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# ASEAN and the South China Sea: Approaches to Resolving the Conflict

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*SIT Study Abroad*

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ASEAN and the South China Sea: Approaches to Resolving the Conflict

Jennifer Jie Li

Fall 2017

SIT Study Abroad: International Studies and Multilateral Diplomacy  
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## ABSTRACT

In recent years, tensions have escalated between actors in the South China Sea, one of which is the Association for Southeast Asian Nations (ASEAN), the region's primary intergovernmental organization. The purpose of this report is to determine the effectiveness of ASEAN in resolving the South China Sea disputes and to clarify how geopolitical factors have impacted the organization's actions. Through an analysis of evolving maritime claims and the current state of affairs, this paper suggests that ASEAN must be involved in any attempt to resolve the conflict peacefully. Acknowledging the importance of the diplomatic channels that ASEAN has created to ease tensions, this paper argues that a US-Japan security alliance can help ASEAN foster a long-term, peaceful solution for the historical disputes.

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## INTRODUCTION

The South China Sea includes some of the most strategically important maritime territory in the world. Historically, these waters have been a source of tension between the People's Republic of China and its neighbors, including Japan, Vietnam, and the Philippines. With many natural resource reserves and as a major shipping route across the region, the SCS serves as a new sphere of influence for Asian-Pacific countries in the 21st century.

Over the past few years, tensions in the SCS have escalated between actors, one of which is the Association for Southeast Asian Nations, the region's primary intergovernmental organization. These tensions have largely been shaped by China's growing assertiveness in the region. Control of the SCS would allow Beijing to dominate major trade and oil routes, potentially disrupting shipments to East and Southeast Asian countries. This control would effectively give China a new level of energy security and independence. As a result, this has raised questions about countries' security commitments, namely, the role of ASEAN.<sup>1</sup>

Conflicts over control of the South China Sea challenge ASEAN's ability to manage regional security, protect the economic and environmental interests of its members, and maintain its reputation as a credible international organization. Although a peaceful agreement would prove beneficial to all actors, intrastate competition over the region and resource allocation has complicated negotiation attempts. Despite differing attitudes and motivations within ASEAN member states and other regional powerhouses, it is important to analyze ASEAN's actions in the political-security arena to suggest ways to improve its contribution to conflict resolution.

The purpose of this report is to determine the effectiveness of ASEAN in resolving the South China Sea disputes and to clarify how geopolitical factors have impacted the organization's actions. The scope of this paper examines the historical claims, economic

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<sup>1</sup> William Pesek, "Making Sense of the South China Sea Dispute," *Forbes*. Accessed September 24, 2017.

objectives, and foreign policy interests at play in the territorial waters. Based on the available evidence, this paper suggests that ASEAN must be involved in any attempt to resolve the dispute peacefully. Furthermore, this report considers how a US-Japan security alliance can ensure a long-term solution to the conflict.

The first section of this paper includes a review of relevant scholarly works in order to situate the topic in existing academic research and present the complexities of the region today. The subsequent section on research methodology explains how the information analysis was conducted. The third section provides a description of the various factors that matter in the South China Sea, including the strategic geopolitical importance of the region, customary international laws related to the disputes, and the strengths and weaknesses of ASEAN. The fourth and fifth sections trace the evolution of maritime claims, including attempts at resolution and ASEAN's role in addressing the conflict. Then, I assess two potential approaches to resolving the dispute, both of which shed light on the region in the coming decade: 1) the effectiveness of ASEAN thus far and its continuing efforts to engage in dialogue with external actors, including China, and 2) the inclusion of a US-Japan security alliance in negotiations. After examining the future of the SCS, I conclude that the group should continue its role in maintaining stability in the region and take the lead in creating a peaceful consensus alongside the US and Japan.

### **Literature Review**

The East Asian economy has been at the forefront of research on Asia for decades, but the focus only turned to ASEAN in the 1990s, when China began its transition towards a market-oriented economy. Likewise, rival countries have competed over claims in the SCS since the early 1900s, but in recent years, more attention has been paid to the region as tensions have increased. The wealth of literature on both subjects is related to the economic rise of China and

the subsequent US political pivot to Asia in 2009. Many publications about the region use both qualitative and quantitative data to cover a range of topics, including different countries' perspectives and the international forums that ASEAN has created.

Research organizations and academics around the world continue to write about different countries' interests and their policies toward the South China Sea. Fangyin Zhou's article, "Between Assertiveness and Self-Restraint: Understanding China's South China Sea Policy," in *International Affairs* provides a contemporary and comprehensive overview of China's strategic goals in the area. He discusses China's evolving strategy and assesses the dynamics of the relationship between China and ASEAN.<sup>2</sup> Additionally, Joshua Rowan's article, "The US-Japan Security Alliance, ASEAN, and the South China Dispute," for *Asian Survey* describes the interests of the US and Japan, and how an alliance between the two could operate in conjunction with ASEAN to create an effective long-term solution.<sup>3</sup> This literature was helpful in analyzing the current state of affairs in the SCS and in determining how ASEAN can fit in with the agendas of China, the US, and Japan to resolve the disputes.

The main theoretical approach with which the South China Sea can be understood is through defensive realism, although liberalist and constructivist approaches also offer explanatory variables for the ongoing disputes. According to Jihyun Kim's article, "Territorial Disputes in the South China Sea: Implications for Security in Asia and Beyond," for *Strategic Studies Quarterly*, the future of East Asia and Sino-US relations is somewhat pessimistic due to

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<sup>2</sup> Fangyin Zhou, "Between Assertiveness and Self-Restraint: Understanding China's South China Sea Policy," *International Affairs*, Issue 92, No. 4. Accessed October 18, 2017.

<sup>3</sup> Joshua Rowan, "The US-Japan Security Alliance, ASEAN, and the South China Sea Dispute," *Asian Survey*, Vol. 45, No. 3, May/June 2005, 414. Accessed October 18, 2017.

the nature of the security dilemma, a key component of defensive realism.<sup>4</sup> This means that even if China does not seek to take over the entire South China Sea, it has an incentive to signal its influence and maintain its presence. As a result, China will continue to assert its influence in the SCS to gain resources, but will also pay attention to the movements of other actors and potentially compromise with other claimant states. In the face of perceived Chinese aggression, Southeast Asian states will protect their own interests.

Despite the overwhelming amount of analysis on the East Asian economy and the major powers in the region, including China, Japan, and ASEAN, there exists limited research on the effectiveness of ASEAN as a direct mediator in the SCS disputes. In my opinion, much of the existing literature ignores the importance of the diplomatic channels that ASEAN has created to resolve the maritime conflict. This report attempts to bridge the gap by directly applying ASEAN's diplomatic capabilities to address the issues in the South China Sea.

### **Research Methodology**

Security tensions in East and Southeast Asia have received much attention by experts over the past several decades. The primary data used for this paper were secondary sources from experts in Asian regionalism, maritime security, and ASEAN dynamics. Due to the vast amount of academic literature written on this subject, it was important to research East and Southeast Asian relations first in order to gain a better understanding of the individual stakes in the region.

After developing a deeper understanding of the disputes among claimant states in Southeast Asia, I researched American and Japanese interests in the SCS that necessitate the countries' involvement. Washington and Tokyo not only have an interest in maintaining their status in the region, but also ensuring that the dispute is resolved peacefully. Thus, American and

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<sup>4</sup> Jihyun Kim, "Territorial Disputes in the South China Sea: Implications for Security in Asia and Beyond," *Strategic Studies Quarterly*, Vol. 9, No. 2, 2015, 112. Accessed October 24, 2017.

Japanese positions regarding the ongoing territorial disputes in the SCS and their relationships with ASEAN are worth exploring in greater detail.

Twenty-one academic sources and several other websites were used to provide this paper with a range of information about the ongoing conflict. The United Nations Library in Geneva and Harvard University's remote library made it possible to access these scholarly sources. The qualitative research obtained from these journals and documents was then analyzed in order to evaluate the effectiveness of ASEAN's diplomatic role in the SCS and to assess the impact that external actors can have on the regional organization.

The majority of the primary sources cited in this paper are interviews I conducted to gain the most up-to-date research concerning the geopolitics of East and Southeast Asia. Four in-person interviews, in addition to two email interviews, were conducted during the fall of 2017. Interviewees were chosen based on their expertise in Asian-Pacific affairs and proximity to Geneva, Switzerland and Brussels, Belgium. Ethical considerations were made prior to each interview, with each interviewee giving their informed consent to be mentioned in this paper. Many of the interviewees also recommended books, journals, and authors, which are referenced throughout this report.

## **OVERVIEW OF THE SOUTH CHINA SEA**

In order to understand ASEAN's role in the South China Sea, readers must first understand the geopolitical importance of the region and the international laws related to the disputes. Examining the origins of ASEAN and the organization's strengths and weaknesses also provides valuable insight into the group's involvement in the region.

### **Geopolitical Considerations**

The South China Sea is a critical region because it serves the economic interests of the countries competing for claims. More specifically, the waters serve as a vital shipping lane for oil and Liquid Natural Gas (LNG) to China, Japan, South Korea, and others.<sup>5</sup> It is the world's second busiest international shipping lane, after the Strait of Hormuz.<sup>6</sup> Additionally, about two-thirds of South Korean, Japanese, and Taiwanese LNG supplies flow through this region.<sup>7</sup>

In addition to its significance as a shipping lane, the SCS region contains potentially vast oil reserves. A 2013 estimate of the region from the US Department of Energy reports that the SCS contains approximately 11 billion barrels worth of oil reserves.<sup>8</sup> However, much of the region's potential oil and natural gas reserves have been untapped and estimates vary greatly, as drilling for these resources has been discouraged by nations in the region.<sup>9</sup> The UN estimates that the SCS alone accounts for approximately 10 percent of global fisheries production.<sup>10</sup> On the other hand, China estimates that the potential oil resources of the Spratly and Paracel Islands could contain as much as 105 billion barrels of oil.<sup>11</sup> Although many believe this is an overestimation, the 1993-1994 estimate by the US Geological Survey of 28 billion barrels

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<sup>5</sup> US Energy Information Administration, "The South China Sea is an Important World Trade Route," *Independent Statistics and Analysis*. Accessed October 1, 2017.

<sup>6</sup> Joshua Rowan, "The US-Japan Security Alliance, ASEAN, and the South China Sea Dispute," *Asian Survey*, Vol. 45, No. 3, May/June 2005, 416. Accessed October 18, 2017.

<sup>7</sup> Ibid.

<sup>8</sup> US Department of Energy, "South China Sea," *Country Analysis Briefs*. Accessed October 18, 2017.

<sup>9</sup> Steve Mollman, "The South China Sea's Untapped Oil and Natural Gas are Back in Focus," *Quartz*. Accessed October 1, 2017.

<sup>10</sup> US Energy Information Administration, "The South China Sea is an Important World Trade Route," *Independent Statistics and Analysis*. Accessed October 1, 2017.

<sup>11</sup> Joshua Rowan, "The US-Japan Security Alliance, ASEAN, and the South China Sea Dispute," *Asian Survey*, Vol. 45, No. 3, May/June 2005, 417. Accessed October 18, 2017.

discovered and undiscovered reserves still provides a large financial incentive for states to control these islands and waters.<sup>12</sup>

### **International Laws Related to the Dispute**

Before describing ASEAN's significance in the South China Sea, it is helpful to examine what laws govern the region. In 1982, the UN adopted the Convention on the Law of the Sea (UNCLOS), which set out the current legal framework for ocean activities. Today, UNCLOS remains "the most recognizable" document regarding maritime disputes.<sup>13</sup>

The Convention, which has 162 signatories, defines the maritime zones along a nation's coastline, outlines the rights and responsibilities of a nation to protect the marine natural resources in its territory, and establishes rules for international navigation. It states that countries can extend their territory beyond 200 nautical miles, as long as they prove that their continental shelf is a natural continuation of their land territory.<sup>14</sup> Moving forward, it is important to keep UNCLOS in mind as it sets the framework for further agreements to be made in this area.

### **Explanation of ASEAN**

ASEAN has played a significant role in the Asia-Pacific region as "a role model for international behavior" and as "a catalyst for constructive change."<sup>15</sup> Understanding ASEAN's history, principles, limits, and advantages highlights the organization's connection to the SCS dispute and why it is such a critical mediator in the conflict.

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<sup>12</sup> Ibid.

<sup>13</sup> Joshua Rowan, "The US-Japan Security Alliance, ASEAN, and the South China Sea Dispute," *Asian Survey*, Vol. 45, No. 3, May/June 2005, 418. Accessed October 18, 2017.

<sup>14</sup> *Convention on the Law of the Sea*, New York, December 10, 1982, *United Nations Treaty*, 53. Accessed October 24, 2017.

<sup>15</sup> Shunmugam Jayakumar, "Opening Statement" (speech, 30th ASEAN Ministerial Meeting, Kuala Lumpur, Malaysia, July 24, 1997).

The intergovernmental organization was created in 1967 by Indonesia, Malaysia, the Philippines, Singapore, and Thailand. These nations were entangled in geopolitical competition between the US and the Soviet Union, and the two previous attempts at regional organization—Maphilindo in 1963, and the Association of Southeast Asia in 1961—had both failed.<sup>16</sup> Deteriorating relations between Indonesia and Malaysia and the US escalation of the Vietnam War motivated actors to seek a permanent peace in Southeast Asia.

ASEAN was not created as a mechanism for resolving disputes, nor to counterbalance external powers like China. Instead, its purpose was to create intra-regional cooperation and build confidence between its member states by persuading them “to behave in ways that bolster regional stability.”<sup>17</sup> ASEAN's approach has been proven successful, as the organization has raised living standards for more than 600 million people.<sup>18</sup> The group also organizes more than 1,000 meetings each year on a broad range of topics, resulting in a regional culture of *musyawarah* and *mufakat* (“consultation” and “consensus” in Indonesian).<sup>19</sup>

ASEAN's policy of nonintervention is at the core of its mission. Essentially, this means that ASEAN member states avoid criticizing one another and avoid meddling in one another's domestic affairs. This approach has been effective in managing the Thai-Cambodia border dispute, as well as the conflict over the Sabah area between Malaysia and the Philippines. Additionally, a look at the region illustrates that the last war was the Sino-Vietnamese conflict in

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<sup>16</sup> Nicholas Khoo, “ASEAN's Relations With the Great Powers in the Post-Cold War Era: Challenges and Opportunities,” *Asia New Zealand Foundation*, March 2016, 4. Accessed October 18, 2017.

<sup>17</sup> Ibid.

<sup>18</sup> Kishore Mahbubani, “ASEAN: The Way Forward,” *McKinsey & Company*, 1. Accessed November 6, 2017.

<sup>19</sup> Quang Minh Pham, “The South China Sea Security Problem: Towards Regional Cooperation,” *Asia Europe Journal*, Vol. 8, Issue 3, November 19, 2010, 430. Accessed October 31, 2017.

1979. This war, which happened almost four decades ago, is a sign that ASEAN has been successful in maintaining peace in the region.<sup>20</sup>

Yet, despite ASEAN's success, the organization has several shortcomings, most of which stem from China's influence in the region. Most notably, ASEAN is a collection of states with varying interests and capabilities, situated in a larger and complex Asian strategic neighborhood.<sup>21</sup> Only four of the ten member states—Vietnam, the Philippines, Malaysia, and Indonesia—have ongoing disputes with China over the SCS. Thus, many of the member states without a direct stake in the territorial waters are opposed to standing against China.<sup>22</sup> This makes sense as many non-claimant states, such as Cambodia, are extremely close to China and need the larger power's support, and therefore, are unwilling to take a more unified position in the SCS with ASEAN.<sup>23</sup>

Another related weakness of ASEAN is the issue of finding a common position on the PRC's policies and actions. China's commercial influence is very strong in Cambodia, Laos, and Myanmar (CLM), which prevents ASEAN from forming a united position.<sup>24</sup> Moreover, some other ASEAN states, including the Philippines, Thailand, and Vietnam have recently aligned themselves with China as a result of the US withdrawal from the Trans-Pacific Partnership—a crucial part of the US pivot to Asia, which now seems in doubt.<sup>25</sup>

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<sup>20</sup> Suddha Chakravarti, interview by Jennifer Li, *Hotel Warwick Cafe Geneva*, November 6, 2017.

<sup>21</sup> Nicholas Khoo, "ASEAN's Relations With the Great Powers in the Post-Cold War Era: Challenges and Opportunities." *Asia New Zealand Foundation*, March 2016, 4. Accessed October 18, 2017.

<sup>22</sup> Zachary Keck, "Solving Intra-ASEAN South China Sea Disputes," *The Diplomat*. Accessed October 31, 2017.

<sup>23</sup> Lionel Fatton, interview by Jennifer Li, *Webster University Geneva*, November 1, 2017.

<sup>24</sup> Robin Ramcharan, email interview by Jennifer Li, November 9, 2017.

<sup>25</sup> Robin Ramcharan, email interview by Jennifer Li, November 9, 2017.

A third weakness of ASEAN is that it does not have the capacity to deal with Chinese military power. Although ASEAN's ten member states form an economic powerhouse with a combined GDP of \$2.4 trillion, the region has yet to develop its human capital and military capabilities.<sup>26</sup> Furthermore, trade interdependence between ASEAN and the PRC will continue to deepen, giving the latter continued leverage in the region.<sup>27</sup>

Despite these challenges, ASEAN's ability to both embed itself within the wider Asia-Pacific context and bring key players, including China and Japan, to the table are important accomplishments and critical to its continued relevance. ASEAN's dialogic, consensual, and "relaxed" nature has contributed to regional stability by creating norms and an environment to address shared challenges. Therefore, ASEAN will continue to play a major role in mediating the South China Sea conflict, as well as shaping the region's political, economic, and security architecture in the 21st century.

### **EVOLUTION OF MARITIME CLAIMS**

The following section analyzes the evolving character of the South China Sea disputes, which is key to determining ASEAN's role. Significant attention is placed on previous attempts at resolution and claims made by the nations surrounding the SCS region.

#### **Attempts at Resolution**

While tensions still run high between claimant states and other relevant actors, some steps have been taken to resolve the conflict. This includes ASEAN's lead in creating mechanisms for relevant actors to come together, the 2016 Philippines case, and China's new willingness to sign a binding code of conduct (COC) to handle territorial claims in the SCS.

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<sup>26</sup> Kishore Mahbubani, "ASEAN: The Way Forward," *McKinsey & Company*, 3. Accessed November 6, 2017.

<sup>27</sup> Robin Ramcharan, email interview by Jennifer Li, November 9, 2017.

ASEAN has arguably been most successful in promoting dialogue with relevant actors, especially China. It has initiated a set of mechanisms and processes in which strategic players can participate, including the development of the ASEAN Regional Forum in 1994 for political and security dialogue, the East Asia Summit, which involves the ASEAN-10, and the Asia-Europe Meeting with the European Union and ASEAN +3. As a result, ASEAN has provided a platform for countries to discuss issues, while building trust among one another.<sup>28</sup>

This approach of creating a discussion space for the SCS issue has shaped China's behavior in the region. Specifically, China has valued ASEAN support in developing its regional role. In turn, ASEAN has benefitted greatly from continued investment of Chinese groups in Southeast Asia. It is evident that over the past decade, ASEAN-China relations have improved and ASEAN's new strategy of constructive engagement has been mutually beneficial.<sup>29</sup>

Another factor that has attempted to resolve the disputes is the Philippines-China court case. In 2013, the Philippines submitted a case against the PRC to the International Court of Justice's Permanent Court of Arbitration in The Hague, challenging China's nine-dashed line claim and other actions taken in the disputed area. The nine-dash line refers to the PRC territorial claim that encompasses a major part of the SCS, such as the Paracel and Spratly Islands.<sup>30</sup>

On July 12th, 2016, the International Court ruled in favor of the Philippines, stating that while Chinese navigators and fishermen had historically made use of the islands, there was no evidence that the country had historically exercised exclusive control over the waters or their resources. Thus, the Tribunal concluded that China had no "historic rights to resources within the

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<sup>28</sup> Carolina Hernandez, "ASEAN's China Strategy Towards a Regional Order," *3rd Berlin Conference on Asian Security*, 17-19 September 2008, 2. Accessed November 3, 2017.

<sup>29</sup> *Ibid.*, 5.

<sup>30</sup> "The South China Sea Arbitration" (press release on Permanent Court of Arbitration ruling, The Hague, 2016, 1). Accessed October 24, 2017.

sea areas” on the nine-dashed line map.<sup>31</sup> This ruling was a huge victory for the Philippines and a strong basis for the future settlement of disputes in the region. Although China has since rejected the ruling, the case “helped soften China’s position vis à vis ASEAN claimants.”<sup>32</sup>

More recently, China’s backing of a legally-binding code of conduct framework with ASEAN has been a major step in resolving the disputes. A COC is a regulatory instrument with “a written set of rules and principles which...focuses on a certain desirable conduct of the addressees.”<sup>33</sup> Although China and ASEAN previously signed the Declaration on the Conduct of Parties in the SCS in 2002, which required all parties “to exercise self-restraint” with regard to “activities that would complicate or escalate disputes,” this agreement was legally non-binding. As a result, the 2002 COC did not stop claimants from carrying out construction and oil exploration in disputed areas, and did not prevent China from building man-made islands in the controversial waters. Thus, the 2002 declaration on conduct has not been effective.<sup>34</sup>

China’s new stance and willingness to work with ASEAN to create a legally-binding and enforceable code for the disputed SCS could help stabilize the region. The pact represents “a new starting point to jointly build a sea of peace, stability, and prosperity.”<sup>35</sup> However, if previous

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<sup>31</sup> “The South China Sea Arbitration” (press release on Permanent Court of Arbitration ruling, The Hague, 2016, 1). Accessed October 24, 2017.

<sup>32</sup> Robin Ramcharan, email interview by Jennifer Li, November 9, 2017.

<sup>33</sup> “Definition: Codes of Conduct,” *Oxford Public International Law*. Accessed October 24, 2017.

<sup>34</sup> Peter Dutton, “Three Disputes and Three Objectives: China and the South China Sea,” *Naval War College Review*, Vol. 64, No. 4, Autumn 2011, 42. Accessed October 31, 2017.

<sup>35</sup> Jerome Morales, “South China Sea Code of Conduct Talks to be ‘Stabilizer’ for Region: China Premier,” *Reuters*, November 14, 2017. Accessed November 14, 2017.

agreements that China has agreed to are any indication, the emergence of this COC will involve tough negotiations that is “many diplomatic hard yards away.”<sup>36</sup>

### **Current State of Affairs**

This section expands on the broadening range of stakeholders and international actors that are influencing the development of the South China Sea. Today, the SCS faces conflict not only between ASEAN and China, but between ASEAN members as well. Certain member states, including Vietnam, the Philippines, Malaysia, and Indonesia, have conflicting claims on different islands and territorial boundaries, and have been reluctant to compromise.

For example, Vietnam holds one of the largest claims in the SCS: it claims the entire Spratly Island chain and includes the Paracel Islands in its territorial waters, despite the latter’s seizure by China in 1976. The current Vietnamese government bases its claims according to court documents during the Le Thanh Tong dynasty and also argues that the islands are part of its continental shelf, in accordance with UNCLOS provisions. Today, Hanoi and Beijing continue to clash over conflicting oil claims regarding territory in the SCS. The Philippines’ claim to the Spratly Islands is also rooted in history, when Filipino businessman Tomas Cloma established a settlement on eight islands of the Spratly Island chain in 1956. Since then, the Philippines has maintained that geographically, all of its claims lie within its territory and therefore, does not violate UNCLOS. Indonesia has modest territorial claims in the SCS. However, Jakarta does not claim any part of the Spratly or the Paracel Islands, and instead,

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<sup>36</sup> Cliff Venzon, “China, ASEAN Still Far from South China Sea Code of Conduct,” *Nikkei Asian Review*, November 17, 2017. Accessed November 18, 2017.

asserts a 200-mile exclusive economic zone under UNCLOS. Similarly, Malaysia uses the continental shelf theory to justify its claims for 12 islands in the SCS.<sup>37</sup>

China complicates these claims with its nine-dashed line, which marks off nearly the entire sea as its own territory. Beijing views the SCS and its major trade route as an integral part of its external security, an attitude which has dictated China's actions in the region, including the building of military bases on islands and the creation of artificial islands on coral reefs.<sup>38</sup>

As a result of China's heavy influence in the region and ASEAN's inability to form a consensus due to competing national self-interests, it has been challenging to find an equitable solution.<sup>39</sup> Therefore, tensions will continue to heighten between ASEAN and the PRC, as well as between ASEAN member states. Thus, it is critical to take these historic claims into account in order to suggest ways to improve ASEAN's role in managing the disputes.

### **ROLE OF ASEAN IN CONFLICT RESOLUTION**

The complexity and ambiguity of the conflicting claims in the South China Sea, coupled with the economic stakes that lie in the territorial waters, have halted the creation of a lasting solution. However, the fact that positions continue to vary may allow flexibility in future negotiations. The following section describes a variety of approaches to finding an equitable solution. This includes an analysis of ASEAN's role as the main intergovernmental organization in the region and the involvement of a US-Japan security alliance as a forum for dialogue and negotiation. By assessing ASEAN's actions in the political-security arena with regard to the SCS disputes, the findings can be useful in predicting the future of the territorial claims.

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<sup>37</sup> Joshua Rowan, "The US-Japan Security Alliance, ASEAN, and the South China Sea Dispute," *Asian Survey*, Vol. 45, No. 3, May/June 2005, 420-6. Accessed October 18, 2017.

<sup>38</sup> Leszek Buszynski, "Rising Tensions in the South China Sea: Prospects for a Resolution of the Issue," *Security Challenges*, Vol. 6, No. 2, Winter 2010, 91. Accessed October 31, 2017.

<sup>39</sup> *Ibid.*, 101.

Today, ASEAN is the only regional organization in Southeast Asia with ten official members. It is also the main counterweight to China's presence in the region.<sup>40</sup> With five trillion dollars in trade passing through the SCS each year, ASEAN is responsible for protecting the economic interests of its member states through peaceful negotiation and other political measures.<sup>41</sup> Currently, ASEAN does not have a collective security mechanism. However, ASEAN's recent success in obtaining China's signature for a binding code of conduct in the South China Sea is evidence of the regional organization's progress. The organization must continue to protect the basic securities for ASEAN citizens by adapting to the region's changing political context and challenges.

ASEAN can also lead the way for regional cooperation and be an anchor for other countries to build a more effective and focused organization. The fact that there currently exists a division between the countries that has not affected the creation of international forums proves that ASEAN is a more stable entity than the EU.<sup>42</sup> Thanks to ASEAN, Asia has seen a proliferation of forums where countries can communicate openly, which helps build trust. As a result, ASEAN can use its status to influence the politics of the region in the future.

As a key element of East Asia's postwar structure, the SCS dispute is a "critical test demanding ASEAN to modify itself in order to confront the increasingly aggressive China."<sup>43</sup> Over the course of its history, ASEAN has accumulated more political influence and has emerged as a new player in regional economic and security activities. Specifically, the group

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<sup>40</sup> Suddha Chakravartti, interview by Jennifer Li, *Hotel Warwick Cafe Geneva*, November 6, 2017.

<sup>41</sup> Fenna Egberink, "ASEAN, China's Rise, and Geopolitical Stability in Asia," *Netherlands Institute of International Relations*, Clingendael Papers No. 2, April 2011, 30. Accessed October 31, 2017.

<sup>42</sup> Lionel Fatton, interview by Jennifer Li, *Webster University Geneva*, November 1, 2017.

<sup>43</sup> Linh Tong, "The ASEAN Crisis, Part 1: Why the South China Sea Is A Critical Test," *The Diplomat*. Accessed October 24, 2017.

enjoyed a “golden” period during the 1990s and early 2000s by successfully promoting regional economic development and mediating conflicts among member states. Also during this time, ASEAN maintained friendly relations with Beijing, allowing China to become an important partner and source of balance for ASEAN against the US.<sup>44</sup>

With a united front, ASEAN can have a stronger position in negotiating economic agreements with China and other actors. ASEAN should be integrated as much as possible into the economics of the region for mutual benefit and to provide a platform for great power politics.<sup>45</sup> However, if ASEAN countries negotiate individually, they lose almost all leverage, as their small sizes put them “on the back foot with economic powerhouses, such as China.”<sup>46</sup>

In sum, failing to maintain regional security and provide an environment where claimant stakes can discuss negotiations regarding the SCS disputes would cause ASEAN to lose its credibility as an effective regional organization on an international level. Therefore, as China continues to change its position and ambitions in the region, ASEAN also needs to adapt to the new political context and continue to promote dialogue between claimant members.

### **POTENTIAL APPROACHES TO THE SOUTH CHINA SEA**

With regard to conflict management in the South China Sea, ASEAN has had several approaches. On the one hand, it has attempted to resolve the problem legally and through mediation workshops, which has increased the organization’s prestige. Most notably, ASEAN brought all disputants together in 2002 to agree to the Declaration of Conduct. On the other hand, it has tried to create a balance of power by establishing connections with small countries in order

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<sup>44</sup> Leszek Buszynski, “ASEAN, the Declaration on Conduct, and the South China Sea,” *Contemporary Southeast Asia*, Vol. 25, No. 3, December 2003, 357. Accessed November 3, 2017.

<sup>45</sup> Suddha Chakravarti, interview by Jennifer Li, *Hotel Warwick Cafe Geneva*, November 6, 2017.

<sup>46</sup> Sebastien Cochard, email interview by Jennifer Li, September 28, 2017.

to prevent China from dominating them. However, ASEAN still faces many challenges from both internal and external factors, which have consequently limited ASEAN's role in the SCS.<sup>47</sup>

### **Effectiveness of ASEAN**

ASEAN has already shown an impressive ability to maintain regional stability and overcome political tensions and difficulties to form strong strategic partnerships. However, while the regional organization continues to raise its voice in conflict resolution matters, its efficiency is still under much debate.

All parties involved in the SCS disputes view ASEAN as a vehicle to achieve their goals. Even China, which has acted as a “spoiler” to ASEAN's proposals, has an incentive to use ASEAN as a tool for conflict resolution.<sup>48</sup> For example, China can use its close relations with Indonesia and Cambodia to break the consensus mechanism of ASEAN to benefit itself. For small countries, ASEAN serves as a representative to protect their economic interests. In particular, ASEAN advocates for a legal resolution and peaceful settlement through dialogue between claimants, which member states like Vietnam support. ASEAN is at the center of bringing all disputants into agreement and should continue to act as a mediator of the conflict.<sup>49</sup>

Yet, the regional organization faces obstacles with its member states' conflicting interests. Composed of ten developing countries with varying interests and abilities, political, economic, and military limitations constrain ASEAN's ability to respond to the maritime conflict. This internal division within ASEAN has posed a threat to ASEAN's solidarity.<sup>50</sup> In the

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<sup>47</sup> Lionel Fatton, interview by Jennifer Li, *Webster University Geneva*, November 1, 2017.

<sup>48</sup> Samuel Sharpe, “An ASEAN Way to Security Cooperation in Southeast Asia?” *The Pacific Review*, Vol. 16, No. 2, March 1, 2003, 233. Accessed October 31, 2017.

<sup>49</sup> Suddha Chakravarti, interview by Jennifer Li, *Hotel Warwick Cafe Geneva*, November 6, 2017.

<sup>50</sup> Oreste Foppiani, interview by Jennifer Li, *Webster University Geneva*, November 6, 2017.

evolving context of the South China Sea, ASEAN must seek ways to unite its members, or at least, the major claimant states. Doing so would improve ASEAN's status in the region and its ability to influence other actors.<sup>51</sup>

### **US-Japan Security Alliance**

Given that ASEAN cannot resolve the conflict over the South China Sea alone, the group should turn to the US and Japan, both of which have significant interests in the region and can provide ASEAN with support in building a long-term solution. Although the US is geographically far from the disputes, two of its allies—South Korea and Japan—depend on the SCS. The US is also engaged in several drilling projects in the controversial waters and has an interest in ensuring the SCS remains open for freedom of navigation. Historically, Japan has also been active in the SCS both as a shipping route for oil and a mechanism to increase Tokyo's influence in East Asia.<sup>52</sup>

To ensure long-term stability in the South China, a US-Japan security alliance must be involved for a variety of reasons. First, the US Navy is the only reliable guarantor of freedom of navigation in Asia and enforcer of future China-ASEAN agreements. This is because other claimant states do not have sufficient military capabilities to deal with future violations of treaties by the PRC. Furthermore, ASEAN does not have a standing army or navy to ensure compliance with regulatory agreements. As a resident power in the area and as a non-claimant state, the US can also highlight violations of state sovereignty and breaches in treaties using soft power through the UN Security Council. On the other hand, Japan can demand countries in Southeast Asia withdraw their military personnel stationed in the SCS because of its power as a

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<sup>51</sup> Sheldon Simon, "ASEAN and Multilateralism: The Long, Bumpy Road to Community," *Contemporary Southeast Asia*, Vol. 30, No. 3, August 2008, 264. Accessed October 24, 2017.

<sup>52</sup> Joshua Rowan, "The US-Japan Security Alliance, ASEAN, and the South China Sea Dispute," *Asian Survey*, Vol. 45, No. 3, May/June 2005, 431. Accessed October 18, 2017.

large foreign aid donor to the region. Therefore, this alliance, along with ASEAN's established diplomatic channels, can create a peaceful solution to the existing disputes.<sup>53</sup>

### **FUTURE OF THE SOUTH CHINA SEA**

The future of the South China Sea, especially the involvement of ASEAN, is uncertain. However, it is evident that competition for resources through oil exploration or fisheries will likely continue and add to the conflict. As a result, it is extremely important for ASEAN to keep stability in the region and strike a balance between competing powers.

#### **Importance of a Peaceful Settlement**

In the absence of a resolution of the disputes, it is important to sustain peaceful settlement. All claimant states are committed to finding a peaceful resolution, an attitude which stems from their commitment to the Law of the Sea treaty.<sup>54</sup> A peaceful settlement should be an integral part of ASEAN's campaign to resolve the territorial conflicts. "Without the goal of peace, then ASEAN will disintegrate fundamentally as an organization."<sup>55</sup>

The new Code of Conduct that China recently agreed to sign is a step in the right direction, and goes hand-in-hand with the goal of maintaining a peaceful region. "It is a must to avoid unexpected events and escalation."<sup>56</sup> Despite this commitment, however, all parties still need to have the political will to come to the negotiating table. Only after achieving these two conditions can ASEAN be useful in developing strategies to both stabilize and mediate conflict.

#### **Resolving Bilateral Issues First, then Pursuing Multilateral Negotiations**

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<sup>53</sup> Ibid., 435.

<sup>54</sup> Robin Ramcharan, email interview by Jennifer Li, November 9, 2017.

<sup>55</sup> Shigehisa Kasahara, interview by Jennifer Li, *ISS of Erasmus University Rotterdam*, November 3, 2017.

<sup>56</sup> Ibid.

Once all parties reinforce their commitment to a peaceful settlement, the next step is to break down the relations between ASEAN and the PRC, as well as between ASEAN member states. Smaller claimants in the SCS have historically been reluctant to pursue bilateral negotiations with larger states for fear that a larger state would overpower them. Similarly, China has been unwilling to pursue multilateral discussions in an official setting, instead preferring to get involved in bilateral negotiations.

Given the resistance of China to come to a multi-party negotiating table and recent enhanced cohesiveness among ASEAN claimants, perhaps now is the time to initiate bilateral negotiations to resolve disputes in areas of the SCS where there are not multiple claimants.<sup>57</sup> If bilateral negotiations were successful in areas where there are only two claimants, then these agreements could eliminate significant portions of the SCS under dispute. Furthermore, their success may create a domino effect of countries settling disputes with China, and potentially, “sufficient momentum toward a multilateral solution to areas where there are multiple claims.”<sup>58</sup>

### **ASEAN and Multilateralism: The Way Ahead**

A combination of bilateral and regional cooperation is needed, as well as a more globalized approach, to achieve compromise. In an interview, Dr. Chakravarti explained how the SCS conflict is like a chessboard. If one country makes a move, there will be counteraction from Chinese officials.

Known as the “best negotiating power between big powers,” ASEAN must play the balancing game amongst its resident powers and its neighbors, including Japan and the US.<sup>59</sup>

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<sup>57</sup> Scott Snyder, “The South China Sea Dispute: Prospects for Preventive Diplomacy,” *United States Institute of Peace*, Special Report No. 18, August 1996, 9. Accessed November 1, 2017.

<sup>58</sup> *Ibid.*

<sup>59</sup> Suddha Chakravarti, interview by Jennifer Li, *Hotel Warwick Cafe Geneva*, November 6, 2017.

ASEAN needs Japan and the US to balance against the Chinese influence. The US is a resident power in Southeast Asia, which China accepts. Therefore, the US deserves to have a say in the conversation, whether it is as an observer or in an actionary role. The US must also be involved as a counterweight. Realistically, a country has to put a limit on China, and the US seems like the only country capable of doing so.<sup>60</sup> Although China will not likely match the US and Japan militarily in the coming years, Chinese commercial influence is very powerful, especially in the CLM countries.<sup>61</sup> Furthermore, Washington can help shed light on the issue internationally, demonstrating that the international legal structure, including UNCLOS, must be respected.

Japan, like the US, can also balance against China because of its strong interest in defending open sea lanes in the SCS and its desire to maintain access to maritime trade routes. Without SCS trade from the SCS, Japan would essentially be isolated. This partially explains why Japan is trying to attract powers, such as India and Australia, to help them form a coalition against China. Japan's willingness to work with Indian and Australian interests signals that the country wants to work with US allies and gain the US' support. Undermining China's approach to the SCS could also lead to a more favorable outcome for the Japanese in the East China Sea.<sup>62</sup>

## CONCLUSION

ASEAN clearly faces a challenge on the South China Sea issue. The organization's members pride themselves on their ability to take a strategic view to the management of its regional order. However, the region is characterized by protracted inter- and intrastate competition over control of the territory and resource allocation, which has hindered negotiation attempts to produce an official agreement. Furthermore, the uncoordination and lack of bilateral

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<sup>60</sup> Shigehisa Kasahara, interview by Jennifer Li, *ISS of Erasmus University Rotterdam*, November 3, 2017.

<sup>61</sup> Robin Ramcharan, email interview by Jennifer Li, November 9, 2017.

<sup>62</sup> Harsh Pant, "Take Note: Asia's 'Quad' Is Back," *The Diplomat*. Accessed November 10, 2017.

and multilateral discussions between states has only caused tensions in the region to escalate. The failure of ASEAN to create a lasting agreement will only lead to institutional paralysis on this issue. Without an overall agreement, there will continue to be protracted conflict between relevant states in the SCS. Operating on different agendas, and driven by varying and often incompatible motivations and ideologies, these nations will continue to deal with maritime tensions in a way that is damaging to regional stability and cooperation.

The South China Sea issue is an opportunity for ASEAN to test its widely celebrated conflict resolution practices. The task for ASEAN, or at least its key members with high stakes in the conflict, is to continue engaging other claimants in dialogue, build consensus, and retain its looseness. Thanks to these conversations, ASEAN has been able to build norms and bring major powers to the negotiating table to discuss the SCS conflict—and this has made a significant contribution to the peace and stability of the wider Asia-Pacific region.

Despite ASEAN's accomplishments, it seems highly unlikely that ASEAN will be able to effectively resolve the issue over the SCS by itself. While many countries see the new China-ASEAN South China Sea code of conduct as key to promoting peace and stability in the region, the involvement of other external actors, such as the US and Japan, is needed to balance against China. Given China's relative size and capabilities compared to ASEAN member states, the participation of other Asia-Pacific economic powers seems to be a way to resolve the issues at hand in a manner that takes into account ASEAN states' interests and is in accordance with international law. Yet, the involvement of international organizations and states, specifically, the US-Japan security alliance, alone will not suffice to resolve the maritime conflict. ASEAN must take an active role in incorporating the US and Japan into its established diplomatic channels to foster a long-term, peaceful solution for the historical disputes.

## **LIST OF ABBREVIATIONS**

**ASEAN-** Association for Southeast Asian Nations

**ASEAN +3-** Association for Southeast Asian Countries Plus China, Japan, and South Korea

**CLM-** Cambodia, Laos, and Myanmar

**COC-** Code of Conduct

**EU-** European Union

**LNG-** Local Natural Gas

**PRC-** People's Republic of China

**SCS-** South China Sea

**UN-** United Nations

**UNCLOS-** United Nations Convention on the Law of the Sea

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