

“Sea of Cooperation” or “Sea of Conflict”?: The South China Sea in the Context of China-ASEAN Maritime Cooperation

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Abstract

China and most Association of South-East Asian Nations (ASEAN) member-states share a common bond in the South China Sea due to their geographical designation and contiguity as maritime nations and littoral states to this strategic waterway. Indeed, the significance of this semi-enclosed sea to their respective as well as mutual geo-strategic and geo-economic interests has made maritime cooperation a critical, if not compulsory agenda in the overall vision and framework of China-ASEAN engagements. Such importance has been underlined by the Chinese-sponsored Maritime Silk Road of the 21st Century (MSR) agenda and its related programmes, which serve as the blueprint for enhanced China-ASEAN maritime cooperation especially in the South China Sea. However, sceptics/critics have pinpointed that these Chinese-driven agendas are not new, and that the maritime ASEAN states' responses have been somewhat lukewarm. Undeniably, Beijing's efforts have been largely hampered by its longstanding maritime-territorial disputes in the South China Sea vis-à-vis several ASEAN member-states, and perhaps even more so, by its growing assertiveness in handling the imbroglio. Not only has it created a “trust deficit”, China's South China Sea policy has also encouraged the affected ASEAN claimant-states to “balance” or “hedge” against unpredictable Chinese strategic behaviour by rekindling security relations with and soliciting intervention from non-resident powers in the region. Such apparent “contradictions” pose political and even military challenges to maritime cooperation between China and ASEAN countries. This article addresses the South China Sea “problematique” by firstly providing an overview of China-ASEAN maritime cooperation, and by extension, China-ASEAN relations, as well as the South China Sea maritime-territorial debacle, from both past and present vantage points. It then examines the mutual motivation and drivers behind the aforesaid initiatives to propel

maritime cooperation, before deliberating on the contending issues and challenges in the disputed waters that could derail such an ambitious strategic vision. Lastly, it explores the way forward and prospects for the South China Sea to become a “sea of cooperation” that could facilitate the MSR agenda, and ultimately the realization of greater China-ASEAN maritime cooperation.

Keywords: *China-ASEAN relations, maritime cooperation, South China Sea, maritime-territorial dispute*

1. Introduction

China and most Association of South-East Asian Nations (ASEAN) member-states share a common bond in the South China Sea due to their geographical designation and contiguity as maritime nations and littoral states to this waterway, which is amongst the busiest sea-line of communication (SLOC) in the contemporary world. Indeed, the significance of the semi-enclosed regional sea to their respective as well as mutual geo-strategic and geo-economic interests has made maritime cooperation a critical, if not compulsory agenda in the overall vision and framework of China-ASEAN engagements. Such importance has been underlined by Chinese President, Xi Jinping, in his address to the Indonesian parliament back in 2013, when he proposed the creation of a blueprint and joint effort to build the Maritime Silk Road of the 21st Century (MSR) to serve as a new driving force for enhanced China-ASEAN maritime cooperation, in which the South China Sea has a contingent role to play. Together with the Lancang-Mekong Cooperation initiative (which forms the maritime half of China’s ambitious “Belt and Road” grand design), the MSR is envisioned to create a “one river, one sea” concept for comprehensive regional cooperation under the auspices of a China-ASEAN community forged by common destiny, interests and responsibilities. The prior unveiling of the China-ASEAN Maritime Cooperation Fund in 2011 and last year’s declaration as the landmark year for China-ASEAN Maritime Cooperation (2015), not mentioning the recent 2016 statement by China’s State Oceanic Administration (SOA) officials regarding a new five-year action plan for international cooperation in the South China Sea including the setting up of a China-ASEAN Maritime Cooperation Centre, clearly highlighted Beijing’s commitment to advancing the MSR, ostensibly for the mutual interests and benefits of both parties concerned. The recently held “Belt and Road” forum in Beijing, officially named as the “Vision and Action Plan of Jointly Building Silk Road Economic Belt and 21st Century Maritime Silk Road”, which saw the presence of 130 countries and 70 international organizations, as well as the signing of 32 trade and financial accords (The State Council, The People’s Republic of China, 2017),

further attest to China's unwavering commitment towards building a platform for global connectivity, where the success of the maritime dimension of its global grand design may very well rest on sustainable China-ASEAN maritime cooperation.

However, sceptics and critics have pinpointed that the latest Chinese-driven agenda for regional maritime cooperation is not new, and that despite the aforementioned overtures, the response of the ASEAN states has been thus far lukewarm, at best. Undeniably, the Chinese efforts have been largely hampered by the longstanding and simmering maritime-territorial disputes in the South China Sea between the Chinese and several ASEAN member-states, and perhaps even more so, by China's growing assertiveness in handling the imbroglio in recent times. For certain, it has not only created a "trust deficit", but also encouraged the affected ASEAN claimant-states to "balance" or "hedge" against unpredictable Chinese strategic behaviour by rekindling security relations with and soliciting intervention from non-resident powers in the region. Such apparent "contradictions" pose political and even military challenges to maritime cooperation between China and ASEAN countries.

This article addresses the above "problematique" by firstly providing an overview of China-ASEAN maritime cooperation, and by extension, China-ASEAN relations, as well as the South China Sea maritime-territorial debacle, from both past and present vantage points. It then examines the mutual motivation and drivers behind the aforesaid initiatives to propel maritime cooperation, before deliberating on the contending issues and challenges in the disputed waterway that could derail such an ambitious strategic vision. Lastly, it explores the way forward and prospects for the South China Sea to become a "sea of cooperation" that could facilitate the MSR agenda, and ultimately the realization of greater China-ASEAN maritime cooperation, and even integration.

2. Overview of China-ASEAN Relations: Past and Present Viewpoint

China has interacted with both landlocked and maritime Southeast Asia for centuries due to their shared history and geographical proximity. Historians generally concur that the relationship between the various governments and peoples of China and their counterparts in Southeast Asia spans over two millennia (Stuart-Fox, 2003; Zhao, 1998). Early Chinese engagements with the *Nanyang* or Southern Sea region, which the Chinese refer Southeast Asia to, can be traced as far back to the indirect trade during the Shang dynasty that took place by both overland and maritime trade routes. Over the next few centuries, along with flourishing trade relations and the spread of the Chinese civilization/culture, not to mention, exchanges of diplomatic envoys and the provision of Chinese security umbrella, relations between China and

Southeast Asia came to be conducted in accordance to what was known as the “tributary” system. More specifically, Southeast Asian kingdoms became tributary/vassal states in a Chinese-orchestrated “Sinocentric” world order with China as the so-called “Middle Kingdom”, by and large assuming the role of a benevolent hegemon.

Nonetheless, a severely weakened China under the yoke of Western and Japanese imperialism during the so-called “century of shame” in the late 19th and early 20th century precipitated the end of the dynastic period and the Chinese world order, and together with it the demise of the tributary system. China’s subsequent transition from empire to republic affected the way the Chinese conducted international relations, since the old Chinese world order was replaced by a radically and culturally different international system of nation-states that professed different norms and values of interaction. Indeed, China’s relations with the rest of Southeast Asia were minimal during this period of transition, which also coincided with the protracted domestic turmoil and conflict in post-imperial China, the age of imperialism in (Southeast) Asia, and the two world wars (see Zhao, 1998; Stuart-Fox, 2003: 2).

The founding of the People’s Republic of China (PRC) in 1949 following the Chinese communist party’s victory over the Nationalist Guomindang in the Chinese civil war, and the subsequent advent of Mao’s proletarian internationalism that provided active support to communist insurgencies across Southeast Asia during the first two Cold War decades saw China’s relationship with the region reaching a nadir, with many Southeast Asian states severing formal diplomatic ties with Beijing for its role in advancing the so-called “domino theory” and effect. In fact, when the ASEAN was established in 1967, none of its founding member-states had normal relations with China, due to strong distrust resulting from Beijing’s clandestine involvement in and ties with the local communist movements in Southeast Asian polities.

Nevertheless, the rigid bipolar order of the Cold War in Asia eventually gave way as a result of the fallout between the Soviet Union and communist China in the late 1960s that saw the Chinese begun leaning towards and courting the Americans. The PRC’s ascension into the United Nations (UN) in 1971 and the Sino-US rapprochement epitomized by Nixon’s China visit, followed by America’s Japanese ally’s speedy rapprochement and normalization of diplomatic relations with the Chinese in 1972, have had a positive effect on China-Southeast Asia ties. Specifically, this strategic shift in the regional security landscape coupled with the deradicalization of Chinese foreign policy from one that fostered revolutionary zeal in the past to one that promoted a moderate policy of peaceful co-existence, engendered a rethinking among ASEAN states of their respective relations with China (Ba, 2003: 624). Such transformations in both the international and domestic realms

saw a gradual thawing of ties that eventually led to the re-establishment of formal diplomatic relations between China and a number of Southeast Asian states, including Malaysia, which became the first ASEAN member-state to normalize relations with Beijing in May 1974, followed by Thailand and the Philippines, a year later. Although Singapore and Indonesia did not normalize relations with the PRC until the 1990s, both had expanded trade ties with and officially engaged Beijing.

Although China-ASEAN relations became more dynamic during the 1980s onwards, resulting from ASEAN polities' promotion of a more equidistant foreign policy in their respective relations with the big powers, it was the Cold War's demise that served as the watershed in China-ASEAN relations. The obsolescence of the Cold War together with international response to the 1989 Tiananmen Square incident forced China to recalibrate its foreign policy that was geared more towards Asia, with Southeast Asia serving as the major focus (Egberink & van der Putten, 2011: 20). Similarly, the changing regional dynamics triggered several external outcomes that contributed to "pulling" the ASEAN states towards a re-orientation of their respective China policy, including the uncertainties of US commitment in Southeast Asia following its military withdrawal from the Philippines, and rising concerns regarding inter-regional economic competition following the formation of the NAFTA and EU economic blocs. The coalescence of such dynamics, together with China's charm offensive served as the bulwark for the acceleration and intensification of China-ASEAN relations in the post-Cold War decade.

Indeed, according to Ba (2003: 634), "the 1990s was generally a very good decade for China and ASEAN, with more factors emerging to unite than to divide them". In the diplomatic realm, the remaining ASEAN founding member-states, followed by its new members from mainland Southeast Asia steadily re-established formal ties with Beijing. Diplomatic exchanges and reciprocal visits by Chinese and ASEAN leaders also intensified annually with both sides putting greater emphasis on enhancing their overall relations, in view of their common interests and geographical contiguity, as well as their mutual realization of a sense of shared destiny, fostered by deepening regional interdependence. In 1991, China was invited to attend its first ASEAN Ministerial Meeting as an observer, and by 1996, Beijing has graduated to becoming a full dialogue partner. China also proactively engaged ASEAN via the latter's own multilateral platforms such as the ASEAN Regional Forum (ARF), the Asia-Europe Meeting (ASEM), the ASEAN-Plus-Three and the East Asia Summit (EAS).

Meanwhile, in the economic realm, China-ASEAN ties have grown exponentially in terms of trade and investments. Sino-ASEAN trade witnessed a dramatic increase beginning in the 1990s, with an average 75 per cent

annual growth between 1993 and 2001 (Mitchell & Harding, 2009: 84; see also ASEAN, 2001). As the Chinese economy began to grow at a rapid pace along with healthy growth rates of the Southeast Asian economies, economics have emerged as the salient reason as to why China has become increasingly important to ASEAN states, as with ASEAN to the Chinese. Although initially perceived to be a significant economic competitor, ASEAN saw the potential benefits of developing closer economic ties with China, with the Chinese economy serving as an alternative growth engine for Southeast Asia during a time of uncertain global and regional transition that saw the advent of the above mentioned regional trading blocs that could curtail the market access of these export-oriented ASEAN economies. For China, the Tiananmen incident of 1989 and its aftermath generated insecurities towards the West, which led to Beijing's overtures to ASEAN states, seeing them as potentially attractive economic partners and political allies vis-à-vis the West, not to mention, alternative development model (Ba, 2003: 632). China-ASEAN relations strengthened further following the Asian financial crisis of 1997. China's decision in not devaluing the Yuan during the regional financial meltdown was greatly appreciated by the ASEAN states, as it not only demonstrated China's commitment to Southeast Asia but also heralded a new dawn in Chinese leadership in the region. Sino-ASEAN economic relations were further boosted by the political will to enhance economic cooperation, which resulted in the formation of the ASEAN-China Free Trade Area (Kuik, 2005; Severino, 2008). In 1999, China became ASEAN's main trading partner, collectively as well as bilaterally with most of the ASEAN states.

Although Sino-ASEAN ties flourished in diplomatic and economic dimensions, China's engagement with ASEAN states in the political-security realm was limited during the same period, despite having normalized relations with several ASEAN states. Their *de facto* alignment against Vietnam following the Vietnamese annexation of Cambodia in 1978, which lasted until 1989, was arguably the hallmark of Sino-ASEAN security relations prior to the end of the Cold War. The negligible security relations was due mainly to the legacy of China's earlier revolutionary policies in the region and the lingering distrust/uncertainty that ASEAN states had regarding Beijing's strategic intentions in the region. Compounding the ASEAN states' apprehension was their longstanding maritime-territorial dispute vis-à-vis China over the South China Sea, which had witnessed occasional flare-ups, such as the Sino-Vietnamese fiery high-sea clash in 1988 over parts of the South China Sea's Spratly archipelago. To a large extent, China's policy towards the South China Sea was arguably ASEAN's chief concern as China-ASEAN relations moved into the post-Cold War phase, with Beijing demonstrating not only assertiveness, but equally, willingness to use coercive measures to defend its contending claims in the disputed waters. In fact,

overriding concerns over Chinese strategic behaviour in the South China Sea in the early 1990s became the impetus for ASEAN to actively engage the Chinese via its own multilateral frameworks, such as the expanded ASEAN Post-Ministerial Conference (PMC) that later metamorphosed into the ASEAN Regional Forum (ARF), Asia's maiden multilateral security dialogue, and the Indonesia-sponsored South China Sea Workshops. Together with all the other ASEAN-centred bilateral and multilateral platforms as well as their mutual interest to promote a sustainable partnership, they became the basis and drivers of China-ASEAN maritime cooperation.

3. The Evolution of China-ASEAN Maritime Cooperation

It is reasonable to say that maritime cooperation between China and ASEAN started in the 1990s in direct response to the South China Sea problem, with the latter initially seeking to engage the former as a dialogue partner in an effort to desensitise the maritime-territorial dispute, which involves the Chinese and five other claimant parties, four of which are ASEAN states. From ASEAN's viewpoint, China's assertiveness in advancing its maritime-territorial interests in the South China Sea amid a fluid and unpredictable post-Cold War regional security environment fuelled so much uneasiness that the original ASEAN Six had to collectively respond by issuing a statement in the form of the 1992 ASEAN Declaration on the South China Sea as a means to rein in Chinese coercive behaviour in the disputed waters. The declaration prompted the Chinese to assuage to ASEAN's call for a peaceful resolution to the South China Sea imbroglio via negotiations and consultations.

However, despite the initial assurance, the South China Sea issue resurfaced in 1995 following Manila's discovery of new Chinese installations at the Mischief Reef, a feature in the Spratly archipelago that the Philippines claims under the United Nations Convention on the Law of the Sea (UNCLOS)'s Exclusive Economic Zone (EEZ). Ba (2003: 627-628) opined that the Mischief Reef incident was significant in that it marked the first instance China had directly challenged an ASEAN member's claim, not mentioning Beijing's blatant disregard of the ASEAN's 1992 Declaration. In spite of the ensuing diplomatic row, the incident provided the impetus for China to eventually make conciliatory gestures, namely Beijing's recognition of the UNCLOS, the signing of bilateral accords with Malaysia and the Philippines over several South China Sea features, and perhaps most saliently, China's agreement to discuss the South China Sea issue in a multilateral setting, as opposed to bilaterally vis-à-vis the affected ASEAN claimant-states (Egberink and van der Putten, 2011).

To be sure, China had been traditionally reluctant to engage ASEAN multilaterally, preferring instead to negotiate bilaterally, for fear of the smaller

ASEAN states ganging up against it, and because of the better leverage it had doing on a one-on-one basis. However, Beijing's participation in the ARF as a founding member in 1994 marked a shift in its *modus operandi* in that Beijing has gradually come to acknowledge the strategic upside of engaging ASEAN as an "insider", for not only the purpose of mutual trust and confidence-building, but also to potentially set the agenda and influence the discourse regarding the SCS and other regional security issues. Most observers commonly identify two key factors shaping China's policy shift in favour of ASEAN multilateralism, namely 1) Beijing's preference for the "ASEAN Way" rule of interaction based on consensus-building, informal diplomacy and non-interference which the Chinese share with its ASEAN neighbours; and 2) ASEAN's centrality reduces the possibility of its platforms turning into "anti-China forums" (Egberink and van der Putten, 2011; Kuik, 2005, Narine, 2008). In other words, China is comfortable in dealing with the ASEAN states due to their shared values and strategic preference, and confident that Chinese foreign policy interests would be safeguarded with ASEAN in the driver seat. More importantly, the ARF together with other ASEAN-originated multilateral frameworks could equally serve as platforms to advance China-ASEAN maritime cooperation comprehensively as a means to facilitate China's regional grand strategy which has duly manifested in the current Belt and Road Initiative (BRI), previously called the "one belt, one road" (OBOR) agenda.

Indeed, apart from assuaging security concerns over the South China Sea, the ARF provided the platform for both sides to further discuss on the forms of maritime cooperation that the Chinese and their ASEAN neighbours could undertake. Accordingly, the ARF members agreed in principle to refer maritime cooperation chiefly to non-traditional security cooperation, as stipulated in the 1995 ARF concept paper. They included a range of cooperative endeavours from prevention of naval collision and maritime search and rescue to marine environmental monitoring and marine science (see Cai, 2015). Also emphasized was the mutual understanding that negotiations be conducted bilaterally between the affected/claimant-states over maritime-territorial disputes and delimitation of maritime boundaries. Following the 1995 ARF session, China and the Philippines took the initiative to co-host the much-lauded 1997 ARF inter-sessional meeting on confidence-building measures (CBMs), which laid the foundation for future ARF inter-sessional meetings on maritime security (Cai, 2015). This nascent phase of China-ASEAN maritime cooperation also witnessed the joint efforts of both sides in advocating for marine environment protection under the auspices of the UN, such as the UN Regional Programme for the Prevention and Management of Marine Pollution in the East Asian Seas (1994), and the Sustainable Development Strategy for the Seas of East Asia.

Maritime cooperation became even more pronounced as China-ASEAN relations entered the new millennium, riding on the back of the dynamism of their overall engagements, with the status of their relationship having been upgraded from “good-neighbourly” (1997) to “strategic partnership” (2003). In 2002, China and the ASEAN states concluded their negotiations on and signed the Declaration on the Code of Conduct of Parties in the South China Sea or the “DoC” which reaffirms their mutual commitment “to the adoption of a code of conduct in the South China Sea ... to further promote peace and stability in the region”. Besides the code of conduct on maritime-territorial disputes, the DoC also spelt out areas of maritime cooperation which China and the ASEAN states agreed in principle to, such as those listed in the above said 1995 ARF paper, including combating transnational crimes, i.e. piracy, illicit drugs and armed smuggling, and human trafficking.

Besides the DoC, the China-ASEAN “strategic partnership” agreement of 2003 was another framework that facilitated the implementation of various maritime cooperation programmes, under the purview of one of its 10 major cooperation fields, namely transport. Indeed, although the DoC appeared on paper to be the central framework facilitating maritime cooperation programmes, it was the “strategic partnership” agreement that has been, in reality, the most progressive in promoting the various maritime cooperative endeavours between the two sides since the early 2000s. Among the notable areas of cooperation that have taken off include the identification of priority areas of maritime cooperation; establishing high-level coordination management mechanism, i.e. the China-ASEAN Transport Ministers’ Meeting and the China-ASEAN Maritime Consultation Mechanism (2003); developing a shipping cooperation plan; signing of the China-ASEAN Agreement on Maritime Transport; enhancing maritime transport cooperation; and human resource training and capacity-building for ASEAN maritime personnel, among others (see Cai, 2015).

Apart from the multilateral platforms, maritime cooperation also transpired bilaterally and trilaterally between China and several ASEAN states with commendable results. They include China’s notable participation in disaster prevention and relief activities with Indonesia and other ASEAN states in the wake of the 2004 Indian Ocean tsunami; China-Indonesia bilateral maritime cooperation on various areas of mutual interests; China-Vietnam maritime cooperation and the joint sea hydrocarbon exploration in the Beibu Bay; China-Malaysia maritime cooperation in marine science and technology, i.e. signing of China-Malaysia Marine Science and Technology Agreement (2009); and the China-Thailand maritime cooperation in an identical area.

In response to the ASEAN connectivity plan in 2010, which was part-and-parcel of the ASEAN Community agenda, China has identified and taken initiatives to enhance its maritime connectivity with the Southeast

Asian region as a priority area in China's overall maritime cooperation with ASEAN. The establishment of the above mentioned China-ASEAN Maritime Cooperation Fund in 2011 was precisely meant to facilitate this Chinese strategic agenda to elevate maritime cooperation between the two sides to greater heights. In fact, China has continued to actively promote maritime cooperation with ASEAN states by further proposing and establishing a number of key initiatives. They include the proposed establishment of a China-ASEAN maritime partnership, and issuing of the International Cooperation Framework for the South China Sea and Other Neighbouring Sea Areas in 2012, followed by the much hyped strategic plan to build the 21st Century MSR with Southeast Asia as its hub, a year later. In 2014, the Chinese set up the USD40 billion Silk Road Fund which encompasses the funding of development projects in the maritime dimension of the Belt and Road Initiative, before officially designating 2015 as the Year of China-ASEAN Maritime Cooperation.

The above overview clearly highlights the dynamics that have positively contributed to shaping the development and prospects of China-ASEAN maritime cooperation. Specifically, the systematic efforts and “charm offensive” undertaken by the Chinese to convince ASEAN states of the mutual benefits of expanding the socio-economic and non-traditional security dimensions of their maritime cooperation have been impressive, to say the least. Yet, despite all that, the response of ASEAN states, especially those directly involved in the South China Sea maritime-territorial row, have been somewhat lukewarm, at best, due to their growing skepticism towards the rhetoric and reality of Chinese intentions and ambitions, which have been accentuated by Beijing's inconsistent and allegedly contradictory behaviour in the disputed sea. The following section discusses the South China Sea “problematique” that affects China-ASEAN relations in general, and their maritime cooperation specifically, and the dynamics that could potentially transform the South China Sea into either a “sea of cooperation” or “sea of conflict”.

4. The South China Sea “Problematique”

The South China Sea (*Nanhai* in Chinese) is a semi-enclosed sea spanning a maritime area of 3.5 million square kilometres which borders China to the south and located in the vicinity of most of the littoral states in Southeast Asia. Linking the Indian Ocean and the Pacific Ocean, the South China Sea serves a vital sea line of communication (SLOC) that together with the Straits of Malacca, connects Europe, the Middle East, and the Indian subcontinent to maritime East Asia, through which the bulk of East-West and global trade/commerce passes through annually. Apart from possessing a large number

of islands/shoals/rocks/reefs/banks/atolls, the South China Sea is also rich in hydrocarbon deposits. It is likewise an important source of seafood for Southeast Asian countries, whose maritime regions and borders are located within its vicinity.

The South China Sea “problematique” refers to none other than the multilateral dispute over this strategic waterway that encompasses both overlapping territorial and maritime claims between China and the related ASEAN states. The territorial dimension of the dispute commonly but not exclusively relates to the Spratly and Paracel archipelagoes, but also potentially includes other geographical features in the South China Sea and their surrounding waters, which are either in actuality or perceived to be disputed, due to the distinct lack of geographical clarity and the vaguely defined meanings of China’s so-called “nine-dash-line” boundary (Hayton, 2015).

The Paracel chain located in the northern part of the South China Sea is disputed between China and Vietnam, but has been under the control of the Chinese since 1974. The Spratly archipelago, meanwhile, refers specifically to the group of southerly SCS islands/reefs/atolls and its surrounding waters, which are currently contested by six claimant-states, namely China, Vietnam, Philippines, Malaysia, Brunei and Taiwan. This notorious archipelago have been deemed by observers as “the epicentre of competing maritime-territorial, geo-economic and geo-strategic interests” as well as “a potential turf/hotspot for great power politics”, due to its abundant natural resources (i.e. fisheries and hydrocarbon reserves), and strategic location, straddling along the world’s busiest SLOC (Emmers, 2010; Lai, 2015a: 395; Lai, 2015b: 64).

Both China and Vietnam claim the Spratlys in their entirety, while the Philippines and Malaysia officially lay claims over fifty-three and twelve geographical features, respectively. As for Brunei and Taiwan, the former claims only two Spratly features, while the latter’s claims replicate that of the People’s Republic, in lieu of their common assertion of Chinese sovereignty over the South China Sea. The basis of their contending claims varies from historical to geographical/legal grounds based on existing international conventions of the law of the sea (namely UNCLOS) or a combination of both. As of 2012, Vietnam has occupied 25 geographical features, while China has control over 12 reefs and shoals, the Philippines and Malaysia occupy eight and five features, respectively, while Taiwan has control over the Itu Aba/Taiping, which is the largest and most habitable of the Spratly chain (Kostadinov, 2013: 3).

The Spratlys row has witnessed claimant-states asserting their contending claims by employing multiple strategies, including the use of force. Indeed, all claimant-states except Brunei, have established military presence in most of the islands they currently occupy, which contributes to increasing tension and the possibility of naval confrontation. China, especially, has been

periodically and harshly criticized for allegedly adopting “coercive tactics” (i.e. gunboat diplomacy) in pursuit of its so-called “creeping invasion” or “incremental assertiveness” of the archipelago, as exemplified in the Fiery Cross Reef and the aforementioned Mischief Reef incidents in 1988 and 1994-95, respectively. Beijing was reprimanded again in April 2012 for its alleged belligerence in managing the Chinese-Filipino standoff at the Scarborough Shoal. In fact, it has been recently described in a Pentagon report that China “is using coercive tactics ... to advance their interests in ways that are calculated to fall below the threshold of provoking conflict” (*Agence France Presse (AFP)*, 2016). The report also states that the Chinese have deployed both the PLA-Navy and Chinese coastguards to maintain a “near-continuous” presence in the South China Sea since 2015 (*AFP*, 2016).

From most observers’ viewpoint, China has somewhat altered its strategic behaviour in the South China Sea, after enduring almost one-and-a-half decades of “strategic patience” under the mantra of “peaceful development” to strengthen its comprehensive national power. It is claimed that the Chinese have been “buying time” by incrementally enhancing their strategic presence as well as reinforcing their military capabilities in the South China Sea over the last couple of decades. Among the “eyebrow raising” developments include the building of naval bases (i.e. Sanya Island) and the sizeable expansion in the PLA-Navy’s South China Sea Fleet, which comprises the indigenous building/commissioning of aircraft carrier battle groups and a massive fleet of submarines (see Goldstein and Murray, 2004). These developments, commensurate with the largest PLA outlay allocated for the South China Sea fleet, have been reckoned as Beijing’s groundwork for the eventual assertion of Chinese sovereignty over the troubled waters.

The Chinese have also employed complementary strategies to strengthen their assertion in the South China Sea, including the alleged unilateral declaration of maritime boundaries and the highly contentious land reclamation of previously uninhabitable features, ostensibly to provide a legal basis to its sovereignty claims. The 1992 Territorial Waters Law is a case in point, which not only reaffirms China’s indisputable sovereignty over the Paracels and Spratlys, but also “legalizes” the Chinese claim to more than 80 per cent of the South China Sea via the notorious “nine-dash-line” boundary (Emmers, 2010: 71). In fact, the “nine-dash-line” which forms a “U-shaped” boundary from China’s southerly borders, originates from the “eleven-dash-line” Chinese map of 1947, which encloses most of the SCS based on Chinese historical claim to the related geographical features dating as far back as the Qin and Han dynasties (Shen, 2002: 103).

In addition, Beijing has used official statements as contemporary basis to its claims, such as the 1951 statement by then Chinese premier Zhou Enlai asserting sovereignty over the island groups, and the 1958 statement

linking China's territorial claims over the Spratlys and Paracels to maritime jurisdiction in the surrounding waters. China also submitted a *note verbale* to the UN Commission on the Limits of Continental Shelf in 2009, to declare its jurisdiction over the said maritime borders, in response to several ASEAN states' similar efforts in the same year to strengthen the geographical and legal basis to their respective claims. They include the Malaysia-Vietnam joint submission to the same UN commission in 2009 to delimit their 200-nautical miles (nm) of Exclusive Economic Zones (EEZ), and the Philippines' passing of a congressional legislation to revise its archipelagic baselines in conformity with the UNCLOS' "regime of islands" doctrine that covers the Kalayaan group of islands and Scarborough Shoal, which overlaps with the claims of other claimant-states.

On a similar note, ASEAN states have been spooked by China's blatant land reclamation of a number of Spratly features, which have been largely transformed into habitable 'islands' (some even with airstrips). According to estimates, China's land reclamation efforts have added 3,200 acres of land to the seven features it occupies in the Spratlys. The Chinese reclamation exercise came to a pause last year, and they have since focused on "infrastructure development" of those reclaimed features. To be sure, the UNCLOS is unequivocal in its definition of geographical features that can or cannot lay claim to an extended EEZ. While the Chinese land reclamation of the related uninhabitable SCS features (reefs/banks/atolls) does not serve such a purpose, these newly formed and habitable "islands" can surely masquerade as forward bases of deployment and logistical support that allow the PLA-Navy to sustain future naval operations to assert Chinese sovereignty over the disputed waters (Lai, 2015b: 65). In fact, the Chinese did not wait long to provoke further suspicion regarding the possible future use of these artificial islands by landing aircrafts, initially a civilian one, followed by a military plane at a newly installed airstrip in a remarkably transformed Fiery Cross Reef, which drew diplomatic flaks from other disputant-states and the US (*Reuters*, 2016; *Cable News Network (CNN)*, 2016). Since then, the Chinese have, as insinuated in a recent headline of the *Japan Times*, continued a "steady pattern of militarization" in the South China Sea, such as building structures ostensibly to house surface-to-air missile systems, and deploying anti-aircraft and anti-missile systems, among others (*Japan Times*, 2017).

China's actions in the South China Sea have inevitably prompted the US to renew its presence and engagement in the disputed waters under the auspices of the "US pivot to Asia" initiative. This include strengthening security ties with the Philippines, Vietnam, and to various extent, Malaysia and other affected ASEAN claimant-states, in what some would be deemed as "balancing" or "hedging" against China's growing assertiveness and unpredictable behaviour on the part of the ASEAN states, and plausibly

“containment” in Washington’s strategic vocabulary. With regard to China’s South China Sea claims, the US has insisted that Beijing’s “nine-dash-line” boundary contravenes the UNCLOS, and does not have basis in international law. Washington has also up-the-ante vis-à-vis Beijing by launching several “freedom of navigation” exercises lately, such as sending American warships close to the sites claimed by China and conducting military over-flights in the related airspace to test Chinese reaction. Washington even went a step further by having Secretary of Defense, Ashton Carter, taking a tour of the South China Sea aboard a US aircraft carrier in November 2015. Beijing expectedly viewed such actions as undue provocation from Washington that could increase the risk of miscalculation and military mishap.

From Malaysia’s perspective, the country has neither been at the receiving end of China’s military assertions, nor has it been compelled by the Chinese to forcefully defend its Spratly outposts, possibly an outcome of their “special relationship”. Nevertheless, Malaysia is increasingly sharing the apprehensions of other ASEAN-states regarding the deteriorating security ambience in the South China Sea. In fact, Putrajaya has cause for concern, since Beijing’s renewed assertion of its “nine-dash-line” boundary has ultimately led to the Chinese “breaking tradition” with Malaysia, when they made their first-ever military assertions, albeit in the form of two naval exercises off a Malaysian-claimed feature known as James Shoal in 2013 and 2014. This was followed by another alleged incursion in June 2015 by a Chinese coastguard vessel at Luconia Shoals located about 150 kilometres north of Sabah, which is also claimed by Brunei. There was also a media report in March 2016 that saw a Malaysian minister claiming that approximately a hundred China-registered fishing boats guarded by two Chinese coastguard vessels have been detected encroaching into Malaysian waters near the Luconia Shoals (*South China Morning Post*, 2016). Malaysia has since responded by departing from its traditionally soft and cautious approach to officially reprimand the Chinese via diplomatic channels. Putrajaya has likewise in its capacity as the ASEAN chair, sought albeit unsuccessfully to broker for the Code of Conduct (CoC) in the South China Sea, to rein in potential Chinese belligerent behaviour. While continuing its pragmatic policy of engaging China and seeking diplomatic means to manage the maritime-territorial imbroglio, Malaysia has also sought to “hedge” against the uncertainties of future Chinese strategic behaviour by acquiescing to a revitalised American military presence via the “US ‘pivot’ to Asia” initiative (see Kuik, 2013) and maintaining military links with other regional powers, especially the Five Power Defence Arrangement (FPDA) member-states, and even Japan to a renewed extent. Malaysia has similarly embarked on military modernization as part of its “hedging” strategy, which included procuring submarines and other naval assets for forward deployment

at the Royal Malaysian Navy bases in Sabah (i.e. Sepanggar) to safeguard its maritime-territorial integrity and interests in the South China Sea (Lai, 2015b: 65).

5. The Impact of the South China Sea Imbroglia on China-ASEAN Maritime Cooperation

The longstanding yet unresolved and increasingly problematic maritime-territorial disputes between China and the related ASEAN states in the South China Sea has undoubtedly cast a long shadow of doubt over the prospects of advancing China-ASEAN maritime cooperation. Indeed, despite all the previously mentioned fanfare regarding maritime cooperation and the MSR initiative, there has been a general lack of progress in advancing the multitude of plans put forward beyond the proposal stage. For certain, the inability of the claimant states to amicably resolve, defuse or even shelve the festering dispute, not mentioning their perceived inconsistent behaviour and mixed signals as well as provocative actions and counteractions in the South China Sea that fuel further suspicion and tensions, have created a severe “trust deficit” between them that made it difficult for genuine cooperation to take place in the maritime domain.

For instance, China’s charm offensive and wooing of ASEAN states to strengthen their maritime cooperation as a new pillar of their strategic partnership, on the one hand, has been conversely undercut by Beijing’s above mentioned unilateral actions in the South China Sea that caused uncertainties concerning Chinese intentions, let alone triggering a groundswell of distrust among the affected ASEAN claimant states vis-à-vis the People’s Republic. Similarly, notwithstanding its official rhetoric in the various ASEAN-centred multilateral fora, Beijing’s apparent lack of enthusiasm in addressing the rising concerns of its ASEAN neighbours via its perceived “foot-dragging” on the negotiations process and conclusion of the much sought after Code of Conduct in the South China Sea, has further accentuated the so-called “trust deficit”, from the ASEAN viewpoint.

In fact, the string of Chinese proposals to foster maritime cooperation under the auspices of the MSR have been perceived by skeptics to be no more than Beijing’s effort to shift the attention away from its intentions and behaviour in the South China Sea conflict. Since the dispute directly concerns only four of the ten ASEAN states, the Chinese have been perceived to be seeking to divide ASEAN as a grouping on the South China Sea issue *per se* and how it should be addressed, by courting some ASEAN states with the “win-win” logic of maritime cooperation to offset their concerns regarding Chinese actions in the South China Sea, not to mention, their budding “China threat” perceptions. This may be true to some extent, since the Chinese are

well aware that while some ASEAN states and interested parties may worry about China's behaviour in managing territorial-maritime disputes in the South China Sea, most if not all, stand to benefit from enhanced maritime cooperation in a wide range of areas, from economic to people-to-people interactions (Parameswaran, 2015). Hence, observers like Parameswaran (2015) opines that Beijing may view this strategy of continuously wooing the ASEAN states bilaterally with new, lucrative proposals and minimal confidence-building measures to be in its best calculated interests, while it continues to assertively stake its claims in the South China Sea. The strategy of dividing ASEAN manifested most succinctly in the open disagreement between ASEAN members at the 2012 ASEAN Foreign Ministers' Meeting (AMM) which resulted in the historic failure of the regional organization to issue a joint statement regarding the South China Sea disputes. Likewise, the April 2016 statement by Chinese Foreign Minister Wang Yi during the Boao Forum emphasizing China's "four-point 'consensus'" with Brunei, Cambodia and Laos on the South China Sea territorial disputes, namely the agreement that they are "not an issue between China and ASEAN as a whole", seems to support such an observation regarding Beijing's possible *modus operandi* of splitting ASEAN with enticement of broad-based maritime cooperation, and its continuous preference for a bilateral approach as opposed to the ASEAN-China approach to addressing the South China Sea problematique.

More significantly, China's grandiose plan of developing the Belt and Road Initiative, which include the MSR agenda, is increasingly perceived by some to be Beijing's grand strategy to establish its regional predominance, or even hegemony, where ASEAN states are eventually expected to assuage to Chinese demands, when it comes to the South China Sea question. In fact, the Belt and Road Initiative has been hotly debated insofar as some China watchers view it as having a subtle military dimension, with some even deeming it as an "elaborate cloak under which Beijing can disguise its military ambition" (Kleven, 2015). For the skeptics, China's ultimate goal would be to provide the PLA-Navy access to a series of Chinese-friendly port/naval facilities stretching from the African east coast to the South China Sea in what has been previously coined as the "string of pearls" model (e.g. Gwadar [Pakistan]; Colombo [Sri Lanka]; Chittagong [Bangladesh]; Maday Island [Myanmar]; Port Victoria [Seychelles]. The Chinese government's recent signing of a 10-year agreement with the East African state of Djibouti to set up a naval base to serve as a logistics hub for the PLA-Navy vessels engaged in anti-piracy operations off the coast of Yemen was among the clearest indications yet of Beijing's intentions (Kleven, 2015).

The aforementioned Chinese mixed signals and *modus operandi*, compounded by Beijing's controversial actions in the South China Sea have undoubtedly created the so-called "trust deficit" between China and

ASEAN. This apparent shortage of mutual trust has since been exacerbated by the counteractions of some ASEAN states, which have contributed to widening the China-ASEAN rift with regard to the South China Sea dispute. For one, Manila's initial decision to halt bilateral negotiations with Beijing on the South China Sea issue, in preference for legal arbitration of its case against China at the Permanent Court of Arbitration (PCA), and Vietnam's contemplation to pursue a similar path, have incensed the Chinese, who responded by rebuking the Filipino action, apart from vehemently questioning/disputing the jurisdiction of the PCA over the issue. The PCA had since ruled that it had jurisdiction in the case and had moved to consider the merits of the complaints brought by the Philippines against China under the auspices of the UNCLOS. In July 2016, the independent tribunal at The Hague near-unanimously arbitrated in favour of Manila in a landmark ruling that legally denied China's historic sovereignty claims over the South China Sea based on its "nine-dash line" boundary, as well as declaring the related Chinese actions in building artificial "islands" and its denial of fishing rights to the Philippines as unlawful (Williams, 2016). The PCA's ruling not only triggered a Chinese backlash, but has also hardened Beijing's resolve in advancing its claims over the disputed waters.

Additionally, Beijing was upset by Manila's, and to a lesser extent, Hanoi's decision to openly court the Americans and the Japanese in the realm of security cooperation, in what was seen as a "balancing act" to check China's intentions and ambitions in the South China Sea. Furthermore, the strategic uncertainties over the South China Sea, coupled with China's rapid military development, have spurred ASEAN states to increase defence spending to beef up their military preparedness at the expense of a potential regional arms-race, which further aggravated tensions in China's ties with the affected ASEAN clamant-states. According to security think-tank HIS Janes' recent estimation prior to the 2016 Shangri-La Dialogue, tensions in the South China Sea are expected to drive-up Asia-Pacific defense spending by approximately 25 per cent to USD533 billion by the year 2020 (Law, 2016).

Closely related to and intertwined with the "trust deficit" problem is the lack of political will among some ASEAN states to take the so-called "leap-of-faith" to advance maritime cooperation. It is a given that maritime and territorial sovereignty is a fiercely/jealously guarded and defended Westphalian concept by most Southeast and even Northeast Asian states including China, due to the legacy of Western imperialism/colonialism, and to some, the bitter experience of their hard fought/struggle for independence. For these post-colonial states, maritime-territorial integrity and sovereignty are a non-negotiable element of statehood, as it is tied to their respective nationalisms and sense of national pride and prestige. Furthermore, according to Mark J. Valencia (2015), most have only recently extended their maritime

jurisdiction based on the UNCLOS's EEZ regime, and views the related maritime-territorial gains as well as economic and strategic resources, as part of their national heritage. Hence, most states still consider the concept of maritime cooperation as highly sensitive, especially in a disputed sea like the South China Sea, since they entail working together in complicated fields that may necessitate a compromise to various degrees of their respective national interests (i.e. Joint Marine Seismic Undertaking agreement between China, Vietnam and the Philippines which was not renewed following allegations of the arrangement having undermined ASEAN claimants' claims and ASEAN Unity, apart from the judicial position of the Philippines in regard to the South China Sea disputes). Moreover, maritime cooperation may not necessarily entail equitable gains among the participating states due to their different levels of development and readiness, where bigger, more powerful states stand to gain relatively more benefits especially in their role as the drivers of such cooperation. In a nutshell, proposals of civil maritime cooperation which seem to be mutually beneficial and considered as confidence-building measures (CBM) may ultimately turn out otherwise. The apparent reluctance of some ASEAN states to outwardly embrace the Chinese proposals for maritime cooperation especially in the South China Sea may essentially be due to such overriding concerns vis-à-vis China.

6. The Way Forward

In view of the reality of the situation in the South China Sea today, both China and ASEAN have to realistically accept the fact that addressing the "trust deficit" and enhancing mutual trust and confidence-building is the prerequisite if not the only viable way forward to genuinely advancing China-ASEAN maritime cooperation. Indeed, mutual trust is a rare commodity and a premium that China and ASEAN have to secure in the context of the maritime disputes, for without which all the much hyped maritime cooperation proposals would remain proposals that never come to fruition/see the light of day.

For a start, both sides (China and the related ASEAN claimant states) have to put an immediate hiatus to any unilateral and/or controversial actions that could further aggravate lingering tension and suspicion as well as destabilize the South China Sea. This includes halting the contentious land reclamation and infrastructure development at the affected geographical features in the South China Sea, as well as avoiding "heavy-handed" actions and provocative manoeuvres by their respective naval and civil maritime authorities in the disputed waters, including their aircrafts in the associated air space. China, for instance, has halted its land reclamation activities in the South China Sea, but is now rapidly developing infrastructures that include

airstrips and other dual-use civilian-military facilities, which are generating unease among its ASEAN neighbours and the US. For instance, China had announced in October 2015 the installation of 50-metre high lighthouses on Chinese-occupied Johnson South Reef and Cuateron Reef in the Spratly chain. The Chinese vice foreign minister also reiterated to the media during the East Asian Summit in November 2015 that China would continue “building and maintaining necessary military facilities ... required for China’s national defense and the protection of those islands and reefs” (Sutter and Huang, 2016: 67-68).

Similarly, provocative actions such as the landing of a military aircraft on the man-made reef-turned-island, massive naval exercises/military drills and aggressive sea patrolling by naval and coastguard ships as well as aerial manoeuvres by military aircrafts at the contested areas should be avoided by all contesting parties, notably Beijing, to alleviate the “China threat” and “China bully” perceptions amongst the ASEAN states. To be sure, there has been evidence of a longer lasting pause in Chinese assertiveness in the South China Sea following Chinese President Xi Jinping’s moderate-conciliatory gesture during his November 2015 “fence-mending” working visit to Vietnam, where he undertook personal responsibility to restore the workable framework for cooperation with the Vietnamese that was shattered by China’s contentious deployment of an oil rig in Vietnamese-claimed waters that triggered confrontations at sea and violent popular anti-Chinese protest in the Vietnamese republic. The Chinese has since withdrawn the oil rig from the disputed waters.

Secondly, and correlated to the first point is the urgent requirement to proceed with the negotiations of the Code of Conduct in the South China Sea (CoC). An early conclusion and formulation of the CoC is critical for the overarching purpose of effectively maintaining peace and stability in the South China Sea. As a matter of fact, the CoC should be the foremost and most salient area of maritime cooperation that China and ASEAN need to address in the short-term, in order to reduce if not reverse the burgeoning “trust deficit”. Undoubtedly, the reversing of the “trust deficit” would go a long way in opening the floodgate of China-ASEAN cooperation in other maritime areas/endeavours, which are already in the pipeline. However, the progress to reach a conclusion of the CoC has remained rather sluggish that even the ASEAN Ministerial Meeting back in 2015 expressed its concerns over the pace of the CoC negotiations. As mentioned earlier, China has been accused of “foot-dragging” and purposely prolonging negotiations due to its assertion that “the time was not ripe” for a CoC in the South China Sea. Yet, it seems obvious that Beijing has been reluctant to upgrade the existing DoC with the much more binding CoC, which when enforced, is expected to curtail Chinese behaviour and preference-of-action in the disputed waterway.

Nevertheless, Chinese President Xi Jinping's moderate-conciliatory pledge at the Washington summit in November 2015 that "China does not intend to pursue militarization" of the disputed SCS islands, and that it favours "an early conclusion" of the deliberation of the CoC, augurs well with the prospect of its materialization.

Indeed, both China and the ASEAN member-states have, after a delay of more than a decade, finally reached an agreement in May 2017, with regard to the establishment of a "framework" for this much sought after code of conduct to manage the South China Sea disputes (*Reuters*, 2017). However, it is still premature to reach any conclusion as to whether the "framework", which is more of an agreement on "how the document would be structured", would eventually be successfully translated into a legally binding "text" of the CoC, to make it an "effective and meaningful code of conduct" compatible with the UNCLOS (*Reuters*, 2017). To be sure, skepticism remains in the air, with the media reporting that some ASEAN diplomats are still concerned regarding Beijing's sincerity in realising the CoC, and, perhaps more significantly, whether ASEAN has the leverage to ensure China's commitment to "a set of rules" they mutually agreed to (*Reuters*, 2017).

Besides the CoC, China and ASEAN should continue to undertake maritime cooperation in other non-sensitive and perceived non-zero-sum areas, to keep the momentum of cooperation going while serving as confidence-building measures (CBMs) for both sides. Specifically, the easing of tensions and trust building between China and the ASEAN claimant-states can and should be done by framing the South China Sea disputes as just one of many issues in the broader ASEAN-China relationship. In other words, the unresolved maritime-territorial disputes notwithstanding, both sides should strive to explore and advance maritime cooperation in the South China Sea in mutually beneficial and less controversial areas such as humanitarian assistance and disaster relief (HADR) as well as other civil maritime cooperation endeavours. The logic of intensified cooperation reaping mutual trust and confidence that eventually paves the way for dispute resolution is not as hollow as it sounds. Indeed, several positive bilateral and multilateral initiatives have emerged that could serve to advance maritime cooperation in the South China Sea. These are as follows:

- i) Singapore-proposed China-ASEAN enhanced Code for Unplanned Encounters at Sea (CUES) to prevent miscalculations and incidents in high sea;
- ii) the AMM-proposed ASEAN Coast Guard Forum to address civil maritime cooperation;
- iii) the expanded ASEAN Maritime Forum in the guise of the East Asia Maritime Forum;

- iv) ARF inter-sessional meeting on maritime security;
- v) Maritime security expert working group under the ASEAN Defence Ministers Meeting Plus; and
- vi) China-Malaysia joint military exercise on search-and-rescue; hijacked vessel rescue, and disaster relief at sea.

China, on its part, has sought to continue “dangling the economic carrot” via its Belt and Road Initiative, which in many ways, serve to encourage the disputant parties in ASEAN to focus on reaping the mutual benefits of enhanced cooperation with China, while “shelving” their maritime-territorial dispute till such a time when it can be amicably resolved, albeit to Beijing advantage. Manila’s apparent diplomatic “change of direction” vis-à-vis Beijing under the newly-minted Duterte administration, as opposed to its predecessor’s hardline position, not to mention, both Hanoi and Putrajaya’s “softening” stance and muted reaction over continuous Chinese presence in the contested waters, are ominous signs of the effectiveness of such a Chinese strategy. It may not even be far-fetched to suggest that the previously “balancing” and/or “hedging” policies of ASEAN claimant-states may slowly be giving way to “pseudo-bandwagoning” with the preponderant resident power of East Asia.

Apart from boosting maritime cooperation in less sensitive areas, building trust and confidence through shared rules and norms are equally critical and needed to be embraced by all SCS claimant-states. Aileen Baviera (2014) argues that one of the biggest obstacles to addressing the South China Sea disputes has been the lack of “standardization and agreement on rules and norms”. From the Philippines’s PCA arbitration case to the CoC negotiations, confusion has been abounding on which set of rules apply and should take precedence, i.e. domestic laws, UNCLOS, IMO conventions, to name a few. The downside of such a lack of standardization has been the proclivity of different interpretations arising from the skewed understanding and legal referent point used by the claimant-states, which complicated negotiations let alone the possible conclusion/resolution of the SCS disputes. Moreover, given asymmetries in power capability among the disputant parties, Baviera (2014) in referring to the South China Sea issue, opines that “agreement on the force of law, consensus on shared norms, and predictability of agreed rules can help build trust and assuage fundamental insecurity of states”. When states agree and are committed to clear rules, regime-building can then ensue to ensure that even peace and stability can take hold in the anarchic international order. Simply put, China and ASEAN need to conscientiously agree to some standardized and shared rules and norms as a way forward to resolving the bone-of-contention that holds them back from fully realizing their much-talked about “community of common destiny”.

In this regard, China and the ASEAN states' adoption and adherence to the UNCLOS regimes are vital to ensure the peaceful management and potential resolution of their contending disputes in the South China Sea. In this regard, China has lately, according to Bill Hayton (2015), shown signs of a "shift in its thinking", leaving "clues" of possible Chinese acceptance of "a legal regime closer to the UNCLOS" rather than its vaguely articulated "historical rights" in asserting its maritime-territorial claims in the SCS. Beijing's ambiguous response to the recent American warship *USS Lassen*'s deliberate sail-by near the Chinese occupied and reclaimed Subi Reef during a "freedom of navigation" exercise, suggests Beijing's move towards a compliance with the UNCLOS's definition of territorial sea. To an extent, Beijing's somewhat subdued response towards Washington's "provocation" has been perceived as its "deliberate efforts towards trying to fit China's claims within the language of the UNCLOS", albeit subtly and informally. Observers like Hayton (2015) also believe that the Chinese leadership may have begun to see the benefits of UNCLOS to China in view of their country's dependence on sea-lanes to secure its vital resources and for economic development, not to mention, "legitimizing" the movement and outreach of China's growing blue-water naval power. Therefore, bringing their maritime claims in line with shared rules and norms like the UNCLOS may yet benefit the Chinese insofar as it would help reduce tension with the ASEAN states and the US. This, in return, would facilitate more open and robust cooperation in the maritime domain between the related actors that only serves to help China realize its supra-regional MSR and the Belt-and-Road initiatives.

7. Conclusion

China-ASEAN relations have grown leaps and bounds over the last couple of decades due to their increasingly shared common destiny. Specifically, the maritime contiguity in the guise of the South China Sea that bounds them together regionally makes maritime cooperation a salient if not vital dimension in their overall relations. Indeed, China has taken the initiative to drive maritime cooperation through a comprehensive range of proposals under the auspices of the MSR and the Belt-and-Road agenda. However, the festering, unresolved disputes between China and the related ASEAN claimant-states over the contested archipelagoes and their surrounding waters in the South China Sea suggest the waterway to be more of a stumbling rather than a building block in facilitating greater China-ASEAN maritime cooperation. The burgeoning "trust-deficit" affecting both China and ASEAN due a plethora of unilateral actions and counteractions in advancing and/or defending their respective claims, not to mention, the shortage of political will

as well as shared rules and norms, have to be duly addressed and reversed by both parties. The current situation may indeed be ripe for negotiating a compromise, in view of the South China Sea imbroglio having arguably reached a state described by Zartman as “mutually hurting stalemate”, where the costs of non-compromise becomes higher for all parties concerned (cf. Baviera, 2014). Needless to say, their failure to do so would not only ensure China-ASEAN maritime cooperation remains in the rhetorical realm, but also accentuates the propensity of the South China Sea turning into a “sea of conflict” that could undermine the peace and stability of Southeast Asia, specifically, and the East Asian region, as a whole.

Note

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References

- Agence France Presse* (AFP) (2016), “China Using ‘Coercive Tactics’ in Maritime Claims: Pentagon”, 14 May.
- Association of Southeast Asian Nation (ASEAN) (2001), “Forging Closer ASEAN-China Economic Relations in the Twenty-First Century”, a report submitted by the ASEAN-China Expert Group on Economic Cooperation, October, available at <http://www.asean.org/storage/images/archive/newdata/asean_chi.pdf> (accessed on 15 December 2017).
- Ba, Alice (2003), “China-ASEAN: Renavigating Relations for a 21st-century Asia”, *Asian Survey*, Vol. 43, No. 4, pp. 622-647.
- Baviera, Aileen (2014), “China-ASEAN Maritime Cooperation in the SCS: Building Trust through Shared Rules and Norms”, *Boao Forum Roundtable on South China Sea*, 24-25 March.

- Cai, Penghong (2015), *China-ASEAN Maritime Cooperation: Process, Motivation, and Prospects*, China Institute of International Studies (CIIS), 25 September.
- CNN Politics* (2016), “U.S. Protests after Chinese Military Jet Lands on South China Sea Island”, 19 April.
- Egberink, Fenna and van der Putten, Frans-Paul (2011), “ASEAN, China’s Rise and Geopolitical Stability in Asia”, *Clingendael Paper No. 2*, The Hague: Netherlands Institute of International Relations ‘Clingendael’.
- Emmers, Ralf (2010), *Geopolitics and Maritime Territorial Disputes in East Asia*, London: Routledge.
- Goldstein, Lyle and Murray, William (2004), “Undersea Dragons: China’s Maturing Submarine Force”, *International Security*, Vol. 28, No. 4, pp. 161-196.
- Hayton, Bill (2015), *Is China Moving Towards Compromise in the South China Sea?*, Chatham House, the Royal Institute of International Affairs, 31 October, available at <<https://www.chathamhouse.org/expert/comment/china-moving-towards-compromise-south-china-sea#sthash.GuVvIlyJ.dpuf>> (accessed on 10 May 2016).
- Japan Times* (2017), “Beijing Continuing ‘Steady Pattern of Militarization’ in South China Sea”, 24 February, available at <<http://www.japantimes.co.jp/news/2017/02/24/asia-pacific/beijing-continuing-steady-pattern-militarization-south-china-sea/>> (accessed on 15 May 2017).
- Kleven, Anthony (2015), “Is China’s Maritime Silk Road a Military Strategy?”, *The Diplomat*, 8 December, available at <<http://thediplomat.com/2015/12/is-chinas-maritime-silk-road-a-military-strategy/>> (accessed on 12 May 2016).
- Kostadinov, Y.A. (2013), “Small Islands, Big Flashpoints: China’s Maritime Territorial Disputes in South and East China Seas on International Security and Cooperation”, Master’s Thesis, Graduate School of International Affairs, Ming Chuan University, Taiwan.
- Kuik, Cheng-Chwee (2005), “Multilateralism in China’s ASEAN Policy: Its Evolution, Characteristics and Aspirations”, *Contemporary Southeast Asia*, Vol. 27, No. 1, pp. 102-122.
- Kuik, Cheng-Chwee (2013), “Making Sense of Malaysia’s China Policy: Asymmetry, Proximity, and Elite’s Domestic Authority”, *The Chinese Journal of International Politics*, Vol. 6, No. 4, pp. 429-467.
- Lai, Yew Meng (2015a), “Malaysia’s Security Concerns: A Contemporary Assessment”, in Meredith L. Weiss (ed.) *Routledge Handbook of Contemporary Malaysia*, London: Routledge, pp. 391-402.
- Lai, Yew Meng (2015b), “Securing Sabah: Issues, Challenges and Responses”, *Journal of Public Security and Safety*, Vol. 4, No. 2, pp. 59-79.
- Law, Elizabeth (2016), “Thailand Asks China, Rivals to Look Beyond Border Rows”, *Agency France Presse (AFP)*, 3 June.
- Mitchell, Derek J. and Harding, Brian (2009), “China and Southeast Asia”, in Carola McGiffert (ed.) *Chinese Soft Power and Its Implications for the United States: Competition and Cooperation in the Developing World – a Report of the CSIS Smart Power Initiative*, Washington D.C.: Center for Strategic and International Studies (CSIS).
- Narine, Shaun (2008), “Forty Years of ASEAN: A Historical Review”, *The Pacific Review*, Vol. 21, No. 4, pp. 411-429.

- Parameswaran, Prashanth (2015), "China's Plan for ASEAN-China Maritime Cooperation", *The Diplomat*, 1 April, available at <<http://thediplomat.com/2015/04/chinas-plan-for-asean-china-maritime-cooperation/>> (accessed on 10 May 2016).
- Reuters (2016), "S. China Sea Tensions Surge as China Lands Plane on Artificial Island", 5 January, available at <<https://www.reuters.com/article/southchinasea-china/s-china-sea-tensions-surge-as-china-lands-plane-on-artificial-island-idUSKBN0UI1ZX20160105>> (accessed on 15 December 2017).
- Reuters (2017), "China, ASEAN Agree on Framework for South China Sea Code of Conduct", 18 May, available at <<http://www.reuters.com/article/us-southchinasea-china-philippines-idUSKCN18E1FS>> (accessed on 24 May 2017).
- Severino, Rodolfo C. (2008), "ASEAN-China Relations: Past, Present and Future", paper presented at the Third China-Singapore Forum, Singapore, 17 April, available at <<http://www.iseas.edu.sg/aseanstudiescentre/ascp5-08.pdf>> (accessed on 13 May 2016).
- Shen, Jianming (2002), "China's Sovereignty Over the South China Sea Islands: A Historical Perspective", *Chinese Journal of International Law*, Vol. 1, No. 1, pp. 94-157.
- South China Morning Post (2016), "100 Chinese Boats 'in Malaysian waters' of Disputed South China Sea: Beijing Says 'It's Fishing Season', Analysts Say It's a Message", 25 March, available at <<http://www.scmp.com/news/china/diplomacy-defence/article/1930573/gone-fishing-100-chinese-boats-malaysian-waters>> (accessed on 10 January 2017).
- Stuart-Fox, Martin (2003), *A Short History of China and Southeast Asia: Tribute, Trade and Influence*, New South Wales: Allen & Unwin.
- Sutter, Robert and Huang, Chin-hao (2016), "China-Southeast Asia Relations: Limited Moderation amid Pressures and Complaints", *Comparative Connections*, Vol. 17, No. 3 (January), pp. 61-72.
- The State Council, The People's Republic of China (2017), "Belt and Road Forum to Bring about Fresh Ideas", available at <http://english.gov.cn/news/video/2017/05/12/content_281475653319187.htm> (accessed on 20 May 2017).
- Valencia, Mark J. (2015), "Maritime Security Cooperation in Asia: Visions and Realities", *The Japan Times*, 17 September.
- Williams, Robert D. (2016), "South China Sea: Tribunal Issues Landmark Ruling in South China Sea Arbitration", *Lawfare*, 12 July, available at <<https://www.lawfareblog.com/tribunal-issues-landmark-ruling-south-china-sea-arbitration>> (accessed on 15 February 2017).
- Zhao, Suisheng (1998), *Power Competition in East Asia: From the Old Chinese World Order to Post-Cold War Regional Multipolarity*, London: Macmillan.