

MANAGING INTRA-REGIONAL CONFLICTS IN SOUTHEAST ASIA. THE CASE OF THE SOUTH CHINA SEA

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This paper is aiming to address the Association of Southeast Asian Nations' (ASEAN's) management of intra-regional conflicts by integrating the study of the core-source of its current position, comparing and contrasting the different two most significant periods of its existence: the early Post-Cold War Era and its current unveilings, and hedging towards explaining why its barely-enough pragmatism is no longer a solvable demeanor for its survival. The paper will focus on the The South China Sea conflict in the pursuance to explain the distinctions that ASEAN's management of intra-regional conflicts has gained through experience, through realizing its limited containment capacity as far the regional role of great powers is concerned, or through a critical removal of passivism in the confidence-winning processes of extra-regional partners. The paper's choice to address The South China Sea as an intra-regional conflict may be surprising for some, or may inflate others more straightforward as far as the choice for instrumental methods is concerned. In order to better explain this paper's macro-purposes, the South-China Sea conflict is an intra-regional conflict, as the Southeast Asian states involved have divergent claims regarding the sovereignty dilemma. Secondly, more interesting issues might be brought to the table with the involvement of a great power in an intra-regional conflict. Last but not least, as connected to the previous argument, ASEAN's engaging and sensitizing of China may generate, from an early start, effects on the perception-building process between the actors involved.

Key words: *regional management, intra-regional conflicts, security dynamics.*

1. A SECURITY DYNAMICS INVERSION IN THE POST-COLD WAR ERA. IMPLICATIONS FOR ASEAN

In *the post-Cold War Era*, the system level is no longer viewed as the major catalyst of regional order. Hence, the regional systems and subsystems have developed strategic capabilities to resist the primary system's unilateral pressures. More often than not, the primary system is not as keen on

intervening and influencing all the regional institutional settlements as in the Cold War period. Regions have taken advantage of the *great power retrenchment* and have developed *autonomous regional orders* [1]. After the Cold War, a short period of time was described in scientific literature as: *unipolar passivism* – which is a hegemonic system's unwillingness to control the remotest system areas and engage into full dominance. It was a new turning

point in the field on International Relations, as regional levels were trying to fill in the void left out during the *retrenchment process*. Regions began to feel more creative in the process of distancing themselves from the center and in the process of undertaking a leadership role in regional affairs. The sub-systems began to matter in a way unparalleled before: they could generate a self-reliant security effect for a genuinely independent security structure.

For *ASEAN*, developing a regional sub-system, was a much hardened task by other extra-regional signals, than the system ones. In the post-Cold War Era, *ASEAN* had finished with the period of *its formative years*[2], was celebrating its diplomatic achievements during the *conflict period with Vietnam-led Indochinese states*[3] and was just beginning to publicize the first by-products of its regional security order. The immediate Post-Cold War period found in *ASEAN* a low-key international organization, that had undergone *a process of self-invention*, but that had produced a not so thick bunchful of *suis-generis* norms. *ASEAN's* *raison d'être* was *intra-regional conflict prevention*. At the time of its establishment one of the most stringent security problems was to protect the new-founded organization from the great power conflicts in Indochina. After the end of the Indochina Wars and the destabilizing conflict potential eradicated, Laos, Cambodia and Vietnam were granted membership status. In the immediate period of the Post-Cold War Era, as it was entering *the phase of its peaceful*

expansion[4], *ASEAN's* regional management was beginning to take contour and shape. A few characteristics stand to reason in the evaluation procedure of *post-Cold War ASEAN regional management*:

- *A commanding position that ASEAN acquired within international fora* during its diplomatic leveraging inside the United Nations, thus shielding the region from the great powers' solutions;

- *The aspect of a talk-shop*: *ASEAN* gathered licit evidence that it could soft-bargain intra-regional conflicts and that it could represent a launching-pad for regional solutions, but was unable at the time to come up with more stamina to up-date the Southeast Asian sub-system;

- *An inability to supersede the intra-regional power asymmetries* – a different distribution of economic, military and political power was a paramount feature of Southeast Asia;

- *An un-sustainable broad theme of a non-intervention in domestic affairs*;

- *An unwillingness to address traditional security issues*.

Nowadays, a strong, *refreshed ASEAN* is not an easy, nor a truthful picture to contemplate either. A wide spectrum of changes in regional dynamics offered many unpleasant episodes[5], in which *ASEAN's* unpreparedness in regional management issues patched up with the fiery episodes it encountered. *ASEAN's contemporary intra-regional conflict management* identifies security and defense priorities, as well as security assessment risks, with the following annotations, thus marking a step forward from the model utilized in the first years of the Post-Cold War Era:

- *A continuing process of mutual engagement* between the parties involved in a conflict, mainly through multilateral dialogue Structures;

- *The ability to take a more hard-line position, when thought necessary*; A more hard-line position does not transform *ASEAN* into a bully – this new convenience of *ASEAN* management of intra-regional conflicts refers to a role-reversal: *ASEAN*'s aim to preempt conflicts before they happen, or before spiraling, through *the mediation institution*;

- *ASEAN's act of maturity in security issues: Promoting an ASEAN-wide political and security cooperation*; *ASEAN*'s collective military presence is not yet a fact in Southeast Asia, but it will be in the coming years if *ASEAN Security Community* will prove resistive to national objections made by some regional states who do not see this a practical idea;

- An ability to recycle the lessons from the past: *ASEAN* is still a stickler for *the non-interference norm*, but not in a frenzied manner, as a partial reaction to the escalation of conflicts in the region and as a need to set a part for itself in these new evolutions.

In the next section, we will be trying to analyze *ASEAN*'s wherewithal in the South China Sea disputes, denoting several aspects where the over-strained relationship with a claimant state and a Southeast Asian extra-regional actor – China-involved and is still involving powerful bearing situations in which hard-choiced need to be made.

2. THE SOUTH CHINA SEA CONFLICT

The South China Sea Conflict is composed of several allaying concerns and analyses regarding the multi-

tasking of *China's lack of affability, territorial myths, extra-regional leverage and regional diplomacy, the ambivalent neutrality of some regional states: the Philippines and Vietnam, the over-present unilateral responses to China's balancing acts in the South China Sea, ASEAN's departure from the stand-by mode and the consequences of such a decision*. One of the most recent ones happened in June, 2011. The news that Vietnam would conduct five live-fire exercises in the South China Sea on the 15th of June 2011 aroused Chinese worries. China views the the South China Sea as an appendix of its territory. This imperial legacy and its persistent effect on current Chinese foreign policy behavior make the South China Sea an unstable flash point in regional affairs. Therefore, it takes little for this kind of foreign policy behavior to resurface.

Vietnam accused China of breaking a cable of a seismic surveillance vessel. China repudiated Vietnamese allegations and, instead, affirmed that Vietnam played the stalker role and chased Chinese fishing trawlers. In addition to this, Vietnam claims the fact that the incident took place at a distance of 200 nautical miles away from the Vietnamese territory, so it took place on Vietnamese territory, under international regulations. The dispute quickly transformed into a show-off of military power. Despite the fact that the prospects were rather gloomy, the Philippines made perfect use of the conflict to also reassert its territorial claims in South China Sea. Both Vietnam and the Philippines regard the South China Sea as their undisputable area of jurisdiction. Particularly interested

in the Paracel Islands, Vietnam accentuated its territorial claim also by taking a historical approach. Vietnam adamantly refuses to co-share an area that, from a Vietnamese angle, is under Vietnamese rule since the fifteenth century. This episode – chosen because of its rotational effect on two of the most concerned regional states in the turn of events in the South China: Vietnam and Philippines – highlights the complexity of the conflict and the fact that any delay of an *ASEAN* response will squash any of its eventual efforts. In the following, we will try to present the different correspondences to *ASEAN*'s critical steps in delivering an area-focused strategy.

2.1. Disseminating the South China Sea Dilemma

Reflections upon the South China Sea have always been mindful of considering the host of potential territorial conflicts that may easily emerge in a geographical area where sovereignty has been loosely defined. The South China Sea conflict represents a very interesting case study due to the fact that it was considered for a long time an obscure area to analyze. Regional processes were not well-endowed with institutional mechanisms, instability thrived and suspicions heightened about the main regional actor controlling the situation: China. And China was not an actor that achieved conspicuously little in the Southeast Asian region[6]. China was not an arrogant agitator, but rather a traditional master of the region, aiming to thwart any questioning about this auto-imposed status-quo. Exchanging views about the recent developments in the

South China Sea is not an easy job, especially because exhausting the multiple interpretations does not come easily at hand. Countering China in the South China Sea was never a full-size option for the littoral states of Southeast Asia, but rather a task that exhausted their security resources [7]. As the years went by and *ASEAN*'s *regionalism* began to blossom and the Southeast Asian states emerged as newly and fully emancipated units of the regional sub-system of Southeast Asia, the *South China Sea Dilemma* appeared. *The South China Sea Dilemma* refers to the turning into a play tub of three interconnected dimensions of the South China Sea situation: *a sovereignty dilemma, an energy dilemma, and a military dilemma*. If *ASEAN* wants to continue to shore up its diplomatic prowess in the case of South China Sea, punctual answers need to be found to this perilous conjuncture of security derivatives of the South China Sea situation.

The Sovereignty Dilemma - A self-supporting representation by Vietnam, Malaysia, Taiwan, Brunei, Indonesia and Philippines against China's historical sovereignty claims upon most of The South China Sea was and is an all-too-rare occurrence as the power inequalities became even more obvious at the bilateral handling level. In its turn, China sees any state that interferes with its sovereign monopoly as a perpetrator. Encouraged by the sensible economic effects of the *Opening of the Doors*, China ambitiously pursued its imperial dream. China wanted to display a major comeback from the humiliations suffered during the nineteenth century and during the

Second World War. After solidifying their independence and encouraged by the fact that Southeast Asia was no longer a volatile, bellicose and unstable melting pot of major power intervention, the regional states of Southeast Asia also issued territorial claims to some features of the South China Sea. The claims differ in size, purpose and intentions, but each and every one of them is indicative of the respective actor's status in the regional architecture, political force and threshold regarding its capability of reaction to pressures.

The substance of China's claim can be, in a nutshell, explained as *the definition of the South China Sea as a Chinese lake*. China's claim to the lion's share of the most important maritime hot-spot in East Asia [8] is currently exercised over the Paracel Islands and 15 features in the Spratly Islands. In a map formulated even from the Kuomintang Regime Era (1947[9]), The South China Sea was sketched out as a maritime portion single-handedly pertaining to the Chinese territory, under the form of a *"U"-shaped line*. China's actual claim is, in fact, a mixture of calling for *the historic right doctrine: sovereignty by tradition*, in which the time-factor plays an overwhelming role and *the continental shelf and economic exclusive zone doctrine* – which can be used, in accordance with China's claims to the features of the South China Sea in which China's property rights have not reached full-term yet. The *United Nations Convention on the Law of the Sea* (1982) underlines a very important principle which needs to be prompted in states' behavior, mentioned in the section referring to the *Agreement*

relating to the implementation of Part XI of the Convention:

Desiring by this Convention to develop the principles embodied in resolution 2749 (XXV) of 17 December 1970 in which the General Assembly of the United Nations solemnly declared inter alia that the area of the seabed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction, as well as its resources, are the common heritage of mankind, the exploration and exploitation of which shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States. [10]

By natural consequence, no state in the world will likely concede China the right to maneuver the largest part of a sea that strategically links quintessential commercial maritime routes with highly important global inter-connections. In a map envoy presented to the *United Nations Commission of the Continental Shelf*, China refers to the *"U"-shaped line* as adjusting to the inclusion of the *relevant waters*. China protested when in 2009 Vietnam and Malaysia put forth claims to the *United Nations Commission of the Continental Shelf*, with the aim of extending their continental shelf [11]. Due to the territorial proximity of the littoral states of the South China Sea, a precise delimitation of the continental shelves of each one of them is a pretty difficult undertaking, as the different claims tend to overlap. The question that arises here is how can an international law settlement act as a panacea for all the actors involved?

It is very hard to say that the role of international regulations is overrated or irrelevant in this case.

The *United Nations Convention on the Law of the Sea* (1982) renders a few guidelines to produce less sparks in case a maritime conflict shall arise:

The sovereignty of a coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea [...] Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention.[12]

Furthermore, other technical recommendations have been made to decipher any possible limbos that might occur in the implementation process:

(a) For the purposes of this Convention, the coastal State shall establish the outer edge of the continental margin wherever the margin extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by either: (i) a line delineated in accordance with paragraph 7 by reference to the outermost fixed points at each of which the thickness of sedimentary rocks is at least 1 per cent of the shortest distance from such point to the foot of the continental slope; or (ii) a line delineated in accordance with paragraph 7 by reference to fixed points not more than 60 nautical miles from the foot of the continental slope; (b) In the absence of evidence to the contrary, the foot of the continental slope shall be determined as the point of maximum change in the gradient at its base. [13]

China's sense of sovereignty not only creates political and regional tussle, but also a context for great

power browbeating. Yes, Southeast Asia is a natural, outspoken, unabated sphere of influence, as far as China is concerned. However, China's sense of entitlement showcased a spiraling trajectory, bearing in mind that China felt the need to collect as much of the perks as it could from the status of *winning power of the Second World War*. Numerous actions have been made by China to reinforce its exorbitant claims – whether through the use of the People's Liberation Navy, or through elusive paramilitary structures acting to protect its maritime interests from the naval expansionism of other littoral states. Intimidating, harassing, bullying have been the buzzwords associated to Chinese behavior, the attributions being made by the regional states. The regional states felt very uneasy with the structural changes in Chinese foreign policy, signaled ever since China occupied the Paracel Islands in 1974, within a military backlash with Vietnam. When tackling sovereignty claims, *the regime of features in The South China Sea* can also explain the progressive development of facts. Depending on the nature of the feature claimed – *reef, bank, island*, etc. – an exclusive economic zone can be attributed to the claimant actor, or not.

The sovereignty dilemma represents a hard-line issue that *ASEAN* is, practically, exposed to and forced to contend with. *ASEAN's diplomacy* has a very limited role to play in this matter. *ASEAN's diplomacy's main focus* is to create a conducive environment in the South China Sea for regional peace and prosperity. China's presence in the South China Sea always made sure that not a single opportunity was left untapped.

China's envisaging of the South China Sea lies in *the concept of sea as a territory – haiyang guotuguan*, outlining China's unwillingness to share. This positional consolidation has attracted immediately extra-regional critics [14]. *ASEAN* states, however great a future fallout with China or however imperative the shelving of the sovereignty issue will prove to be, do not want to cloister China in the category of *other regional actors* and, hence advocate the settlement of disputes, but not at any cost. *ASEAN* has also done very little, almost nothing in appeasing the contradictory approaches of the *ASEAN* states involved in this dispute [15]. There are no patterns available – formally or informally converged – that would underpin an equitable intervention made by *ASEAN* for a decisive and all-embraced finale. According to the opinion upheld by this paper, *ASEAN* needs to secure much-needed intra-mural support for intra-regional intervention. China ratified the *United Nations Convention on the Law of the Sea* (1982), but still gives steadily away arguments from rather obsolete historically-supported claims. The reservations under which China sealed in the *United Nations Convention on the Law of the Sea* (1982) topple the core considerations under which the document was designed to legislate. China thrives from the confusion and from the sizeable uncertainty the situation transmits and is still clogging to it.

The military dilemma - China's muscle stretching in the South China Sea is not the most confrontational trait of the military dilemma of the

South China Sea. The reasons for considering that a military dilemma adumbrates upon the South China Sea conflict are compound. A top one would represent the embodiment of the strident domestic nationalism by the People's Liberation Navy. *Nationalism* is construed by China as a means to project in the region inflated and self-important approaches: the self-depiction of China as *a big state* and the delineation of the Southeast Asian states *as small states* [16] is a patent and indisputable argument regarding China's regional self-portrait. Through the use of the People's Liberation Navy, China will gradually proliferate its sovereignty in the South China Sea waters. During 2009-2011, certain statements made by People's Liberation Army Navy (PLA/PLAN) officers raised many eye-brows, while leaving the Southeast Asian littoral states in dismay. To list just one, Admiral Lin Huaqing – the commander of the PLAN during the 80s – claimed that China will be able to exercise control over the first chain of islands in the South China Sea, which correlates several important chokepoints in the region: the Philippines, Indonesia, eventually Singapore and the Malacca Strait [17]. Even if the majority of the comments were made by officers who are no longer part of the active human resources of the PLAN, their acknowledgements are not overlooked by China's neighbors.

Another very important feature of the *military dilemma* of the the South China Sea is the snarling display of Chinese military might! New, improved military facilities are likely to be used by China in the near future in the freshly-endowed South Fleet:

type 2208 fast track craft for high-intensity combat in the near seas, the new type 056 corvette, the launching of the Yunan-class submarine during 2010, the Yulin military base, pitched in with Kilo-class convention submarines imported from Russia. The major frictions in the South China Sea are also attributed to the military enrichment program from which the military structures in the South China Sea and the para-military structures benefitted. As Chinese experts agreed: “a stronger navy would back up a firmer claim” [18]. A military solution to the the South China Sea conflict would not be beneficial for either one of the parties involved. Like any great power, China’s main focus in foreign policy is to obtain geopolitical and economic survival. More than anything, China would not risk to be dragged into a maritime conflict in which the United States would surely toggle along, especially after the launching of the US Trans-Pacific Partnership and after the recent compression of US regional ties.

The *energy dilemma* educes from the rather dim and smudgy accounts of what the seabed of the South China Sea is thought to be hiding: a seabed rich in minerals, natural gas and oil. According to the United States, the seabed of the area hides 28 billions of barrels of petrol. The Chinese statistics amount to 213 billions of barrels of petrol in South China Sea. The gas reserves in the South China Sea seabed are thought to amount to 2 quadrillion cubic feet. Regardless of the accuracy of the numbers presented, any claimant part that could come into the possession of the biggest share of these resources can, without question, influence the

balance of power in Southeast Asia. In some estimates, The South China Sea is referred to as: *the Second Persian Golf* [19]. As far China is concerned, the energy issue remains a dire issue. Even if China is still able to produce for itself 85% of the energy it needs, considering the development spur of the last few years that China witnessed, China’s thirst for energy has become an unquenchable thirst. Ever since 1993, when China became a net oil importer, China has been prospecting new ways to reduce its oil imports from the Middle East.

Profit-seeking ventures in the South China Sea are the mirage that enchants especially the oil companies. However, until now, the disputed areas of the the South China Sea have remained, for the most part, untapped. The restructuring of China’s national oil companies has transformed their purpose towards profit-oriented policies. As state-owned, but not state-run, China’s oil companies have leveraged a strong influence upon the central government to begin the exploring and drilling activities in the disputed areas. Until now, this type of activities has not been initiated [20]. On the other hand, Southeast Asian states have keenly addressed the issue of exploring unspoiled areas in the South China Sea. Disagreements quickly erupted between the Southeast Asian states that also share in common a claiming rivalry. For instance, Malaysia and Brunei argued over developing a gas field-project in an area where their territorial claims overlap [21]. *ASEAN* does not have an energy policy per se – collectively endorsed in South China Sea- especially due to the territorial dilemma’s implications.

This does not obstruct Southeast Asian states to individually try to oversee the area in order to gain as many advantages as they can.

The three dilemmas of the South China Sea are strongly intertwined, thus, exposing the scarcity of the situation, especially from *ASEAN's* angle. *ASEAN* faces the luring presence of China as an actor and as a major component of the Southeast Asia conflict in three miens – *one regarding sovereignty, the other regarding the military profile of the parties involved and the last one regarding energy.*

2.2. *ASEAN's* absenteeism from the regional management

At first, *ASEAN* did not provide the pacifying degree that the region sought for. For lengthy periods of time, and especially during the Cold War, China was entangled in radical domestic policies and was not that interested to pursue maritime expansionist schemes in Southeast Asia. Some cartographic references of Chinese maritime ambitions could have been perceived in 1936, when China for the first time included in an official document the South China Sea as being Chinese. China's later actions did not unveil the fact that the possible spillover of tensions from the thronged area of the South China could be rendered a fact, as it had in other occasions [22]. As time passed by, China's claims used a multiple-edged rhetoric, using a combination of five important principles: *the principle of the archipelago, the principle of the historic presence, the principle of the continental shelf, the principle of the exclusive economic zone* [23]. Meanwhile,

during most of its formative years and during the subsequent periods of time, *ASEAN's* absenteeism from the regional management was tributary to other important principles: *effectively managing the communist insurgencies in Southeast Asia, striving to maintain a region-free of great power intervention, aiming to cement a slender, but important normative main-body that will help the organization not lose its functional and operational capabilities in the future.* The US – as one of the greatest extra-regional actors with the potential to build a naval presence in Southeast Asia that would not have been left unobserved, did not show undiluted interest in this region, as it had shown in other parts of the globe.

However, even after *ASEAN's* institutional emancipation, with the breakthrough-moment of the *1976 Declaration*, *ASEAN* did not plunge into adopting a more responsible strategy towards China's presence in the South China Sea. Only in 1992, *ASEAN* issued *The Declaration on the South China Sea*. The Declaration did not include any legal distinctions. It was, however, the first diplomatic move that *ASEAN* would use to try to regulate China's intentions and make them more predictable. China counter-responded with an anti-legalistic approach as it was not ready, nor eager to be obliged to respect binding regulations. *ASEAN's* informal style of diplomacy and the regional elites' pursuance to keep it that way suited China. Furthermore, *ASEAN* was not able to speak in one voice. Managing the overlapping territorial claims in the South China Sea meant managing divergent point of views. Pro-China *ASEAN* states

sided with China partly out of fear of Western enmeshment with regional affairs, partly out of the desire to protect domestic security interests that took precedence over regional ones. Malaysia was in its anti-West period. It occupied two reefs in the South China Sea and felt that a rapprochement with China would trigger a reciprocal support from China's part. *ASEAN* was merely beginning to tackle the South China Sea as a matter of concern and had not taken a tough approach concerning the preservation of common interests in the area. Feeling let down by *ASEAN*, Philippines signed a *Visiting Forces Agreement* with the United States, allowing the US to utilize Philippine facilities for training. The Philippines used the *1951 Treaty of Friendship* as a means to reassure China and other regional states that it will not be left out in any debate concerning territorial and sovereignty assignment. If China had not been involved, the US would have taken a more mellow approach. It would have still favored the Philippines, but it would not have been militarily committed.

2.3. Escaping Absenteeism: Institutional Re-Inventing, Institutional Interlocking and Socialization in the China-ASEAN Relationship

When discussing *ASEAN's* escapism from absenteeism in the South China Sea, it is worth considering *the utilitarian, almost neutral approach*, that the Southeast Asian states (and even U.S.) have sometimes applied towards China and its role in regional dealings. During the afflictive Vietnamization

period of the Vietnam War and after the Sino-Soviet rupture, China was seen by the U.S. as a lesser evil and as a possible mediator. During the Third Indochina Conflict, China was allowed to invade Vietnam, as a punitive measure against its invasion of Cambodia. China was seen, in this case by *ASEAN* (Association of Southeast Asian Nations) states, as the tolerated problem-solver, even if this view was short-lived. During this period, China's aggression towards Vietnam in the South China Sea was just a piece of the very instable security puzzle in Southeast Asia.

With other conflicts unveiling, the Sino-Vietnamese squabbling was a small-scale, less significant conflict. While Chinese assertiveness in the South China Sea heightened, it was clear that the conflict no longer revolved around a bilateral basis. With other regional countries being drawn into it by Chinese uncompromising posture and with *ASEAN* expanding its membership in Indochina, the situation in the South China Sea became a regional predicament. *ASEAN* is currently taking shy steps to building *a regional community* of security cooperation and welfare purposes, verifying all the key requirements: *an implicit interdependence, an embryonic version of cognitive regionalism - a consciously built regional identity, the devising of norms and mechanisms to solve dispute and eventual conflicts* (it is important that these norms and mechanisms exist, even if their implementation is not a productive one in the incipient stages). *ASEAN's* current meaning of security was not circumscribed to a non-exclusive dimension. *ASEAN*

began to embrace *a holistic concept of security* – based on a convivial juxtaposition of military, political, economic and social factors. *The 1967 Declaration* states *inter alia*:

the countries of Southeast Asia share a primary responsibility for strengthening the economic and social stability of the region and ensuring their peaceful and progressive national development and are determined to ensure their stability and security from external interference in any form or manifestation.[24]

The *2003 Bali Concord II Declaration* announced the objective of creating the *ASEAN Security Community* by 2015, in an integrated three-pillared construction. *The ASEAN Community Idea* does augur a generic security identity for the Southeast Asian states and a security community that has resulted, just like the EU, from statist construction and just like the EU, is currently transcending its statist origins. Just like the EU, the *ASEAN Community Idea* is a self-generating process in its branding of regionalism and in its quest for becoming a security community. *ASEAN's* steering of Southeast Asian regionalism falls into the language of constructivism. By employing a constructivist take upon Southeast Asia's regional security dynamics, the quality of the interstate interactions becomes inextricably intertwined with the way that the norms are shared between the states that take part in the interaction process, powerfully illustrating the close linkages between global, regional and domestic actors. *The 2011 Bali Concord III* aims at enriching *ASEAN's* global role

through coordinating the substantial flare of the *ASEAN plus One*, *ASEAN plus Three*, *ASEAN Regional Forum* and *East Asia Summit* regional processes. According to the Declaration, *ASEAN* has to remain the highlight of this batch of regional frameworks. Also according to the Declaration, *ASEAN* has to give a strengthened and much needed capacity to the *ASEAN* Secretariat. In order for the community building to occur, *ASEAN* needs a powerful and self-engaged *ASEAN* Secretariat. However, compared to the eurocracy-type mechanisms that the EU uses, the *ASEAN* Secretariat does not, by far, have the same sense of accomplishment that the former has. Its powers are still loosely defined. Another curveball mentioning is that *ASEAN* will create a more legalistic *ASEAN Security Community*, based on the rule of law. This observation is very important as many *ASEAN* governments are regarded by the international community to have played foul tricks on the domestic implementation of the rule of law. If legalism is no longer treated as a simple aesthetic factor, *ASEAN's* critics will certainly downsize their commentaries. Of course, this will be a gravity-defiant move, as *ASEAN's* glints off informality. Beyond any shadow of a doubt, sovereignty, independence and non-interference were mentioned as headfirst reference points. The improvement of military-to-military communication and the enhancement of civilian-military communication were mentioned, together with the creation of an *ASEAN* platform on global issues by 2022. A hissing trajectory towards a denser international role of *ASEAN* is

setting in place, as Susilo Yudhoyono Bambang said: “*great hopes are placed on our region*”.

The adoption of a *Code of Conduct for the South China Sea* would mean a guarantee for a Chinese peaceful rise and for the curtailing of the *Chinese misinterpreted spontaneity* in its bilateral dealings. The idea emerged in 1996 at the *ASEAN Ministerial Meetings*. China did not give in during negotiations. The concept of a *Declaration of a Code of Conduct* was more value-based and less compulsory for the parties involved. *The November 2002 Declaration on the Conduct of Parties in the South China Sea* meant that, generally, the situation in the South China Sea remained unchanged. *ASEAN's* facilitative role, played so as to obtain China's unquestionable engagement, was a celebrated failure. China was not engaged multilaterally. There was a slight possibility that the Declaration could be catalytic for more transparency in territorial disputes.

ASEAN has made tremendous efforts in ensuring, through multilateral and bilateral dialogues, which were not confined to an Asian membership, the preservation and the maintenance of regional peace for a period of almost 35 years and China's socialization with *ASEAN's* normative ensemble. One of the most incredible feats of *ASEAN* diplomacy is the fact that *ASEAN* managed to obtain from China the signing of the *Guidelines for the Implementation of the The South China Sea Declaration*. After the *China-ASEAN Summit of November 2010*, China committed itself to work with *ASEAN* for the implementation of the *Guidelines for the Declaration of Conduct in South China Sea*.

2.4. Managing China's fragmented actorness in the South China Sea

This paper is ostensibly making use of the term *actorness*, referring to an actor's innate prerogative to make use of its innermost ideas, interests and objectives, in an inter-subjective context.

China's actorness in the South China Sea resembles a kaleidoscope composed of different and heterogeneous actors. This harmful diversity not only produces ill effects for China's lack of celerity when implementing authority, but also to *ASEAN*, when trying to assess the numerous actors that China has to create a rising comfort level between.

Toils are in store for China when addressing the bureaucratic management of the South China Sea, veiling the fact that China has to be able to deal with a few layers of instability of its own, and not provoked by other regional states. The emphatic power of the term: *nine dragons who are stirring up the South China Sea* – underlines the nature of crowdedness of the South China Sea: “realities are changing much faster than our politicians, diplomats, and lawyers can handle them”[25]. Not only is the Chinese central authority spread out in multiple levels of authority, but other different sources of provenience of authority can be tracked down. If the myth is only complacent to nine actors, in reality, in the South China Sea, there are 11 central governmental agencies, 5 other agencies for law reinforcement and plenty of private actors [26]. The Ministry of Foreign Affairs, even if it is supposed to be the general on-looker of the events in South China Sea, finds it very hard

to meddle into the decisions taken by other administrative bodies: firstly, because the levels of authority are too many and secondly because his jurisdiction is not a comprehensive one. His jurisdiction is remarkably absent from the legal investitures of, for example, the Bureau of Fisheries Administration. Consequently, the Ministry of Foreign Affairs is not at legal liberty to impose sanctions upon other actors or to institutionally reward their loyalty for their homeland.

Compared to the poor maritime presence of the Southeast Asian states domestic actors, the coastal governments of China's coast provinces are keenly concerned about the regional dynamics of the South China Sea, as they are key defenders of their economic plans. In stark comparison to other actors of the public sector, the coastal governments are resentful of the heavy political, thorny guidelines which the central government has prescribed for China.

The governments of Hainan, Guandong and Guanxi engage as actors in the South China Sea conflict for the undeniable purpose of maximizing an economic situation [27]. The powers with which these governments are invested emanates from *the principle of decentralization*, unwisely implemented in China. The provinces' governors have the same uncut authority that the central governments have. Justly or unjustly, the local governments seldom escape the central control, as their decision-making process does not have to take into account messages distributed by the central authorities. Of the three local governments, the Hainan government, ever since its creation as a territorial administrative unit (in

1988), was handed over the general management of the Paracel and Spratly Islands and the management of the adjacent waters.

For *ASEAN*, more actors equal more worries and more unpredictable fuses in powder kegs! In this panoply of different actors, for the majority of them, their huge number will distort the role that the Ministry of Foreign Affairs is committed to playing in the South China Sea maritime dispute, especially as far the coordination management is concerned. But this is, nevertheless, China's worry! *ASEAN's* worry would be how to supervise the implementation of the policies it proposes, if it is trying to make use of the *pre-emptive diplomacy* that proved, over the recent period, to be successful. The common ground, for most of these actors, is the fact that they are *domestic actors* – which means, that, in a given situation, they will try to pursue their own self-centered interests, even without a head-bowing behavior towards the Chinese actors from the first line of command. In the South China Sea dispute, *ASEAN* used as a regulatory and cooperation mechanism with China *the Joint Working Groups*. This type of mechanisms can be used when interacting with the relevant domestic actors, especially with the local governments. *Joint Working Groups* between Chinese provincial governments and the provincial governments of the Southeast Asian coastal states may be instated, for collaborative purposes. If the *Joint Working Groups* proposal is considered to be another demultiplication of institutional structures, then, during the *ASEAN-China* Summits, a parallel structure including the actors afore-

mentioned, can be integrated. Given any eventuality, the inclusion of these actors in *ASEAN*'s approach towards the South China Sea conflict is unavoidable.

3. CONCLUDING REMARKS: PROCRASTINATING THE CHALLENGE OR CHALLENGING THE PROCRASTINATION?

Drawing a conclusion from the arguments presented, the South China Sea is an example of how a regional organization was able to convert its bone-structure employed as a survival tactic in an on-going string of changes in the regional dynamics. If in the past, *ASEAN* suffered from *chronic absenteeism* and was unable to deliver a viable, regional counter-response to Beijing's evolving strategy in the South China Sea. *ASEAN* is not ready yet to step up its game in the South China Sea, as it has to deal with a closer threat perception: that of managing the overlapping claims of its regional states: the territorial claims of the Southeast Asian states not only overlap with China's, but also overlap with their other intra-*ASEAN* partners. This is a scenario that may develop in a variety of destabilizing ways. According to the opinion presented by this paper, the positive turns of the conflict and, most of all, China's modest compromise to forego joint actions with *ASEAN* in order to formulate guidelines for the implementation of the *South China Sea Declaration of Conduct* already created a precedent in regional affairs! Whether this is part of *China's newly-adopted* charm offensive, or if it is only a skillful *ASEAN* exercise of greater influence in the region, the shift in

China's regional perception has been produced, together with numerous expanding areas of cooperation.

As far as the extra-regional incumbent balance of power is concerned, the interdependence of *geopolitics, energy and international relations* delivered in the South China Sea triggers three different patterns of behavior. U.S.'s lateness to interfere in the South China Sea disputes can be atoned by gaining *ASEAN* back-up. Balancing China, in this case, would require U.S. to go beyond the protection of its commercial interests in the Pacific sea lanes just like *a bishop*. Southeast Asian states can, self-directedly, promote their interests if these interests are to be elucidated in a collective manner. The geographical juxtaposition to Southeast Asia and the South China Sea enables China to play magnificently *the role of a rook* on the maritime chessboard. *ASEAN*'s imprecision and lagging smoothens China's castling on the maritime chessboard. US can, ultimately, be the wise bishop and promote its interests by admitting that *ASEAN* is its most efficient diagonal leverage!

If China's socialization, in some areas, is certainly deferential to *ASEAN's model of conflict management* – which implies *a heavy use of diplomacy* – the acute lack of harboring other relevant Chinese actors in *ASEAN*'s strategic calculations (especially Chinese domestic actors!) is both a challenge and an opportunity for *ASEAN*.

NOTES

[1] The notion of *regional order* utilised in this paper is devoted to the following definition: *a set of rulings and conduct prescription norms, to which a regional*

grouping – composed of states and non-states actors, is pledging allegiance to.

[2] 1967-1977.

[3] 1978-1987.

[4] 1998-1997.

[5] Like: *The Asian Financial Crisis (1978)*, non-conventional security threats – such as: *SARS, floods, food security issues*.

[6] For a long time, Chinese power and influence was unopposable.

[7] Dating back to ancient times, Vietnam liked to play the role of a small state that was not too lenient on accepting every major-power dictate. Every other Southeast Asian state considered that it had more pressing domestic problems to attend and second-ranked the issue of property claims in South China Sea. For China, Southeast Asia per se, as a whole region, was a realm of natural Chinese influence, where the Middle Kingdom established tributary relations with its southernmost neighbours who had the most to suffer from the global implications of Imperial China; The strong liaison between China and the subordinate actors from Southeast Asia was interrupted throughout the periods of *European Colonialism, the horrid period of the Japanese Occupation*, and, then, *the re-enactment of the European Neo-Colonialism*. For Vietnam, The South China Sea synthetised a long-nurtured ambition for regional hegemony and a power-item that was created, through geographical juxtaposition and fated to be Vietnamese.

[8] Compiled with the fact that the South China Sea holds a important strategic position for the prosperity and peace of the wider Asia-Pacific region – as suggested by: *Stirring Up the South China Sea*, Asia Report, International Crisis Group, 23rd of April 2012.

[9] The year instilled a trend for Chinese cartographers to include the "U"-shaped line in all the official maps produced to date.

[10] *United Nations Convention on the Law of the Sea (1982), Agreement relating to the implementation of Part XI of the Convention*, retrieved from: http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm, accession date: 13th of June 2013, accession time: 16:38 p.m.

[11] According to article 76, Part VI – Continental Shelf, of the *United Nations*

Convention on the Law of the Sea (1982): "The continental shelf of a coastal State comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance".

[12] *United Nations Convention on the Law of the Sea (1982), Section 1 – Article 1, Section 2 – Article 3*, retrieved from: http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm, accession date: 13th of June 2013, accession time: 16:58 p.m.

[13] *United Nations Convention on the Law of the Sea (1982), Article 76 – Definition of the continental shelf*, retrieved from: http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm, accession date: 13th of June 2013, accession time: 17:23 p.m.

[14] During the *ASEAN Regional Forum Summit* in July 2010, US Secretary of State, Hillary Clinton over-stressed the importance of providing multilateral frameworks for multilateral disputes and reiterated US policy objective towards Asia-Pacific region, of maintaing commercial sea lanes open in the South China Sea (a forceful mentioning for what US considers to be of vital interest for its foreign policy in the region). It was US's way to elucidate the fact that the South China Sea belongs to the category of collective commons and not to a unilateral territorial accreage.

[15] The Philippines protested against Vietnam and Malaysia's requests to explore an area located at a distance of 200 nautical miles off their exclusive economic zones in the South China Sea. The Philippines' contestations were rapidly joined by the Chinese ones. From all the claimant states, the clearest and the less ambiguous claims are the ones made by Vietnam and Malaysia.

[16] As mentioned by the Chinese Foreign Minister Yang Jiechi during the 17th reunion of the *ASEAN Regional Forum* in July, 2011.

[17] As informed by: *Stirring Up the South China Sea*, Asia Report, International Crisis Group, 23rd of April 2012.

[18] Goldstein Lyle (2011), *Chinese Naval Strategy in the South China Sea: An abundance of Noise and Smoke, but little fire*, Journal of Contemporary Southeast Asia, 33.3, pages:320-347.

[19] As informed by: *Stirring Up the South China Sea*, Asia Report, International Crisis Group, 23rd of April 2012.

[20] Fixing energy prices is a government's prerogative.

[21] Malaysia granted exploration rights to the Murphy Oil Company and Brunei granted exploration rights to Royal Dutch Shell and Total.

[22] With other geographical counterparts, China's actions generated immediate and forestalling reactions: in Sino-Indian relations, in China-Tibet relations or in the Sino-Soviet relations.

[23] As suggested by: Marvin C. Ott (2011), *Deep Danger: Competing Claims in the South China Sea, China and East Asia*, September 2011, Volume 110, Issue: 737, page 236.

[24] *The ASEAN Declaration*, Bangkok, 8 August 1967, Preamble.

[25] Conversation with Singaporean officer, Singapore, 1 June 2011, as presented in: Holslag Jonathan (2012), *Making Waves: China and Maritime Security in Asia*, Asia Paper, Volume 6, Issue 3, 24th of May 2012, ISSN:2034 – 5364, *The Brussels Institute for Contemporary China Studies*.

[26] *Bureau of Fisheries Administration, China Marine Surveillance, Local Governments, the Ministry of Foreign Affairs, Energy Companies, China Coast Guard, The China Customs Anti-Smuggling Bureau, National Tourism Administration, Environment Ministry*.

[27] An economic situation about which China can currently boast, without fear of receiving patent sneers.

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