

## **ASEAN’s security concerns about safety and freedom of navigation: The growing prospects for maritime security cooperation in south-east Asia in the 21st century**

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**Abstract**

The sea dominates Southeast Asia, covering roughly eighty per cent of its area. The region’s islands and peninsulas, wedged between the Pacific and Indian Oceans, border major arteries of communication and trade. Thus the economic and political affairs of Southeast Asia have been dominated by the sea. Today more than half of the world’s annual merchant tonnage traverses Southeast Asian waters; its oceans and seas yield vast revenues in such industries as fishing, hydrocarbon extraction, and tourism. In fact, more than sixty per cent of Southeast Asians today live in or rely economically on the maritime zones. But a variety of dangers have directly threatened to safety and freedom of navigation. These threats are transnational crime, environment degradation, non-state political violence, territorial disputes and China’s territorial claim on the resource-rich South China Sea. This paper discusses the threats to maritime security in Southeast Asia and maritime security cooperation.

**Keywords:** Maritime Cooperation, South China Sea, Freedom of Navigation, ASEAN, Maritime Rivalry

**Introduction**

The tug of war between China and some ASEAN Countries to dominate the South China Sea has given rise to maritime rivalry. When it comes to the Pacific Ocean and the Indian Ocean, it is in ASEAN’s interest to have freedom of navigation, unfettered access to common waters and respect for international maritime law. Given the prevailing regional power imbalance created by a declining U.S. and an assertive China, Other Pacific, Indian Ocean Countries and ASEAN are well poised to become strategic partners in ensuring regional peace and stability. Battling non-traditional risks such as terrorism, human trafficking, cybercrime and piracy also provide opportunities for greater maritime security cooperation.

In this respect, ASEAN has focused on bilateral, global, regional and networked Cooperation such as international conventions or other cooperative agreements of worldwide scale. But there are some challenges before maritime security cooperation such as relaxing sovereignty sensitivities, extra regional power interests, increased prevalence of cooperation norms, improving state resources, and increasing prioritization of maritime security. This paper describes the factors tending toward strengthened maritime security cooperation, and argues that networks of global, bilateral and regional relationships may be more fruitful than purely unilateral arrangements.



**Fig 1:** Map showing territorial claims in the South China Sea (Source: UNCLOS)

China's aggressive policy in the South China Sea is one of the most long standing security issues in South-East Asia. China wants to expand its territorial claim beyond the rules of Law of the Sea Convention, 1982 in the South China Sea (Rowan 2010, p. 12) <sup>[9]</sup>. Vietnam wants to protect its freedom of navigation in the South China Sea. Philippines also wants to maintain its control on the navigation in the South China Sea. The South China Sea also separates East and West Malaysia. Brunei Darussalam also wants to ensure its presence in the South China Sea. Apart from regional powers, external powers have also strategic interests in the South China Sea.

The South China Sea and the Malacca Strait are important navigation routes in South-East Asia. Therefore, ASEAN has taken many steps for security cooperation in this region. Since ASEAN was founded in 1967, it has sought to preserve Southeast Asia's autonomy from interference by outside powers. At the same time, ASEAN has sought to assert its centrality in regional security affairs (Thayer 2013, p. 76) <sup>[13]</sup>. The most serious trouble in recent decades has flared between Vietnam and China. In 2019, China started natural resources exploration activities in the South China Sea. China prefers bilateral negotiations rather than multilateral negotiations for the settlement of the South China Sea issue. Most countries have argued that China should negotiate with ASEAN. However, China is opposed to involvement of ASEAN. China is hosting military drills in the disputed South China Sea.

### Background of the South China Sea Dispute

The South China Sea is a semi-enclosed sea. It is surrounded in the north by China and Taiwan, the

Philippines in the east, Brunei and Malaysia in the south and Vietnam in the West. It is a dispute over territory and sovereignty over ocean areas and some islands. Alongside the fully fledged islands, there are dozens of rocky outcrops, atolls, sandbanks and reefs, such as the Scarborough Shoal (BBC Report 2019, p. 1). The South China Sea has reserves of natural resources. China claims sovereignty by far the largest portion of ocean territory. China's code of conduct defines "nine-dash line" which stretches hundreds of miles of South from Hainan province.

China claims not only land territory but also all the territorial waters within the line through "nine-dash line" rules. China says its right to the area goes back centuries to when the Paracel and Spratly island chains were regarded as integral parts of the Chinese nation, and in 1947 it issued a map detailing its claims. On the other side, ASEAN countries says that China's 'nine-dash line' concept is encompassing almost the entirety of the South China Sea. Vietnam is opposing China's historical account, saying China had never claimed sovereignty over the islands before the 1940s (Odgaard 2003, p. 10) <sup>[8]</sup>. Vietnam says it has actively ruled over both islands and territorial waters and has the documents to prove it. The other major claimant in the area is the Philippines, which invokes its geographical proximity to the Spratly islands. Malaysia and Brunei also lay claim to territory in the South China Sea on the basis of their economic exclusion zone. China is the threat to the status quo, peace and stability of the South China Sea (Guan 2010, p. 202) <sup>[3]</sup>.



Fig 2: Claimants of the South China Sea (Source: UNCLOS)

The sea is also a major shipping route and home to fishing grounds that supply the livelihoods of people across the region. The South China Sea is one of the busiest maritime route. Each year, more than half of the world's ship tankers and other trade related ships passes through this route. The shipping is primarily raw materials and hydrocarbon resources for East Asian and South-East Asia countries. The Association of South East Nations (ASEAN) first became involved in South china Sea issue in 1992 when China and Vietnam came close to war for mineral exploration activities in the area. ASEAN's involvement in this issue has paved the way for security cooperation in this region with regional

and external powers (Rustandi 2016, p. 4) <sup>[10]</sup>. Since 1992, China also has taken aggressive policy in this issue. In 1994 tension between China and the Philippines had risen due to territorial claim on Mischief Reef.

This incident marked turning point for the South China Sea dispute. ASEAN issued statement regarding China's aggressive policy in this issue. In this regard, ASEAN adopted code of conduct for constrain China from further aggression in the South China Sea (Buszynski 2003, p. 345). China has also declared code of conduct for territorial claims. ASEAN and China has agreed to exchange code of conduct in 2000. According to code of conduct, major areas

of disagreement emerged: the territorial scope, restrictions on any construction, military activities and mineral exploration activities (Majumdar 2015, p. 76) <sup>[7]</sup>. Since then many negotiations have been conducted but settlement has not happened. China's new assertiveness has arisen primarily from four related developments: its sense of a change of the balance of power in its favor; the expansion of its national interests to include the maritime domain in its nearby seas (*jin hai*) and its trade routes; the growth of its military power to pursue its maritime claims more effectively; and the heightening of nationalist sentiments among officials as well as among the population in general (Yahuda 2013, p. 450) <sup>[14]</sup>.

In November 2002, as a compromise, ASEAN member states and China signed a non-binding political statement known as the Declaration on Conduct of Parties in the South China Sea (DOC) (Thayer 2013, p. 77) <sup>[13]</sup>. In 2012, ASEAN and China have discussed to implement code of conduct. China, Vietnam, the Philippines, Taiwan, Malaysia and Brunei all have competing territorial claims. China has backed its expensive claims with artificial island building and naval exercises. The United States of America (USA) is also involved in this issue for 'freedom of navigation'. Disputes over sovereignty and freedom of navigation in the South China Sea (SCS) involve both the claimants and major maritime powers (Simon 2012, p. 995) <sup>[12]</sup>. ASEAN and China have accused each other of militarising the South China Sea. There are fears that the South China Sea is becoming a flashpoint, with potentially serious global consequences. But more recently Beijing's actions have become more 'assertive' in terms of energy exploration and military activities in the South China Sea (Hong 2013, p. 28) <sup>[16]</sup>.

### ASEAN's Maritime Security Cooperation

The South-East Asian maritime domain is undergoing some significant changes. Territorial disputes in the South China Sea and increase in competition for strategic space in the Indian Ocean is leading to a hostile security environment. While on the one hand South-East Asia depends on United States of America (USA)'s security forces to maintain peace and stability in the region. The rise of China is a new threat to freedom of navigation. Therefore, Southeast Asia needs new security order. The tussle for power and the need to project the same is increasing tension with a higher risk for an armed conflict in the South China Sea. In the twenty-first century, territorial disputes in the South China Sea dominate ASEAN's security agenda (Heng 2015, p. 69) <sup>[5]</sup>.

There are a number of mechanisms already in place to manage tensions in the maritime domain, however, strategic interests, different interpretation of law and difference in approach to resolution of disputes have rendered them ineffective. What the region requires is, to establish norms of behaviour on high seas and a structure to implement the same. Given the multitude of differences between the claimants and other regional powers, an international treaty or a legally binding agreement on rules of behaviour is highly unlikely in the near future. Therefore, maritime security cooperation in Southeast Asia is taking a sharp turn toward a multilateral framework to uphold the established norms of behaviour. The ASEAN Way of security cooperation-based on principles of sovereignty, non-intervention, peaceful resolution of conflict, and consultation and consensus decision-making has maintained

intra-ASEAN harmony since the grouping's formation in 1967 (Heng 2014, p. 4) <sup>[4]</sup>. Territorial disputes and changing power dynamics is essentially creating space for collaborations between the navies of the region (Scott 2019, p. 1022) <sup>[11]</sup>.

The enhanced maritime security cooperation developed during the decade immediately following the Cold War has been called particularly noteworthy and notable. In 1992, ASEAN's first communiqué on a security issue, 'Declaration on the South China Sea', emphasized "the necessity to resolve all sovereignty and jurisdictional issues pertaining to the South China Sea by peaceful means and urged all parties concerned to exercise restraint with the view to creating a positive climate for the eventual resolution of all disputes (Amer 2014, p. 1) <sup>[1]</sup>.

The blossoming of maritime confidence and security-building measures and other cooperation agreements have established such norms of cooperation and made the operationalizing of future endeavours much easier. The dialogue norms are embodied in and sustained by institutions like CSCAP-MCWG, SCS Workshops, WPNS, the ARF Maritime Focus Group, the APEC Working Group on Maritime Security, and ReCAAP. Although obligating member states to relatively little and consistently reaffirming the ASEAN way norms of sovereignty preservation and non-intervention, recent ARF and ASEAN documents exemplify the increasing prevalence of cooperation norms.

Even when extra regional powers participate, a multilateral cooperative arrangement may be considered regional if its goals are primarily regional. In Southeast Asia, the development of stronger multilateral arrangements for maritime security cooperation has received wide discursive endorsement. Such cooperation could come in the form of new multilateral agreements or be superimposed on an existing organization, such as ASEAN, ARF, or APEC. In particular, it seems quite likely that existing regional organizations will develop new initiatives, most probably expanded dialogue, issuance of declaratory statements of intent, and improved information sharing. However, considering the diverse interests of their members, sensitivities, and long-standing insistence upon non-intervention, they are unlikely to institute major operational measures.

### Conclusion

ASEAN's primary purpose is to maintain and enhance peace, security, and stability in South East Asia. ASEAN is in central to the South China Sea dispute. The economic well-being of ASEAN depends on freedom of navigation in the South China Sea. As China rises as an economic and political power, some ASEAN countries remain uncertain about China's long-term intentions in Southeast Asia. This uncertainty, their rising domestic nationalism and their active search for energy resources in the South China Sea will continue to create tension in their bilateral relations with China. China has adamantly opposed ASEAN's role in dispute settlements in the South China Sea, as it has territorial disputes with only four ASEAN members. Therefore, China argues it should deal directly with those states. ASEAN and China should strive to strengthen the existing mechanisms for managing the situation in the South China Sea.

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