

# The Taiwan-Japan Fisheries Agreement— Embodying the Ideals and Spirit of the East China Sea Peace Initiative

## 1. The process of signing the Taiwan-Japan Fisheries Agreement

- (1). The Republic of China (Taiwan) and Japan signed the Taiwan-Japan Fisheries Agreement on April 10, 2013. By shelving controversies and sharing fishery resources, Taiwan and Japan have, 17 years after talks began, made appropriate arrangements concerning fishery issues that have arisen from having overlapping exclusive economic zones (EEZs). This embodies the ideals and spirit of the East China Sea Peace Initiative proposed by President Ma Ying-jeou on August 5, 2012. That is, by replacing confrontation with negotiation, Taiwan is playing the role of a “responsible stakeholder” and furthering the cause of peace.
- (2). Between 1996 and 2009, 16 rounds of Taiwan-Japan fishery talks were held, which did not achieve concrete results. Following a four-year hiatus, an agreement was signed during the 17th round of talks in April 2013.

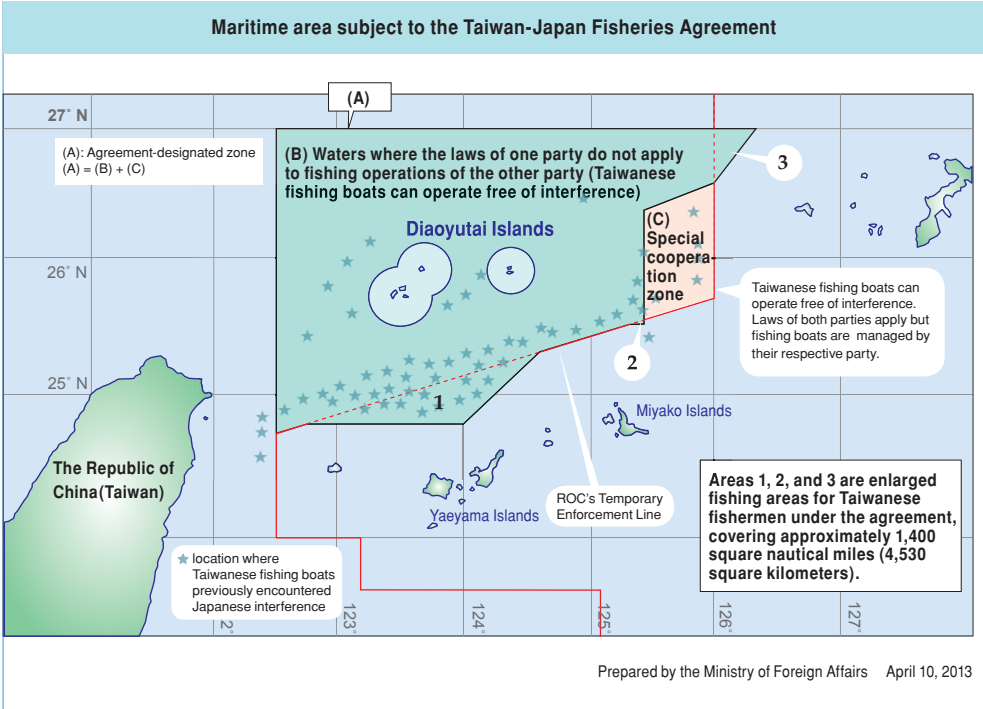


The signing of the Taiwan-Japan Fisheries Agreement is a historic milestone in relations between the two countries, as well as a concrete embodiment of the East China Sea Peace Initiative.

- (3). Based on its “viable diplomacy” policy, the ROC government has pragmatically expanded its international space, strengthened friendly ties with different countries, and made concrete contributions to maintaining peace, stability, and prosperity in the region. In 2012, President Ma proposed the East China Sea Peace Initiative, the fundamental concept of which is that although sovereignty cannot be divided or conceded, natural resources can be shared. Japan responded positively to the spirit of cooperation embodied by the Peace Initiative, and this served as common ground for restarting fishery talks on November 30, 2012. After two preparatory meetings and numerous negotiations, consensus was reached and an agreement signed on April 10, 2013.
- (4). During the negotiations, the head of the ROC delegation reiterated that the Diaoyutai Islands are an inherent part of ROC territory and an island group appertaining to Taiwan. The waters around the islands have long been traditional fishing grounds for ROC fishermen, whose fishing rights should be fully protected under the law. The head of the ROC delegation pointed out that negotiations were based on the East China Sea Peace Initiative, with the two parties showing mutual respect and cooperation, leading to a consensus and concrete results under the principles of equality and reciprocity. In response, the head of the Japanese delegation said that the agreement would maintain order in fishing operations, bolster bilateral cooperation, and further consolidate Taiwan-Japan relations.
- (5). On the day after the talks, President Ma received the Japanese delegation, stating that though the two sides could not reach a consensus on the sovereignty issue, the ROC had seen great progress in fishery rights and interests. This shows that while the ROC’s sovereignty has been defended, controversy has been shelved, allowing the two sides to use peaceful means to resolve disputes, which is in line with the spirit of international law and the UN Charter. This also shows that the Japanese government has attached importance to and paid attention to the East China Sea Peace Initiative, which was proposed in August 2012 in response to rising tensions in the East China Sea. We look for the East China Sea to become “a sea of peace and cooperation,” which would lay a solid foundation for peace and stability in East Asia.

## 2. The significance and specific results of the Taiwan-Japan Fisheries Agreement

- (1) This agreement is the first of its kind to be signed by the ROC with a neighboring country and it is in the spirit of and accords with the 1982 United Nations Convention on the Law of the Sea (UNCLOS).



- a. Paragraph 3 of Article 74 of the 1982 UNCLOS stipulates that “Pending 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 and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement.” The “designated zone” in the Taiwan-Japan Fisheries Agreement, which is a provisional arrangement that concerns overlapping EEZs, is in line with the Convention, and accords with international law.
- b. Paragraph 2 of Article 4 of the Law on the Exclusive Economic Zone and the Continental Shelf of the Republic of China stipulates that prior to agreements mentioned in the preceding paragraph regarding the delineation of EEZs, the Republic of China and the adjacent or opposite countries, in the spirit of understanding and cooperation, may reach a modus vivendi. The Taiwan-Japan Fisheries Agreement is in accordance with this stipulation, a provisional arrangement during a transitional period prior to the inking of an agreement on the final delineation of EEZs.

### (2) This fisheries agreement protects and promotes ROC fishermen’s operating rights.

#### a. The designated zone

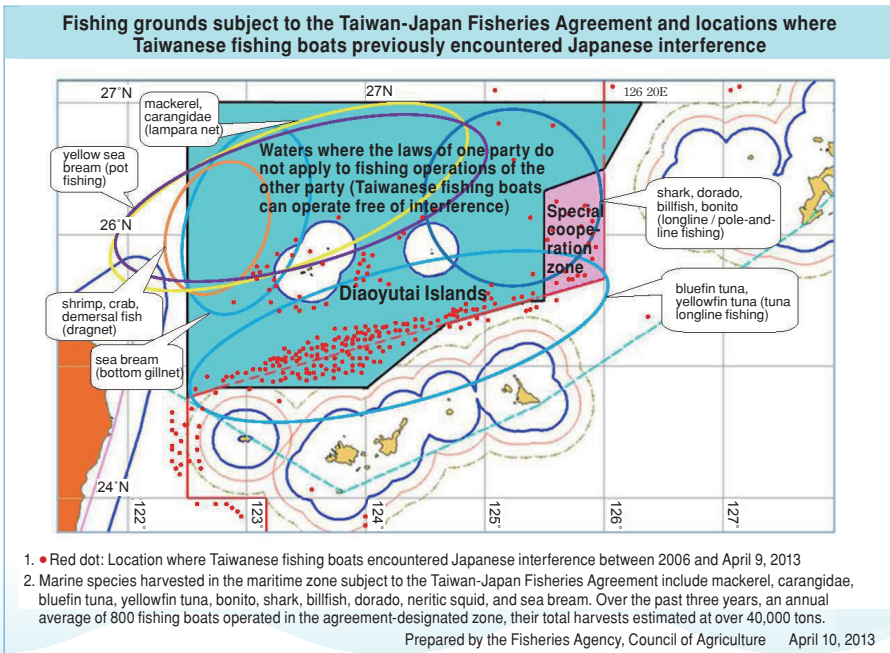
The Taiwan-Japan Fisheries Agreement will be applicable to a maritime zone south of 27 degrees north latitude and north of Japan’s

Yaeyama Islands and Miyako Islands, covering an area of 74,000 square kilometers, or more than twice the size of Taiwan. The agreement protects the rights and interests of our fishermen operating in these waters. It expands their fishing area by approximately 1,400 square nautical miles (approximately 4,530 square kilometers) beyond the ROC’s Temporary Enforcement Line.

ROC fishing vessels are now able to operate within the designated zone without interference by Japanese government vessels. They will be overseen by the ROC Fisheries Agency in accordance with relevant ROC fisheries laws and regulations.

The designated zone includes:

- i. **Waters where the other party’s laws are not applicable:** After relevant domestic legal measures were completed on May 10 in accordance with the provisions of the agreement, one party’s fisheries laws and regulations are not applicable to the other’s fishing vessels. Instead, fishing vessels are governed by their nation’s own laws and regulations. Marine species harvested in these waters include tuna, shark, dorado, billfish, bonito, mackerel, carangidae, yellow sea bream, shrimp, crab, sea bream, and demersal fish.
- ii. **A special cooperation zone:** In an area within the designated zone where disputes frequently arise between fishing vessels of both parties, a special cooperation zone has been created. Taiwan and Japan cooperate under the principles of equality and reciprocity



with regards to fishing operations in this area. In principle, the fishing operations of ROC vessels as they currently stand are respected. Details concerning this arrangement will be discussed by the Taiwan-Japan Fishery Committee formed after the signing of the pact. Tuna, shark, dorado, billfish, and bonito can be harvested in this maritime zone.

#### b. Other overlapping maritime areas and cooperation in fisheries

Operations in overlapping EEZs outside the designated zone—that is, the areas north of 27 degrees north latitude and south of Yaeyama Islands and Miyako Islands—and cooperation in fisheries will be discussed through the institutionalized mechanism of the Taiwan-Japan Fishery Committee. Prior to the conclusion of an agreement on these matters, the ROC government will continue to protect the rights and interests of its fishermen by maintaining the existing operating environment in these maritime areas within the temporary enforcement line.

#### c. The Taiwan-Japan Fishery Committee

The Taiwan-Japan Fishery Committee was founded and held its first meeting in Taipei on May 7, 2013, under the provisions of the Fisheries Agreement. This committee is an institutionalized joint management mechanism created under the principle of equality that aims to maintain order in fishing operations and preserve the bio-resources in the agreement-designated zone as well as areas of mutual concern outside of the designated zone. ROC representatives will attend meetings as members of the fishery committee and, in their continuing negotiations with Japan, focus on protecting the ROC’s sovereignty over the Diaoyutai Islands as well as the rights and interests of its fishermen in hopes of setting aside disputes and jointly exploiting resources.

### (3) Staunchly safeguarding the ROC’s sovereignty over the Diaoyutai Islands and surrounding territorial waters

- a. The fisheries agreement signed during this recent round of fishery talks covers fishing operations in the ROC’s and Japan’s overlapping EEZs, but does not touch upon the issue of sovereignty. The ROC’s sovereignty extends to the waters within 12 nautical miles of the Diaoyutai Islands. These waters are not included in the agreement-designated zone. ROC fishing boats can enter and operate in this area and ROC Coast Guard Administration vessels will ply the waters to protect them.
- b. Both the ROC and Japan claim sovereignty over the Diaoyutai Islands. At the beginning of every meeting (including formal talks, preparatory meetings, and informal consultations) with Japan, the ROC has reiterated its consistent stance that the Diaoyutai Islands are



a part of its territory and an island group appertaining to Taiwan, and that the waters surrounding these islands have long been traditional fishing grounds for Taiwanese fishermen, whose fishing rights should be accorded full protection under the law. This demonstrates the ROC's determination to safeguard its sovereignty over the Diaoyutai Islands and its fishery rights in surrounding waters.

- c. The ROC requested that Japan exclude any wording from the agreement that may belittle or damage the ROC's claims of sovereignty. Both parties also consented to the inclusion of the "without-prejudice clause" to ensure that the provisions of the agreement do not undermine the ROC's position on and interpretation of international law regarding its sovereignty and maritime claims, affirming its firm and consistent position on its sovereignty over the Diaoyutai Islands.
- d. The ROC government will continue to stand steadfastly by its claims and safeguard sovereignty over the Diaoyutai Islands. It has consistently taken a firm stance on defending sovereignty and protecting fishery rights, and will absolutely not compromise the former for the latter.

### 3. Responses and reactions

#### (1) The Republic of China

- a. Members of the fishermen's associations of Su'ao, Toucheng, and Keelung have expressed their affirmation of the agreement.
- b. A *United Daily News* editorial indicated that the major breakthroughs in Taiwan-Japan fisheries talks could be regarded as an expansion of ROC fishermen's rights and set the tone for a resolution to the Diaoyutai Islands dispute. The *China Times*, in an editorial headlined "Big Strides in Fishing Rights around the Diaoyutai Islands," recognized the government's efforts to defend Taiwanese fishermen's interests. *The Liberty Times* praised the signing of the Taiwan-Japan Fisheries Agreement as a wise decision.
- c. Scholars of international politics and maritime law in Taiwan have expressed their support in letters to the editor stating that the government has safeguarded sovereignty and the interests of the fishery sector while conforming to principles of international law that disputes should be settled through peaceful means. They

observed that it was also an embodiment of the East China Sea Peace Initiative.

#### (2) Japan

- a. After the agreement was signed, Japanese Prime Minister Shinzo Abe received Mitsuo Ohashi, chairman of the Interchange Association, Japan, and head of the Japanese negotiating team, at the Prime Minister's Office. Prime Minister Abe said that Taiwan is an important partner of Japan and that the signing of the fisheries agreement was very positive for both sides.
- b. On the day the agreement was signed, Chief Cabinet Secretary Yoshihide Suga said that he welcomes such an historic agreement, and believes that it will enhance regional stability.
- c. Editorials in four major Japanese newspapers affirmed the agreement.
- i. The *Asahi Shimbun* stated that the two parties sidestepped disputes concerning the Diaoyutai Islands, showing maturity and wisdom. The Japanese government should employ that wisdom as it seeks to improve relations with mainland China.
- ii. The *Yomiuri Shimbun* stated that while seeking to appropriately manage fishery resources, which are the common asset of coastal nations, the two parties need to remain focused on the big picture and proceed with talks. This fisheries agreement can result in the strengthening of Taiwan-Japan relations overall.
- iii. The *Mainichi* stated that the fisheries agreement eliminates uncertainties that could cause tension in the waters surrounding the Diaoyutai Islands.
- iv. The *Sankei Shimbun* stated that the pragmatic approach the two sides adopted to prioritize solving fishery issues is welcomed.

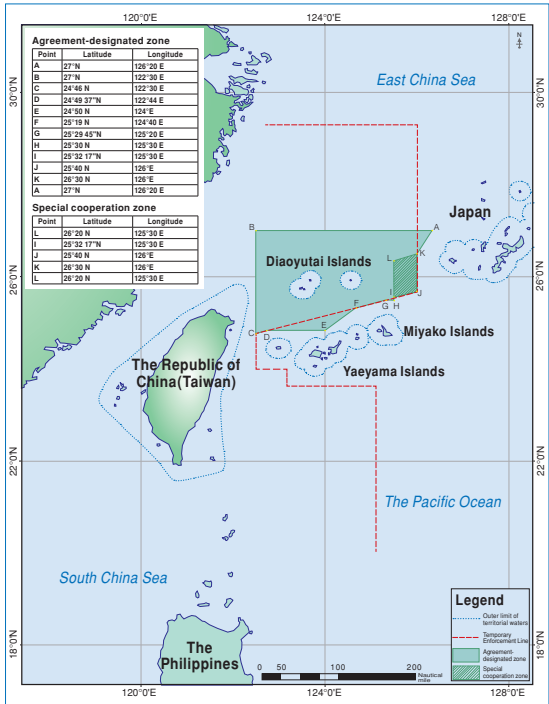
#### (3) Elsewhere around the world

- a. The United States Department of State indicated that it welcomes all efforts to reduce tensions in the region through dialogue; agreements and other arrangements of this sort can help promote peace, stability and economic growth.
- b. *The Christian Science Monitor* pointed out that the signing of the Taiwan-Japan Fisheries Agreement was a wise move in which the two parties sidestepped the sovereignty claim dispute and agreed to share resources. This, the report continued, was a pragmatic approach that will prevent armed conflict, create prosperity, and build the mutual trust necessary for dispute settlements that may follow.

- c. Russia's *Nezavisimaya Gazeta* indicated that the agreement represents a diplomatic victory for Taiwan, and has significantly improved relations between the ROC and Japan.
- d. *The Australian* said that the fisheries agreement creates the important precedent of putting resource-sharing above the Diaoyutai Islands dispute. This, it continued, may urge mainland China to adopt a similar approach.
- e. The German-language newspaper *Neue Zuercher Zeitung* pointed out that President Ma's East China Sea Peace Initiative laid the groundwork for the agreement, which has led to success in shelving disputes.

### 4. Prospects

- (1). The Taiwan-Japan Fishery Committee will continue consultations on cooperation in fishing operations and other maritime areas of mutual concern. This will expand bilateral fishery cooperation and create benefits for both parties.
- (2). The ROC government sees relations with Japan as a special partnership. The two countries enjoy close exchanges at all levels, and have built strong trust and friendship. Following the massive earthquake that hit eastern Japan on March 11, 2011, donations came from all sectors of Taiwan, for which Japan remains grateful today. In his congratulatory message on the 40th anniversary of the Interchange Association, Japan, Japanese Minister for Foreign Affairs Fumio Kishida said that Taiwan and Japan are important partners, and a valuable and solid friendship exists between the two countries.
- (3). In recent years, Taiwan and Japan have seen many concrete results of cooperation, including the signing of an investment agreement, a civil aviation pact, and a working holiday



scheme agreement, as well as the ROC's establishment of a branch office in Sapporo. The Taiwan-Japan Fisheries Agreement is a new milestone in cordial relations between the two countries. It is hoped that cooperation will continue to grow on the firm foundation that has been laid.

- (4). The Taiwan-Japan Fisheries Agreement is a concrete embodiment of the East China Sea Peace Initiative and a precursor to a solution to the Diaoyutai Islands sovereignty issue.
- a. Article 1 of the Taiwan-Japan Fisheries Agreement stipulates that "This Agreement aims to ensure peace and stability in the East China Sea, promote friendly and reciprocal cooperation..." This stipulation does not appear in fisheries agreements of other countries such as the Japan-Korea and the Japan-mainland China fisheries agreements. It is included in the Taiwan-Japan agreement due to Japan's positive response to President Ma's East China Sea Peace initiative.
- b. Taiwan and Japan agreed to shelve disputes and communicate with one another for the fisheries agreement, which was signed with the Republic of China's firmly adhering to its stance on sovereignty and on related waters. Both sides agreed to honor the 1982 United Nations Convention on the Law of the Sea to settle disputes in a peaceful manner, to establish institutionalized negotiation mechanisms, to jointly exploit resources, and to expand fishery interests. As a result, a favorable environment for ROC fishermen has been constructed. This is the best example of how the East China Sea Peace Initiative can be employed to peacefully settle disputes.
- c. The Taiwan-Japan fishery talks are one of the three sets of bilateral dialogue proposed in the East China Sea Peace Initiative. They are a concrete example of "replacing confrontation with dialogue" and "shelving controversies in favor of consultations."
- d. The ROC will, in a spirit and approach conforming to the East China Sea Peace Initiative, engage in dialogue and cooperation with other concerned parties in the region on issues related to peace in the East China Sea such as the exploration and development of oil and natural gas resources in the continental shelf.
- e. This agreement, being the first of its kind to be signed by the ROC with a neighboring country, could serve as a model for making provisional arrangements for overlapping EEZs with other neighboring nations (such as the Philippines). It could also serve as a means to promote the spirit and approach of the East China Sea Peace Initiative in other regions such as the South China Sea so as to advance peace and stability across all of Asia.



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#### Marine species harvested in the waters surrounding the Diaoyutai Islands

