

# FACING SOUTH CHINA SEA DISPUTE: WHERE IS ASEAN SINGLE VOICE?

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**Abstract:** South China Sea disputes has become intense in challenging regional stability in Southeast Asia. The strategic location of rich natural resources, for instance, oil and gas has triggered China and other Claimant States in Southeast Asia in exercising their capability mainly in military power to secure their claimed area. China stretched its “Nine-Dash Line” and created an artificial island namely Sparty Island. To date, this unresolved disputed questioning the role of Association of Southeast Asian Nations (ASEAN) as the leader of regional organisation in dealing with this conflict. The disputes mechanisms have been exercised by ASEAN, for instance, Treaty of Amity and Cooperation (TAC) through ASEAN Regional Forum (ARF) as well as produced guidance in facing China through Declaration of Conduct (DOC) and Code of Conduct (COC). However, the progress apparently remain insignificant in achieving agreement. This paper examines ASEAN’s leadership in bridging the dispute through assessing the effectiveness of its dispute mechanisms through Confident Building Measures (CBM) as a diplomatic strategy in reaching one single voice in facing China.

Keywords: ASEAN, South China Sea Disputes, Nine-Dash Line, ARF, CBM and Diplomacy

## Introduction

It is arguably that South China Sea dispute has not been resolved to date. Several attempts have been done to achieve win-win solutions between China and Claimant States hereby Vietnam, the Philippines, Taiwan, Malaysia and Brunei Darussalam. Rising tension between those aforementioned parties has become undeniable since China defends his assertiveness towards the ownership of the dispute territories.

It is difficult to deny that the South China Sea is a significant and strategic path for international trade.

Such thing is apparently triggered this sea territory a seizure for many countries due to their national interest behind this dispute. The data shows that the South China Sea has abundant natural resources for instance oil, petroleum gas and fish (Rustandi, 2016).

Furthermore, the friction of the dispute is further exacerbated by China’s assertiveness to strengthen its defense system. It can be said that China is attempting to preserve its national interest yet perceive insecurity regarding the pressure of the claimant states. It is proven by the fact that

China has built and expanded its naval base system, missile shelter and other military infrastructure in Spratly Island to secure the disputed area (Poling, 2018).

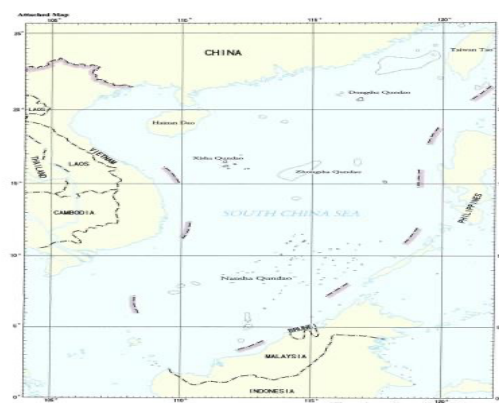
Pertaining to the above, dispute settlement through diplomatic way has been continuously conducted. The Association of Southeast Asia Nations (ASEAN) which in this case taking a role to negotiate multilaterally is facing extensive challenge from China and the claimant states which are the ASEAN Member States (AMS). It is supported by the fact that there was disagreement and discordance to have one single voice or stance towards the South China Sea disputes among the AMS in the 45<sup>th</sup> ASEAN Ministerial Meeting, July 2012 in Phnom Penh (Rustandi, 2016).

Thus, this essay will examine the causalities which lead to the deadlock in multilateral negotiation through ASEAN in resolving the dispute. The first part will discuss the root problems of the disputes. The second part will elaborate the challenging factors that influence the decisionmaking process. The third part will evaluate its failure in reaching an agreement. In the last part this essay will argue that China's actions towards the disputes will be lasting unless the AMS are brave enough to have one single voice in ASEAN.

### **Conflict Between China and the Claimant States**

It is arguably that the South China Sea dispute cannot be separated from the competing claims between

China and the Claimant States. Initially, China's reaction towards the problem was related to its claim over the "Nine-Dashed Line" in the territory of South China Sea. According to (Korkut and Kang, 2017) China rejected the cooperation between Malaysia and Vietnam in order to preserve the sea territories and set the boundaries of the sea through Commission on the Limits of the Continental Shelf ("CLCS") which based on China's claim, those territories are belong to China. However, China's claim relating to the areas is not convincing enough. This reason is also supported by the fact that claiming the area is always debatable when this dispute was tried in The Arbitration Tribunal in Government of the State of Eritrea and Government of the Republic of Yemen yet China could not prove significant evidences (Korkut and Kang, 2017).



China's Claim on "Nine-Dashed Lines"  
Source: (Korkut and Kang, 2017)

The exacerbated tension between China and the claimant states in Southeast Asia has become worsen

since China has no positive willingness to deescalate the dispute. Military rivalry started notably between China and the Philippines which seems both parties defend themselves to protect the territory hereby the Spratly Island. It has proven by the evidence that in 2014, Philippine army troops succeeded in foiling China's efforts to supply basic needs to its military forces in the Philippines. This resulted in the destruction of Chinese ship and it triggered China to escalate the situation (Glaser, 2015).

In addition, the conflict between Vietnam and China is also an increasingly troubling issue. In this case, the military confrontation between those two countries has become more apparent. China has entered the Exclusive Economic Zone (EEZ) which belong to the persevered area of Vietnam and built deep rig oil there (Glaser, 2015). The confrontation was seen more clearly when the military boats of China and Vietnam crashed into each other which signaled that the rig should be withdrawn from the territorial waters of Vietnam (Glaser, 2015).

### **Attempts to Reach an Agreement**

Several endeavors have been attempted in order to achieve win-win solution for both China and Claimant States. One of the attempts is through conducting multilateral negotiation with ASEAN. It is worth noting that the role of ASEAN remain crucial due to

some of the Claimant States are the AMS.

It is arguably that in the process of conflict resolution through negotiation, one of the main things that need to be done is to build trust between the conflicting parties. The existence of ASEAN in tackling this dispute becomes very important as a regional organization that functions to carry out the settlement mechanism through Confident Building Measure (CBM).

According to (Mason and Siegfried, 2013), CBM defined 'as a series of actions that are negotiated, agreed and implemented by the conflict parties in order to build confidence, without specifically focusing on the root causes of the conflict.' In other words, this method is taken in order to deescalate tension between parties in any kind of disputes.

In the relations to the above, the need to mediate this dispute through negotiation process has been urgently important. In 2002, a Declaration of Conduct (DOC) of Parties in the South China Sea have been agreed between China and claimant state to pursue diplomatic way (Lunn, 2016). Yet, military aggression which happen in the field seems unable to help resolve the conflict. However, there were also other efforts which have been attained in terms of building trust between China and Claimant states. The evidence was China, the Philippines and Vietnam through their national oil company agreed to have cooperation related to

marine seismic actions in the Sparty Island (Lunn, 2016)

Moreover, the fluctuating situation in resolving dispute in South China Sea does occur uncontrolled beyond the CBM stage. China seems to do self-defense with its increasingly aggressive and active attitude in controlling the disputed territory. It shows that the CBM concept itself has limitation to avoid escalated tension notably in this particular case.

In terms of legal stage, South China Sea disputed was tried in the Arbitral Tribunal under UN Convention on the Law of the Sea (UNCLOS) in October 2015 to solve the problem which proposed by the Philipines (Lunn, 2016). However, (Lunn, 2016) also argues that China has denied the result which stated that the UN has rights to control over the territorial dispute and to prevent the more devastating situation. Such thing has shown that both parties are not likely have a noble intention to refrain themselves from confronting. Instead, both China and the Philipines strengthen their military capabilities.

In the relations to the above, unwillingness of China to pursue peaceful settlement has shown that China has ambition to have control over the territorial dispute using their military infrastructure to create insecurity to the other Claimant states. (Hiebert, Nguyen and Poling, 2014) points out that China always attempt to be strict to their long-term goal to spread and strengthen their influence toward this case. In addition, there is

also a tendency that China is spreading its influence over the claimant states hereby in Southeast Asia (Severino, 2010).

### **Assessing the Failure of Negotiation**

As a regional organization, ASEAN has crucial role in maintaining peace in Southeast Asia. Regional stability in this region remain important since this region has recognized as the emerging countries. Yet, sometimes it seems to be challenged by the behavior of the ASEAN Member States (AMS) themselves and external parties in securing the dynamic of political stability within the region.

Since its establishment in 1967, ASEAN already has the mechanism to solve dispute settlement namely ASEAN Regional Forum (ARF) and Treaty of Amity and Cooperation (TAC) (Severino, 2010). Such treaty is utilized as a tool for the parties to prioritize negotiation and as nonuse of force mechanism in solving dispute settlement in the region (Kraichitti, 2015).

Since then, South China Sea dispute has become a spotlight in almost ASEAN meetings in order to achieve the concrete and fair solution towards the territory and its natural resources. It has proven by the agreement called ASEAN Declaration on the South China Sea which have been signed by the AMS in 1992 (Severino, 2010). This agreement has become a tool to enforce constructive engagement between China and AMS

to solve without military or hard power (Severino, 2010). However, since the enforcement of the agreement, it seems to be slightly difficult in dealing with complex dispute situation since China also have tight relations to some AMS which means that China has significant influence to the voice of the AMS towards this dispute.

Furthermore, the influence of China in Southeast Asia has attracted other great power hereby the United States (US) to take a part and help to deescalate the tension. The US apparently attempt to secure its national interest in Southeast Asian region. (Bouchat, 2014) points out that Southeast Asia has become a prominent and important partner for the US to succeed its economic and strategic interests. (Hiebert, Nguyen and Poling, 2014) argue that in dealing with this dispute, the US has invigorated the Claimants States to defend themselves and obtain their claims through using the United Nations Convention in the Law of the Sea (UNCLOS) as a legal and binding framework.

However, it is clear that by the abundant natural resources in South China Sea, the US will never leave this region to be dominated by China, instead, the US will do a softer approach to achieve its interest to gain some benefits from this disputed territory.

The above reason has shown that the US comes into the region to balance the power and influence of China in ASEAN. It has proven by the fact that the US helped the Phillipines

pertaining to their defense cooperation (Mcdevitt, 2015). Such joint action triggered the US to protect and become a safeguard of the Phillipines in facing China military operation in dealing with this dispute notably in Sparty Island (Mcdevitt, 2015). Therefore, such conflicting influence between China and the US has led the AMS to have different voice in every negotiation.

In order to assess the US influence in this South China Sea dispute deeply, one of the tool is through analyzing using Game Theory in negotiation. Game Theory explained that if a state is strong, they will defend their position even create more pressure against other enemies (Narlikar, 2010). This theory proves that China is expanding its influence in order to maintain its power in the South China Sea dispute territory. However, as a super power country, the US also plan to strengthen their military capability in balancing China's aggressiveness. The fact shows that the US will contribute more to its Foreign Military budget up to 35% and give military coaching for the troops up to 40% or in other words the amount will be approximately reach \$156 million to support military assistance in Southeast Asia region (Hiebert, Nguyen and Poling, 2014).

Pertaining to the above, the complexity towards this dispute are shown by Malaysia and Brunei Darussalam which in this case are not actively and not aggressively against China's position which ultimately lead to more complex situation. (Hiebert,

Nguyen and Poling, 2014) argue that two other claimant states hereby Brunei Darussalam and Malaysia remain not giving voice towards the case. For this reason, it can be seen that both countries have tight relations to China. This is evident by the fact that Brunei Darussalam has strong cooperation with China. China apparently has a dependence on the abundant hydrocarbon gas owned by Brunei Darussalam (Sands, 2016). Moreover, as part of Beijing's Maritime Silk Road's major projects, Brunei Darussalam and China have invested more than \$ 500 million together (Sands, 2016). Such evidence is certainly profitable and can be said that this economic potential affects the decision and voice of Brunei Darussalam to the case of the South China Sea. Meanwhile, (Noor and Daniel, 2016) point out that Brunei Darussalam puts forward a peaceful approach for both claimants and China in solving the problem. Brunei Darussalam is seen playing safely in this situation.

Similar things happen to Malaysia due to its close cooperation with China. It also shows that Malaysia is apparently having a double standard in behaving towards this issue. (Noor and Daniel, 2016) argue that in several occasions Malaysia always try to avoid discussions pertaining to the South China Sea dispute. However, one of the factors behind this attitude is shown that in fact, the economic cooperation between Malaysia and China is strong enough and gives significant benefits to

both parties. In addition, China and Malaysia have "special relationship" since 1974 (Noor and Daniel, 2016). It was prefixed by the predecessors hereby Prime Minister, Abdul Razak Hussein with Chinese Prime Minister Zhou En Lai. The bilateral relations is getting stronger to date notably in terms of trade and investment (Noor and Daniel, 2016).

The lack of unity in terms of attitudes toward the South China Sea case from ASEAN member states shows that the mechanism of conflict resolution in ASEAN still has weaknesses. (Hiebert, Nguyen and Poling, 2014) points out that several agreements hereby 1992 ASEAN China Agreement on the South China Sea Dispute and Declaration on the Conduct of Parties in the South China Sea (DOC) are not implemented effectively to solve the dispute. It seems that since such agreement are not legally binding, there is a probability for China to breach the agreement through remain expanding its influence towards the dispute territories. In addition, the enforcement has become worsen due to ASEAN's fault in solely facilitating or managing the conflict rather than solve the conflict itself (Hiebert, Nguyen and Poling, 2014).

In addition, examining ASEAN Way as "non-interference" organization has become pivot in facing this dispute. This South China Sea dispute which has tight relations between China and AMS shows that ASEAN let its AMS mainly the Claimant States to pursue the

conflict resolution based on their mechanisms (Hiebert, Nguyen and Poling, 2014). It seems that ASEAN has an absence leadership in dealing with this problem since ASEAN gives rights to its AMS to cope up with their own internal problems with China.

### Conclusion

The South China Sea Dispute which until recently has no obvious solution remain crucial not only for China but also other Claimant States notably AMS. China's assertiveness in enlarging its influence in South East Asia has become a major threat for ASEAN credibility as a regional organisation in reexamining its conflict resolution mechanism. The failure of several negotiation process which followed by, *inter alia*, some non-legally binding agreements and external factor such as the US presence in the region should become a discretion for ASEAN and its AMS to forge ahead together and rebuild solidarity.

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