

Maritime Security in East Asia
 17 March 2015, Jakarta, Indonesia

MANAGING MARITIME DISPUTE IN THE EAST CHINA SEA

Leonardo Bernard
 Research Fellow, Centre for International Law (CIL)
 National University of Singapore

CIL Centre for International Law
 www.cil.nus.edu.sg

NUS National University of Singapore

CIL Centre for International Law
Northeast Asia

Japan has territorial disputes with Russia (Kuriles), Korea (Tokdo/Takeshima) and China (Senkaku/Diaoyutai)

Japan's Territorial Sovereignty Disputes with China, Korea & Russia

CIL Centre for International Law
Dokdo / Takeshima

Reuters

CIL Centre for International Law
Senkaku / Diaoyu

CIL Centre for International Law

CIL Centre for International Law

CIL Centre for International Law
Islands and Maritime Claims

www.cil.nus.edu.sg

CIL Centre for International Law
NUS National University of Singapore

CIL
Centre for International Law

Northeast Asia

Japan's Territorial Sovereignty Disputes with China, Korea & Russia

Map showing territorial disputes in Northeast Asia, including Japan's claims over the Kuriles, Tokdo/Takeshima, and Senkaku/Diaoyutai islands.

CIL
Centre for International Law

NUS
National University of Singapore

Article 76 of the UNCLOS

- Outer edge of the continental margin beyond 200 nautical miles:
 - Extent of continental shelf based on geomorphology and geology
 - Extent of the continental shelf beyond 200 nautical miles varies widely
- Before outer limits are established coastal state has to make a submission to the CLCS

www.cil.nus.edu.sg

CIL
Centre for International Law

NUS
National University of Singapore

CLCS

- 21 experts in the field of geology, geophysics or hydrography
- Commission is required to make recommendations to coastal states on matters related to the establishment of the outer limits of the continental shelf
- Outer limits established by coastal state on basis of recommendations of the Commission final and binding
- Actions of the Commission shall not prejudice matters relating to the delimitation of boundaries between states with opposite or adjacent coasts (UNCLOS, Annex II, article 9)

www.cil.nus.edu.sg

CIL
Centre for International Law

NUS
National University of Singapore

Rules of Procedure of the Commission

- In a case in which a dispute exists, Commission will only consider the submission of a coastal state with the prior consent of all states that are parties to the dispute

www.cil.nus.edu.sg

CIL
Centre for International Law

NUS
National University of Singapore

Map showing joint development areas and disputed areas in the East China Sea, including the 2008 China-Japan joint development zone and the Japan-South Korea joint development area.

Schofield and Townsend-Gault: *(Marine Policy, vol. 35 (2011), p. 27)*

www.cil.nus.edu.sg

CIL
Centre for International Law

NUS
National University of Singapore

Steps To Resolve The Dispute

- CLCS Recommendation (without prejudice to the maritime boundary negotiation)
- Negotiation
- Dispute Settlement

www.cil.nus.edu.sg

CIL
Centre for International Law

NUS
National University of Singapore

Dispute Settlement

- Median Line
- Adjusted Median Line
- Grey Zone
- Separate Maritime Boundaries

www.cil.nus.edu.sg 13

CIL
Centre for International Law

NUS
National University of Singapore

Australia and Indonesia's Maritime Boundaries

Legend:

- The Timor Gap
- Agreed 1972 Seabed boundary
- Agreed exclusive economic zone boundary (Approximate Median Line)
- An East Timorese option for extension of East Timor's EEZ
- Zone of Co-operation

www.cil.nus.edu.sg 14

CIL
Centre for International Law

NUS
National University of Singapore

Senkaku /Diaoyu

www.cil.nus.edu.sg 15

CIL
Centre for International Law

NUS
National University of Singapore

Article 121 Regime of Islands

1. An **island** is a **naturally formed area of land**, surrounded by water, which is **above water at high tide**.
2. **Except as provided for in paragraph 3, islands have same maritime zones as other land territory, including territorial sea, EEZ and continental shelf**
3. **Rocks** which **cannot sustain human habitation or economic life of their own** shall have **no exclusive economic zone or continental shelf**.

www.cil.nus.edu.sg 16

www.cil.nus.edu.sg 17

CIL
Centre for International Law

NUS
National University of Singapore

Okinotorishima

www.cil.nus.edu.sg

CIL Centre for International Law **NUS** National University of Singapore

Mid-Ocean Island with EEZ: Area of 125,664 nm² (431,831 km²)

200nm

Rock with 12 nm territorial sea – 452 nm² (1,550 km²)

CIL Centre for International Law **NUS** National University of Singapore

www.cil.nus.edu.sg

CIL Centre for International Law **NUS** National University of Singapore

Okinotorishima

Legend

- 200M from Japan's baseline
- 200M from other State's baseline
- Equidistance line from Japan's and other State's baseline
- Japan's proposed extended continental shelf

www.cil.nus.edu.sg 20

CIL Centre for International Law **NUS** National University of Singapore

Okinotorishima

CIL Centre for International Law **NUS** National University of Singapore

Okinotorishima

ROCKALL

www.cil.nus.edu.sg 23

CIL Centre for International Law **NUS** National University of Singapore

Rockall Island (UK)

www.cil.nus.edu.sg 24



CIL
Centre for International Law

NUS
National University of Singapore

Thanks for Your Attention

Leonardo Bernard
Research Fellow, Centre for International Law (CIL)
National University of Singapore
Email: CILLB@NUS.EDU.SG
Website: WWW.CIL.NUS.EDU.SG

www.cil.nus.edu.sg 25