

## V.2. The Role of ASEAN on the Territorial Dispute in the South China Sea

ROSITA WIDJOJO<sup>125</sup> – HNIN MYA THIDA<sup>126</sup>

### Abstract

*The South China Sea (SCS) is known for its significant strategic and economic role in the Indo-Pacific. The South China Sea is bordered by Brunei, Cambodia, China, Indonesia, Malaysia, the Philippines, Singapore, Thailand, Taiwan and Vietnam. It is one of the most important commercial trade routes in the region. However, it is simultaneously becoming the source of tension between China and other South East Asian nations for territorial control. In recent years, China has been asserting greater control, and ASEAN has sought to resolve maritime issues in the region. As the SCS is surrounded by mostly ASEAN member countries, problems arise when each country, including China, lays claim to the land and sea features in the SCS, driven mostly by strategic interests. Being members of ASEAN, where member countries need to resolve regional issues to maintain regional stability, ASEAN members with a claim in the SCS have their own national interests that make conflict resolutions complicated. At the 34th ASEAN Summit (June 2019), all member states agreed to adopt the ASEAN Outlook on the Indo-Pacific. The document emphasized ASEAN's role to strengthen regional commitment by respecting international law, especially the United Nations Convention on the Law of the Sea (UNCLOS). Maritime cooperation is seen as a peaceful settlement to resolve potential disputes.*

**Keywords:** ASEAN, South China Sea (SCS), maritime territorial disputes, UNCLOS

---

125 University of Sopron, Széchenyi Istvan Doctoral School of Economics and Management, PhD student 3rd year, rwidj@hotmail.com

126 Corvinus University of Budapest, International Relations Multidisciplinary Doctoral School, PhD student, 2nd year, hninmyathida.85@gmail.com

### V.2.1. Introduction

The South China Sea (SCS) has been one of the major issues in world geopolitics. Strategic interests have placed the South China Sea (SCS) as one of the most

disputed maritime regions, mainly in terms of securing access to natural resources and trade routes. As the SCS contains an abundant source of oil and natural gas deposits, as well as being a major international trade route, the ongoing struggle is mainly between China and six

ASEAN states (Malaysia, the Philippines, Brunei, Vietnam, Singapore and Indonesia). China claims the entire sea as its territory (through its controversial nine-dash line), creating tension with ASEAN and also the United States (US) interest in its geopolitical strategy to prevent Chinese domination in East Asia. The SCS is one of the most complex disputes involving many countries and has the potential to escalate into a great power conflict (KEMPSTON, T. – THOMAS, N. 2013).

According to Severino, conflict arises because each country surrounding the SCS has a strategic interest in the SCS (SEVERINO, R. C. 2010). China fears threats from the southeast, while some accuse China of exerting dominance in the SCS to achieve a certain amount of control in the region. Vietnam needs to impose control in the SCS to avoid being surrounded by Chinese power. The Philippines feels compelled to extend its zone of jurisdiction westwards to the SCS, having been invaded by Japanese forces at the start of the Pacific War. A vast area of the SCS separates East Malaysia and West Malaysia, but the SCS also serves as a connection to both parts. Brunei Darussalam wants to ensure its claimed exclusive economic zone, which overlaps with other claims.

Severino added that other

countries, such as Indonesia, also have a claim in the SCS, although indirectly, to ensure that the abundant gas resources in the Natuna islands fall under Indonesia's authority for its exclusive exploitation (SEVERINO, R. C. 2010). The United States (US), although not supporting any country's claims, also seeks to ensure that its warships and aircraft are free to navigate in or above the waters of the SCS, to keep its trading links with South East Asia. Japan also has interests of securing the trading flows and energy imports through the SCS. Under the United Nations Convention on the Law of the Sea, or UNCLOS, coastal states are entitled to an Economic Exclusive Zone (EEZ) and beyond that are considered the high seas or international waters, common to all nations. However, each country has different strategic interests and with China imposing more power in the SCS, maintaining peace and stability becomes a fragile issue.

This paper would like to address concerns regarding the SCS issue between China and ASEAN, which have persisted for more than 50 years. On the one hand, China is one of the most important trading partners of ASEAN, but on the other hand, the SCS issue could put ASEAN into an increased potential confrontation with China. The

focus on ASEAN integration and community-building has earned secondary attention because of the energy spent on dealing with SCS issues. Countries find themselves squeezed over how they should define regional interest, how to ensure unity and solidarity in accordance with the “ASEAN Way” – which utilizes compromise, consensus, and consultation while prioritizing informal decision-making processes and non-conflicting ways of addressing outstanding issues – and how to ensure the mutual trust and confidence that have supported the ASEAN community thus far (asiatimes.com). Therefore, this paper’s objective is to provide insight into ASEAN and China in the SCS conflict, by taking into account how ASEAN member countries are seeking to settle the issue without fragmenting the relationship within ASEAN. By using exploratory study and supported by secondary information from previous studies and recent developments in the region, the main points in this paper are the following: identifying the main causes of the dispute; reasons why the SCS dispute is threatening ASEAN unity; and strategies for how ASEAN could overcome this dispute.

## **V.2.2. ASEAN as a Regional Organization**

### **The Establishment of ASEAN**

The Association of South East Asian Nations or ASEAN was established on August 8, 1967, in Bangkok, Thailand, with the signing of the ASEAN Declaration (or Bangkok Declaration) by the founding states of ASEAN: Indonesia, Malaysia, the Philippines, Singapore and Thailand. Brunei Darussalam joined in 1984, followed by Vietnam in 1995, then Lao PDR and Myanmar in 1997. Cambodia joined in 1999, and these countries make up the ten Member States of ASEAN (www.asean.org). The map of the region and the member states is presented (*Figure 32*).

The aims and purposes of ASEAN, as stated in the ASEAN declaration, are as follows:

1. To accelerate the economic growth, social progress and cultural development in the region through joint endeavors in the spirit of equality and partnership in order to strengthen the foundation for a prosperous and peaceful community of Southeast Asian Nations;
2. To promote regional peace

and stability through abiding respect for justice and the rule of law in the relationship among countries of the region and adherence to the principles of the United Nations Charter;

3. To promote active collaboration and mutual assistance on matters of common interest in the economic, social, cultural, technical, scientific and administrative fields;
4. To provide assistance to each other in the form of training and research facilities in the educational, professional, technical and administrative spheres;
5. To collaborate more

effectively for the greater utilization of their agriculture and industries, the expansion of their trade, including the study of the problems of international commodity trade, the improvement of their transportation and communications facilities and the raising of the living standards of their peoples;

6. To promote Southeast Asian studies; and
7. To maintain close and beneficial cooperation with existing international and regional organizations with similar aims and purposes, and explore all avenues for even closer cooperation among themselves.



Figure 32: ASEAN Member States  
Source: www.weforum.org, 2017

### The ASEAN Vision

The ASEAN Vision 2020, adopted by the ASEAN leaders on the 30th Anniversary of ASEAN, agreed on a shared vision of ASEAN as a cooperation of Southeast Asian nations, outward looking, living in peace, stability and prosperity, bonded together in partnership in dynamic development and in a community of caring societies. The ASEAN Community was established in 2015, which

comprised three pillars: the ASEAN political and security community, the ASEAN economic community and the ASEAN socio-cultural community.

For the ASEAN political and security policy, each member agrees to rely exclusively on peaceful processes in the settlement of intra-regional differences and to regard their security as fundamentally linked to one another and bound by geographic location, common vision and objectives. It has the

following components: political development; shaping and sharing of norms; conflict prevention; conflict resolution; post-conflict peace building; and implementing mechanisms.

The ASEAN economic community formed the ASEAN Economic Community (AEC) blueprint with a vision for 2025, in which it is aimed towards (1) A Highly Integrated and Cohesive Economy; (2) A Competitive, Innovative, and Dynamic ASEAN; (3) Enhanced Connectivity and Sectoral Cooperation; (4) A Resilient, Inclusive, People-Oriented, and People-Centered ASEAN; and (5) A Global ASEAN.

In the ASEAN socio-cultural community, the ASEAN Socio-Cultural Community (ASCC) blueprint also formed a vision for 2025, committed to creating opportunities for human development, including culture and information, education, youth and sports, health, social welfare and development, women and gender, women and children rights, labor, civil service, rural development and poverty eradication, environment, trans-boundary haze-pollution, disaster management and humanitarian assistance. Despite their distinct cultures, histories and languages, the 10 member states of ASEAN share a focus on jobs and

prosperity. Household purchasing power is rising, propelling the region into the next frontier of consumer growth. The region must now meet the challenges of providing enormous investment in infrastructure and human-capital development to ensure it realizes its full potential (www.weforum.org, 2017).

Today, ASEAN can be regarded as a successful regional organization preserving the peace and stability in the region, promoting cooperation within and outside the community. Compared to the EU as a regional organization, ASEAN has similarities and differences with the EU. The main differences are the means of settling disputes (KOH, T. 2017):

1. The EU has the European Parliament with the power to legislate, as well as the power to veto budgets and appointments. ASEAN has the ASEAN Inter-Parliamentary Assembly which has the power of moral suasion only.
2. The scope of power of the secretariat. The European Commission acts like a government and is entitled to enter into treaties. The commission has the power to put forward proposals for legislation. The ASEAN

Charter has enhanced the power of the secretary-general. One of his most important responsibilities is to issue an annual report card on each member state's compliance with its obligations.

3. The decision-making process, in which ASEAN takes all its decisions by consensus. The EU can decide by taking votes. There is a system of weighted voting, with different countries being given different numbers of votes. However, in the area of common foreign and security policy, decisions are based on unanimity.

Southeast Asia is a huge neighboring region for China, to which it is connected by land and the South China Sea. As the ASEAN becomes a community bringing all countries together, China's relations with ASEAN are based on two tracks: its bilateral relationship with each member, and its collective relationship with ASEAN as a whole. While handling complex bilateral relations with each country, China has given priority to developing the relationship with ASEAN. With rising disputes over the South China Sea, China's relationship with ASEAN has been

negatively affected (ZHANG, Y. – WANG, Y. 2019).

### **V.2.3. Geopolitical Aspects in the South China Sea**

#### **The geopolitics of the South China Sea**

The South China Sea is a marginal sea that is part of the Pacific Ocean and is the center of maritime Eurasia. It encompasses an area from the Karimata and Malacca Straits of Taiwan. The South China Sea (SCS) is one of the world's busiest waterways with 50% of world annual trade passing through the region. It is significant not only for its essential trade route but for its abundant natural resources such as gas, oil and its rich fish productivity. It is also critical because of the world's important linking point at the Malacca Strait, which connects the South China Sea and, through extension, the Pacific Ocean with the Indian Ocean. The region is also vital for the Northeast Asian countries of Japan, South Korea and Taiwan as 80 percent of crude oil imports to these countries passes through this region. According to the United Nations' Conference on Trade and Development (UNCTAD), roughly 80 percent of global trade by volume and 70 percent by value is

transported by sea and 60 percent of maritime trade passes through Asia via the South China Sea (“How much trade transits the South China Sea?,” 2017).

In addition, historically and geographically, the SCS is a key commercial thoroughfare connecting Asia with Europe and Africa, and its seabed is rich with natural resources. One third of global shipping, or a total of US\$3.37 trillion of international trade, passes through the SCS. About 80 per cent of China’s oil imports arrive via the Strait of Malacca, in Indonesia, and then sail across the South China Sea to reach China. The sea is also believed to contain major reserves of natural resources, such as natural gas and oil. The US Energy Information Administration estimates the area contains at least 11 billion barrels of oil and 190 trillion cubic feet of natural gas. Other estimates are as high as 22 billion barrels of oil and 290 trillion cubic feet of gas. The SCS also accounts for 10 per cent of the world’s fisheries, making it a key source of food for hundreds of millions of people.

Therefore, it is important not only for claimant states, but also for other countries, to secure the Sea Lanes of Communication (SLOCs). Moreover, the region is the subject of more than a dozen overlapping and interconnected disputes over islands, reefs, shoals and rocks scattered throughout the SCS and thus, being an important waterway, it is essential to have a well-recognized international rule of law. Nowadays, China’s assertive acts of establishing artificial islands and the installation of weapons over these areas threaten not only the sovereignty of claimant states but also the maritime security of the region. As a strategic point, the SCS issue has gone beyond the economic aims and become important for maritime security, peace and stability. Moreover, the South China Sea joins the Southeast Asian countries with the Western Pacific, acting as the throat of the global sea route (KAPLAN, R. D. 2011). Thus, all Southeast Asian countries have a great interest in establishing peace and stability in the region.



Figure 33: Geographical Positioning of Southeast Asian Countries

Source: [www.quora.com](http://www.quora.com), 2018

Figure 33 outlines the geographical positioning of Southeast Asian countries in the South China Sea. The Southeast Asian countries are mainly divided into two geographic groups:

Mainland Southeast Asia and Maritime Southeast Asia. The former part is historically known as Indochina, including Cambodia, Laos, Myanmar, Peninsular Malaysia, Thailand and Vietnam.

The Maritime Southeast Asia comprises Brunei, East Malaysia, Indonesia, the Philippines and Singapore. Among them, the five member countries are connected to the dispute in claiming land features and waters in the South China Sea as they have immense strategic interests in it. Although the rest of the countries are not directly involved in the dispute, these clashes impact hugely on all of the ASEAN countries as this is not simply an issue of territorial dispute but also indicates the complex geopolitical and geo-economic problems underpinned by possible military threats posed by China in terms of building artificial islands in the disputed waters.

### **ASEAN and SCS Dispute**

Most of the ASEAN countries are small and medium-sized countries with disparities in their economic development and diverse political systems. Despite their disparity, all Southeast Asian countries have clearly recognized the changing strategic environment such as the regional security, social economic development, threat spectrum, and norms and rules of states at the regional and global level. In the region, the structures of threats are changing in tandem with the situation driven by the

ideological war of two powerful blocs. Current threats have stemmed from climate change, pandemics, border war and terrorism as well as organized crime syndicates. Thus, all countries in the region have come to realize that they must adopt a more collaborative approach to address the unconventional form of threats (OEGROSENO, A. 2016). This perspective has influenced the process of solving the SCS dispute too. On the other hand, the territorial and sovereignty issues are invariably associated with patriotism and nationalism which lead to drawbacks in conflict resolution. In the SCS dispute, all claimant states are less likely to settle the issue through adjudication or arbitration. Instead they resort to various dispute settlement mechanisms like negotiation, enquiry, mediation, conciliation, regional agencies or arrangements, or other peaceful means (ibid).

In the same way, China prefers to resolve the issue in a bilateral way with each claimant state, but it is also the desire of ASEAN to settle the dispute through the strength of ASEAN as a coherent entity. ASEAN centrality plays an important role in preventing the association from being stuck between great power rivalry and in protecting its resilience. The SCS dispute has resulted in the member

countries themselves arriving at a common ground of consensus over the issue. All member countries have close economic relations or political cooperation with either or both the US or/and China and no country wants to incur the anger of these two powers. The competition between China and the United States has strongly impacted on ASEAN in which Washington impels ASEAN to play a stronger leadership role in the conflict, while Beijing insists that ASEAN has no role to play in its “near seas”, as the disputes are of a bilateral nature (VALENCIA, M. 2009).

So, it is one of the facts that the priority of own national interests of each member state entails a barrier to settling the dispute. As a result, the 45th ASEAN Foreign Ministers’ Meeting which was held in Cambodia failed to issue a joint communiqué. It was Beijing’s attempt to put Cambodia as the ASEAN Chair to block a joint communiqué consisting of China’s aggression in SCS (ROBERTS, C. B. 2018). The outcome was a terrible experience of deteriorating ASEAN unity. Beijing also uses economic diplomacy towards disputants and non-disputant countries by capitalizing on these countries’ economic dependence on it. Although China’s economic diplomacy does not directly

reflect on the issue, the effect on stakeholders can influence the outcome.

In ASEAN, the ASEAN Summit and the ASEAN Foreign Ministers’ Meeting are the two forums for dealing with the SCS issue (GERSTL, A. 2017). ASEAN had made historical success in dealing with the SCS - including the 1992 ‘ASEAN Declaration on the South China Sea’ and its united response by revealing the photo evidence of Chinese assertiveness on Mischief Reef in 1995. ASEAN aims to establish an effective conflict resolution framework that is a legally binding Code of Conduct (COC), and stresses its full implementation in all its aspects accordingly. In 2002, ASEAN and China were able to issue the Declaration of Conduct (DOC) on the Parties in South China Sea (DECLARATION ON THE CONDUCT OF PARTIES IN THE SOUTH CHINA SEA, 2012). In 2013, the Philippines succeeded in the international arbitration against China. In 2014, the United States and the Philippines signed an enhanced defense pact with the aim of strengthening bilateral relationships.

In April 2018, the 32nd ASEAN Summit was held in Singapore. At the Summit, two important documents were released:

the ASEAN leaders Vision for a Resilient and Innovative ASEAN and the Zero Draft of the Chairman's Statement of the 32nd Summit. The former consists of a nine-page document divided into a preamble and five sections including 37 points. Point (3) of the preamble addresses peace and security in general terms and specifically focuses on nuclear weapons, on noninterference in internal affairs of ASEAN member states, and on maritime issues. With regard to the maritime issues, it states that "maritime cooperation are enhanced in accordance with internationally-accepted treaties and principles, including the 1982 United Nations Convention on the Law of the Sea (UNCLOS)" (THAYER, C. 2018). In the Zero Draft, it could be seen that seven of 37 points are devoted to the South China Sea issue. In June 2018, the 24th ASEAN-China Senior Officials' Consultation welcomed the official announcement of COC in the South China Sea and underscored the need to make progress in dialogue and consultation to ensure mutual trust and confidence, stressing the importance of fully and effectively implementing the DOC toward an effective COC (ASEAN, China reaffirm strategic partnership, 2018).

The Philippines has

continuously presented its argument that the issue is not a matter of ASEAN because these are bilateral disputes (THAYER, C. 2018). Recently, it can be seen that bilateral relations between China and Cambodia is progressing over time. In February 2020, Cambodian Prime Minister Hun Sen visited China and showed Phnom Penh's firm support of Beijing's fight against the coronavirus epidemic. The very close ties between China and Cambodia may be a worrisome sign and could be construed as a set-back in solving the South China Sea dispute. Indonesia, not included as a disputant country, has proposed to boost its defense measures near the South China Sea, that is, in its Natuna islands by building a port and military air base runway. This is proof of how the SCS issue has concerned other countries as well.

Regardless of the SCS dispute, ASEAN-China relations in economic and strategic cooperation have been steadily developing. In June 2008, ASEAN and the People's Republic of China reaffirmed the importance of their strategic partnership and agreed to further strengthen their close relations at the 24th ASEAN-China Senior Officials' Consultation (ASEAN, China reaffirm strategic partnership, 2018). Both parties agreed to strengthen

their economic relationship, including the implementation of the ASEAN-China Free Trade Area (ACFTA) and the ACFTA Upgrading Protocol. The China-Indochina Peninsula economic corridor (CICPEC) is also one of the economic cooperation projects between China and ASEAN member countries. It was initiated in 2010 and incorporated later into the Belt and Road Initiative. This economic corridor aims to connect several cities in Southern China with major cities of Vietnam, Laos, Cambodia, Thailand, Malaysia and Singapore with highways and railroads (Xinhua Insight: New Momentum over China-Singapore Economic Corridor/ Shanghai Daily, 2014). China said the aim of CICPEC is to promote the “co-construction of the China-ASEAN Free Trade Area and the Maritime Silk Road” bringing regional prosperity and benefit to people along the route. Thus, the economic integration between ASEAN and China would be estimated to lessen the political tensions in the SCS dispute because of their strong focus on mutual economic interests.

### **Conflict Management in ASEAN**

Like other regional organizations, ASEAN has placed

priority on regional peace and security through constructive engagement among member countries. The 1967 Bangkok Declaration, which is the foundation of ASEAN, states that regional peace and security is one of the purposes of the Association. Apart from the Bangkok Declaration, there are two significant provisions of guidance for the mechanism of conflict resolution. They are the ASEAN Concord and the Treaty of Amity and Cooperation (TAC); both were signed in 1976. The former regards promoting cooperation among the member states through political, economic, social, cultural and security programs. The latter highlights the specific principles and policies for conflict management: (KOH, T. 2017):

1. Mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations;
2. The right of every state to lead its national existence free from external interference, subversion, or coercion;
3. Non-interference in the internal affairs of one another;
4. Settlement of differences or disputes by peaceful means;
5. Renunciation of the threat or use of force; and
6. Effective co-operation among

themselves (ASKANDAR, K. et al. 2002).

The Treaty of Amity and Cooperation has already formulated the dispute settlement Mechanism in which the regional arrangement is a means to resolve the disputes as mentioned in Article 33 of the United Nations Charter. Regardless of the mechanism available to reconcile the territorial dispute, the most important factor is the political courage among the claimant states to commit to a settlement of the dispute through a third party's involvement (OEGROSENO, A. 2016).

The great powers' competition in the region has had an impact on the regional geopolitical situation especially by means of the contest between Beijing and Washington. The United States' strategic goals for Asia have been notably emphasized since the end of the Cold War and have given its Pacific Command the task of disseminating the freedom of the sea lanes of communication (SLOCs). Although Washington had recognized the significance of Southeast Asia, the region did not always play an important role in US foreign policy. But the situation changed under President Obama's administration (2001-2008) following the 9/11 attack by terrorists, designating Southeast Asia as the "second front" of the

"global war on terror" (SIMON, S. W. 2015). Furthermore, President Obama initiated the "Pivot to Asia" strategy with the purpose of counterbalancing China especially deterring Chinese assertiveness in the SCS and the growing maritime capability of Beijing. The United States aimed to contain 'the rise of China' by integrating and establishing closer relations with Southeast Asian countries.

Moreover, Washington joined the East Asian Summit (EAS) in 2011. In 2013, the United States had identified six strategic partners and Singapore probably tops the list, although there is no formal defense strategy between the two states (SIMON, S. W. 2015). In contrast to the Obama administration, Donald Trump administration's "free and open Indo-Pacific" framework pays less attention to Southeast Asia or ASEAN as the secondary importance to the US after Northeast Asia (STOREY, I. – COOK, M. 2017). In 2019, Trump and Secretary of State Mike Pompeo failed to attend the annual ASEAN-United States leaders' summit and other ASEAN-related meetings as well.

On December 21, 2019, however, the U.S. Congress passed the State, Foreign Operations, and Related Programs Appropriations Bill. This legislation contains \$2.5 billion to implement the Gardner-

Markey Asia Reassurance Initiative Act (ARIA) (THAYER, C. 2020). In the four provisions of ARIA, the first one calls on the Trump administration to engage with ASEAN as the premier “problem-solving regional architecture” (ibid). Although ARIA’s provocations might bring clashes with Trump’s policy orientation, it can be seen as a glimmer of hope for ASEAN to be endorsed by U.S. to the region. The role of Southeast Asia under Trump’s presidency has diminished in comparison with former President Obama’s administration in three main ways: (1) Trump’s intention to dismantle the Pivot to Asia strategy initiated by Obama; (2) Trump’s withdrawal of America from the Trans-Pacific Partnership (TPP); and (3) the strong emphasis of Trump’s administration on combating ISIS in the Middle East at the expense of other regions including Asia, much less Southeast Asia (STOREY, I. – IZZUDDIN, M. 2017).

The United States is the country that has continuously claimed freedom of navigation in the SCS according to the United Nations on the Law of the Sea (UNCLOS). Among ASEAN countries, Singapore has also asked for the freedom of navigation although it is not a member of the disputant countries. For ASEAN,

it has used the hedging strategy in relation with the great powers, particularly the regional great powers. But the great power rivalry between the US and China has threatened ASEAN’s unity and its efforts to maintain regional peace and stability. The two powers have been attempting to establish closer relations with member states in a way that actually exacerbates this dispute through Washington’s funding of capacity-building projects in ASEAN member states, while Beijing provides individual states with aid (YANG, A. H. 2015). On the other hand, Beijing’s economic diplomacy as a soft power has been substantially employed in Southeast Asia and ASEAN’s excessive economic dependency on China has been counterbalanced by the US’s military engagement in the region.

The Belt and Road Initiative (BRI) plays a critical role in analyzing ASEAN-China relations. The Belt and Road Initiative (BRI), also known as One Belt, One Road (OBOR) is a highly ambitious grand strategy launched by Chinese President Xi Jinping aimed at connecting China and the rest of the world with a network of roads, high-speed rail, power lines, ports, pipelines, and other infrastructure networks. Under the BRI, more than 60 countries from

Asia, the Middle East, Europe and Africa, will take part in the project based on three key pillars such as utilizing industrial capacity, nurturing a network of economic interdependence, and fostering regional stability and prosperity (HENG, K. – PO, S. 2017). Southeast Asia is involved in both the Silk Road Economic Belt and the 21st Century Maritime Silk Road of Belt and Road Initiative (BRI) which hopes to foster the development of participating countries. Each of the participating countries is essential in successfully implementing China's BRI.

The holding of the second iteration of China's Belt and Road Forum (BRF) in April 2019 highlighted the important role of Southeast Asia, with nine Southeast Asian countries except for Indonesia attending the Forum. At the wider cooperation mechanism under the BRI, it concluded the Belt and Road Accounting Standards Cooperation Mechanism (with Vietnam and Laos) and a statement of intent for cooperation for pesticide quality specification setting (with Cambodia, Myanmar, Philippines, Thailand and Vietnam) (PARAMESWARAN, P. 2019). China realizes that the success of the BRI depends on the support and participation of other countries, particularly the neighboring

Southeast Asian countries (YU, H. 2017). Meanwhile regional economic integration plays a significant role for ASEAN countries in minimizing external uncertainties and global economic vulnerabilities, and the more comprehensive attachment to ASEAN is of paramount importance for China.

Amid the escalation of US-China rivalry, Southeast Asian countries are well experienced in dealing with great powers in the region by using the most effective strategies and holding the relations in balance. The ascent of China and the United States' involvement in regional affairs effected changes in Southeast Asia from the traditional balance of power strategy to the balance of influence strategy by inviting great powers' competition and their participation in regional economic and diplomatic affairs in order to develop the stakes in the region's peace and prosperity (CIORCIARI, J. D. 2009).

#### **V.2.4. The South China Sea (SCS) Dispute and the Effect on ASEAN Unity**

##### **The SCS Dispute as a Threat to ASEAN**

Globalization, from the positive side, tends to incentivize

countries in certain regions to form groupings to enhance their international status, and to better cooperate in terms of economic, socio-cultural and political considerations. The European Union (EU), the Visegrad Four, NATO, ACP (Africa, Caribbean and Pacific) group of states, and ASEAN,

can be seen as examples of these regional groups. However, recent developments show that issues and conflicts can endanger the group with the risk of disintegration, such as Brexit and the migrant crisis in the EU. Similarly, the SCS dispute is a threat to the unity of ASEAN as a regional organization.



Figure 34: China's Nine-Dash Line in the South China Sea  
Source: www.dw.com, 2015

ASEAN was formed in 1967 with the support of the West, notably the USA and the UK. In its early days, ASEAN's function was to act as a buffer in the region in the midst of the Cold War, to prevent the spread of communism, and to enhance development in the Southeast Asia region. As the Cold War ended in the mid-1990s, ASEAN began to

strengthen relations with China, Japan and South Korea in order to counterbalance the US influence in the Asia-Pacific region. As China grew to be a new world power in the 2000s, China began to have bigger ambitions in the Asia-Pacific region, notably in the SCS, which has long served as the busiest international sea trade route. China's maritime and air power expansion in the

SCS has been driven by attempts to establish a zone of supremacy with economic activities as the main objective (GILLEY, B. 2019). Meanwhile, the US shifted its attention to the Middle East. The SCS became a vulnerable area with many countries occupying parts of the sea, and unlike land, it is difficult to establish a clear border among these countries and sometimes the exclusive economic zone (EEZ) of one country overlaps with that of another. *Figure 35* shows conflict areas in the SCS. As in this case, ASEAN countries failed to unify themselves to deal with China's growing power; this requires a change in the political and sovereignty aspects among ASEAN member states.

The SCS dispute is one of the most complex and multi-layered geopolitical issues in the world. It involves territorial and maritime claims made by China, Taiwan, Vietnam, the Philippines, Malaysia, Brunei and Indonesia, and the tension centered on the area in which China claimed a "nine-dash line" in the SCS, encompassing approximately 90 percent of the waters. The line runs as far as 2,000 kilometers from mainland China, reaching waters close to Indonesia and Malaysia, and it is used by China as a geographical marker to assert its claim. China maintains

that any land or water in the nine-dash line belongs to its "historical maritime right" (ZHEN, L. 2016). Only four ASEAN member states are claimant states to the SCS, namely Brunei, Malaysia, the Philippines and Vietnam. Indonesia has maintained the official position that it is not a party to territorial disputes in the SCS but China's nine-dash line includes "traditional fishing grounds" that fall within the exclusive economic zone off Indonesia's Natuna Islands (HOANG, T. H. 2019). For example, China claims more than 80 per cent, while Vietnam claims sovereignty over the Paracel Islands and the Spratly Islands (*Figure 34*). Meanwhile, the Philippines claimed ownership of the Spratly archipelago and the Scarborough Shoal (*Figure 34*), with Malaysia and Brunei claiming the southern parts of the SCS. In July 2016, a ruling by the International Tribunal in the Hague determined that China had no "historic rights" over the sea, and ruled that some of the rocky outcrops claimed by several countries could not legally be used as the basis for territorial claims. Beijing rejected the ruling and described it as having "no binding force". The South China Sea territorial dispute has emerged as a challenge to the unity of the organization. ASEAN has discussed drawing up a code of conduct to

be signed with China governing disputes in the South China Sea, but Beijing is reluctant to sign on to a multilateral agreement.



Figure 35: Areas in the SCS Dispute  
Source: www.eonomist.com, 2017

### How ASEAN Could Resolve the SCS Dispute

The South China Sea territorial dispute has emerged as a challenge to the unity of the organization. Southeast Asian nations have traditionally rejected looking for a bilateral solution with China, the region’s main economic and military power. Despite this, one year after the landmark ruling against China’s territorial claims, Philippine President Rodrigo Duterte agreed to solve the dispute with China through bilateral talks.

Similarly, Vietnam, the most outspoken critic of China, has softened its stance. In April 2018, the government said it would be willing to hold talks with China to resolve disputes in the area “in accordance with international law”.

However, there are many challenges ahead in the quest to realize its goals. For example, the incredible economic, political, religious, cultural, and linguistic diversity amongst the ASEAN member states creates barriers to unity and community building. The ‘ASEAN Way’ is anchored

on consultation and consensus amongst all ASEAN member states (ZHANG, Y. 2019). There are worries that ASEAN may not respond effectively to meet these challenges as the consensus can only be based on the ‘lowest common denominator’, and each member has veto power to oppose, postpone, or derail decisions and actions on urgent or critical problems (MORADA, N. 2017). ASEAN will continue to ensure its members’ sovereign rights and benefits as a ‘shared identity’, not a governing organization, while enhancing the role of collective governance. It is argued that, despite ASEAN’s promises, the ‘internal’ relevance of the community to each of its members remains largely secondary to national politics and policy priorities within each of the ASEAN member countries (TAY, S. S. C. 2017). The challenge is to be bold enough to condition minds to create a new and reformed ASEAN by agreeing to forge a new consensus (FUZI, A. 2017). In the ASEAN Charter of 2007 the Member States committed themselves to the peaceful settlement of disputes. The Protocol on Dispute Settlement Mechanisms adopted in 2010 builds on this commitment. The Protocol provides Member States with a framework enabling recourse in advance to traditional,

and largely optional, means of dispute settlement in the form of diplomatic, or non-adjudicative, modes, consultation, good offices, mediation and conciliation, to the quasi-judicial, arbitration, but no court (NALDI, G. J. 2014).

ASEAN has been working with China on an official code of conduct to avoid clashes in the disputed waters. A binding agreement has been discussed for years to little avail but in August 2018 it was revealed that all parties had agreed on a single draft negotiating text. ASEAN has discussed drawing up a code of conduct to be signed with China governing disputes in the SCS, but Beijing is reluctant to sign on to a multilateral agreement. ASEAN is also the only multilateral platform that China has agreed to engage on the SCS issue. This presents Beijing with a dilemma in dealing with ASEAN as a group and at the same time pursuing bilateralism with each claimant state (HOANG, T. H. 2019). China’s aversion to ASEAN’s collective approach on the SCS issue was well reflected during the formulation of the DOC Guidelines. The key issue is whether ASEAN member states should consult among themselves first before they consult with China. ASEAN members insist on such a consensual approach

towards China, while the Chinese side does not think this is in line with the understanding of the DOC. The whole issue of the SCS is not a matter between ASEAN as an organization and China, but among the relevant countries (SEVERINO, R. C. 2010). The reasons why China prefers bilateralism are self-evident: in bilateral contexts, individual Southeast Asian claimant states do not have the collective bargaining power of ASEAN. Dealing with each member state separately and bilaterally would give China an overwhelming leverage to dictate its terms, through coercion, co-option and/or commercial incentives (HOANG, T. H. 2019).

Southeast Asia is most influential when it works together, so multilateralism will continue to be critical. ASEAN should rely more on support from the larger constellation of countries committed to freedom of navigation and the protection of freedom of the seas to avoid being coerced into unfair agreements over resource development or rules of the road. If ASEAN continues to struggle, there may be opportunities for a subgroup to work mini-laterally to put forward solutions. For example, Indonesia, Vietnam, Malaysia, Brunei, and the Philippines could negotiate a consensus view on delineating maritime boundaries

and a maritime Code of Conduct (COC) outside of ASEAN and adopt that unified position together (PARAMESWARAN, P. 2016).

## V.2.5. Conclusion

With China emerging as a new power this has changed its position and ambition in the region. Along with the withdrawal of the US power in the Asia-Pacific, it poses a threat to ASEAN's credibility as a regional organization that previously managed to secure peace and prosperity in the region. ASEAN needs to adapt to these changes by confronting the challenges of regional militarization, economic, civilian, and environmental security issues. ASEAN itself is in a dilemma in regards to SCS maritime disputes, although it repeatedly defends a rule-based regional order and international law such as UNCLOS. Practically, ASEAN has not taken effective and determined action over the issue such that it can counterbalance Chinese hegemony. Fortunately, the SCS issue does not impact on the economic cooperation between ASEAN and China. Furthermore, ASEAN should try to grasp its significant position in the BRI as a counterbalancing tool to the Chinese assertiveness in the South China Sea. The most important

thing that can overcome the SCS dispute is to achieve the unity of ASEAN itself. Each country should prioritize the common interest over its own national interest. One way to enhance that is to review the ASEAN Charter so that it accommodates ASEAN towards becoming more functional and people-oriented, providing greater clarity in the conduct of relations between states and in resolving issues. It would also allow ASEAN to address power projections in the region and to adapt more quickly to

new and emerging challenges.

### *Acknowledgement*

The present publication is the outcome of the project „From Talent to Young Researcher project aimed at activities supporting the research career model in higher education”, identifier EFOP-3.6.3-VEKOP-16-2017-00007 co-supported by the European Union, Hungary and the European Social Fund.

## **V.2.6. References**

- ASKANDAR, K. – BERCOWITCH, J. – OISHI, M. 2002: The ASEAN way of conflict management: Old patterns and new trends. *Asian J. Polit. Sci.* 10, 21–42. <https://doi.org/10.1080/02185370208434209>
- BLANCO, L. 2020: Prospects for the South China Sea in 2020. – CSIS, Asia Maritime Transparency Initiative – <https://thediplomat.com/2020/02/interview-understanding-total-competition-and-chinas-challenge-in-the-south-china-sea/> (accessed 2.15.2020)
- CIORCIARI, J. D. 2009: The balance of great-power influence in contemporary Southeast Asia. *International Relations of the Asia-Pacific*, 9(1), 157–196.
- DARAMAWAN, A. R. 2020: ASEAN Outlook to Solve SCS Dispute? – The ASEAN Post – <https://theaseanpost.com/article/asean-outlook-solve-south-china-sea-dispute> (accessed 5.1.20)
- DOMINGUEZ, G. 2015: China’s nine-dashed line has ‚no basis under international law’. – Detsche Welle. – <https://www.dw.com/en/chinas-nine-dashed-line-has-no-basis-under-international-law/a-18609290> (accessed 2.10.20)
- FURTAK, F. T. 2015: Integration in Regional Organizations – A Comparison of EU, AU, OAS, and ASEAN. *J Civil Legal Sci* 4:146. doi:10.4172/2169-0170.1000146

- FUZI, A. 2017: ASEAN Charter – Time for Review? – The Star – <https://www.thestar.com.my/news/regional/2017/08/08/asean-charter-time-for-review-to-meet-the-member-states-needs-and-interests-an-update-is-urgently-n> (accessed 4.1.20).
- GERSTL, A. 2017: The South China Sea Dispute: A Shift to a more Proactive Role in ASEAN's Discourse and Policies since 2012? The South China Sea Dispute: A Shift to a more Proactive Role in ASEAN's Discourse and Policies since 2012? In: GERSTL, A. – STRASÁKOVÁ, M. (eds.) 2017: Unresolved Border, Land and Maritime Disputes in Southeast Asia. Bi- and Multilateral Dispute Resolution and ASEAN's Centrality. Brill: Leiden and Boston, pp. 183-230. pp. 183–230.
- GERSTL, A. – STRASÁKOVÁ, M. (eds.) 2017: Unresolved Border, Land, and Maritime Disputes in Southeast Asia. Bi- and Multilateral Conflict Resolution Approaches and ASEAN's Centrality. Brill: Leiden and Boston, pp. 183–230.
- HENG, K. – PO, S. 2017: Cambodia and China's Belt and Road Initiative: Opportunities, Challenges and Future Directions. 1, 1–18.
- GILLEY, B. 2019: The Role of ASEAN in the South China Sea Conflict - Konrad Adenauer Foundation Seminar on ASEAN, Khon Kaen University, Thailand, March 25, 2019.
- GNANASAGARAN, A. 2018: Addressing the Thorn in the Region's Flesh – The ASEAN Post – <https://theaseanpost.com/south-china-sea-dispute> (accessed 2.10.2020)
- HERSCOVITCH, B. 2017: A Balanced Threat Assessment of China's South China Sea Policy. Policy Analysis. Cato Institute, No. 280.
- HOANG, T. H. 2019: From Declaration to Code: Continuity and Change in China's Engagement with ASEAN on the South China Sea (Trends in Southeast Asia Series, 0219-3213 ; TRS5/19.
- KAPLAN, R. D. 2011: The South China Sea Is the Future of Conflict, Foreign Policy, 188, 1-8
- KEMPSTON, T. – THOMAS, N. 2013: The Drama of International Relations: A South China Sea Simulation. International Studies Perspectives. 15. 10.1111/insp.12045.
- KOH, T. 2017: ASEAN and the EU: Differences and Challenges. – The Straits Times – <https://www.straitstimes.com/opinion/asean-and-the-eu-differences-and-challenges> (accessed 4.24.20).
- KOSANDI, M. 2014: Conflicts in the South China Sea and China-ASEAN

- Economic Interdependence: A Challenge to Cooperation. ASEAN-Canada Research Partnership Working Paper Series. Working Paper No. 7.
- MENON, J. – LEE, C. 2019: An Evolving ASEAN: Vision and Reality. Asian Development Bank. <https://www.adb.org/sites/default/files/publication/528626/evolving-asean-vision-reality.pdf> (accessed 03.31.20)
- MORADA, N. 2017: ASEAN Community Building: What it Really Means to Be a Community. in ASEAN at 50: A Look at its External Relations. pp.19–30. <http://www.kas.de/wf/doc/23550-1442-2-30.pdf> (accessed 7 December 2018).
- NALDI, G. J. 2014: The ASEAN Protocol on Dispute Settlement Mechanisms: An Appraisal. *Journal of International Dispute Settlement*, Volume 5, Issue 1, March 2014, Pages 105–138, <https://doi.org/10.1093/jnlids/idt0>
- NGUYEN, T. L. A. 2015: Origins of the South China Sea Dispute. In: Huang J., Billo A. (eds) *Territorial Disputes in the South China Sea*. Palgrave Macmillan, London.
- OEGROSENO, A. 2016: CSCAP REGIONAL SECURITY OUTLOOK 2016 (pp. 44-46, Rep.) (Huisken R., Cable O., Ball D., Milner A., Sukma R., & Wanandi J., Eds.). Council for Security Cooperation in the Asia Pacific. doi:10.2307/resrep22266.15 Copy
- PARAMESWARAN, P. 2016: Understanding Total Competition and China's Challenge in the SCS. – *The Diplomat* – <https://thediplomat.com/2020/02/interview-understanding-total-competition-and-chinas-challenge-in-the-south-china-sea/> (accessed 3.1.20)
- PARAMESWARAN, P. 2019: Southeast Asia and China's Belt and Road Initiative. <https://thediplomat.com/2019/05/southeast-asia-and-chinas-belt-and-road-initiative/>
- ROBERTS, C. B. 2018: ASEAN, the “South China Sea” Arbitral Award, and the Code of Conduct: New Challenges, New Approaches. *Asian Polit. Policy* 10, 190–218. <https://doi.org/10.1111/aspp.12391>
- SEVERINO, R. C. 2010: ASEAN and the South China Sea. *Security Challenges*, 6(2), 37-47. Retrieved April 17, 2020, from [www.jstor.org/stable/26459936](http://www.jstor.org/stable/26459936).
- SIMON, S. W. 2015: The US Rebalance and Southeast Asia : A Work in Progress. *Asian Survey*, 55(3), 572-595. JSTOR. <https://doi.org/10.1525/as.2015.55.3.572>

- STOREY, I. 2014: *Discordes en mer de Chine méridionale : les eaux troubles du Sud-Est asiatique - Politique étrangère*, autumn issue,(3), 35-47. <https://www.cairn.info/revue-politique-etrangere-2014-3-page-35.htm>.
- STOREY, I. – COOK, M. 2017: *The Trump Administration and Southeast Asia: Enhanced Engagement*. 2017, 9.
- STOREY, I. – IZZUDDIN, M. 2017: Roundtable: The Trump Presidency and Southeast Asia. *Contemporary Southeast Asia: A Journal of International and Strategic Affairs*, 39(1), 1–2. <https://muse.jhu.edu/article/657969>
- TAY, S. S. C. 2017: ‘imperatives for a New ASEAN Leadership: integration, Community, and Balance’, in Baviera, A. and L. Maramis (eds.) *ASEAN@50 volume 4: Building ASEAN Community: Political-Security and Socio-Cultural Reflections*, pp.48–66. [http://www.eria.org/ASEAN\\_at\\_50\\_4A.4\\_Tay\\_final.pdf](http://www.eria.org/ASEAN_at_50_4A.4_Tay_final.pdf) (accessed 7 December 2018)
- THAYER, C. 2018: *The South China Sea and ASEAN’s 32nd Summit Meeting [WWW Document]*. URL <https://thediplomat.com/2018/04/the-south-china-sea-and-aseans-32nd-summit-meeting/> (accessed 2.7.20).
- THAYER, C. 2020: (2020, January 7): *Asia Reassurance Initiative Act: Framework for a US Indo-Pacific Strategy?* <https://thediplomat.com/2020/01/asia-reassuran>
- TRAN, P. N. M. 2019: *ASEAN and the South China Sea: Vietnam’s Role as Chair – Asia Maritime Transparency Initiative*, Center of Strategic and International Studies, USA
- VALENCIA, M. 2009: *The impeccable incident: Truth and consequences*. *China Security*, 5(2), 22–28
- YANG, A. H. 2015: *The South China Sea Arbitration and Its Implications for ASEAN Centrality*. In S. Lee, H. E. Lee, & L. Bautista (Eds.), *Asian Yearbook of International Law* (Vol. 21, pp. 83–95). Brill; JSTOR. <https://www.jstor.org/stable/10.1163/j.ctvbqs7d3.8>
- YORK, M. 2015: *ASEAN’s Ambiguous Role In Resolving South China Sea Disputes - Indonesian Journal of International Law*, vol. 12, no. 3, 2015, pp. 286-310.
- YU, H. 2017: *China’s Belt and Road Initiative and Its Implications for Southeast Asia*. *Asia Policy*, 24(1), 117–122. <https://doi.org/10.1353/asp.2017.0029>