

# *REGIONAL SECURITY COMPLEX IN ASEAN: Neutrality and Centrality at Brink in the South China Sea Issue*

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## **Abstract**

The South China Sea conflict has been a highly sensitive issue for the last 5 years in ASEAN. China and the US have been using the South China Sea as the “New Cold War Arena” of power and military hegemonic competition in the South East Asia region. This has been a major challenge for ASEAN as the only regional organization in the South East Asia region that has direct in the area must take major role in managing and resolving the dispute peacefully even though ASEAN has no defense pact like NATO. This paper argues that ASEAN, at this moment, must maintain its role as a mediator and independent-negotiator in the region but at the same time apply its principle of gradually adapting with the new international system. This article also suggests that in the future, ASEAN can take a major role in the governance of the South China Sea and the South East Asia region.

**Key Words:** South China Sea, Balance of Power, Regional Security Complex, International System

## **Abstrak**

Isu konflik Laut Cina Selatan telah dianggap sebagai isu yang sangat sensitif dalam 5 tahun terakhir di ASEAN. Di tengah perselisihan tersebut, Tiongkok dan AS telah menggunakan Laut Tiongkok Selatan sebagai “Arena Perang Dingin Baru” kompetisi hegemonik kekuatan dan militer di kawasan Asia Tenggara. Ini menjadi tantangan besar bagi ASEAN sebagai satu-satunya organisasi regional di kawasan Asia Tenggara yang terlibat langsung di wilayah tersebut harus berperan besar dalam mengelola dan menyelesaikan perselisihan Laut Tiongkok Selatan secara damai terlepas dari kenyataan bahwa ASEAN tidak memiliki pakta pertahanan. Sebagai NATO. Artikel ini menyarankan bahwa ASEAN, pada saat ini, harus mempertahankan perannya sebagai aktor mediator-instrumen dan pelaku independen-negosiator di wilayah ini namun pada saat yang sama prinsipnya harus berangsur-angsur beradaptasi dengan sistem internasional yang baru. Artikel ini juga merekomendasikan bahwa ASEAN dapat mengambil peran utama sebagai pemerintahan daerah di Laut Cina Selatan dan kawasan Asia Tenggara.

**Kata Kunci:** Laut Tiongkok Selatan, Perimbangan Kekuatan, Kompleks Keamanan Regional, Sistem Internasional

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## INTRODUCTION

The South China Sea is part of the Pacific Ocean. Geographically, it is located among six territories: i) the plain south of China, ii) the West Philippine, iii) northwestern Malaysia (Sabah, Sarawak and Brunei); iv) the northern part of Indonesia; v) the northeast of Malaysia and Singapore; and vi) the eastern part of Vietnam. With an area of approximately 3,500,000 km<sup>2</sup>, the South China Sea has enormous natural resources, including 28 million barrels of oil reserves, 7,500 km<sup>3</sup> of natural gas reserves, and accounts for a third of marine ecosystems of all over the world.

In addition to its natural resources, the South China Sea is also one of busiest, traffic channeling international trade and transportation between the Strait of Malacca, the Sunda Strait and the Lombok Strait. Furthermore, there are numerous small islands scattered in the South China Sea, which have potential for many countries' future development. By looking at these geographical facts, it is safe to say that the South China Sea has great geopolitical value and geostrategic importance for the countries surrounding it. The geopolitical and geo-economic advantages could be used as bargaining power in the interaction between countries, including many ASEAN countries (Kegley et.al, 1997: 23).

Judging by its geopolitical and geo-economic aspect, the South China Sea has led to territorial disputes between several states. The South China Sea's claimant states are comprised of:

1. Indonesia, China and Taiwan over the Natuna Islands waters;
2. The Philippines, China and Taiwan over the Malampaya gas field and Camago;
3. The Philippines, China and Taiwan over the Scarborough Shoal;
4. Vietnam, China and Taiwan over west of the Spratly islands waters. Conflict in this area also involves Brunei, Malaysia and the Philippines;
5. The Paracel Islands are disputed between China and Vietnam;

6. Malaysia, Cambodia, Thailand, and Vietnam who claim area in the Gulf of Thailand; and
7. Conflict of claims between Singapore and Malaysia along the Strait of Johore and the Strait of Singapore.

**Picture 1.** The Maritime Claims in the Conflict of South China Sea



**Source:** <http://www.republika.co.id/berita/international/global/15/11/21/ny5tzf393-tumpang-tindih-wilayah-ricina-50-ribu-kilometer-persegi>

Problems occurred in 1995 when China sent its naval forces to the South China Sea, into waters that were regarded as international waters. The Nine Dash Line claims, which during the reign of the Kuomintang were called the eleven-dotted line, have been claimed by the Chinese government in 1947. In 1949, Zhou Enlai, the Chinese Foreign Minister, changed the eleven dotted line into the Nine Dash Line. Since then, China's unilateral claims over the South China Sea has been received negatively by several ASEAN member countries that also have the similar claims, based on the International Law of the Sea, geography and historical facts (Yahuda, 2004: 17).

The Claim of the Nine Dash Line by China has received great opposition from many countries who claimed some islands based on

historical facts and the occupational use of the area. In order to contain the tensions over China's unilateral actions, since 2001, ASEAN has been trying to mediate the South China Sea dispute by upholding the principles of the ASEAN Charter. In the latest development, negotiation and mediation were conducted at both the ASEAN Foreign Ministers Meeting (ASEAN Ministerial Meeting / AMM) and the 45th ASEAN Regional Forum (ARF) 19<sup>th</sup> July 2010. These meetings discussed the Declaration of Conduct (DOC) and Code of Conduct (CoC) on the status of the South China Sea. At the ASEAN Summit 21 in Phnom Penh, Cambodia, negotiations ended in deadlock due to the many conflicting interests between the member countries of ASEAN and their inability to resolve the dispute between themselves. (Yahuda, 2004: 16-17).

In addition, the South China Sea dispute involves not only the ASEAN countries and China. There are powerful external players looking to exploit the geopolitical and geostrategic potential of the South China Sea. Therefore, ASEAN cannot ignore the complex security arrangements in the Southeast Asian region. This complexity has mainly been caused by external factors such as the defense cooperations/partnerships between the US, Britain and Russia with some ASEAN countries involved in the South China Sea dispute, namely Cambodia, Malaysia, Vietnam, the Philippines and Brunei Darussalam. Since ASEAN was created to build the unity and integrity of the countries in Southeast Asia through harmonization and cooperation, ASEAN must be a critical part of the international system, constructed by the powerful countries in the world, especially in the resolution of the South China Sea dispute (Jönsson, 2008: 9-10).

### **BRIEF THEORETICAL FRAMEWORK ON CHINA-US BALANCE OF POWER IN THE REGION**

Despite ASEAN's attempts to bridge the gap between China and the US in the region, some scholars are worried that by keeping US forces in the South East Asian region would result in an immeasurable interdependence and military

intervention over maintaining security and put the region in jeopardy as a result of its imperialist manner (Kegley & Raymond, 1994: 187). As a consequence, a self-reliant ASEAN security arrangement is unlikely because of post-Cold War US military intervention policies. In addition, as mentioned by Johnson and Keehn (1995), for the US to maintain forces in the Asia Pacific is expensive whilst Asian nations, who are currently building their economic resources, may eventually making US forces are no longer useful, especially when China and Japan consolidate their prospective economic power. Furthermore, Maull's (1990) perspective is that it has been "under new management" of US security forces in order to prevent the revival of traditionalist militarism in Japan during World War II.

Historically, during the Cold War era, US political and military intervention in South East Asia was focussed/focused on overthrowing any ideologically communist authorities as a part of the 'Containment' policy articulated by George Kennan in 1946 (McGrew, 2002). These policies were heightened as nationalist movements towards independence were threatened by communism (Yahuda, 2004, p. 31). Vietnam, for example, from 1959 to 1975 was an example of this particular policy. However, the interventionist policy of the US was catastrophic when troops were deployed rapidly to the region. Eventually, in an attempt to stop the domino effects of communism in South East Asia, US forces were dispatched to the Vietnam War and at the end resulting thousands of casualties in both sides (Holsti, 1995: 206).

Another factor discussed by Little (1997) is that Washington could control Asia Pacific nations to force their interests on other nations -or in other words, dictate or establish an arms control agreements because of its single hegemonic position in the Post-Cold War era, consequently creating a "security regime". Meaning that countries in a region have established guarantee arrangements to reduce potential threats as a result of security dilemma posed by their neighbors (Buzan in McGrew and Brook, 2002: 71). According to John Herz (1950), security dilemma means that a states'

motivation in increasing its military budget and boosting its defense capacity for the sake of security because states tend to be unsure of one another's intentions, the other states in turn respond by increasing their armed forces (as cited in Waltz, 1979, p. 186). For less powerful states such as China, who was chastised by US' economic sanctions in 1949, that "security regime" was considered to be a threat to state sovereignty in an unjust and illegitimate way due to the presence of US military bases and hostile alliances (Goldstein, 2003, p. 100). As a consequence of the ostensible "security regime", ally countries in ASEAN countries could not oppose any of Washington's policies. Eventually, the presences of US forces in ASEAN region will have counterproductive outcomes for region's collective security focus.

Judging from that experience, it can be surmised that the outlook for any cooperation among nation-states is pessimistic. Furthermore, as argued in the classical realist tradition by E.H. Carr's *The Twenty Years Crisis* (as cited in Jackson & Sorensen, 1999: 41-42) that a commitment on perpetual peace and "harmony of interest" as desired by liberalist tradition had failed, as a result, conflicts of interests between countries and people are inevitable. According to Carr, International Relations are always described as a Balance-of-Power where small countries will pursue an international position from the "underdogs" to the "privileged" place. For that reason, International Relations are always the matter of "conflict" instead of "cooperation". Therefore, from a classical realist point of view, there is no way for US forces to stay in the South East Asia region, particularly in the Philippines, in order to maintain security, as the cooperation among states as hoped by liberalist views is never going to happen. In fact, it escalates the conflict and increases China's efforts to leverage its status in international politics by building military bases in the South China Sea.

This has made ASEAN the "New Cold War Arena" between the great powers of the world. ASEAN is confronted with dilemmas regarding its efforts to maintain the basic principles of the charter of ASEAN, namely the peaceful settlement of disputes through

management approaches and conflict resolution in accordance with the ASEAN Political and Security Community's blueprint. In fact, it is clearly stated in the action lines B.2. Conflict Resolution and Pacific Settlement of Disputes, specifically in point number B.2.1. Build upon the existing modes of pacific settlement of Disputes and Consider strengthening them with additional mechanisms as needed number lines of actions i, ii, iii. The action lines implies that in order to achieve peaceful resolution, ASEAN must adapt to the current international system and the regional security structure between ASEAN member states in order to challenge the hegemonic competition between the US and China in the South East Asia region.

Both dilemmas may have logical consequences. By retaining the basic principles of ASEAN to achieve peace amid the uncertainty of the balance of power, ASEAN must postpone negotiations with China because of its use of military power, which has been countered by the US. Also there has been no guarantee if ASEAN member states were united against both super powers. Some problems identified from the South China Sea conflict claims, include:

1. The Political aspect. The claim area is prestigious for a country's political image. A successful claim will improve a country's image. Conversely, the failure of the claim will reduce the image. Thus, a state will seek to protect its political image as much as possible.
2. The Economic aspect. The South China Sea's natural resources and the importance of the shipping channels for international trade are a valuable asset and a source of foreign exchange.
3. The Security aspect. The maritime claims in the South China Sea dispute will threaten regional stability and security if we do not find resolution as soon as possible. The role of intrusive players such as the US, China and Britain aggravate the problem and could possibly lead to an open war. Therefore, ASEAN must take a major role in managing and resolving the South China Sea dispute peacefully despite the fact that, unlike NATO, ASEAN has no defense pact.

## THE CHINA AND US INTERVENTION IN THE SOUTH CHINA SEA DISPUTE AS A CAUSE OF DOC DEADLOCK IN CAMBODIA

The disagreement in the Joint Communiqué on the 45th ASEAN Foreign Ministers Meeting ASEAN (ASEAN Ministerial Meeting / AMM), in Phnom Penh and Cambodia's alignments to China was considered as a huge stumbling block for solidity and neutrality of ASEAN. The fragmentation was created due to uncompromising positions between Cambodia, the Philippines and Vietnam. Allegations that Cambodia was trying to accommodate China's interest in the South China Sea conflict intensified the fragmentation in ASEAN. This unprecedented action was regarded as the first incident of ASEAN's fragmentation since its establishment in 1967.

The case of Cambodia accommodating China's interest in South China Sea derived from Cambodia's extreme economic interdependence to China. According to Chanboreth and Hach (2008), since the Asian monetary crisis in 1998, Cambodia obtained total development assistance of about US\$5.5 billion. In average, development assistance to Cambodia has been amounted of around US\$600 million a year during the last five years. At the same time, China is the largest donor to Cambodia, focussingfocusing on transportation and energy infrastructure, and government-related activities. China also planned to invest in Cambodia in 2007-2009, during the first Cambodia Development Cooperation Forum (CDCF) and provided information to the Cambodian Official Development Assistance Database. Furthermore, China had a commitment to remove all Cambodia's debts that were due in 2002. Therefore, we cannot deny the fact that as China becomes a new economic power in the world they may become a new hegemonic power in Asia.

On the other hand, the stability and the balance of power in the region was unstable due to the fact that some of ASEAN's member countries have defesivedefensive alignments with China, the US and the United Kingdom. The Philippines has strong bilateral cooperation with the US as its former colonist. Although President

Duterte currently has a tendency toward China, the Philippines still considers the US as its traditional ally outside NATO, as demonstrated by the 1947 Military Bases Agreement. On the other hand, Malaysia would relies on the Five Power Defense Arrangements established in 1971 with the Great Britain, Singapore, Australia and New Zealand. Vietnam is likely to take full advantage of US-Vietnam diplomatic normalization in 2015 to boost its defensive capacity, particularly in maritime security. The fragmentation and external military alliances of ASEAN countries in facing the South China Sea issue can be seen as a consequence of the lack of commitment to ASEAN's Pillar on Political and Security Community. Furthermore, it does not guarantee collective defense and solidarity in the region against China's military power.

According to Winarno (2011: 116-118), since its establishment, ASEAN has been creating an image as a regional organization which emphasizes the respect of sovereignty among member states, the principle of non-intervention and the settlement of disputes through peaceful means, and does not form a defense pact. The basic principles of ASEAN are relatively unchanged until today.

But on the other hand, history has proved that this region has been an arena for the power struggle between major countries. How many times does the Southeast Asia region become a battlefield between the US and the Soviet Union? Such as CIA involvement in the coup fours in Indonesia in 1965, the Indo China War, first and the second (which is known as the Vietnam War) and even from the early 1970s until the Soviet Union collapsed, the US never relinquished its interests in the region.

According to Nye (1995) in state-to-state interactions, a strong bargaining position can only be achieved if a country has a modality such as economic and military power. Therefore, we can see that it has been China's policy to follow other super power states through the escalation of its econimceconomic strength as well as its military strength. ASEAN does have economic power through cooperation and collaborations , but by maintaining the principle of not building defense alliances or

collective military power a gap has formed in ASEAN unity against any great power rivalry in the region. As a consequence, this “power gap” can be exploited and filled by the great powers that competing in the region.

Therefore, it is no wonder that ASEAN member countries involved in the South China Sea Conflict, such as Vietnam and the Philippines approach the US to counterbalance the military power of China, while Malaysia relies on its collective defense commitment, the *Five Power Defense Arrangements* (FPDA) with the UK, Singapore, Australia and New Zealand. Potentially, ASEAN could be fragmented within the South East Asia region and eventually ending the principle of neutrality and centrality. Furthermore, we also have be concerned with Duterte’s policy of building military and economic alliances with China. This will add to the complex security arrangements in the region.

On the other hand, if ASEAN revised its basic principle on the building of defensive pacts, then ASEAN’s bargaining position with China would increase, rather than solely relying on economic aspects. However, such a move is not without risk. ASEAN will be seen as a new military power bloc in the world that could disrupt the balance of the region, especially if ASEAN abandons the principle of the South-East Asia Nuclear Weapon Free Zone or SEANWFZ. It is not possible that ASEAN actually adds to the complexity of the problem in the Southeast Asian region.

There is nothing wrong if ASEAN ultimately choses a policy of Conflict Resolution and Pacific Settlement of Disputes to prevent the South China Sea to become a war zone between the US and China and their allies. This has always been a difficult choice for ASEAN because by choosing the this option, the South China Sea territorial dispute will always end in a stalemate without any certainty when the conflict will end.

In fact, regional organizations such as ASEAN are supposed to be a collaborative forum filling the gap between nations and the global organizations such as the United Nations. Ideally, regional organizations could

also become a driving force of change within the international system. Neutrality and the centrality of ASEAN should remain a major emancipatory power for the countries of the Southeast Asian region amid an international system that is likely to be controlled by the powerful countries. Unfortunately, the legacy of the Cold War still echoes strong today and regional organizations such as ASEAN must adapt to these conditions.

Therefore, ASEAN needs to take a radical step so that its member states are not dependent to the rivalry of great powers. The policy makers within ASEAN have always been consistent in upholding the principles of the ASEAN Charter. However, there are compelling arguments for ASEAN to create a structure that accommodates the needs for defense and military cooperation. This structure is essential to prevent prevent the defense sectors being exploited by the major states in the form of proxy war.

## **SOUTH CHINA SEA CONFLICT FROM ASEAN PERSPECTIVE**

Generally, ASEAN sees the South China Sea as a strategic region, both geo-politically and geo-economically. The South China Sea conflict is a complex one, not only because it involves many countries but also a range of issues and interests of many parties. Tthese factors make this conflict not only about territory or natural resources. The process of dispute settlement is often filled by the tension caused by various factors, such as the presence of United States in the Philippines through corporations and companies.

The South China Sea is a strategic region, which includes Brunei Darussalam, the Philippines, Indonesia, Malaysia, Singapore, Vietnam, and the People’s Republic of China (PRC). There are overlapping jurisdictions between claimant states (Brunei Darussalam, the Philippines, Malaysia, Singapore, Vietnam, and PRC) and causing the conflict to continue.

ASEAN Foreign Ministers signed the Declaration of ASEAN in the South China Sea in Manila on 22 July 1992. The declaration consists of a range of principles, emphasizing the need

for peaceful dispute resolution; encouraging cooperation around the safety of maritime navigation and communication; protection of the marine environment; coordination for search and rescue; and efforts to combat piracy at sea and Berta's armed robbery of illicit drug trafficking.

Ten years later, ASEAN and PRC issued the Declaration on Conduct of the Parties in the South China Sea (DOC) signed in Phnom Penh, Cambodia, on November 4, 2002. The declaration consists of the commitments by ASEAN member countries to comply with international legal principles, respect for freedom of navigation in the South China Sea, resolution of disputes peacefully, and refraining from tactics that increase the escalation of the conflict. The DOC is a guideline for ASEAN member countries and PRC to safeguard the peace and stability in the disputed territories in the spirit of cooperation and Baling beliefs. In 2011, the PRC and ASEAN agreed to the Guidelines for the Implementation of the DOC. This declaration helps both parties to implement the DOC through cooperation. It also helps both parties to start preliminary discussions on the establishment of a regional Code of Conduct in the South China Sea (CoC) that will serve as an operational preventive measure and effectively regulate behavior (Kemlu, 2012).

From the aforementioned quote, we can conclude that ASEAN's efforts to solve this conflict through agreement and is consistent with the norms that are expected to be applied by the parties conducting activities in the South China Sea. ASEAN seeks to prevent the conflicts becoming more complex and jeopardizing security stability in the region. But these efforts do not seem to be effective enough, because the parties need to have good faith to implement them. Unfortunately, the rising tension in the region indicates that certain parties are inconsistent.

Ratih Indraswari (2012: 214) expressed this concern in the conclusion of her research: The relationship between the PRC and the claimants' states from ASEAN is characterized by the escalation of conflicts, combat, diplomatic tensions and harsh rhetoric gestures. However, there has been no open war between the claimants state because they realize the importance of the sea. The parties also realize the importance of their commitment

towards TAC norms and peaceful settlements. From a different perspective, claimants are also questioning the PRC's move on enforcing the norms of peace settlement in TAC regarding their inconsistent behavior. Beijing is increasing connections with the territory. In most cases, the PRC has chosen diplomatic solutions to settle this conflict, but that does not mean the PRC will continue this if there is what Beijing considers to be a violation of its sovereignty. Violence is still an option, though not a first one. Based on aforementioned opinion, it can be argued that the TAC norm is not able to change Beijing's behavior in the South China Sea and prevent any settlement through violence. Nonetheless, the notion that TAC norms fail to influence the behavior of claimants is arguable. Although the existence of the norm cannot help experts to understand the complexity of the dispute, the TAC norm influences perceptions of claimants to the dispute within certain limits. Seeing that the norms of the peaceful settlement in the TAC are important to govern international relations in the region, countries will adhere to their commitment to maintain stability. Thus, the norm itself is certainly needed to defuse the complexity of the South China Sea dispute.

Empirically, the South China Sea dispute is also strongly influenced by factors from outside the region, such as US and PRC relations. ASEAN's role from research and studies tend to play it safe by using various organizational instruments, such as the framework of ASEAN+3 cooperation to minimize the PRC's inconsistency. The PRC seriously considers the importance of this region to build multipolarity and limit the United States' space in Southeast Asia and East Asia. So, it is understandable that the PRC still has the option to start open conflict, but ultimately prefers a path of compromise.

With its non-intervention principal, ASEAN makes it possible for the PRC to conduct peace talks on sensitive issues like the South China Sea. For ASEAN, the PRC's positions can be viewed positively or negatively. The PRC is open to ASEAN mechanisms, which is an advantage to manage tensions in the region. However, the fact that PRC will always consider

itself bigger than ASEAN, is a reason ASEAN should remain cautious.

Ideally, ASEAN needs to manage the Balance of Power as its function in the South China Sea dispute. Both the PRC and the United States put ASEAN more as a reducer of the power competition between them. The PRC and the United States have many valuable assets scattered throughout the region and have to protect them. Rationally, open conflict for both parties will bring many disadvantages.

On the other hand, the US chooses to maintain the region's security concerns as a part of its interventionist policy to the South East Asia region. This leads to a multipolarity international system which has the side-effect of structurally instability, unpredictability, imprecise level of uncertainty, inequality and a complicated international environment (Kegley and Raymond, 1994: 48-49). Unlike the bipolar system which made the Soviet Union a tangible enemy against US power, a multipolar system results in more complex levels of threats and security issues. This is also supported by Buzan, Waeber and Wilde (1998: 2) who claim that security issues post-cold war have shifted from a traditionalists' old military and state-centered view to the rise of economic, environmental agendas during 1970s and 1980s and identity issues and transnational crime during the 1990s. This shift is similar to recent circumstances where state as a possessor of the "Security Dilemma" and military capability are not the only perceptible potential threat. The appearances of US forces in South East Asia region can be recognized as an example of this, where the US' motive is to protect its own interests and security by whatever means necessary. On the other hand, quite a few nations in ASEAN rely on the US' armed forces to defend its autonomous sovereignty and security issues.

In addition, the South China Sea dispute is considered as a legacy from the Cold War that is still haunting ASEAN. The APSC framework is expected to address this and contribute effectively towards the establishment of the ASEAN community. The APSC has three main characteristics:

- A Rules-based Community of shared values

and norms;

- A Cohesive, Peaceful, Stable and Resilient Region with shared responsibility for comprehensive security; and
- A Dynamic and Outward-looking Region in an increasingly integrated and interdependent world

A normative approach seems to be the main choice for ASEAN to build political and security cooperation that can support the establishment of the ASEAN community. Through the three characteristics of the APSC, there are also a variety of contemporary security issues and dynamics. It is expected that the member countries can live peacefully in a democratic climate through APSC. The idea of democracy will bring the openness to accommodate various patterns of interaction between state and non-state players, in the context of international, transnational and global relations.

At a glance, we may be pessimistic about the idea of resolution of the South China Sea dispute. The PRC's willingness to sign the TAC suggests that the normative approach, which tends to carry Western values is not rejected. This is because the PRC applies combination of foreign policy strategies. In the context of the international political economy, the PRC is an active participant in the liberal market economy. The PRC has the nickname "red capitalist" because they show their rationality in establishing their existence internationally and in the region.

The PRC may not want to back off, even a bit, when it comes to territorial issues, including in the South China Sea but the China-ASEAN Free Trade Area initiative proves China will tend to act rationally. While there remains a number of security-related issues that might undermine the China-ASEAN relationship, notably over territorial claims in the South China Sea, China is displaying a remarkable cooperation with ASEAN. Moreover, China is potentially a significant market and source of investment for Southeast Asia, and full realization of the China-ASEAN FTA could see the emergence of a region relatively less dependent on the US. Both China and ASEAN also share similar approaches to development. Despite



considerable economic liberalization and their emphasis on market governance and private sector-led growth, both parties retain a role for the state in the economy. Such convergence of ideas and practices in economic governance can only help reinforce China's growing role in the regional order, while potentially laying the initial groundwork for East Asian regionalism (Nesadurai in Farrell et.al, 2005: 165-166).

According to Clive Archer (2001: 27-32) regional cooperation has been developed along with the dynamics of international players – both state and non-state. Movements, interactions and transactions of non-state players are increasing rapidly in all aspect of life; economic, political, social, cultural, health, environmental and so on. Therefore the need for cooperation within the region is not only driven by the national interest, but also driven by the fact that ASEAN is one of the most important regional organizations in the international political arena.

The greatest challenge faced by ASEAN may no longer be the political elites' level of perception towards each national interest, but the level of socio-cultural pluralism – both domestically and regionally. It is often said that ASEAN succeeded to become a respected regional organization when Soeharto had his power. Of course at that time the facts cannot be denied, but we must carefully review the present international system – as well as the role of non-state players. The dominance of a powerful state overrides the various roles and voices of other players. Contemporary security issues – such as human trafficking, refugees, and various problems caused by the high mobility of players is also very important. In the South China Sea dispute, we should note that these other issues are often overlooked. APSC needs to pay attention to a wide range non-state players, to accommodate countries outside ASEAN and protect its people. Peace and stability are not only understood by the absence of open conflict, but are also characterized by the level of wellbeing and the public awareness of a common identity.

## **ASEAN'S EFFORTS IN CHANGING THE DECLARATION OF CONDUCT INTO CODE OF CONDUCT**

The South China Sea issues cannot be separated from the research into a Code of Conduct (CoC). The importance of a CoC can be seen in the APSC blueprint. It explains that peace and stability in the South China Sea will be achieved through full implementation of the DoC and continuing effort to formulate and adopt a CoC.

At the latest meeting in Cambodia in 2012, ASEAN did not reach an agreement on a CoC. As the ASEAN Chairman at the time, Cambodia rejected any discussion of a CoC in the South China Sea as it deemed the countries involved must resolve border disputes bilaterally. The disputes between ASEAN member countries cannot trigger ASEAN to intervene. This attitude is was contradicted by other member countries – such as the Philippines, Vietnam, and Indonesia.

The discussion of a CoC in the South China Sea has a long history. It started at the meeting of Foreign Ministers of ASEAN countries in Manila in 1992 – which resulted in the ASEAN Declaration on the South China Sea. This emphasized the need for peaceful dispute resolution; encouraged the exploration of cooperation for the safety of maritime navigation and communication; the protection of the marine environment; the coordination of search and rescue; the efforts to combat piracy, armed robbery and illicit drug trafficking.

Ten years later after the meeting, ASEAN and the PRC signed the Declaration on Conduct of the Parties in the South China Sea (DoC) in Phnom Penh, Cambodia in 2012. The declaration is a commitment from ASEAN member countries and the PRC to comply with international legal principles, respect the freedom of navigation in the South China Sea, settle disputes peacefully, and refrain from actions that can escalate any conflict. Since then, the DoC has become a guideline for ASEAN member countries and the PRC in safeguarding peace and stability in the disputed territories with a spirit of cooperation and mutual trust.

Furthermore, at the eighteenth ARF meeting in Bali, the PRC and ASEAN successfully agreed on the Guidelines for the Implementation of the DoC (Declaration on Conduct of the Parties in the South China Sea). This guideline is considered to be a major milestone of South China Sea dispute settlement. The agreement brings opportunities through cooperation between ASEAN and the PRC in the South China Sea region. It also brings the start of a preliminary discussion on the establishment of a Code of Conduct in the South China Sea (CoC) that will serve as a preventive operational mechanism, aimed to effectively regulate state behavior.

It should be noted that the problems in the South China Sea are not only related to bilateral disputes between ASEAN member countries – such as Vietnam, the Philippines, Brunei Darussalam, and Malaysia with the PRC, but also has implications for the stability of Southeast Asia. So, major problems in the South China Sea mean greater problems for ASEAN member countries. The settlement of this dispute should be considered as a common interest for ASEAN member countries.

As mentioned before by Cambodia, the bilateral dispute settlement failed to fully resolve the issue. The author assumes that without any ASEAN involvement, sooner or later, the dispute between ASEAN member countries and PRC will escalate, reaching the culminating point to cause security instability in ASEAN. The situation will get worse if other countries, such as the US, interfere in the dispute.

The formulation of the CoC to settle this dispute looks complicated. It needs to include the interests of other countries, such as the PRC and the United States, who are not members of ASEAN. However, there is enormous urgency for the DoC to move towards a CoC if ASEAN member countries want to settle this dispute peacefully. The preparation of a CoC is crucial and considered as a strategic one, because the code of ethics will outline rules on how claimant states should act in the South China Sea. In fact, looking at the complexity of the South China Sea disputes as described in Chapter IV, the peaceful resolution of the South China Sea

dispute will take a long time, so a CoC is vital for maintaining the status quo and maintaining the stability of the region's security.

The South China Sea's DoC arrangement in 2002 was only based on the multilateral dimension and only accommodated the views of the current member states to manage conflict peacefully. This declaration was only a temporary political agreement. From the violations committed by the disputing countries – such as the PRC, this declaration looks irrelevant.

In addition, the code of ethics will be more legally binding and will encourage all parties to refrain from acts of violence or other coercive measures in resolving this dispute. Without regulation from a CoC, small incidents can provoke disputing countries to engage in military actions. This can be seen from the case of a Philippine patrol boat that shot a Taiwanese fishing boat several months ago – as it was believed to be fishing in waters claimed by the Philippines. The incident soured diplomatic relations between both parties. The issue was also considered as the PRC's maneuver to re-heat the dispute.

In the short term, the ASEAN intervention in the creation of a CoC aims to minimize incidents that could lead to dangerous military actions. In the long term, a CoC could be a prelude to more serious bilateral talks between ASEAN member countries and the PRC. Unfortunately, only some of ASEAN member states consider the importance of this issue. Indonesia is one of the active members that show commitment to the formulation of a CoC. In fact, Indonesia has no dispute in the South China Sea.

In 2012, the Indonesian Minister of Foreign Affairs approached and consulted with ASEAN Foreign Ministers towards the joint position. The effort resulted in the approval of ASEAN's Six Point Principles on the South China Sea in July 2012, three months after the failure of ASEAN agreement in Cambodia. The document consists of:

1. The full implementation of the Declaration on the Conduct of Parties in the South China Sea (2002);

2. The Guidelines for the Implementation of the Declaration on the Conduct of Parties in the South China Sea (2011);
3. The early conclusion of a Regional Code of Conduct in the South China Sea;
4. The full respect of the universally recognized principles of International Law, including the 1982 United Nations Convention on the Law of the Sea (UNCLOS);
5. The continued exercise of self-restraint and non-use of force by all parties; and
6. The peaceful resolution of disputes, in accordance with universally recognized principles of International Law, including the 1982 United Nations Convention on the Law of the Sea (UNCLOS).

Although it has not reached the stage of a CoC, the above agreement is a positive effort amid the internal dispute in ASEAN. In addition, it is necessary to realize that the change of the DoC to a CoC will require a long negotiation process.

## CONCLUSION

In conclusion, ASEAN's current role for settling disputes and conflicts in the South China Sea conflict has been restricted to a negotiator and facilitator under the principles of the ASEAN Charter. ASEAN has undertaken the task of negotiation and diplomacy, especially in its approach to China, without accommodating the national interests of its member countries involved in the dispute. This action hopes to postpone open conflict between China and the US until ASEAN creates a new defense structure under the pillar of ASEAN Political and Security Community.

In addition, Brunei's policy deserves appreciation as a new breakthrough, but on the other hand such a move could be perceived as a reckless move because of Brunei's lack of experience to lead ASEAN. Indonesia as a "senior member" of ASEAN should be able to provide assistance to Brunei to be cautious in dealing with the US, Russia and China within the framework of military cooperation in the legacy of the Cold War.

Thus, if ASEAN members want to uphold the values of neutrality and the centrality of ASEAN in resolving disputes, then ASEAN should be implemented in two ways: as an independent instrument and as a mediator/negotiator. We hope that in the future ASEAN will become a regional governance forum in the South China Sea and also in the Southeast Asian region.

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