

CHINA AND ASEAN: STRATEGIC PARTNERSHIP OR COMPETITION OVER
THE SOUTH CHINA SEA?

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By

Manca Sustarsic

Thesis Committee:

Eric Harwit, Chairperson

Reginald Kwok

Kate Zhou

ABSTRACT

This thesis talks about territorial dispute and sovereignty claims over the South China Sea (SCS). The major actors involved are China together with four of the Association of Southeast Asian Nations (ASEAN) member states: the Philippines, Vietnam, Malaysia, and Brunei. First part of this paper offers an introduction to historical claims over the SCS. Furthermore, it analyzes the significance and major incidents that occurred in the SCS. Can China's military buildup endanger relations between China and ASEAN? Despite the countries' own interests, ASEAN as a whole has shown the most effort in solving the dispute peacefully by using multilateral discussions in pushing towards maritime regulations. In 2002, China settled in by signing the Declaration on the Conduct of Parties (DOC) in the SCS. The body of this paper focuses on the ASEAN – China relationship. It discusses ASEAN's approach in dealing with the dispute. It also talks about ASEAN's division within while tackling China as the major power in the SCS sovereignty resolution. ASEAN feels an urge to strengthen its ties with foreign allies, mainly the US and Japan, to counterbalance China's growing political and military power. Lastly, this thesis analyzes the current state of affairs in the SCS.

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LIST OF ABBREVIATIONS

ARF	ASEAN Regional Forum
ASEAN	Association of Southeast Asian Nations
CNOOC	China National Offshore Oil Corporation
COC	Code of Conduct
DOC	Declaration on the Conduct of Parties
EAS	East Asia Summit
EEZ	Exclusive Economic Zone
EU	European Union
FTA	Free Trade Agreement
ICJ	International Court of Justice
PLAN	People's Liberation Army Navy
PRC	People's Republic of China
SCS	South China Sea
TAC	Treaty of Amity and Cooperation
UNCLOS	United Nations Convention on the Law of the Sea
US	United States of America

CHAPTER 1. INTRODUCTION

In my thesis, I look into territorial dispute and sovereignty claims over the South China Sea (SCS). The major actors involved are China together with four of the Association of Southeast Asian Nations (ASEAN) member states: the Philippines, Vietnam, Malaysia, and Brunei.¹ It is important to note that only these four countries out of ten ASEAN members make up a party to the dispute, however, ASEAN as an entity deals with the SCS dispute cooperatively as well. The People's Republic of China (PRC) is claiming the whole territory of the sea based on its historical claims (nine-dashed line), while other countries claim only parts of the sea. In the first part of my paper, I will offer an introduction of different countries' historical claims over the SCS.

Furthermore, I will analyze the significance of the SCS. The SCS is a very important eco-system abundant with natural resources, such as gas, oil, and fish. It also signifies a vital and busy international transportation route for all Southeast Asia, including China, other Asian countries, such as Japan, and non-Asian countries, such as the United States (US). All SCS claimants are interested in exploiting the natural resources in the surrounding waters, but there is still a rather wild guess how much abundance the SCS actually offers. I will further explain why this matters and what are the solutions to rising disputes over deep-water exploration.

In the next chapter, I will talk about past incidents and provocations in the SCS. The Spratly islands have turned into a major dispute area in the region with China, Vietnam, Malaysia and the Philippines claiming their parts. Some of these have already turned into military confrontations. I will also discuss China's military buildup that is primarily

¹ When we refer to China as the claimant of the SCS territory, we must consider Taiwan as part of China and its claims.

focused on modernizing its naval and air forces. Can such military development endanger relations between China and ASEAN?

Despite the countries' own interests, ASEAN as a whole has shown the most effort in solving the issue peacefully by using multilateral discussions in pushing towards necessarily maritime regulations. Eventually, China gave in by agreeing to tackle the dispute multilaterally. In 2002, China settled in by signing the Declaration on the Conduct of Parties (DOC) in the SCS.

In the body of my paper, I will focus on the ASEAN – China relationship; is it more of a competition or a partnership? What is ASEAN's approach in dealing with the dispute, and what is China's reaction to it? Although all involved countries seem to lean towards maintaining the *status quo* in the region, while at the same time they should respect multilateral agreements, there have been quite some disturbances in the waters of the SCS provoked by the Philippines, Vietnam, and China. Nevertheless, China has given into the multilateral talks with ASEAN in the late 1990s. What approaches did ASEAN take to engage China, and how successful are they? In the next chapter, I will talk about ASEAN's division within tackling China as the major power in the SCS sovereignty resolution.

With the recent rise of China's economic power, the US has been switching its foreign policy back to Asia (also called "the pivot to Asia"). Allying with Southeast Asian countries, the Philippines and Vietnam in particular, the U.S. is becoming an important player in the SCS. ASEAN, on the other hand, feels an urge to strengthen its ties with foreign allies, mainly the US and Japan, to counterbalance China's growing

political and military power. I will talk about Japanese and US strategic and security implications in this maritime dispute.

Lastly, I will analyze the current state of affairs in the SCS, and conclude with some final thoughts on possible solutions to the dispute, emphasizing the importance of international law. Can ASEAN stand united against China's provocations, although more than half of its members are not directly involved in the dispute? I am curious whether there is a possibility of an actual armed conflict in the region? How concerning is China's military growth regarding the SCS dispute? Can ASEAN together with China (ASEAN+1) manage to negotiate and bring to the table the Code of Conduct (COC) in the SCS and even proceed in signing it in the near future? With no doubt, the SCS is a complex political issue, intertwined with economic and military development. Finally, I will try to answer my main question – what factors make the China-ASEAN relationship over the SCS more of a strategic partnership on one side, and a competition on the other side?

CHAPTER 2. HISTORICAL CLAIMS OVER THE SCS

The area of the SCS that covers about 3.5 million square kilometers is by definition referred to as a semi-enclosed region located between South Sumatra and Kalimantan, the Strait of Taiwan and Mainland China.² China is commonly referred to as the most “problematic” of all the countries, claiming almost the entire territory of the SCS, including two island chains, the Spratly Islands in the south and the Paracel Islands in the north (Figure 1).³ Nevertheless, China was historically the first country to put these islets on maps and ancient texts. China claims to be the first one to have discovered and occupied the territory.⁴ The main goal to do so was to help fisherman and ships to navigate the murky waters of the SCS.

The Spratlys, an agglomeration of over one hundred small islands, reefs, and banks, were first called “Dangerous Grounds”, known as a very dangerous territory causing countless shipwrecks. The Paracels, consisting of a total of 15 islets, were discovered a bit later but similarly considered as unsafe to shipping. The first written source of the “Southern Seas” as Chinese referred to the Nansha/Spratly Islands is found in Wang Gungwu’s “The Nanhai Trade”, published in 1958. European settlers, who ventured in these waters, also contributed to the early map-making. The French 18th century hydrographer, Nicolas Bellin, drew a map showcasing the idealistically enlarged Paracels (Figure 2). A common enlargement of the islands persisted also by Chinese mapmakers until the mid-19th century. The SCS was generally considered in terms of sailing routes and shipping until the 1950s, when a drastic change drawn by national borders shifted the

² Gao, Zhiguo. “South China Sea: Turning Suspicion into Mutual Understanding and Cooperation.” 2005: 329–330; Fravel, Taylor M. “China’s Strategy in the South China Sea.”: 294–295.

³ BBC News. “Q&A: South China Sea dispute.” BBC News, June 27, 2012.

⁴ Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 130.

course of discussion over the SCS. Followed by technological advancement, geologists began to deepen their research into the waters of the SCS, foreseeing rich natural resources.⁵

A new map, showcasing the Spratlys and Paracel Islands was published by the ROC in 1935 (Figure 3). In 1948, a map with “u-shaped nine dots” was published. It originally consisted of eleven segments (an additional two were located in the Gulf of Tonkin) (Figure 4).⁶ The nine-dashed line that finally remained in the PRC and ROC until today as the ultimate version of China’s claims includes the areas claimed by the Philippines, Vietnam, Brunei, and Malaysia. This line that shows segments of territory has never been clearly defined as it stretches to the southernmost part of the SCS. China’s nine-dashed line has no coordinates, but besides islands, rocks and reefs, it also encircles the adjacent sea. The area of adjacent waters has never been clearly acknowledged. Likewise, United Nations Convention on the Law of the Sea (UNCLOS) does not offer a definition of adjacent sea, meaning international law can undermine China’s position. Dropping the nine-dotted line would give China only 200 nautical miles around its EEZ.⁷ Without coordinates on China’s U-shaped line, their claim shows as not only illegal (i.e. not in accordance with UNCLOS), but also predominantly as a political teasing of its counterparts.⁸

China claims it on historic rights, dating all the way back to the Sung Dynasty (960–1280 AD). There is a great ambiguity on how to interpret the line and the historic rights.

⁵ Tønnesson, Stein. “Locating the South China Sea.” In *Locating Southeast Asia: geographies of knowledge and politics of shape*, edited by Kratoska, Paul H., Raben, Remco and Henk Schulte Nordholt, 203–233. Singapore: Singapore University Press, 2005: 203–210.

⁶ *Ibid.*: 212–216.

⁷ Richardson, Michael. “Energy and geopolitics in the South China Sea.”: 184–185.

⁸ Hamzah, B.A. “Commentary”: 61.

Its historic claim cannot be sustained under international law. Today, China is insisting on its indisputable claims over the whole territory, which makes the whole dispute even more difficult to handle.⁹ On a side note, the ROC has occupied the island of Itu Aba (Taiping Island) in the Spratlys since 1956. The PRC does not raise the Taiwan question when it comes to the SCS. On the contrary, it peacefully acknowledges Itu Aba in the ROC's possession.¹⁰ The reason behind is that China does not want to mix cross-strait relations with the SCS dispute. Also, Itu Aba is probably the only island in the Spratlys that can be defined as a natural island, according to the UNCLOS.¹¹

In 1951, as a response to the San Francisco Peace Treaty, the Chinese premier Zhou Enlai identified the claims over the entire area of the SCS as China's maritime rights that had not changed.¹² From the mid-1970s onward, China has called its rights to the SCS as China owning the "indisputable sovereignty over the Spratly Islands and adjacent waters". In the following years, the National People's Congress passed several laws, with the Law on the Exclusive Economic Zone (EEZ) and the Continental Shelf of the PRC being the fundamental law claiming China's maritime rights in the SCS.¹³

The other four countries are not claiming the whole territory of the SCS, but only certain parts (Figure 5). Vietnam was one of the earliest claimants. The Nguyen dynasty

⁹ Emmerson, Don. "ASEAN Stumbles in Phnom Penh." *PacNet Newsletter* 45. Pacific Forum CSIS, July 19, 2012; Ba, Alice D. "Staking Claims and Making Waves in the South China Sea: How Troubled Are the Waters?" *Contemporary Southeast Asia* 33 (3) (2011): 271; Odgaard, Liselotte. *Maritime security between China and Southeast Asia: conflict and cooperation in the making of regional order*. Aldershot, Hampshire, England; Burlington, VT: Ashgate, c2002: 88, 93–103; U.S. Energy Information Administration. "South China Sea." *U.S. Energy Information Administration*, March, 2008.

¹⁰ Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 130.

¹¹ Richardson, Michael. "Energy and geopolitics in the South China Sea.": 185.

¹² Op. Cit. Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 130.

¹³ Fravel, Taylor M. "China's Strategy in the South China Sea." *Contemporary Southeast Asia* 33 (3) (2011): 292–294.

drew a map in 1838 which shows the Paracels as part of its territory (Figure 6). Furthermore, Vietnam claimed the Spratly Islands, based on the French occupation in 1933. Their claim had been indisputable at the San Francisco Peace Conference in 1951, when Japan and France withdrew from claiming the territory. The Saigon regime pushed for the Paracels and Spratlys during the Vietnam War (1959–75). In 1975, when the Socialist Republic of Vietnam was formed, Vietnam envisioned both island chains as their final undisputable maritime claims based on historic rights of discovery and occupation.¹⁴ Vietnam established an EEZ of 200 miles in 1977. In sum, Vietnamese claims lie in the French occupation, when they annexed the Spratlys and Paracels to its colony in the 1930s, and in the Vietnamese administration in the 19th century.¹⁵ The PRC, ROC and Vietnam are the only claimants of the Paracel Islands.

China and Vietnam are the only countries that claim SCS territory based on historic rights. Other countries' claims rely solely on international law. The Philippines cannot use historic grounds as their basis because of the Spanish-American treaty of 1898. Brothers Filemon and Thomas Cloma discovered an archipelago between the Spratlys and the Philippines in 1956, and mapped this at the time still no man's land as "Freedomland" (*Kalaya'an*) (Figure 7). However, most of this territory covered the Spratly Islands. Freedomland was a term that was probably chosen to draw attention to the US yet at the same time opposed the communist regimes in China and Vietnam.¹⁶ In 1946, the Philippines included the Spratlys into its national defense plan.¹⁷ In the 1970s, the Philippine President Ferdinand E. Marcos officially claimed Freedomland as a

¹⁴ Tønnesson, Stein. "Locating the South China Sea.": 212.

¹⁵ Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 130.

¹⁶ Op. Cit. Tønnesson, Stein. "Locating the South China Sea.": 216–217.

¹⁷ Hara, Kimie. *Cold War frontiers in the Asia-Pacific*. London and New York: Routledge, 2007: 146.

maritime claim of the Philippines' territory.¹⁸The Philippines refer to their claimed part as the West Philippine Sea.

Malaysia and Brunei are perhaps the least troublesome claimants in the SCS. As opposed to the Philippines and Vietnam, Malaysia and Brunei do not see the SCS as an integral part of their security policy. Nevertheless, Malaysia claims the southern and western part of the sea and has built a tourist resort on one of the Spratly islands.¹⁹ Some experts think that such resorts can contribute to transparency in the Spratlys. Vietnam has proposed building a resort as well.²⁰ Brunei does not claim any territory but only maritime space. In 1988, Brunei established an EEZ of 200 nautical miles that covers Louisa Reef.²¹

Pre-second world war, China, Japan and France were the countries claiming the SCS. After the war and with national state building in Southeast Asia, the independent neighboring Southeast Asian countries traded places with former colonial powers, France and Japan. Japan annexed the Spratlys and Paracels during its southward expansion prior to World War II, but bailed out by signing the Japanese Peace Treaty in 1951. At this time, Japan recognized ROC as the only legitimate government of China, and so, the Spratlys and Paracel Islands in this treaty are mentioned together with the ROC. To make things complicated, Japan recognized the PRC by signing the Joint Sino-Japanese Communique in 1972, in which it did not touch upon the SCS territory at all. However, for China's sake, Japan recognized the "One China" principle, technically making the

¹⁸ Tønnesson, Stein. "Locating the South China Sea.": 217.

¹⁹ Op. Cit. Tønnesson, Stein. "Locating the South China Sea.": 219.

²⁰ Hamzah, B.A. "Commentary": 62.

²¹ Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 130–131.

Spratlys and Paracels part of the PRC.²² The amplified complexity of regional and international relations after World War II left a significant mark on the SCS. After un-resolving the SCS in the post-second world war and an increase of natural resource prospects, it became clear that SCS sovereignty cannot be solved overnight anymore.

The UNCLOS from April 1982 does not deal with the sovereignty issue, but is merely based on assumptions of agreement on sovereignty, which is why it cannot be used in solving the claims over the SCS. Yet it is a fundamental document that serves as a basis for all other maritime agreements made between the claimants of the SCS.²³ It “imposes conditions to regulate internal waters, archipelagic waters, territorial seas, contiguous zones, EEZs, continental shelves and high seas.”²⁴ The UNCLOS was adopted through many years of negotiations, particularly after Vietnam, the Philippines and Malaysia in the 1970s issued oil concessions to push for their claims in the SCS, and finally came into force in November 1994. Marking national boundaries became crucial in the post-second war period, and the EEZ in the 1970s became one of the mechanisms to do so.²⁵ According to the UNCLOS, the EEZ should not expand beyond 200 nautical miles and continental shelves should not be extended beyond 350 nautical miles from territorial baselines. Other vital rules all countries should obey under the UNCLOS are: the right of innocent passage, the passage through straits, and freedom of navigation.²⁶ In addition, the Convention offers a definition of an island as “a naturally-formed area of

²² Hara, Kimie. *Cold War frontiers in the Asia-Pacific*. London and New York: Routledge, 2007: 143-155.

²³ Smith, Robert W. “Maritime Delimitation in the South China Sea: Potentiality and Challenges”. *Ocean Development & International Law* 41 (2010): 214, 219–220.

²⁴ Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*. London and New York: RoutledgeCurzon, 2003: 129.

²⁵ Tønnesson, Stein. “Locating the South China Sea.”: 210–212.

²⁶ Op. Cit. Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 129.

land, surrounded by water, which is above water at high tide,” and “rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.”²⁷ As most of disputed islands in the SCS cannot sustain human habitation, most of the territory has no basis for claiming maritime jurisdiction.

According to international law, states should firmly stick to their claims in order to make them legitimate, otherwise they can easily lose the claimed territory. This definition does not really help in solving the issue. In 2009, the UN demanded the countries involved submit their maritime claims. Malaysia and Vietnam both slightly expanded their shelves, while China claimed the entire SCS on the map it provided, without any specific explanation. Instead of the unclearly defined nine-dashed line, China could simply claim the Spratly Islands as it is covered by the UNCLOS, which would be less suspicious than the nine-dashed line.²⁸

²⁷ Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 129–130.

²⁸ Ba, Alice D. “Staking Claims and Making Waves.”: 271–273, 280.

CHAPTER 3. SIGNIFICANCE OF THE SCS

What makes the SCS so valuable that it evolved into one of the most complex maritime sovereignty incidents? It is of economic, political, and ecological importance to all countries that border the SCS. First of all, the waters are very rich in natural resources. Its fishery value is crucial to feed the population of about 500 million that live on the coast. It is one of the richest fishing areas in the world. Secondly, it is one of the busiest international transportation lanes in the world. More than half of the world's shipping is transported through the waters of the SCS. About 80 % of China's oil imports get transported via the SCS. Thirdly, the SCS is rich in oil and gas.²⁹ Retaining sufficient amount of energy resources is essential for developing countries' industry and transport. Currently, these are the natural resources that make countries go to war with each other, and are likely one of the hidden reasons of the dispute in the SCS. Since oil consumption is increasing year by year, especially in China, it will become crucial to own as many oil resources as possible. Vietnam, Malaysia and Brunei are already oil producers. China, on the other hand, desperately needs to import more oil to sustain its economic growth.³⁰ Likewise, the Philippines does not produce oil and gas, hence the government is eagerly looking at its offshore zones in the SCS. The SCS is conveniently located in proximity of all Southeast Asian countries plus China, thus making it a potentially dangerous area of conflict over resources.

Global energy demand is expected to double by 2040. As predicted, Asian countries' demand will represent half of this increase. Out of this, energy-hungry China will

²⁹ Gao, Zhiguo. "South China Sea." 330–331; Baviera, Aileen S.P. "The South China Sea Disputes after the 2002 Declaration: Beyond Confidence-Building." 2005: 344; Fravel, Taylor M. "China's Strategy in the South China Sea." 296; Ba, Alice D. "Staking Claims and Making Waves." 270; Odgaard, Liselotte. *Maritime security between China and Southeast Asia*: 79.

³⁰ Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 131.

demand about 45 percent. China is already the largest energy consumer in the world and by 2020, China and India are projected to increase their oil imports to 80 percent. By 2030, China's oil demand will account for 15,300 barrels per day, three-quarters coming from imports, which is double the amount of 2007 (Figure 8). Clearly, China is growing continuously more dependent on energy imports. Likewise, the ASEAN countries' oil consumption and import dependency have been on a steady increase since 1993 (Figures 9 and 10).³¹

The question remains, how much oil does the SCS actually contain? It is hard to determine an exact number since the seemingly most prosperous oil shores have been leased to private oil companies that are the only ones that can afford expensive explorations.³² The significant fall of oil and gas prices since 2008 (Figure 11) has attracted fewer companies interested in expensive deep-water drilling that reaches down to over 800 meters. Ultra-deep drilling goes down to 2,500 meters.³³ Also, the exploration activity has been limited to continental shelves only.³⁴ One of the most recent statistics from 2012 states that the SCS contains up to 30 billion tons of oil and 16 trillion cubic meters of natural gas. Seventy percent of these resources are located in waters with over 300 m of depths.³⁵ Interestingly, Chinese statistics show a different picture, claiming a much higher natural resources' potential in the SCS, reaching to 213 billion barrels of

³¹ Sovacool, Benjamin K. and Vu Minh Khuong. "Energy security and competition in Asia: challenges and prospects for China and Southeast Asia". In *ASEAN industries and the challenge from China*, edited by Jarvis, Darryl S. L. and Anthony Welch, 210–229. Palgrave Macmillan, 2011: 210–217.

³² Gao, Zhiguo. "South China Sea.": 332.

³³ Richardson, Michael. "Energy and geopolitics in the South China Sea.": 188, 191.

³⁴ Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 131.

³⁵ Xu, Tianran. "Deep-water drilling starts." *Global Times*, May 9, 2012.

oil and over 2,000 trillion cubic feet. The end of 2007 saw China's reserves estimated at 15.5 billion barrels of oil, and 67 trillion cubic feet of gas.³⁶

All claimant countries of the SCS share a desire in exploration of oil in the SCS, but for different reasons. China, which in 2010 surpassed the US as the largest energy consumer in the world, needs it for its economic growth and development. The Chinese government proclaimed a supply of energy as one of its priorities in foreign policy. It is important to note that around 75 percent of China's oil imports get transported from the world's least stable regions, the Middle East and Africa. Therefore, the ability to ensure safety in the SCS is vital to China.³⁷ The Philippines and Vietnam wish to end expensive foreign oil imports, Malaysia is looking for oil as a source of foreign exchange, and Brunei wants to essentially sustain itself because the country entirely depends on oil. Taiwan, on the contrary, does not want to stand out when it comes to oil explorations as it can buy into projects of other states.³⁸

In 2004, Vietnam, Philippines and China signed an agreement on conducting a joint marine survey of oil potential.³⁹ Although the idea of joint surveys sounds like a great incentive for the countries' mutual cooperation, it can provoke other claimants and cause more trouble in the SCS sovereignty resolution. For example, cooperating can bring more trust between these three countries, but on the other hand endanger relations with the rest. It is more likely that rising demand for energy brings about energy competition based on countries' demand for energy sufficiency.

³⁶ Richardson, Michael. "Energy and geopolitics in the South China Sea.": 193.

³⁷ Op. Cit. Richardson, Michael. "Energy and geopolitics in the South China Sea.": 189–190.

³⁸ Odgaard, Liselotte. *Maritime security between China and Southeast Asia*: 80.

³⁹ Abdulai, David. *China's new great leap forward: an emerging China and its impact on ASEAN*. Selangor, Malaysia: MPH Publishing, 2007: 176.

It is important to look at China's stance on this issue. According to the Chinese government, building a harmonious society depends on energy security, which can be assured by protecting the shipping lanes in the SCS as one of the main features of its energy policy. An example of China's seriousness over protecting its claims is its military response to Vietnamese intent to develop oilfields in the Gulf of Tonkin in 1974. The Chinese military seized three oil-rich islands in that area. In 1988, another military clash between China and Vietnam occurred in the SCS. This clash took 70 sailors' lives.⁴⁰

China has constantly severely criticized foreign oil companies' involvement in the SCS. China and ASEAN agreed on trying to foster joint maritime research, environmental protection, and weather forecasting besides exchanges of information between armed forces in the SCS.⁴¹ The latter may be a little difficult to carry out, especially between those countries that are in arguments with each other. Some experts do not share such optimistic views, as there is still no competent cooperative marine management in effect. To keep the SCS intact, more work on providing safety and security of shipping, protection, preservation and conservation of the marine environment, prevention of illegal activities, conduct of marine scientific research and finally, arrangements for exploitation of marine resources should be enforced. However, it may still be a long way ahead to achieve all of these. "Effective management of maritime areas normally flows from having agreed limits to national jurisdiction."⁴² This is the main reason the SCS dispute is such a complex dispute. Almost any activity in the

⁴⁰ Sovacool, Benjamin K. and Vu Minh Khuong. "Energy security and competition in Asia.": 224–225.

⁴¹ Richardson, Michael. "Energy and geopolitics in the South China Sea.": 188.

⁴² Bateman, Sam. "Commentary". In *Energy and geopolitics in the South China Sea: implications for ASEAN and its dialogue partners*, edited by ASEAN Studies Centre, 41–52. Report No. 8. Singapore: Institute of Southeast Asian Studies ISEAS, 2009: 42–43.

sea will take two to tango. The lack of agreement on the most crucial principal, the jurisdiction, makes countries argue instead of cooperate with each other. In such an environment, no one respects the UNCLOS either.

There have been quite a few regional oil companies and joint ventures involved in projects of the SCS's exploration as well. Some of them are, for example, Indonesian Pertamina, Petronas and PetroVietnam, and Petronas and PetroChina. It was mostly joint ventures with Vietnam that made China lose its temper and led to threatening them to lose business in China if they were going to get involved in the Chinese claimed waters.⁴³

The deal with Malaysian Petronas can be seen as a positive example of cooperation under the sea. In 2006, China made an agreement with Petronas to supply Shanghai with liquefied natural gas for twenty-five years, beginning in 2009. As an interesting note, Petronas would be exploiting gas in Malaysian claims.⁴⁴ The fact that Chinese and Malaysian claims clash in these waters does not seem to bother energy-hungry China. One of the ways for peaceful resolution of the dispute, or for *status quo*, is for ASEAN countries to engage China and foreign companies in offshore drilling for natural resources that would benefit everyone in the present and future.

Many foreign oil companies do not want to take a risk in the disputed area. Since oil and gas drilling is a rather long-term process, they need to make sure the area is not under dispute.⁴⁵ "Energy firms are unlikely to go to the expense of working in deepwater areas of the SCS unless they are assured of a peaceful environment."⁴⁶ Until a solution between

⁴³ Fravel, Taylor M. "China's Strategy in the South China Sea." 301–303; Buszynski, Leszek. "ASEAN, the Declaration on Conduct, and the South China Sea." *Contemporary Southeast Asia* 25(3) (2003): 358.

⁴⁴ Richardson, Michael. "Energy and geopolitics in the South China Sea." 196.

⁴⁵ Smith, Robert W. "Maritime Delimitation in the South China Sea." 217.

⁴⁶ Op. Cit. Richardson, Michael. "Energy and geopolitics in the South China Sea." 195.

claimants is reached, there cannot be much exploitation, and the full natural potential of the SCS will remain a mystery.

As a response to international involvement in deep-water drilling, the Chinese government invested US\$29.2 billion towards oil and gas exploration over the next ten to twenty years, starting with 2009. The state-owned China National Offshore Oil Corporation's (CNOOC) goal is to exploit resources at 1,500-3,000 meters in depth, and hopes to dig out about 1 million barrels of hydrocarbon per day. The company is not able to exercise deep-water drilling, and is therefore working together with independent foreign partners from Norway (Awilco Offshore ASA) and Canada (Husky Energy Inc.). Because China still does not possess either advanced deep-water drilling equipment or enough experience, it is looking towards developing technology to face other countries, especially the US and Japan.⁴⁷

Despite certain cooperative energy projects already set between the claimants in the SCS, there is still much suspicion involved. Perhaps there is too much to expect successful cooperation in the future, when countries will grow dependent even more on imported energy resources. Some experts raise the issue of “opportunistic and protectionist thinking,” which most countries have on their secret agendas. In addition, “energy production involves interests, priorities, and dimensions beyond the energy sector.”⁴⁸

⁴⁷ Richardson, Michael. “Energy and geopolitics in the South China Sea.”: 191–192.

⁴⁸ Sovacool, Benjamin K. and Vu Minh Khuong. “Energy security and competition in Asia.”: 226.

CHAPTER 4. INCIDENTS IN THE SCS

The waters of the SCS were disturbed more frequently in the early 1970s, when overlapping territorial claims provoked military separation of the Spratly Islands. Between 1960 and 1973, China carried out five naval patrols per year between Hainan and the Paracel Islands, which provoked South Vietnam. Hence, China and South Vietnam fought two naval wars in 1974 and 1988 over the Paracel Islands. This showed China as a rising military power in the region that is likely to get involved in defending its claims with armed forces. Some experts think China is aiming to gain enough military power to forcefully defend its claims in the SCS if needed.⁴⁹ It could also be one of China's strategies for how to use military force in the SCS. Later on, in 1995, China occupied Mischief Reef, claimed by the Philippines. China provoked the Philippines by building infrastructure on the reef; however, it never used force as in the case of the Paracels.⁵⁰ The reason behind this move is that the Philippines made a joint agreement with an American oil company that wanted the Philippine claim acknowledged, and the Chinese openly opposed such an idea.⁵¹

China, Vietnam, the Philippines and Malaysia have had military forces stationed in about forty-five small islands that make up five square kilometers of Spratlys.⁵² In the 1990s, this resulted in large military investments by these countries.⁵³ It is important to

⁴⁹ Richardson, Michael. "Energy and geopolitics in the South China Sea." In *Energy issues in the Asia-Pacific region*, edited by Hong, Mark and Amy Lugg. Singapore: Institute of Southeast Asian Studies ISEAS, 2010: 175.

⁵⁰ Kleine-Ahlbrandt, Stephanie. "High Stakes in the South China Sea." *The Diplomat*, July 30, 2012; Odgaard, Liselotte. *Maritime security between China and Southeast Asia*: 69–72, 75, 109.

⁵¹ Buszynski, Leszek. "ASEAN, the Declaration on Conduct, and the South China Sea": 348.

⁵² Op. Cit. Richardson, Michael. "Energy and geopolitics in the South China Sea": 176–177.

⁵³ Gao, Zhiguo. "South China Sea": 332–333; Baviera, Aileen S.P. "The South China Sea Disputes after the 2002 Declaration": 344–345; Fravel, Taylor M. "China's Strategy in the South China Sea": 297–298.

stress that China did not occupy any part of the Spratlys until 1988. This was China's first military involvement in the islands. At that time there were only the Philippines, Vietnam and Malaysia that claimed their parts. The Spratly Islands are, from an economic stance, the most valuable area in the SCS, accounting for about 105 billion barrels of hydrocarbon reserves.⁵⁴ This makes the Spratly Islands the most problematic zone, since all countries involved in the claims also occupy them by military troops, except Brunei. Vietnam occupies 21 islands, the Philippines 8, China 7, Malaysia 3, and the ROC one island.⁵⁵ On this note, most of the islands have military stationed there, except for a couple of minor islands that turned out to host civilian facilities (by Malaysia and Taiwan). The fiercest confrontations, mostly over fishing, have occurred between the Philippines and Vietnam versus China. Vietnam and Malaysia have not remained silent either. Most of the clashes were, however, related to the fishing boats fishing in another country's claimed area.⁵⁶

In fishing disputes between Vietnam and China between 2005 and 2010, China seized 63 Vietnamese fishing boats with 725 fishermen around the Paracel Islands. Most of this happened in 2009, when China detained 33 Vietnamese boats.⁵⁷ Infrastructure building, oil exploration, fishery, naval and air patrols are the most common provocation of each claimant country. Such activities that make others know that they are not welcome to use the same territory for their activities, is a clear provocation that leads to a

⁵⁴ Fravel, Taylor M. "China's Strategy in the South China Sea": 296; Ba, Alice D. "Staking Claims and Making Waves": 274; Odgaard, Liselotte. *Maritime security between China and Southeast Asia*: 59.

⁵⁵ Richardson, Michael. "Energy and geopolitics in the South China Sea": 186.

⁵⁶ Gao, Zhiguo. "South China Sea": 332–333; Baviera, Aileen S.P. "The South China Sea Disputes after the 2002 Declaration": 344–345.

⁵⁷ Op. Cit. Fravel, Taylor M. "China's Strategy in the South China Sea": 305.

rising tension in the region.⁵⁸ So far, fishing disputes have provoked the only armed conflicts in the SCS. We cannot really put a finger on the next armed dispute, but it might soon break out over exploitation of oil or other natural gas.

There is a room for negotiation and compromise on China's side. Looking at the past territorial disputes, we can point out that China once already compromised its maritime boundary with Vietnam in 2000 (in the Gulf of Tonkin).⁵⁹ However, the times are different now; China is developing as a strong naval power as well, and stands determined to defend its claims in the SCS. We can predict that China is strategically making slow moves toward final decisions. In the meantime, it can boost military capabilities in case an armed conflict breaks out. Military building out of public sight gives China an opportunity to develop as a hard negotiator in the realm of the SCS.⁶⁰ Some experts predict that China's military spending could be much higher than the published numbers. Most of the money is spent on naval and air forces. In the last decade, China has upgraded its maritime forces with around sixty new warships. Even public statistics show that Chinese military spending overtook that one of Japan as of 2008 and India as of 2002. China is no longer buying arms from its allies, but is producing a large number of them at home. From ships, submarines and nuclear weapons to new types of weapons, China is taking control over its military build-up. As it is growing economically stronger, technologically advanced and self-sufficient, it is gradually establishing its position as a regional and global power. In comparison to its neighbors, none of them could potentially possess enough military power to defend its

⁵⁸ Baviera, Aileen S.P. "The South China Sea Disputes after the 2002 Declaration": 345.

⁵⁹ Fravel, Taylor M. "China's Strategy in the South China Sea": 296; Buszynski, Leszek. "ASEAN, the Declaration on Conduct, and the South China Sea": 354.

⁶⁰ Ba, Alice D. "Staking Claims and Making Waves": 273.

claims in the face of the Chinese military.⁶¹ Still, China wants to make sure that it will be seen as a powerful negotiator, which is why it has been delaying the discussions with ASEAN on the conflict-resolution.

The People's Liberation Army Navy (PLAN) began to modernize its naval capabilities in the early 1990s in case it would ever need to protect its maritime stability. No one really knows how much China developed its naval power yet, but it is repeatedly conducting naval exercises in the SCS.⁶² The Chinese navy is "a group inclined, whether by professional disposition, nationalist inclination, or bureaucratic self-interest to favor aggressive naval expansion."⁶³ The PLAN has also extended its naval power with some new nuclear submarines on the island of Hainan.⁶⁴ The Chinese government has invested heavily on its naval base in Sanya, Hainan. It supposedly includes about forty submarines.⁶⁵ China increased open-sea training from once every few years to several times every year. These trainings are focusing on systematic combat capability along with land and shore based information systems.⁶⁶ More naval exercises in the SCS can mean only one thing – China is getting ready to defend its marine boundaries. It will probably not happen overnight, and it might take another couple of provocations by another claimant country for China to justify its use of armed forces.

⁶¹ Richardson, Michael. "Energy and geopolitics in the South China Sea.": 180–183.

⁶² Fravel, Taylor M. "China's Strategy in the South China Sea": 299, 308; Buszynski, Leszek. "ASEAN, the Declaration on Conduct, and the South China Sea": 346–347.

⁶³ Goldstein, Lyle. "Chinese Naval Strategy in the South China Sea: An Abundance of Noise and Smoke, but Little Fire." *Contemporary Southeast Asia: A Journal Of International & Strategic Affairs* 33 (3) (2011): 328.

⁶⁴ *Ibid.*: 323–324.

⁶⁵ Hamzah, B.A. "Commentary". In *Energy and geopolitics in the South China Sea: implications for ASEAN and its dialogue partners*, edited by ASEAN Studies Centre, 53–64. Report No. 8. Singapore: Institute of Southeast Asian Studies ISEAS, 2009: 53.

⁶⁶ Qian, Xiaohu and Xin Song. "Special interview with commander of South China Sea Fleet." *People's Daily Online*, April 10, 2013. <http://english.people.com.cn/90786/8201923.html>

Furthermore, in 2007 China set up an office for the Paracel Islands in Sansha City,⁶⁷ also claimed by Vietnam. Its function is to administer the Paracel (*Xisha*) and the Spratly (*Nansha*) Islands, including Macclesfield Bank (*Zhongsha Islands*) that is located east of the Paracel and north of the Spratly Islands.⁶⁸ The establishment of Sansha provoked quite some tensions in Vietnam, namely anti-Chinese political and street demonstrations in Hanoi and Ho Chi Minh City.⁶⁹ This calls for more attention as Vietnamese people used nationalist sentiment towards China. The situation is quite similar to demonstrations in China regarding the Diaoyu/Senkaku Island dispute. Nationalist propaganda is a strong tool to be used against another country, and most of the Southeast Asian countries had fought wars with nationalist sentiments involved in the last century.

Clearly, the proximity of the Paracels, Pratas and the Macclesfield Bank to Hainan and to mainland China makes them favored over the Spratlys. Except for the ROC that is occupying the Pratas and Itu Aba, China does not intend to tolerate other countries' occupations. Sansha's location is strategic in terms of its nearly central location to observe other parties' activity in China's claimed waters. The different tactical approach China took toward the Paracels and Spratlys had shown up at an ASEAN workshop with China in 1991, when China demanded the Paracels not to be discussed at the meeting. Jakarta, as the host of the workshop, stayed on the Chinese side despite other countries' protests.⁷⁰

⁶⁷ Sansha City is located in Hainan province (Woody Island).

⁶⁸ Richardson, Michael. "Energy and geopolitics in the South China Sea.": 186.

⁶⁹ Valencia, Mark J. "Whither the South China Sea dispute?" In *Energy and geopolitics in the South China Sea: implications for ASEAN and its dialogue partners*, edited by ASEAN Studies Centre, 53–64. Report No. 8. Singapore: Institute of Southeast Asian Studies ISEAS, 2009: 70.

⁷⁰ Hamzah, B.A. "Commentary": 56–58.

The Chinese government has been spending a great amount of its GDP in modernization of its military. “Priority is given to improving its strategic forces to deter other states from attacking and to enhance the mobility and capability of the armed forces to deal with both border threats and internal security problems.”⁷¹ Generally speaking, national security is of major concern to China. It consists not only of hard power but also includes economic, political, societal, environmental, technological and human security. In the 1990s, China adopted comprehensive national power (*zonghe guoli*). This strategy is based on national security and national development. This means, China came to understand that only a strong economic foundation could sustain military advancement. Hence, it is crucial for China to maintain internal stability based on sustainable economic growth, alongside its military build-up.⁷² “Military modernization therefore must be based on economic modernization.”⁷³

Possessing hard power in the form of the military is an advantage that empowers a country, at least in terms of its psychological position and in negotiations with others. According to some experts, mostly those who support the realist theory of International Relations, there is a pretty high probability of China defending its claims by force in the SCS in the future. Not necessarily over the entire area, but most likely over the Spratly Islands. It is hard to predict how much military power China actually needs in order to win over its Southeast Asian neighbors’ claims. No wonder that the Southeast Asian counterparts of China have turned to the US for military assistance, as will be further discussed in this paper. On the opposite side, many experts do not predict the possibility

⁷¹ Odgaard, Liselotte. *Maritime security between China and Southeast Asia*: 123.

⁷² Jian, Yang. “The Spratly dispute, Southeast Asia and Sino-Japanese relations: interests, constraints and policies.” In *Southeast Asia between China and Japan*, edited by Peng Er, Lam and Victor Teo, 217–238. Newcastle upon Tyne: Cambridge Scholars Publishing, 2012: 218–219.

⁷³ *Ibid.*: 220.

of a military clash between the PRC and Southeast Asia in the foreseeable future. “Direct conflicts with these states over the SCS would threaten trade and investment.”⁷⁴ Indeed, China perceives this region as crucial to satisfying its high economic aspirations. Also, close ties with ASEAN presents a counter-balance to the US and Japan. After all, China wants to maintain its position of a dominant security power in the region.

⁷⁴ Jian, Yang. “The Spratly dispute, Southeast Asia and Sino-Japanese relations”: 220.

CHAPTER 5. ASEAN AND CHINA: COOPERATION OR COMPETITION IN THE SCS?

The Philippines, generally most verbally aggressive in security dialogues with China, expressed their serious concern over the lack of cooperation within ASEAN in April 1999. “Some of our ASEAN friends are either mute, timid or cannot go beyond espousal of general principle of peaceful settlement of disputes and polite words of understanding given in the corridors or meeting rooms,” stated Lauro Baja, the Philippine Foreign Affairs Under-Secretary.⁷⁵ Philippine frustration along with their aim to internationalize the issue finally caught enough attention of ASEAN to push for greater cooperation. ASEAN and China have been more actively involved in discussing the issues of the SCS multilaterally since 1999. This date marks a significant shift from the traditional Chinese bilateral approach towards multilateralism

In the early 1990s, China decided to strengthen bilateral relations with Southeast Asian neighbors. “ASEAN states were not only potential trading partners, but also potential political allies that shared China’s concerns about external intrusions.”⁷⁶ In 1992, China’s relations with all Asia-Pacific countries became normalized. At the same time, Sino-Philippine relations improved. ASEAN appreciated China’s sudden cooperativeness and opened up for meetings, beginning in 1991. By 1995, China had become full dialogue partner of ASEAN.⁷⁷ In August 1995, a bilateral joint agreement between China and the Philippines was signed. In November 1995, a similar joint agreement was signed by Vietnam and the Philippines. Although this document

⁷⁵ Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 149.

⁷⁶ Hung, Serene. *China in ASEAN-led multilateral forums*. Baltimore, Md.: University of Maryland School of Law, 2006: 17.

⁷⁷ *Ibid.*: 17–18.

represented some sort of code of conduct, it did not really make these countries respect it in practice.⁷⁸

In 1995, though, China got involved in a dispute with the Philippines over Mischief Reef, even though the countries made a bilateral agreement on the code of conduct. It was the first time that China acted with force against any other claimant but Vietnam. ASEAN recognized China as the intruder in this case. After the incident, China agreed to talk about the SCS dispute multilaterally for the first time in the history of the SCS discussions. Since then, ASEAN meetings with China have always included discourse over the SCS dispute.⁷⁹

ASEAN+1, a system that includes China into ASEAN meetings and discussions, was established in December 1997.⁸⁰ This was an important event in the history of Chinese foreign policy and ASEAN alike. However, fishing disputes continued in the following years, and it seemed like a more strict code had to be enforced. In 1999, discussions between ASEAN and China finally led to the idea of drafting a regional DOC in the SCS.⁸¹ Following Vietnam's pressure to hold an ASEAN meeting without China before having a meeting with China, this practice still continues.⁸² ASEAN+1 and supporting the idea of the DOC was a big move for China moving away from bilateral agreements to an open dialogue conducted with the ASEAN.

It is important to note that China signed ASEAN's Treaty of Amity and Cooperation (TAC) in 2003. Hence, China was the first non-Southeast Asian country that signed it,

⁷⁸ Gao, Zhiguo. "South China Sea": 336–337.

⁷⁹ Baviera, Aileen S.P. "The South China Sea Disputes after the 2002 Declaration": 346.

⁸⁰ Percival, Bronson. *The dragon looks south: China and Southeast Asia in the new century*. Westport, Conn.: Praeger Security International, 2007: 79.

⁸¹ Op. Cit. Gao, Zhiguo. "South China Sea": 336–337.

⁸² Fravel, Taylor M. "China's Strategy in the South China Sea": 311.

and by doing so stimulated other countries, such as India, Japan, and Russia to sign the treaty as well. Only the signatories could attend the first East Asia Summit (EAS) in 2005, which meant the US was not able to participate.⁸³

The DOC, signed in November 2002, is by far the biggest achievement of ASEAN-China cooperation after decades of disputes in the SCS. In the late 1990s, the idea of drafting a COC was primarily initiated by the Philippines, and was finally realized as a DOC in the SCS. Although it does not legally bind countries to respect its rules, it serves as a guiding principle of expected behavior in the SCS. Norms are a basis for setting up rules, and are a sign of mutual understanding of the issue. It is usually the small states that are in favor of the norms, because they feel protected before the actions of larger states. For the first time, China agreed on a multilateral agreement on the SCS. It is also a sign of a mutual agreement between all signed parties, and furthermore offers a framework for a real code to be legally binding.⁸⁴ It might be “China’s current need for the diplomatic and economic support of ASEAN states” that led China to a multi-cooperation with the ASEAN community.⁸⁵ Indeed, China is undergoing almost revolutionary economic development, and maintaining good business and diplomatic relationships with its neighbors is crucial at the moment. We can only speculate how China will deal with disputes once the flourishing economic growth halts.

The DOC includes the basic principles of the United Nations Charter, the UNCLOS, TAC, and the “Five Principles of Peaceful Co-Existence” together with three specific commitments. The first one is that the countries should not occupy the presently

⁸³ Percival, Bronson. *The dragon looks south: China and Southeast Asia in the new century*: 79–81.

⁸⁴ Gao, Zhiguo. “South China Sea”: 340; Buszynski, Leszek. “ASEAN, the Declaration on Conduct, and the South China Sea”: 343–345, 356–357.

⁸⁵ Baviera, Aileen S.P. “The South China Sea Disputes after the 2002 Declaration”: 347.

uninhabited islands, reefs, cays, etc. In case of military exercises, there should be notification of such in advance. The second one calls for continuous discussions on the observance of this DOC. The question is, who is responsible to judge other's actions and provocations? There is no specific interpretation of suspicious actions in the DOC, which leaves enough space to the claimants to break the "rules" (although unbinding). The third commitment refers to a future working process on the binding COC. There is still a lot of space in drafting the COC more tightly for the countries to abide by the rules. The DOC's significance is that it does not only include the claimants of the SCS but the whole ASEAN community. At the same time, it excludes any other non-ASEAN or international players (the US in particular).⁸⁶

The new declaration could move a step further – from confidence building to conflict prevention. The long-term goal is, clearly, a resolution over overlapping claims.⁸⁷ Unfortunately, there were already a number of events after November 2002 that did not comply with the guidelines stated in the DOC. For instance, the Philippine decision to hold joint military exercises with the US in the SCS, Taiwan's intrusion on Vietnamese-claimed Ban Than Reef, Vietnamese tourists' eight-day excursion to the Spratly Islands, and China's naval drills.⁸⁸ It is hard to prevent countries from taking their "right" in exploiting the SCS. As long as the borders are not clearly marked, fisherman or oil companies or tourist boats can sail in the waters of their country's claim, and hope to avoid a conflict with the opposing claimant. They are, however, all aware of the risks, especially looking back to previous armed attacks. But in practice, who can actually stay

⁸⁶ Baviera, Aileen S.P. "The South China Sea Disputes after the 2002 Declaration": 348–353.

⁸⁷ *Ibid.*: 351.

⁸⁸ *Ibid.*: 352.

away from current desire of fish and other natural resources in the SCS for the sake of maintaining long-term peace and security?

Indonesia, as a non-claimant, initiated the workshops (financed by Canada) on managing potential conflicts in the SCS starting in 1990. These informal talks were the first multilateral dialogues established between ASEAN and China. Despite primarily diplomatic debates, China challenged other parties in 1992 when it announced its right to defend the territorial claims by force if necessary. This was passed in the Law of the PRC on the Territorial Waters and Contiguous Areas, and runs with no doubt in contrast to the UNCLOS.⁸⁹

The Indonesian Maritime Council was determined to get ASEAN countries at the same table and make them agree on cooperation based on a common denominator. In other words, they encouraged open dialogue and mutual understanding for the best possible solution of the dispute. The first workshop held in Bali in 1990 was conducted strictly amid ASEAN members. Parties came to a mutual agreement to further discuss these areas regarding the SCS: territorial and sovereignty issues; political and security issues; marine scientific research and environmental protection; safety and navigation; resources management; and institutional mechanisms for cooperation. Although very broad, these became a foundation for forthcoming workshops that included other countries and China in particular. In 1991, non-ASEAN countries, namely China, Vietnam, Laos, and the ROC, also joined the workshops. The PRC was the one that insisted on informal talks, mostly due to the presence of the ROC. Joint development and joint cooperation were the main topics. Countries generally agreed on having peaceful solutions to the problem, such as preventive diplomacy where cooperation on many

⁸⁹ Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 135.

levels is expected from everyone, not just the claimants. Parties involved legalizing their claims and hence unnecessarily raising tensions should not further escalate the dispute. On the contrary, countries should strive for more transparency and mutual dialogue on a regular basis. Promoting the commonalities was a good start to these informal discussions.⁹⁰

The ASEAN Regional Forum (ARF) was inaugurated in July 1993 with a purpose to serve as a multi-dialogue platform for security issue discussions between ASEAN and non-ASEAN parties. “The formation of the ARF undermined the traditional call for regional autonomy.”⁹¹ The first meeting was held in Thailand one year later. After the Mischief Reef incident in 1995, the divide within ASEAN became more evident. Malaysia, Singapore and Thailand did not want to provoke China for the sake of their good economic ties. ASEAN as a community, then, could not respond efficiently in the light of the Mischief event. Soon after, China turned its game to carrying out strategic diplomacy in the region by maintaining peaceful and prosperous relations with Southeast Asian countries. The Asian financial crisis of 1997-1998 made ASEAN countries even more vulnerable in the eyes of a rising China. Remarkably, China did not take advantage of seizing the islands during these hard times, but on the contrary, exercised a good-neighbor policy by offering financial assistance. Also, ASEAN greatly appreciated that China did not devalue its currency.⁹²

ARF’s potential to foster progress on the multilateral level talks about the COC is significant. However, there has been no significant advancement in the last decade since

⁹⁰ Djalal, Hasjim. “Managing potential conflicts in the South China Sea”: 69–89.

⁹¹ Emmers, Ralf. Cooperative security and the balance of power in ASEAN and the ARF: 137.

⁹² Op. Cit. Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 138–140.

the DOC was signed. “The PRC does not want the Forum to become an institutional vehicle available to the ASEAN claimants to internationalize the territorial dispute.”⁹³ China possesses enough negotiating power to be able to abstain from making any conclusions, especially on the ASEAN side. There is not only mistrust between China and ASEAN, but also within ASEAN, as was discussed earlier. ASEAN claimants cannot fully rely on each other when facing China, but remain wary of each other’s actions. Thus, ASEAN as an association could use more cohesion and cooperation within to successfully counterpart the PRC.⁹⁴ On a negative side, then, ARF is often criticized for not providing any successful outcomes. The ASEAN divide on the SCS is one of the main reasons, followed closely by China’s unwillingness to discuss or even internationalize the issue. This makes ARF only a forum for discussion and prolongation of a *status quo* that benefits mostly China.⁹⁵

In sum, China’s opening up to cooperating with ASEAN on a multilateral level and engaging in multilateral diplomacy is a big success itself if we look back to the Chinese history of isolation and bilateral agreements. There are multiple reasons for China’s decision to socialize: economic integration and cooperation; counterbalancing US influence in Southeast Asia; striving for peace and stability in the region; and maintaining good relations with its neighbors. Today, China participated not only in high-level regional but also in international forums. In fact, it is often taking the initiative at ASEAN+1 and ARF, something that ASEAN does not concur with when talking about the SCS. Nevertheless, China is promoting itself as a responsible great power (*daguo*)

⁹³ Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 143.

⁹⁴ *Ibid.*: 143–144.

⁹⁵ Jung, Ann. “ASEAN and the South China Sea: deepening divisions.” *The National Bureau of Asian Research*, July 16, 2012. <http://nbr.org/research/activity.aspx?id=262>

and offers a positive connotation to a rising power's anticipated arrogant behavior. On the negative side, there has been much talk about crisis management and joint development, but not enough about sovereignty resolution.⁹⁶ ASEAN should make a leap forward by overcoming talks and become more institutionalized. After all, maritime sovereignty is a long-term complex problem that it is dealing with, and ASEAN should make sure not to get distracted by China's tactics of distracting it with tempting economic cooperation, while leaving aside political negotiations.

⁹⁶ Hung, Serene. *China in ASEAN-led multilateral forums*: 5–9, 41.

CHAPTER 6. ASEAN DIVIDE ON THE SCS

Since the SCS is such a complex issue that can hardly see a complete resolution in the foreseeable future, ASEAN should work towards confidence building and conflict avoidance.⁹⁷ However, ASEAN in its current form can be considered as a rather young institution with little experience, particularly in security building and cooperation. As a matter of fact, historically members of ASEAN share more in terms of confrontation than cooperation.⁹⁸ It is important to note that the ASEAN 10 is still a rather young institution with a lack of experience in dealing with security issues of mutual concern.

Former ASEAN General Secretary Dr. Surin Pitsuwan pointed out: “We are still growing together. We are still trying to integrate not only economically but in norms, in perceptions, in vision, and in the way in which we handle our differences.”⁹⁹ In another interview, Pitsuwan emphasized that ASEAN needs to find a solution within the association first, and then stand firm in its stance when confronting China. He does not want to see the SCS dispute escalate and turn into “the Palestine of eastern Asia.”¹⁰⁰ Indeed, there are perhaps many more differences than similarities among the members, but ASEAN as a group could serve as a foundation of building a strong security alliance, particularly when it comes to the SCS. Peace and stability matters to everyone.

⁹⁷ Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 134.

⁹⁸ Djalal, Hasjim. “Managing potential conflicts in the South China Sea”. In *Conflict resolution and peace building: the role of NGOs in historical reconciliation and territorial issues*, edited by Kang, Sungho, McDonald, John W. and Chinsoo Bae, 63–89. Seoul, Korea: Northeast Asian History Foundation, 2009: 63.

⁹⁹ Radio Australia. “ASEAN must be ‘neutral broker’ of power plays: Pitsuwan.” *Radio Australia*, November 26, 2012.

<http://www.radioaustralia.net.au/international/radio/program/connect-asia/asean-must-be-neutral-broker-of-power-plays-pitsuwan/1051844>

¹⁰⁰ ASEAN News. “Q&A: ‘It will take time before ASEAN is a complete community’.” *ASEAN News*, March 6, 2013. <http://www.aseannews.net/qa-it-will-take-time-before-asean-is-a-complete-community/>

Only four out of ten ASEAN member states are directly involved in the SCS dispute with China. The question is, can all the members agree on a single approach on how to tackle this issue? Because only less than half of ASEAN members share a mutual enemy (i.e., the PRC), does it mean that the whole ASEAN can be affected in case an armed clash takes place? The other, uninvolved half of its members, maintains closer economic relations with China. Therefore, they would be less likely to put at stake their prosperous relations. In reality, mainly the poor countries in the region, such as Cambodia and Myanmar, benefit much more from China than from the ASEAN claimants. Undoubtedly, the members' intra-mural disparities create a divide within ASEAN on this issue; but can ASEAN unite when a shared security concern is at stake?

The main issue is whether ASEAN can overcome contradictory views and economic interests for security building based on mutual agreement established within ASEAN. If ASEAN can manage to do so, its stance towards China on the SCS dispute can make a significant move to finalizing the COC. However, if ASEAN shows its weakness in its stance, this leaves more space for China to argue its right of taking over complete sovereignty of the SCS. Also, there will be no chance for a multilateral solution to the problem. ASEAN should step up its role in the regional diplomacy, and work together within its community towards developing a mutual approach. From the Chinese perspective though, Beijing's policy is to treat countries that are not involved in the dispute differently from those of the claimants.¹⁰¹ The PRC is probably counting on economic diplomacy with non-claimants that would keep them distracted from taking

¹⁰¹ Basu Das, Sanchita. "ASEAN: a united front to tackle the South China Sea issue." *East Asia Forum*, May 13, 2012. <http://www.eastasiaforum.org/2012/05/13/asean-a-united-front-to-tackle-the-south-china-sea-issue/>

sides with ASEAN. So far, there has been very little actual confrontation within ASEAN regarding this, but tensions may rise as the conflict escalates in the future.

Within ASEAN, tensions occur especially between Vietnam and the Philippines, the two most eagerly involved countries, on one side, and Malaysia and Brunei, that seem to fear rising confrontations with China, on the other side. To Vietnam and the Philippines, this dispute presents the biggest security issue. On the other side, the Malaysian defense minister's statement proves a somewhat different attitude. He does not worry about Chinese ships in the disputed waters, because he believes there is still enough trust between Malaysia and China. "Just because you have enemies, does not mean your enemies are my enemies,"¹⁰² he claimed in the face of an ASEAN meeting in August 2013. Since the beginning of the 1990s, Malaysia has recognized China as a partner who can offer numerous opportunities to mutual cooperation.¹⁰³ Similar opinion is shared between China and Thailand. According to Chinese foreign minister Wang Yi, the parties in the SCS should consider the stable situation as a good sign as it allows everyone the freedom of navigation.¹⁰⁴

Brunei, Malaysia and the Philippines overlap their claims in the Spratlys. Malaysian-Philippine relations got even tenser than it had been since a territorial dispute over Sabah in the 1960s. There was a military confrontation in 1988, when the Malaysian military seized three Philippine vessels.¹⁰⁵ Furthermore, Malaysia seized Philippine-claimed Investigator Shoal in 1999. This action not only endangered the two countries' relations

¹⁰² Chen, Sharon. "Malaysia splits with Asean claimants on China Sea threat." *Bloomberg*, August 28, 2013. <http://www.bloomberg.com/news/2013-08-28/malaysia-splits-with-other-asean-claimants-over-china-sea-threat.html>

¹⁰³ Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 133.

¹⁰⁴ Op. Cit. Chen, Sharon. "Malaysia splits with Asean claimants on China Sea threat."

¹⁰⁵ Op. Cit. Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 136.

and ASEAN within, but also received a harsh critique from Vietnam, China and Brunei.¹⁰⁶

Indonesia and Malaysia had shared similar opinions towards China before the 1990s. While Malaysia's opinion drastically changed in perceiving China on friendly terms, Indonesia's relationship with China has remained rather cold as Indonesia still harbors mistrust and suspicion dating back to 1965, when the two countries' ties got suspended. Since 1990, when their relationship improved, the countries still cannot find common language. Indonesia's suspicion persisted, and is especially aimed at China's military build-up. Indonesia is the strongest member of ASEAN in terms of military power, and clearly dislikes China's growing influence in Southeast Asia. "Beijing and Jakarta should also be viewed as geopolitical competitors for regional influence in the post-Cold War."¹⁰⁷

Another problem that arises from the divide within ASEAN on the SCS is military spending for security purposes. The Singaporean defense minister raised this topic at a meeting with other ASEAN ministers. He noted that the spending on defense rose for 75 percent from 2002 to 2012.¹⁰⁸ In light of this statement it is important to note that Singapore has been working on modernizing its military forces. Singapore clearly strives for regional stability and economic prosperity as it has maintained good economic and diplomatic relations with the PRC. Interestingly enough, Singapore was the last one of the ASEAN members to open official ties with China in 1990. Nevertheless, economic

¹⁰⁶ Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 144.

¹⁰⁷ *Ibid.*: 133.

¹⁰⁸ Chen, Sharon. "Malaysia splits with Asean claimants on China Sea threat."

cooperation between the two dates long back in history.¹⁰⁹ Economic growth normally correlates with military spending, and as such this number should not come as a surprise. But can it really add more stability to the region, or will the military buildup actually provoke more distrust among countries?

As an example, at the ASEAN Ministerial Meeting held in July 2012, Cambodia as a chair did not spare a word on the SCS issue. By taking sides with China, Cambodia was the first ASEAN chair so far that did not include the SCS content in the final joint communiqué. In the 46-year history, this was the first time the final communiqué was not issued. China is well aware of certain ASEAN countries' weaknesses that can lead to a split in the ASEAN approach towards the SCS.¹¹⁰

China's stance towards ASEAN as a whole is involvement in the SCS issue is a bit different. China thinks non-claimants should stay away and leave discussions to claimants only. ASEAN should not stand entitled as a united front against China. If this is the case, then the SCS maritime sovereignty can soon become an international playground where non-regional players get involved. In short, China would prefer bilateral talks with claimants only, avoiding having other ASEAN members side with ASEAN. This would, in China's view, only disturb peace and stability in the region.¹¹¹

The chairmanship within ASEAN works on a rotating annual basis. Despite ASEAN being a pretty unified community, it usually comes down to the chair of the meetings

¹⁰⁹ Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 133–134.

¹¹⁰ Grant, Jeremy, Ben Bland and Gwen Robinson. "South China Sea issue divides Asean." *Financial Times*, July 16, 2012. <http://www.ft.com/intl/cms/s/0/3d45667c-cf29-11e1-bfd9-00144feabdc0.html#axzz2nTvPqqPr>

¹¹¹ Observer Research Foundation. "Special interview: 'Increased military presence in South China Sea a concern for all nations'." *Observer Research Foundation*, January 11, 2013. <http://www.orfonline.org/cms/sites/orfonline/html/interview/wu.html>

deciding what will be discussed and prioritized. As such, ASEAN is unlike the European Union (EU) that works much more coherently as a political entity. Instead, ASEAN leaves more space to countries' own political behavior and therefore lacks the EU decision-making power. It is rather an amorphous entity.¹¹² The country that acts as a chair takes responsibility on behalf of the community as a whole. In 2014, Myanmar is taking the chairmanship position for the first time in history. As the UN Secretary Ban Ki-moon says, this is "a good opportunity for Myanmar to build on its socio-economic progress and democratic transition".¹¹³ But on the other hand, a concern whether Myanmar's diplomacy can raise issues such as the SCS at the ASEAN meeting prevails. Similar to Cambodia, Myanmar is closely tied to Chinese investments in terms of socio-economic support. As a result, can Myanmar as the chair in 2014 actually hinder the process of signing the COC? On this note, according to Chinese Deputy Foreign Minister Fu Ying, China will sign the COC only "when the time is ripe".¹¹⁴ In other words, China is unwilling to negotiate until it can benefit from its own motives.

¹¹² Grant, Jeremy, Ben Bland and Gwen Robinson. "South China Sea issue divides Asean."

¹¹³ Pomfret, James. "Myanmar takes long-awaited ASEAN chair, but can it cope?" *Reuters*, October 10, 2013. <http://www.reuters.com/article/2013/10/10/us-asia-summit-myanmar-idUSBRE9990DV20131010>

¹¹⁴ Jung, Ann. "ASEAN and the South China Sea: deepening divisions." *The National Bureau of Asian Research*, July 16, 2012. <http://nbr.org/research/activity.aspx?id=262>

CHAPTER 7. THE US INVOLVEMENT IN THE SCS

Some may question the US involvement in Asian regional issues such as SCS. It is, after all, regional players who should deal with it without any outsider's involvement. However, this is not the case. Firstly, the US still remains the main political and economic player in the world. Secondly, the US is a strategic partner to a number of countries in the Southeast Asian region. And lastly, the SCS makes an important transportation route for the US. The US has been, much more than China ever has, playing a role of maintaining security in maritime Southeast Asia. However, in 1992 the US withdrew from its military bases in Kalayaan, the Philippines, and hence opened space for China to take a bigger role in Southeast Asia. As for other countries in the region raising concern, Singapore decided to accommodate US military facilities in 1990. Malaysia and Indonesia, on the contrary, have remained hesitant towards a US presence in proximity to Spratlys in particular.¹¹⁵ There are important American energy resources, military and commercial transport being shipped through the SCS. In addition to security goals the US has in the area, it is mostly the economic goals that it is pursuing with the ASEAN community and China alike. Although China surpassed the US in trading with Southeast Asia, the US is still one of the top trade partners in the region.¹¹⁶

Although the American government claims to stay neutral in the case of the SCS, it is strategically strengthening its military presence in Southeast Asia. A good example is the Mischief Reef incident in 1995 after which the US immediately sent a special

¹¹⁵ Emmers, Ralf. *Cooperative security and the balance of power in ASEAN and the ARF*: 150–151.

¹¹⁶ Percival, Bronson. *The dragon looks south: China and Southeast Asia in the new century*: 74, 128–129; Association of Southeast Asian Nations. “ASEAN Trade by selected partner country/region, 2010.” *Association of Southeast Asian Nations*, February 15, 2012; Odgaard, Liselotte. *Maritime security between China and Southeast Asia*: 132.

representative of the President to the Philippines. The agreement with the Philippine President was to increase military expenditures. Also, the US clearly showed its interest in security engagement with its allies in the region. Interestingly enough, China's stance to adapt a multilateral approach changed soon after the incident and the US visit in the region. This might or might not be a coincidence, but some experts believe that China feared the US would get overly involved in regional affairs. Also, China might have feared the US would prevent its air and naval capacity building. On the other hand, other SCS claimants could see an opportunity to enhance their security ties with the US.¹¹⁷

In 1999, when the US bombed the Chinese embassy in Belgrade, Serbia, Chinese government distrust towards the US only intensified. In the same year, two US aircraft carriers held exercises in the SCS, followed by joint military exercises with the Philippines one year later.¹¹⁸

“The Americans have achieved what they have always wanted in Southeast Asia. They now have bilateral relations with countries in the region that keep the sea lanes open.”¹¹⁹ This is in reference to the terrorist attacks on the US (9/11) in 2001, when the US strengthened its ties with the Philippines, Singapore, Thailand, Malaysia, and most importantly, with Vietnam. The US became to participate more actively in the SCS region after the terrorist attacks in the US and the spread of the terrorist threat around the world. In fact, Southeast Asia turned into a “second front” in the war on terrorism. The Chinese government looked for ASEAN-multilateral mechanisms as an “important way

¹¹⁷ Hung, Serene. *China in ASEAN-led multilateral forums*: 13–17, 26.

¹¹⁸ *Ibid.*: 33.

¹¹⁹ Gao, Zhiguo. “South China Sea”: 334.

of preventing the US from using its bilateral military relations to deepen its influence in Southeast Asia and encircle China.”¹²⁰

One year before the terrorist attack, the former US President George W. Bush called China a strategic competitor of the US. Nevertheless, the American perception soon switched to announcing China as its ally in combating terrorism. The US has been, then, seen as an important power for security reasons by helping in tackling non-state terrorist groups in the region. For example, the US has allied with the Philippines in order to train their military in counterterrorism. The military assistance to the Philippines increased from \$1.9 million in 1999 to \$136 million in 2005 under the Visiting Forces Agreement. This military force is not to be confused with the issue of the SCS, according to the US.¹²¹ Since 2006, when the terrorist threats in Southeast Asia diminished, and since the US was still positioning its troops in the Middle East, terrorism as an “excuse” for the American presence in the region did not pay off anymore. US presence in Southeast Asia has persisted also because of China’s rise.¹²²

In 2008, due to a global economic crisis, the American government got wary of strategic stability in Sino-American relations. China’s economic rise, military modernization, and Taiwan’s election of Ma Ying-jeou all contributed to the continuous American presence in Southeast Asia as well as its rising interest in the SCS. If Chinese are claiming the SCS based on historic claims, then the US is similarly claiming its involvement in defense of freedom of navigation.¹²³ The Chinese Navy Admiral Yang Yi in 2010 announced that China is also backing the freedom of navigation. Furthermore, he

¹²⁰ Hung, Serene. *China in ASEAN-led multilateral forums*: 35–36.

¹²¹ Percival, Bronson. *The dragon looks south: China and Southeast Asia in the new century*: 72, 131–132.

¹²² *Ibid.*: 130.

¹²³ Ba, Alice D. “Staking Claims and Making Waves in the South China Sea”: 281–282.

opposed US warships passing through the SCS. He made a comparison: “Just imagine if China were to send submarines into an American EEZ (exclusive economic zone). America’s reaction would be even more intense.”¹²⁴ In addition to this comment, Rear Admiral Yin Zhou stated in 2010 that China should definitely exploit the richness of resources in the SCS, which would significantly boost its economy. Many other navy personnel often publicly announce similar opinions.¹²⁵ The sharp contrast of opinions between Chinese academics and the Chinese military is clear. Ultimately, it will be on behalf of the Chinese politicians who will come to a decision for China to secure its core interest.

Sino-American relations sharpened in 2009, when the US sold military equipment to Taiwan, and received the Dalai Lama in the White House. In light of these events, the Chinese government felt highly offended and prohibited any American involvement in the matters of the SCS as one of China’s core interests of sovereignty. Afterwards, several bilateral talks were conducted between the US and China regarding maritime security, which makes the SCS one of the most difficult topics in contemporary Sino-American relations.¹²⁶ Much talk brought about almost no progress. At the Foreign Ministry Press Conference in September 2013, former Chinese Premier Wen Jiaobao announced that he hopes the American involvement in the SCS is purely to ensure regional peace and stability, which correlates with the PRC’s interest as well.¹²⁷ China is willing to keep relations with the US as peaceful as possible. Military confrontation

¹²⁴ Goldstein, Lyle. “Chinese Naval Strategy in the South China Sea”: 332.

¹²⁵ *Ibid.*: 332–333.

¹²⁶ Thayer, Carlyle A. “The United States, China and Southeast Asia.” *Southeast Asian Affairs* (2011): 16–18; Ba, Alice D. “Staking Claims and Making Waves”: 284; Goldstein, Lyle. “Chinese Naval Strategy in the South China Sea”: 322.

¹²⁷ Xinhuanet. “FM press conference on Sept. 4 (Full Text).”

would do no good to anyone in the region. Despite these official Chinese statements, the distrust in the US military presence remains.¹²⁸

Chinese academic articles have warned that the US with its (military) presence in Southeast Asia tries to contain China. Also, it aims to establish close military and economic ties with Vietnam, a country that is one of the strongest claimants of the four. Regarding potential warfare in the SCS, the opinions vary. Some Chinese experts think that China should focus on boosting its armed forces, while others do not believe the US would possibly get involved in a military clash. These are the extremes, while most of the experts stress China should refrain from the use of force and rather negotiate its claims. Instead of employing aggression on its neighbors, China can always deal with the issue diplomatically – by fisheries enforcement and maritime surveillance.¹²⁹

¹²⁸ Observer Research Foundation. “Special interview: ‘Increased military presence in South China Sea a concern for all nations’.”

¹²⁹ Goldstein, Lyle. “Chinese Naval Strategy in the South China Sea”: 325–330.

CHAPTER 8. US – ASEAN COOPERATION IN THE SCS

The US may soon be moving even further towards active concern policy. The American official stance remains maintaining peace and security in the SCS.¹³⁰ In July 2010, U.S. Secretary of State Hillary Clinton announced in Vietnam that the SCS was of American national interest. It is related to the freedom of sea-lanes. In terms of strengthened US-Vietnam relations, Chinese government probably read Clinton's message as a warning. Similarly, the Philippines have been maintaining a good military relationship with the US. Both countries seem to risk more when being backed by the US.¹³¹ What will happen if ASEAN fails in its attempts to condemn China? If the four other claimants reach out to the US for their military assistance, they can probably secure their sovereignty claims.

In September 2010, the ASEAN-US partnership was re-engaged at the second US-ASEAN Leader's Meeting in the New York. The agenda included the SCS dispute as well, which came across as fairly worrisome for Chinese government. Secretary Clinton has been constantly emphasizing the role of ASEAN and EAS in tackling the security and strategic issues in the region.¹³² While ASEAN is cooperating with the US, neutrality in its original form is put into question. The stance of the American government towards the SCS territorial dispute had been neutral before 9/11 events. While the Sino-American relationship appears to land on shaky grounds, the US-Southeast Asian partnership has

¹³⁰ Gao, Zhiguo. "South China Sea": 334, 338–339.

¹³¹ Kleine-Ahlbrandt, Stephanie. "High Stakes in the South China Sea"; Thayer, Carlyle A. "The United States, China and Southeast Asia": 19; Ba, Alice D. "Staking Claims and Making Waves": 281.

¹³² Thayer, Carlyle A. "The United States, China and Southeast Asia": 19–21.

definitely improved. A joint military exercise with the Philippines, Thailand and Singapore in 2000 demonstrates a move from neutrality towards active neutrality.¹³³

Since 2010, the US has become more actively involved in participating at the Southeast Asian regional meetings, seemingly realizing the importance of the Southeast Asia's stability. It is also in American national interest that the SCS issue is resolved. Hence, the SCS has been continuously raised but not necessarily formally discussed. The US has also expressed a strong support for signing the COC in the SCS. At the ARF meeting in Hanoi in 2010, Clinton stressed that "a collaborative, diplomatic process by all claimants" is needed in order to stabilize the issue.¹³⁴ China, on the other side, does not want the issue to become internationalized, thus it is sharply opposing any kind of American involvement. In addition, if the ASEAN countries' militaries cooperate with the US, then the US has a rather easy access to the waters of the SCS.¹³⁵

President Obama attended the 7th EAS in Phnom Penh in November 2012. In order to maintain peace and stability in the region, he indicated that a "full and active American engagement in the region's multilateral architecture helps to reinforce the system of rules, norms, and responsibilities". He also made clear that the US wants to secure freedom of navigation in the SCS, and is supporting the acceptance of the COC.¹³⁶ Likewise, ASEAN supports American engagement in the region. According to Singaporean Prime Minister Lee Hsieng Loong, "we are all in favor of the US taking active and constructive

¹³³ Ba, Alice D. "Staking Claims and Making Waves": 283.

¹³⁴ Thayer, Carlyle A. "The United States, China and Southeast Asia": 20–22.

¹³⁵ Buszynski, Leszek. "ASEAN, the Declaration on Conduct, and the South China Sea": 353–354.

¹³⁶ The White House. "Fact Sheet: East Asia Summit Outcomes." *The White House*, November 20, 2012.

interest in Asia.”¹³⁷ In his opinion, such involvement should not be called a pivot to Asia, because Asia is just one of the many regions of the broad American interests. Also, a US military presence in Southeast Asia can only add to stability in the region and restrain countries from the use of force.¹³⁸

Due to dealing with the US government shutdown, the American President cancelled his visit to Brunei, where the 16th ASEAN-China Summit was held in October 2013. Instead, the US Secretary of State John Kerry attended the annual East Asia Summit, and called for stability in the region by pointing out the importance of American role. According to Kerry, the US is determined to linger its commitment to rebalance. Maintaining a positive partnership with ASEAN and China is on current government’s priority list. It is important to note that China argued over different levels of development with the US. Kerry concluded that although China may not be as developed as the US, it should hold same responsibilities as any other developed country.¹³⁹

ASEAN counted on Obama’s support to push for the COC at this crucial time, when its breakthrough has been underway for too long. Chinese Premier Li Keqiang made it clear that China welcomes the progression of the COC, but under its terms on “the basis of consensus building”.¹⁴⁰ This kind of approach goes against American expectations, as China continues to exclude foreign involvement in solving the dispute. In other words, China looks for one-on-one communication with other claimants, i.e. continuous bilateral

¹³⁷ Weymouth, Lally. “An interview with Singapore Prime Minister Lee Hsien Loong.” *The Washington Post*, March 15, 2013. http://www.washingtonpost.com/opinions/an-interview-with-singapore-prime-minister-lee-hsien-loong/2013/03/15/5ce40cd4-8cae-11e2-9838-d62f083ba93f_story.html

¹³⁸ Op. Cit. Weymouth, Lally. “An interview with Singapore Prime Minister Lee Hsien Loong.”

¹³⁹ Wroughton, Lesley and Manuel Mogato. “U.S., Japan press China on South China Sea dispute.” *Reuters*, October 9, 2013.

¹⁴⁰ Herman, Steve. “ASEAN: No Breakthrough on South China Sea Issue.” *Voice of America*, October 10, 2013.

talks. With President Obama's absence, China took this opportunity to emphasize the urge to strengthen regional cooperation solely between ASEAN and China. A specialist in international relations at Central Party School, Li Xiaoguang's comment is a good summary of the meeting: "By stressing that the ASEAN should play a leading role in regional affairs, Beijing is sending a message that the US and Japan should stay away from intervening into the region."¹⁴¹

The Chinese government has been concerned about ASEAN being backed by the US, which is exactly what makes China restless. Sino-American relations will be of a significant importance for the other four claimants in the SCS. It is hard to predict what partnership is more crucial – a stable Sino-American or a stable US-ASEAN? Probably both, but once the military is involved, it will probably be two superpowers against each other that will look for allies in the region. The US seems to be gathering its allies quite fast, and so is China. It is for the ASEAN's countries, then, to decide whom to trust and with whom to make diplomatic ties.

¹⁴¹ Ng, Teddy. "Put Economic Development before South China Sea, Li Keqiang urges Asean." *South China Morning Post*, October 9, 2013.

CHAPTER 9. JAPANESE ROLE IN THE SCS

Although Sino-Japanese relations have been on rather shaky grounds in the recent years primarily due to Senkaku/Diaoyu islands' conflict, Japanese involvement in the SCS is not a coincidence. As discussed earlier in this paper, Japan occupied some of the islands during World War II. However, Japan's interest in SCS is not related to occupation anymore. Japan wants to secure its status as a regional power as opposed to China's rise. Perhaps it is mostly because of the Senkaku/Diaoyu territorial dispute that Japan feels committed to stand behind ASEAN in dealing with the SCS dispute resolution. Another reason is maintaining stable economic cooperation with Southeast Asia. If it comes to an actual military clash between the SCS claimants, the whole region's economy would suffer, including that of Japan.

Today's globalized world is too interconnected for the countries not to be affected by each other's decisions. When China refers to exclusion of foreign intervention in the SCS, it really means the US and Japan in particular. On one side, the US claims to stay neutral in this issue, while on the other side, Japan recognizes this dispute as a matter of common concern. And lastly, the SCS is an expansive territory that connects Japan with Southeast Asia as well as Middle East. Over 80 percent of crude oil from the Persian Gulf in the Middle East is transported via SCS.¹⁴² If the SCS would be closed in case of war, Japan would lose \$200 million in a year.¹⁴³ About 60 percent of Japanese and Taiwanese liquefied natural gas flow through this territory as well.¹⁴⁴ Japan may have economic interests similar to other regional and international actors when it comes to oil

¹⁴² Nurhayati, Desy . "Japan concerned about Chinese military buildup." *The Jakarta Post*, July 23, 2011.

¹⁴³ Jian, Yang. "The Spratly dispute, Southeast Asia and Sino-Japanese relations interests.": 222.

¹⁴⁴ Rowan, Joshua P. "The US-Japan security alliance, ASEAN, and the South China Sea dispute." *Asian Survey* 45 (3) (2005): 417.

exploration in the Spratlys. Hence, Japan as a non-claimant state maintains significant geopolitical and economic motives for expressing serious concern over a solution of the SCS dispute.

In addition, Japan maintains prevalently good economic and diplomatic relationship with ASEAN countries. In the past decade, due to China's fast economic growth and development, it has been losing to China's increasing influence in the region. In 1995, Japanese imports (of US\$45 billion) from the ASEAN 5 were about five times more than those of the Chinese (US\$9.4 billion). In the next five years (1995–2000), Chinese imports grew six times faster than Japanese imports.¹⁴⁵ China has become Japan's rival number one in terms of economics as well as politics. Japan is particularly close to Indonesia, ASEAN's strongest country in terms of military power, and is genuinely concerned about Chinese involvement in this relationship. Japan not only maintains good relations with Indonesia but also supports its leadership position in ASEAN. When it comes to China's rising power in Southeast Asia, Japan would like to make sure China acts as a responsible player. More transparency in the Chinese military build-up would be necessary for peace and security in the region.¹⁴⁶

On one side of the issue, Japan feels constantly challenged by China. While it has to be dealing with its own economic issues it cannot set aside vibrant cooperation with Southeast Asia. On the other side, China has a growing comparative advantage to Japan in terms of high economic growth. China is also willing to provide extensive economic aid to its ASEAN neighbors, which sharpens its game with Japan even more. Finally,

¹⁴⁵ Jian, Yang. "The Spratly dispute, Southeast Asia and Sino-Japanese relations interests." 221.

¹⁴⁶ Satoh, Satoru. "Japan concerned about Chinese military buildup." *The Jakarta Post*, July 23, 2011. <http://www.thejakartapost.com/news/2011/07/23/japan-concerned-about-chinese-military-buildup.html>

Japan cannot hide its anxiety over the Chinese military buildup. Japanese politicians often call for a better transparency and accountability to the international community.¹⁴⁷

How has Japan attempted to intervene in solving the SCS dispute? As a non-claimant of the SCS territory and a non-member of ASEAN, Japan had to find various ways around it. When compared to China, Japan seems to have lost quite some influence in Southeast Asia. Undoubtedly, Japan held the status of a leading economic power in Asia for a long time. Hence, it grew closer to the developed West than to the still-developing East. It fell short on integrating with Southeast Asia, which is where China stepped in and took the lead. One of first alarming moves (in Japanese eyes) was the China-ASEAN Free Trade Agreement (FTA) signed in November 2002, followed by the DOC.¹⁴⁸ Finally, Japan woke up and acted rather fast in showing its commitment to ASEAN.

Firstly, Japan signed the TAC in December 2003, allegedly to maintain steady economic partnership and cooperation with ASEAN, but also to keep a close watch over the SCS. By signing TAC, Japan got a right to discuss regional issues such as SCS. Secondly, the ARF is the only means where Japan can publicly express its stance on the SCS. Japan has been promoting workshops on the SCS that are held by Indonesia, its close diplomatic friend.¹⁴⁹ Lastly, Japan has maintained a close security alliance with the US and would stand firm against China if it happens to use hard power in dealing with the dispute. “The ARF provides an insurance policy in addition to that of the US-Japan alliance with which to face the uncertain security environment of the post-Cold War era;

¹⁴⁷ Nurhayati, Desy . “Japan concerned about Chinese military buildup.”

¹⁴⁸ Jian, Yang. “The Spratly dispute, Southeast Asia and Sino-Japanese relations interests.”: 223.

¹⁴⁹ Rowan, Joshua P. “The US-Japan security alliance, ASEAN, and the South China Sea dispute.” *Asian Survey* 45 (3) (2005): 431–436.

it is also a potential platform on which Japan may play a bigger strategic and political role in the region.”¹⁵⁰

China feels particularly uncomfortable with Japanese involvement in the SCS. It is not only the Senkaku/Diaoyu conflict but also rising nationalist sentiment in China. Although Japan has remained generally uninvolved so far, China condemns its involvement as any other international intrusion.

Another issue is the strong US-Japan alliance. The US needs Japan because of its logistics and financial support, while Japan needs the US to back up its position as a regional power in East Asia. Overall, China does not seem to be too anxious about the Japanese take on the issue, at least so far.¹⁵¹ At the 16th ASEAN-China Summit held in October 2013, Japanese Premier Shinzo Abe expressed the opinion over the SCS dispute as an issue that concerns the entire region, including Japan. Abe stated that the issue should be solved according to international law.¹⁵²

¹⁵⁰ Jian, Yang. “The Spratly dispute, Southeast Asia and Sino-Japanese relations interests.”: 224.

¹⁵¹ *Ibid.*: 228–231.

¹⁵² Wroughton, Lesley and Manuel Mogato. “U.S., Japan press China on South China Sea dispute.” *Reuters*, October 9, 2013.

CHAPTER 10. CURRENT STATE OF AFFAIRS IN THE SCS

At the Foreign Minister Press Conference in September 2012, former Chinese Premier Wen Jiabao stressed that China claims “indisputable sovereignty over the Nansha (i.e. Spratly) Islands and their adjacent waters”.¹⁵³ Furthermore, it is the Philippines, in his opinion, that should follow the rules of the DOC in the SCS as they try to extract oil and gas out of the waters that are claimed by China. Wen Jiabao warned the Philippines to refrain from such activities and rather strive for peace and stability in the region. As far as China is concerned, it can take any action to defend its territorial claims in the waters of the SCS.¹⁵⁴

In 2012, it was exactly 10 years since the DOC in the SCS was signed by ASEAN and China. Hoping to make an important step forward in 2012, however, things got complicated a couple of months ago. Cambodia, as the chair of this year’s ASEAN meetings, was heavily criticized after the ASEAN Ministerial Meeting in July, because it did not touch upon the SCS in the final and most important joint communiqué. The Philippines wanted to include the Scarborough Shoal that both China and the Philippines claimed in April, but Cambodia as a chair opposed it.¹⁵⁵ Such embarrassing action of Cambodia is indisputably an indicator of ASEAN’s weakness in tackling the issue of the SCS. The avoidance of openly discussing the SCS dispute at this meeting also shows the strong Cambodia – China relationship, in particular Cambodia’s dependence on the PRC’s investments and economic aid.¹⁵⁶ Ironically enough, even the Peace Palace, where

¹⁵³ Xinhuanet. “FM press conference on Sept. 4 (Full Text).” *Xinhuanet.com*, September 26, 2012.

¹⁵⁴ Ibid.

¹⁵⁵ Emmerson, Don. “ASEAN Stumbles in Phnom Penh.”

¹⁵⁶ Poling, Gregory and Alexandra Sander. “Cambodia’s EAS Carrot: Incentives for a Successful Summit.” *PacNet Newsletter* 68. Pacific Forum CSIS, November 1, 2012.

the meeting took place, was built using Chinese money. Clearly, Cambodia was under a great amount of Chinese government's pressure when the question of the SCS was put out on the table.¹⁵⁷ That is why the EAS meeting is very crucial to improve ASEAN's image by strengthening the regional cooperation.¹⁵⁸ Cambodia, then, should not be subjected to Chinese interests when chairing in front of the ASEAN community. On the contrary, it should take this opportunity to work transparently with China and other ASEAN members.¹⁵⁹

In a commemoration of the 10th anniversary of the DOC in the SCS, the ASEAN+1 held a workshop on the SCS on November 1–2, 2012. At the time when the DOC was signed in 2002, Cambodia was chairing the ASEAN meetings for the first time. At the workshop in November, Cambodian Foreign Minister Hor Namhong announced: “ASEAN and China have made tremendous progress in all areas, such as politics and security, trade and economic cooperation, and social and cultural development.”¹⁶⁰ Chinese vice foreign minister, Fu Ying, commented on the event along the same lines, further emphasizing its importance of securing peace and stability in the SCS. “We are firm in our resolve and sincere in our attitude. We are ready to work with ASEAN countries to make unremitting efforts to implement the DOC,” Fu Ying stressed.¹⁶¹ China seems to be very committed to maintaining good relations in the region by emphasizing the importance of negotiations and use of peaceful means.

¹⁵⁷ Emmerson, Don. “ASEAN Stumbles in Phnom Penh.”

¹⁵⁸ EAS include all members of the ASEAN, plus Australia, New Zealand, India, China, South Korea, Russia, Japan, and the US.

¹⁵⁹ Poling, Gregory and Alexandra Sander. “Cambodia's EAS Carrot.”

¹⁶⁰ Yuanyuan, Wang. “ASEAN-China workshop honoring milestone document concerning South China Sea.” *Xinhuanet.com*, November 1, 2012.

¹⁶¹ *Ibid.*

At this workshop, another important bilateral meeting took place between Cambodian high representatives and the Chinese Vice Foreign Minister. In their one-hour discussion that was primarily focused on strengthening the two countries' strategic partnership, they also touched upon the issue of the SCS. The final conclusion was that the COC has to be signed in order to maintain peace and stability in the SCS. However, there was no particular timeline mentioned.¹⁶² The first step forward after the embarrassing event in July has already been made. More open discussion and cooperation among ASEAN+1 are all crucial in order to sign the COC. Although seen as a great accomplishment, the signing is minor in comparison to the implementation of the document in practice. Thus, all four claimants in the SCS plus China have to work together closely in front of the ASEAN as well as bilaterally. For the region, it is very important that China is prepared to discuss the issue at the ASEAN and other regional meetings.

Another important meeting in the region was the 7th EAS held in Phnom Penh in November (18–20), 2012. It had been exactly 10 years since the DOC in the SCS was signed by ASEAN and China. That is why the EAS meeting was so crucial to improve ASEAN's image by strengthening the regional cooperation. According to Xinhuanet, Chinese Premier Wen Jiabao emphasized the importance of maintaining peace and stability in the SCS, let aside maritime disputes. He also stressed that according to the DOC, agreed upon all ASEAN members, the issue of the SCS should not become

¹⁶² Zhi, Chen. "Cambodian, Chinese senior diplomats meet to further enhance ties." *Xinhuanet.com*, November 1, 2012; Zhi, Chen. "ASEAN-China workshop on South China Sea document concludes." *Xinhuanet.com*, November 2, 2012.

internationalized.¹⁶³ On the other side, the Philippine correspondent Ong reported that the Philippine President Aquino opposed Wen's statement that the issue should not be internationalized. The Philippines wants to see a unified ASEAN against China, but some of the members like Cambodia and Laos have tighter economic ties with China than others, making it harder for ASEAN to push China towards establishment of the COC.¹⁶⁴

Soon after the 18th National Party Congress held in November 2012, China announced a new format of passports including the map of its claims in the SCS as well as Taiwan. This diplomatically inconsiderate move clearly provoked all other claimants in the disputed waters. The Taiwanese government called this matter ignorant, and would not recognize Chinese passports anymore. Vietnam and the Philippines both called for a removal of the map that shows their claims as part of China.¹⁶⁵ It is unfortunate to see China's provocation at this time, when diplomacy finally seemed to show some positive outcomes in regards of the SCS. Vietnam and the Philippines in particular openly expressed their discomfort with this matter, and upcoming arguments or event violence is bound to happen. On the other side, China seems to stay oblivious for any other attacks. It stated its claims openly many times, and now clearly marked it in Chinese passports just as it is shown on all Chinese maps.

Furthermore, the 16th ASEAN-China Summit in October 2013 did not bring about any anticipated breakthrough in solving the SCS dispute. Regardless, the involved parties continued to agree on similar terms as in the past few years. Li Keqiang, who succeeded

¹⁶³Xinhuanet. "Wen elaborates on regional situation, China's position on South China Sea." *Xinhuanet.com*, November 21, 2012.

¹⁶⁴ Ong, Christine. "Philippines to host four-nation maritime talks." *Channel NewsAsia.com*, November 21, 2012.

¹⁶⁵ The Guardian. "China passports claim ownership of South China Sea and Taiwan." *The Guardian*, November 23, 2012.

Wen Jiabao as the new Chinese Premier in May 2013, took over not only Wen's political position but also his diplomatic position towards ASEAN. Once more, China's stance remains uninterrupted economic cooperation, let behind territorial disputes. Li assured that ASEAN is China's most important neighbor with whom they want to maintain a friendly relationship. To avoid the unnecessary armed confrontation in disputed waters, he proposed bilateral talks, joint development, and is in addition willing to provide freedom of navigation in the SCS. In particular, his proposals include increased trade to \$1 trillion by 2020, and underwired security cooperation. In contrast to prevailing opinion on China's hostility towards other claimants, Li showed a friendly face and preparedness to discuss the issue on peaceful terms. As he stated, "a peaceful SCS is a blessing for all, while a turbulent one benefits no one."¹⁶⁶ Finally, China agreed on further consultations with ASEAN on the COC, but it also remains clear on unshakeable territorial integrity it claims over the SCS.¹⁶⁷ In addition, China seems to prolong with negotiations on the COC, while distracting ASEAN claimants with the benefits of economic cooperation.

In February 2014, the Philippine President Aquino compared China's behavior in SCS to that of Nazi Germany of 1938. China called such statements outrageous. However, the Philippines succeeded in taking the case to arbitration at the Permanent Court of Arbitration in the Hague under the UNCLOS. Not surprisingly, China is

¹⁶⁶ Ng, Teddy. "Put Economic Development before South China Sea, Li Keqiang urges Asean." *South China Morning Post*, October 9, 2013.

¹⁶⁷ Wroughton, Lesley and Manuel Mogato. "U.S., Japan press China on South China Sea dispute." *Reuters*, October 9, 2013.

strongly against it, and already warned Vietnam from participating. On the contrary, the US welcomed the Philippines' proposal of arbitration.¹⁶⁸

Finally, it is important to note that China's turn towards multilateralism seems sincere and already showed success at different fronts. For instance, China has peacefully negotiated and settled eleven territorial disputes with six neighbors since 1998.¹⁶⁹ This counts as one of the biggest diplomatic achievements in Chinese foreign policy.

¹⁶⁸ Torode, Greg. "For South China Sea claimants, a legal venue to battle China." *Reuters*, February 12, 2014. <http://www.reuters.com/article/2014/02/13/us-china-vietnam-idUSBREA1C04R20140213>

¹⁶⁹ Richardson, Michael. "Energy and geopolitics in the South China Sea.": 183–184.

CHAPTER 11. POSSIBLE SOLUTIONS

Lastly, what are the options for China and ASEAN if they continue in a positive way towards achieving a mutual agreement and hopefully a lasting solution over sovereignty claims in the SCS? Many experts observe that peace and stability are on a priority list for China's and other claimants' political agendas. Otherwise, the SCS can become a base for disputes and even a military clash. Furthermore, supporters of international relations realist theory follow China's military modernization and build-up. They are wary of its possible power capacity rise in the next decade.

Other experts discuss natural resources in the SCS as the most dangerous factor that can further intrude on already disturbed waters. A cooperative management regime of securing natural resources is one of the proposals. For that, though, more discussions and negotiations would be compulsory to achieve mutual cooperation by peaceful means. Due to the complexity of overlapping claims and unclear boundaries in this case, multilateral talks are extremely difficult to bring about a satisfactory decision for all parties.¹⁷⁰ On this note, Malaysia came up with an idea of setting up a Large Marine Ecosystem project for ecosystem research in the Spratlys. However, the project has not yet been carried out in the disputed territory.¹⁷¹

On the positive side though, the COC would be the first, best, yet most difficult multilateral agreement reached in the history of Southeast Asia. The DOC seems far more convenient for everyone, as it is voluntary to obey and there is no formal institution to enforce its rules. Second to this would be making all claimant countries come to shape their claims according to the UNCLOS. A third option would be bringing the SCS case to

¹⁷⁰ Bateman, Sam. "Commentary". In *Energy and geopolitics in the South China Sea: implications for ASEAN and its dialogue partners*: 48–49.

¹⁷¹ Hamzah, B.A. "Commentary": 61.

a regional or international authority such as the International Court of Justice (ICJ). It is very unlikely to believe this would happen; however, such an authority would have jurisdiction to set up and administer marine nature parks. The idea is to prevent any dangerous or even illegal activity and promote environment-friendly tourism.¹⁷²

The Philippine President Aquino, who has condemned Chinese aggressive actions in the Philippine-claimed waters on many occasions, proposes arbitration that is likewise supported by the international community.¹⁷³ It is not only the US but also the EU now that passed a parliamentary resolution about arbitration in the SCS. Arbitration that is the most peaceful means to settle the dispute seems to be the last resource for the Philippines to resolve this maritime sovereignty issue. For the Philippines it is most important to prove their fishing rights and rights to natural resources, as well as freedom of navigation. Arbitrators from different parts of the world have already formed an arbitral tribunal in 2013. Even if the arbitration actually takes place, it will take years to settle the claims.¹⁷⁴ China has already warned Vietnam against participating in arbitration, and might do the same to other claimants. China is seen as a powerful negotiator from economic point of view by most of ASEAN's members, and endangering economic ties might bring about economic insecurity in these countries. Why would China not like to take the case to international authorities? The most obvious reason is that the Chinese government fears losing its claims. In addition, "China lacks a strong legal culture and tradition

¹⁷² Abdulai, David. *China's new great leap forward*: 177.

¹⁷³ Bloomberg. "Aquino on Philippine economy, corruption, China row." *Bloomberg*, May 9, 2013. <http://www.bloomberg.com/video/aquino-on-philippine-economy-corruption-china-row-i~zle8mITaKRIUAP9B8EIw.html>

¹⁷⁴ Dizon, David. "Arbitration of sea dispute could take 2-3 years: DFA." *ABS-CBN News*, April 30, 2013. <http://www.abs-cbnnews.com/focus/04/30/13/arbitration-sea-dispute-could-take-2-3-years-dfa>

domestically. It is less likely that foreign policy makers will give full consideration to international jurisprudence in pursuing international dispute settlement.”¹⁷⁵

For now, ARF and EAS are perhaps the best forums to engage all the parties in finding a common language over the boundaries. To encourage more dialogue, ARF introduced a new Inter-Sessional Meeting on Maritime Security.¹⁷⁶ Lots of patience, diplomacy and peaceful negotiations are ahead of ASEAN and China to arrive at a closure on the COC or an alternative multilateral agreement. Can Mark Valencia’s quote “Slow and steady wins the race”¹⁷⁷ prove right in the case of SCS?

¹⁷⁵ Observer Research Foundation. “Special interview: ‘Increased military presence in South China Sea a concern for all nations’.”

¹⁷⁶ Bateman, Sam. “Commentary”. In *Energy and geopolitics in the South China Sea: implications for ASEAN and its dialogue partners*: 50.

¹⁷⁷ Valencia, Mark J. “Whither the South China Sea dispute?”: 73.

CHAPTER 12. CONCLUSION

In conclusion, it is hard to answer the question whether the ASEAN – China relationship is more of a strategic competition or a partnership. The case of SCS sovereignty claims is one of the most complex maritime issues in the world. This is not only because of the large number of overlapping claims, but also because of its natural resource significance. ASEAN is a vital institution in the region that is taking the role of a negotiator with China. Hence, the ASEAN-China relationship can be definitely described in terms of a strategic partnership, in theory. In practice, though, it is more of a strategic competition. Mainly due to its still unclear potential of its natural resources countries are trying to secure its maritime borders as desired. Most claimants' dependence on oil and gas is growing, but not all can afford financing expensive drilling in the rich waters of the SCS. Thus, there have already been some joint explorations with foreign companies conducted. China, though, would prefer no foreign involvement whatsoever in their claimed waters. The PRC will not allow anyone to contain it, especially not right now, when it is on its economic rise. China, as one of the rising powers in the world, has been more and more aware of its power. Not only size matters, but also its economic growth and influence all over the world as well as in Asia.

Although still weak in power and decision-making, ASEAN is crucial in maintaining the *status quo* in the SCS. It also played a leading role in getting the PRC engaged in multilateral discussions in the late 1990s. Even though there were a couple of conflicts over fishery, no real military conflict in the last decade has yet occurred. ASEAN has had to be patient in dealing with China at all times, which has finally led to some progress.

The most success result is definitely pursuing the Chinese government in multilateral talks with ASEAN+1. Another important event was the acceptance of the DOC in 2002.

China is engaging ASEAN in economic diplomacy. ASEAN's main challenge is to stand united on the issue of the SCS. The reasons for this are numerous. Firstly, keeping the *status quo* or reaching a mutual solution will benefit everyone. Peace and stability in the region brings about prosperous economic and diplomatic relations for everyone. Secondly, by tackling the issue regionally, ASEAN and China can avoid internationalizing the issue (although certain claimants push for it). This would possibly condemn military buildups and competition with foreign powers such as Japan and the US. It is not only ASEAN that wants stability, but also China. Due to its own national interests of economic growth and a harmonious society, China does not want to get in a conflict with any of the ASEAN countries. The divide within ASEAN is evident not only between claimants and non-claimants but also between non-claimants. For instance, Cambodia and Myanmar are the poorest members of ASEAN and rely heavily on good economic cooperation with China. Indonesia, on the other hand, is militarily the strongest ASEAN member. Although a non-claimant, Indonesia played an important role in leading the workshops on resolution of the SCS dispute.

If international law fails in managing the SCS dispute, it becomes a regional responsibility. That is why China does not want to internationalize the issue, as reclaimed at the 7th EAS this year. Its stance is still against the US or any other foreign involvement. In this aspect, China is not to blame, because the SCS is indeed a regional issue. However, it is also part of international shipping lanes, which is of the main American concern. It will be interesting to observe the ongoing China-US relationship and balance

of power in the region. Hopefully, the US can remain diplomatically neutral. Likewise, China can hopefully cooperate with ASEAN on the basis of a friendly relationship. The most concerning issue though, is its rapid modernization of the military, especially naval forces. This increases the possibility of an actual armed conflict in the SCS. In the short-term, a large-scale war is most likely out of the question, but minor conflicts over the Spratlys in particular will most probably remain. Nevertheless, China is still well behind Japan and US in terms of naval and air forces.

Lately, there were some worrying comments coming from Chinese high military officials in regards to securing its claims in the SCS. The main concern is whether China follows the phrase “the end justifies the means”, once it becomes militarily powerful and confident enough to do anything in securing its historical claims. In this case, the US can get military involved by backing up ASEAN and other claimants. That is why partnership with the US is so important for these fairly small Southeast Asian countries, and what makes it difficult for China to establish itself as a hegemon in the region.

There had been some important changes happening in the world in November 2012, such as presidential elections in the US, the 18th Party Congress in China, and finally the 7th EAS. Many experts were curious about the new Chinese leadership, but the PRC’s stance towards the SCS has not changed a bit. Their official statement remains the same by claiming the U-shaped line on historical claims. It is unfortunate though when China provoked everyone with new passports including the map of its SCS disputed claims. This leaves a black spot on all fairly successful regional meetings up to that date. The future of the COC is therefore still unknown and unpredictable. If the US maintains good relations with China, while China cooperates with ASEAN on the COC, we do not need

to worry about armed conflict in the SCS, at least not for a while. As of most recent developments, arbitration before the international authority seems to be one solution. It is unlikely to expect China to agree on any kind of cooperation. It is difficult to predict what the future holds, but hopefully, China will continue multilateral talks with ASEAN and other partners in order to avoid military confrontation in the SCS.

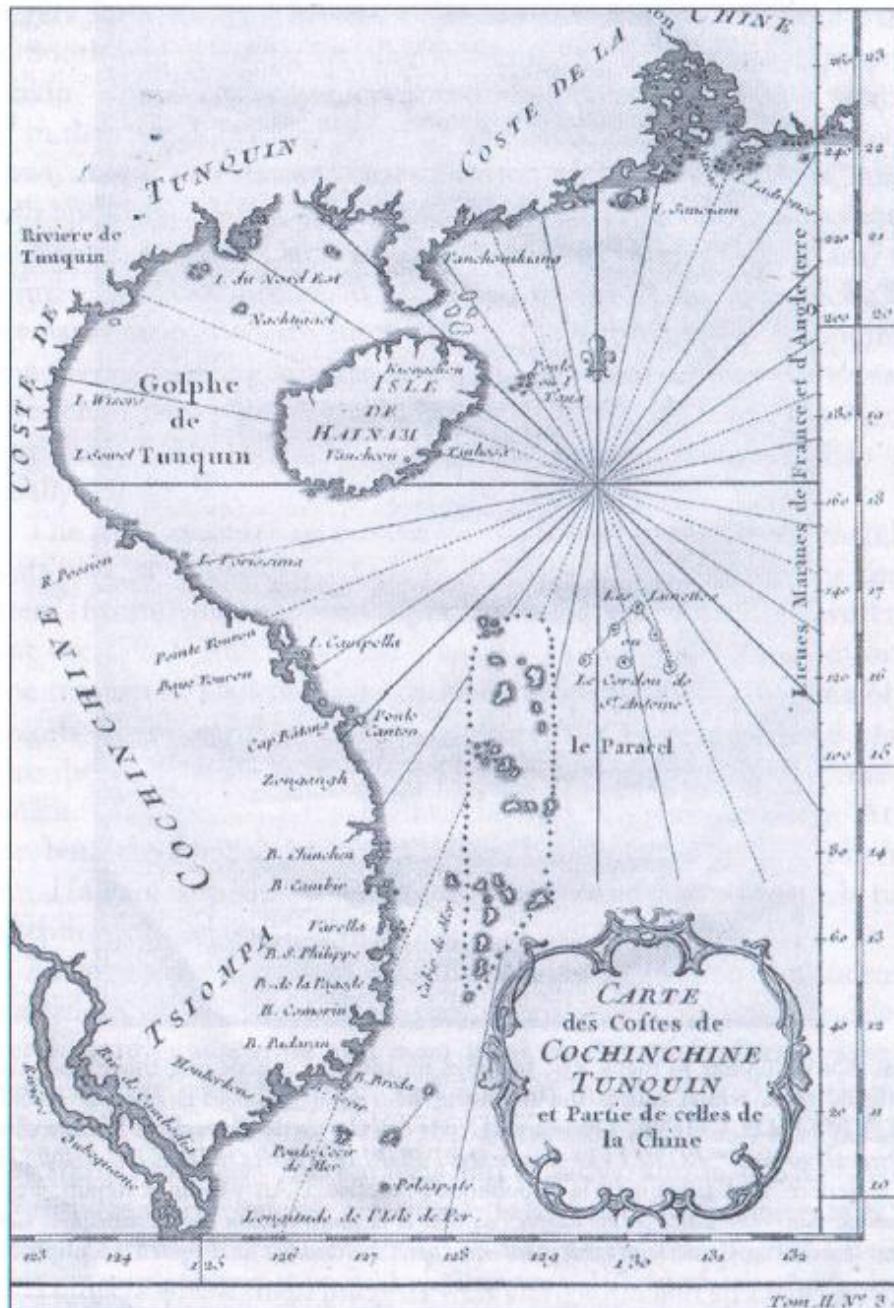
FIGURES

Figure 1: China's claimed territorial waters and EEZ



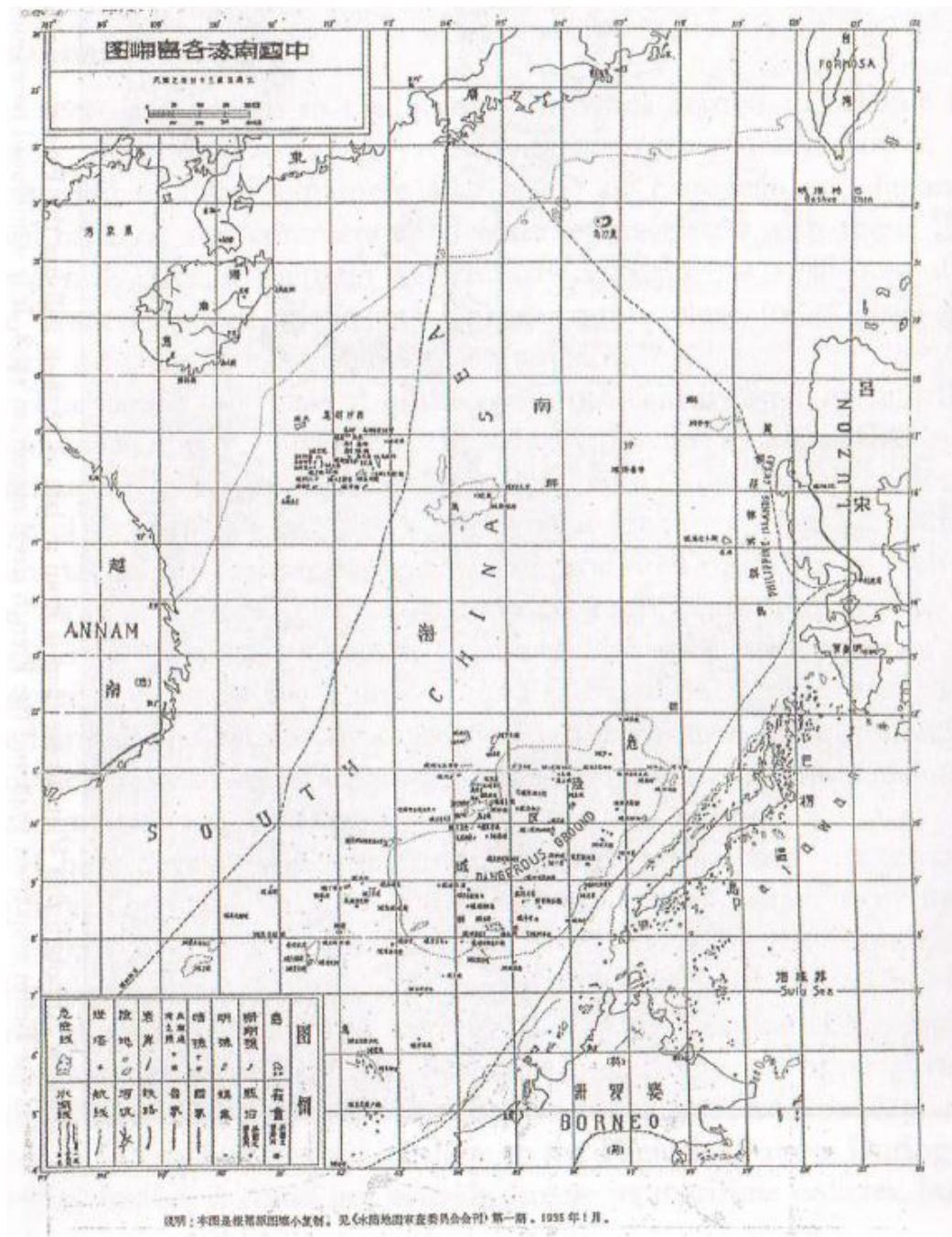
Source: BBC News. "Q&A: South China Sea dispute." BBC News, June 27, 2012.

Figure 2: French 1748 map by Jacques Nicolas Bellin



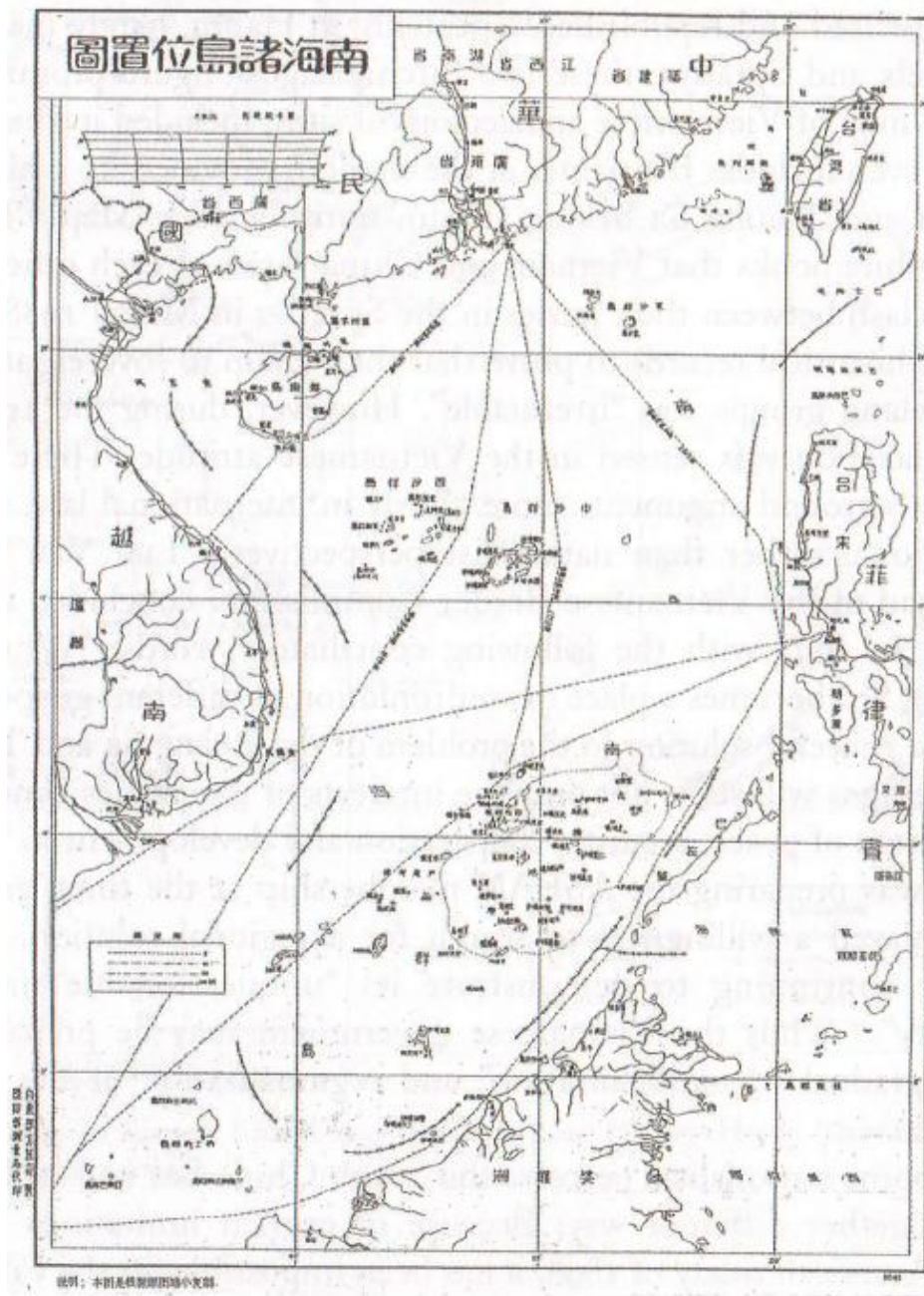
Source: Tønnesson, Stein. “Locating the South China Sea.” In *Locating Southeast Asia: geographies of knowledge and politics of shape*, edited by Kratoska, Paul H., Raben, Remco and Henk Schulte Nordholt, 203–233. Singapore: Singapore University Press, 2005: 207.

Figure 3: Chinese 1935 map



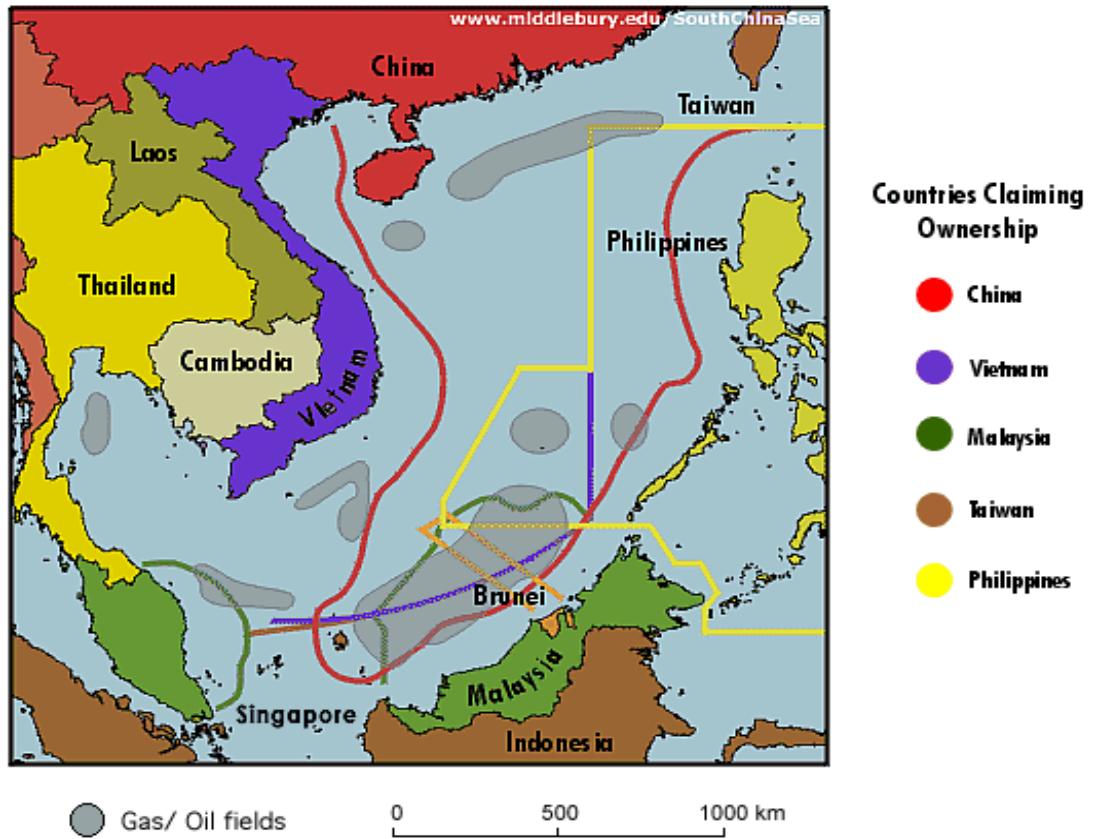
Source: Tønnesson, Stein. "Locating the South China Sea." In *Locating Southeast Asia: geographies of knowledge and politics of shape*, edited by Kratoska, Paul H., Raben, Remco and Henk Schulte Nordholt, 203–233. Singapore: Singapore University Press, 2005: 214.

Figure 4: Chinese 1948 map with U-shaped line (11 segments)



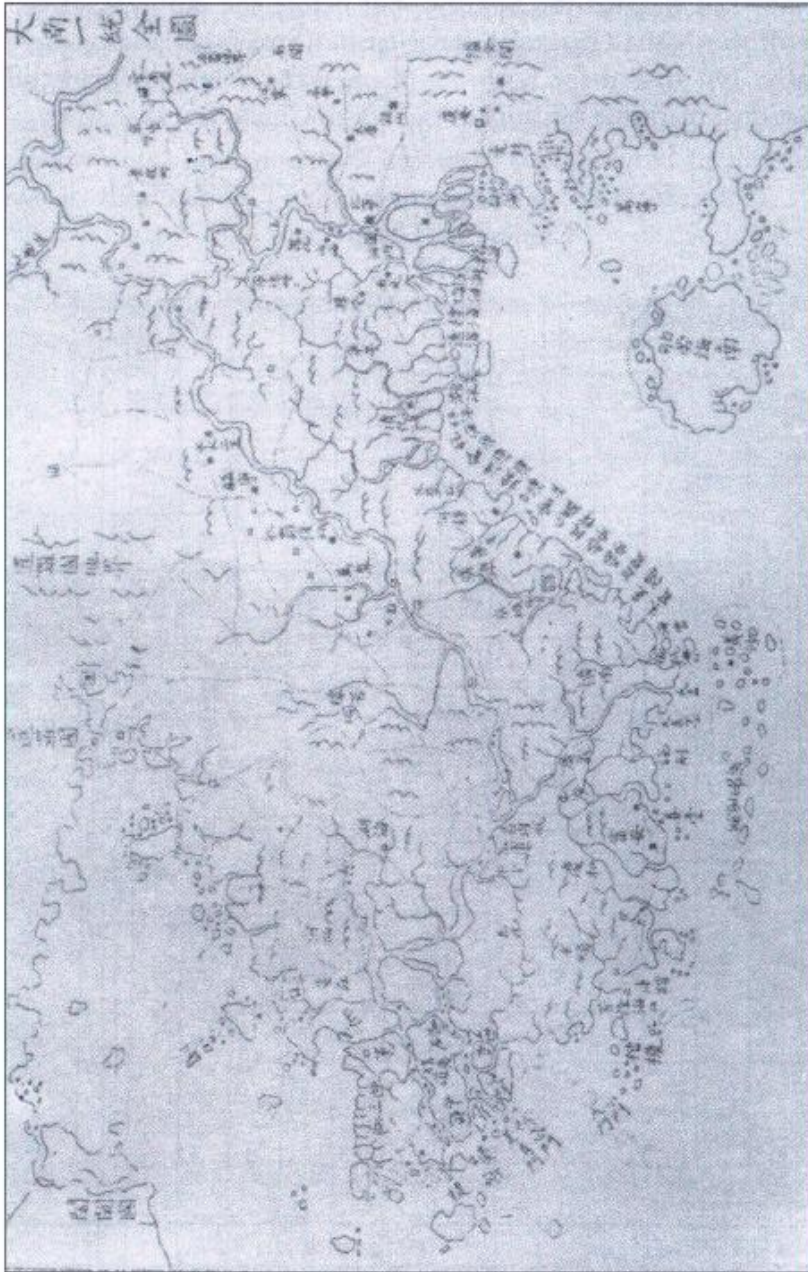
Source: Tønnesson, Stein. "Locating the South China Sea." In *Locating Southeast Asia: geographies of knowledge and politics of shape*, edited by Kratoska, Paul H., Raben, Remco and Henk Schulte Nordholt, 203–233. Singapore: Singapore University Press, 2005: 215.

Figure 5: Overlapping disputed claims



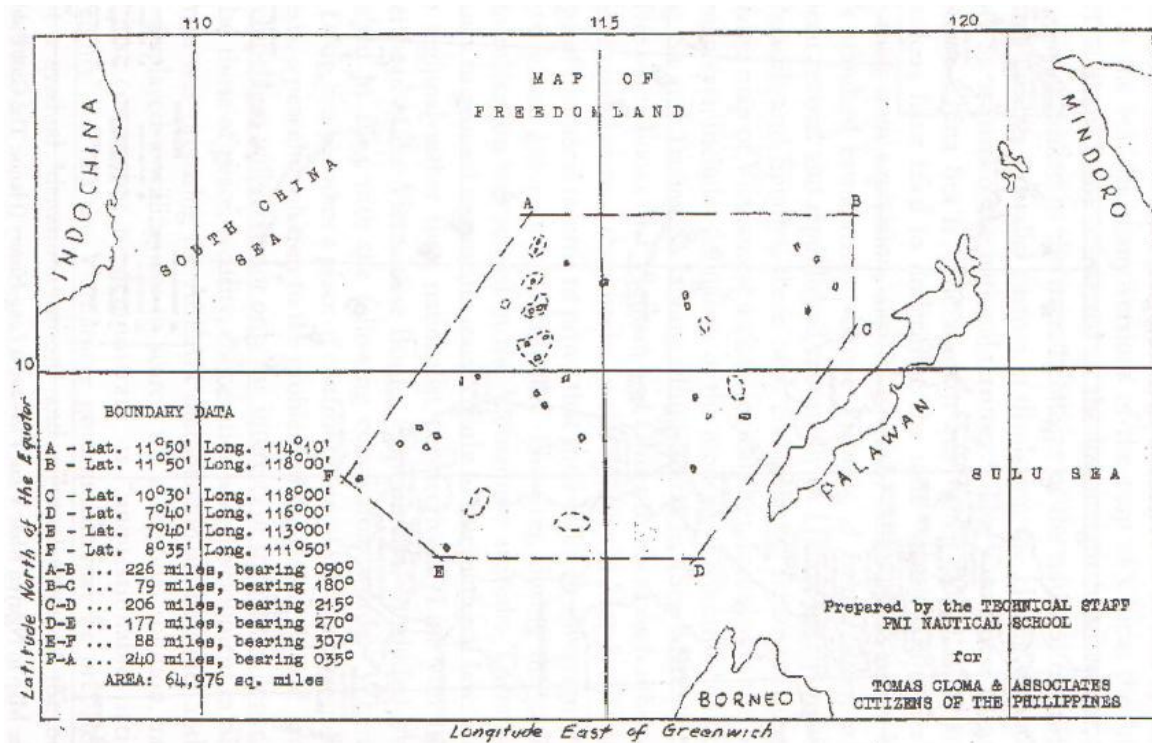
Source: U.S. Energy Information Administration. "South China Sea." *U.S. Energy Information Administration*, March, 2008.

Figure 6: Vietnamese 1838 map



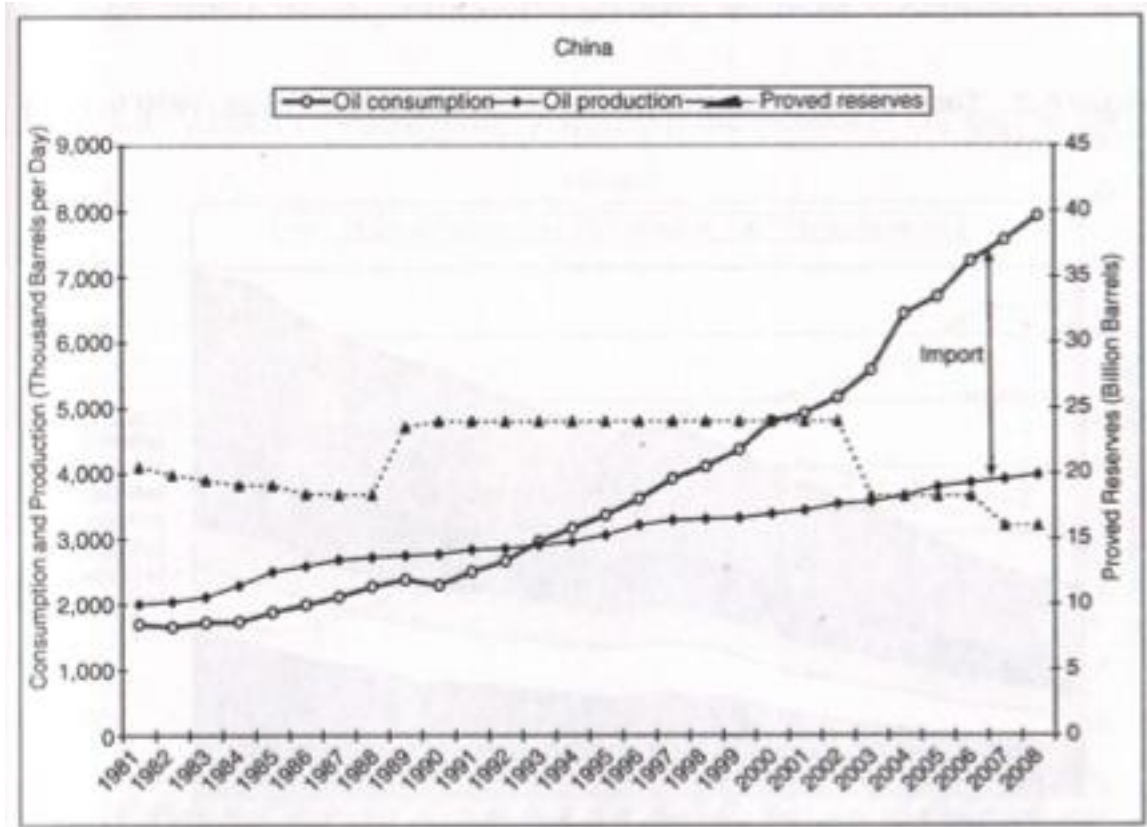
Source: Tønnesson, Stein. "Locating the South China Sea." In *Locating Southeast Asia: geographies of knowledge and politics of shape*, edited by Kratoska, Paul H., Raben, Remco and Henk Schulte Nordholt, 203–233. Singapore: Singapore University Press, 2005: 213

Figure 7: Freedomland



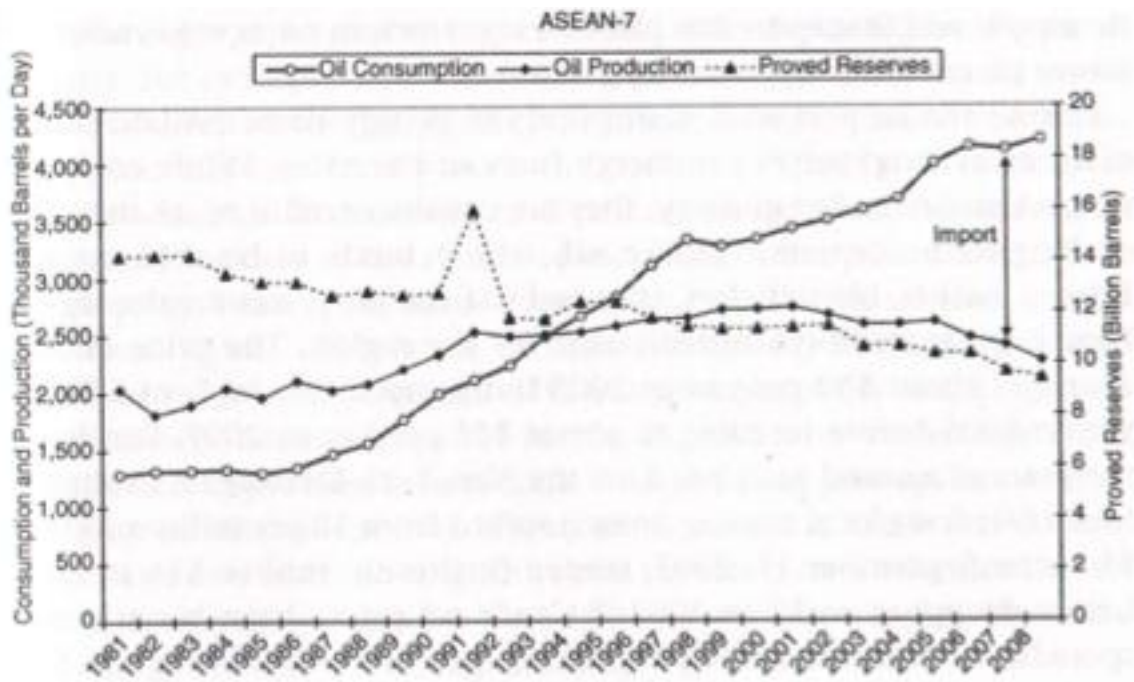
Source: Tønnesson, Stein. "Locating the South China Sea." In *Locating Southeast Asia: geographies of knowledge and politics of shape*, edited by Kratoska, Paul H., Raben, Remco and Henk Schulte Nordholt, 203–233. Singapore: Singapore University Press, 2005: 218.

Figure 8: Chinese consumption, production and reserves of oil from 1981 to 2008



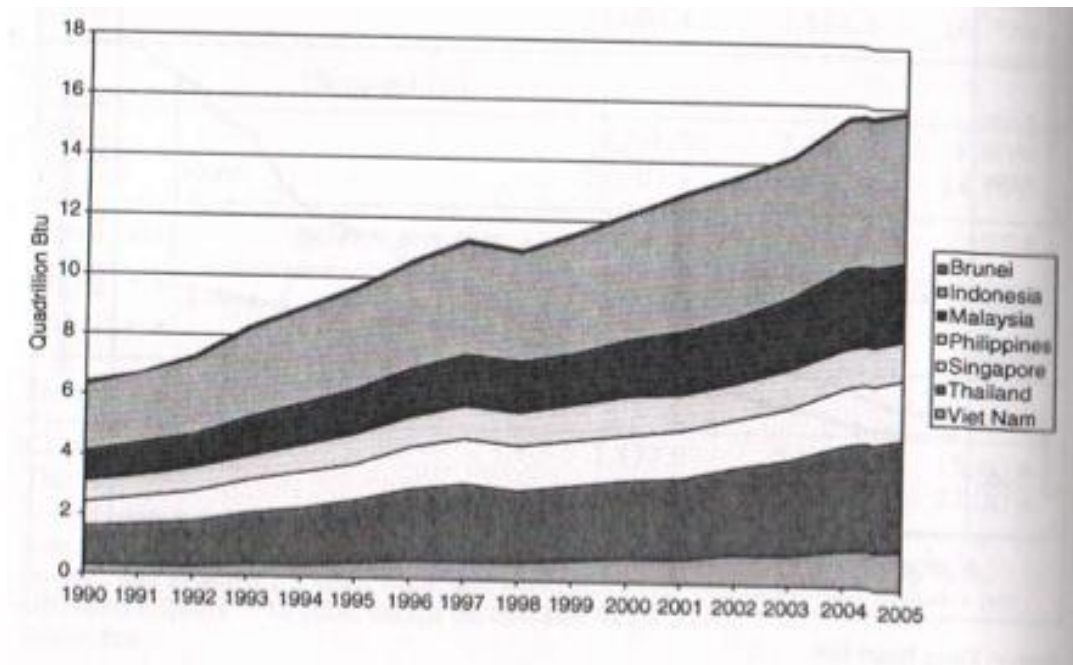
Source: Sovacool, Benjamin K. and Vu Minh Khuong. “Energy security and competition in Asia: challenges and prospects for China and Southeast Asia”. In *ASEAN industries and the challenge from China*, edited by Jarvis, Darryl S. L. and Anthony Welch, 210–229. Palgrave Macmillan, 2011: 213.

Figure 9: ASEAN's production, consumption, and reserves of oil from 1981 to 2008



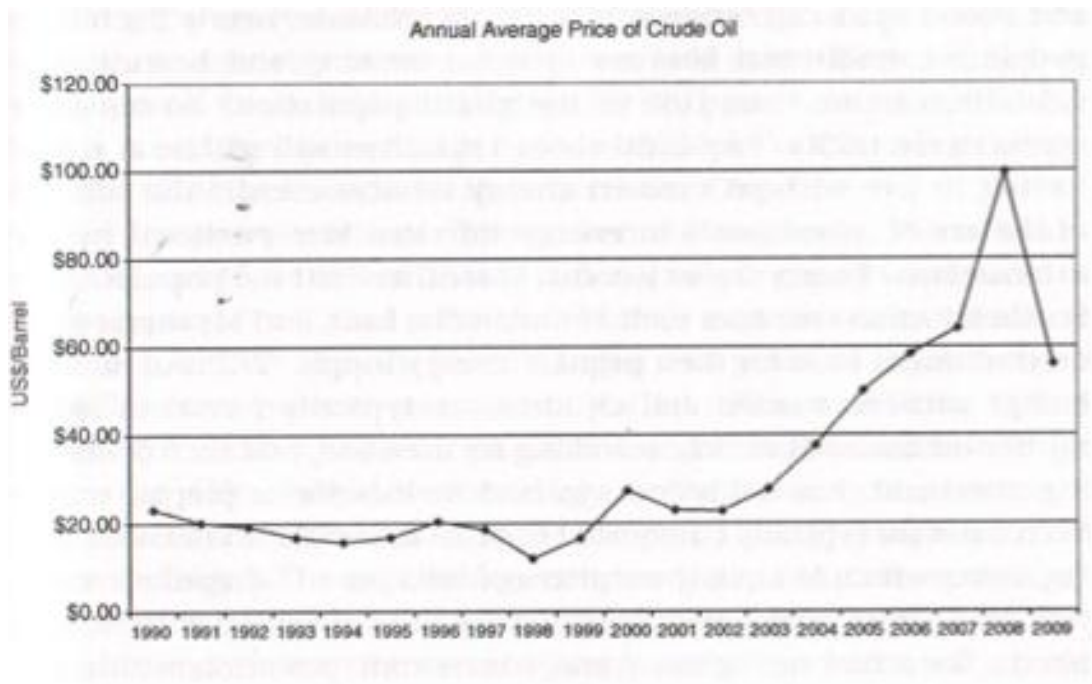
Source: Sovacool, Benjamin K. and Vu Minh Khuong. “Energy security and competition in Asia: challenges and prospects for China and Southeast Asia”. In *ASEAN industries and the challenge from China*, edited by Jarvis, Darryl S. L. and Anthony Welch, 210–229. Palgrave Macmillan, 2011: 215.

Figure 10: Total energy consumption for seven ASEAN countries from 1990 to 2005



Source: Sovacool, Benjamin K. and Vu Minh Khuong. "Energy security and competition in Asia: challenges and prospects for China and Southeast Asia". In *ASEAN industries and the challenge from China*, edited by Jarvis, Darryl S. L. and Anthony Welch, 210–229. Palgrave Macmillan, 2011: 214.

Figure 11: Crude oil prices from 1990 to 2009



Source: Sovacool, Benjamin K. and Vu Minh Khuong. “Energy security and competition in Asia: challenges and prospects for China and Southeast Asia”. In *ASEAN industries and the challenge from China*, edited by Jarvis, Darryl S. L. and Anthony Welch, 210–229. Palgrave Macmillan, 2011: 217.

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