisinda Binte Mohamed Ismail, V. Arianti and Jennifer Yang Hui | (2009) |
| 178. | The Capacities of Coast Guards to deal with Maritime Challenges in Southeast Asia | Prabhakaran Paleri | (2009) |
182. The Philippines as an Archipelagic and Maritime Nation: Interests, Challenges, and Perspectives  
   Mary Ann Palma (2009)

183. The Changing Power Distribution in the South China Sea: Implications for Conflict Management and Avoidance  
   Ralf Emmers (2009)

184. Islamist Party, Electoral Politics and Da’wa Mobilization among Youth: The Prosperous Justice Party (PKS) in Indonesia  
   Noorhaidi Hasan (2009)

185. U.S. Foreign Policy and Southeast Asia: From Manifest Destiny to Shared Destiny  
   Emrys Chew (2009)

186. Different Lenses on the Future: U.S. and Singaporean Approaches to Strategic Planning  
   Justin Zorn (2009)

187. Converging Peril: Climate Change and Conflict in the Southern Philippines  
   J. Jackson Ewing (2009)

188. Informal Caucuses within the WTO: Singapore in the “Invisibles Group”  
   Barry Desker (2009)

189. The ASEAN Regional Forum and Preventive Diplomacy: A Failure in Practice  
   Ralf Emmers and See Seng Tan (2009)

190. How Geography Makes Democracy Work  
   Richard W. Carney (2009)

191. The Arrival and Spread of the Tablighi Jama’at In West Papua (Irian Jaya), Indonesia  
   Farish A. Noor (2010)

192. The Korean Peninsula in China’s Grand Strategy: China’s Role in dealing with North Korea’s Nuclear Quandary  
   Chung Chong Wook (2010)

   Donald K. Emmerson (2010)

194. Jemaah Islamiyah: Of Kin and Kind  
   Sulastri Osman (2010)
195. The Role of the Five Power Defence Arrangements in the Southeast Asian Security Architecture
   Ralf Emmers

196. The Domestic Political Origins of Global Financial Standards:
   Agrarian Influence and the Creation of U.S. Securities Regulations
   Richard W. Carney

197. Indian Naval Effectiveness for National Growth
   Ashok Sawhney

198. Exclusive Economic Zone (EEZ) regime in East Asian waters: Military and intelligence-gathering activities, Marine Scientific Research (MSR) and hydrographic surveys in an EEZ
   Yang Fang