Abstract

This paper looks at the impact of the rise of China on the geopolitical configuration and international relations in the East Asian region the main flashpoints of which include the high-profile disputes over the ownership of the islands, atolls, reefs, cays and islets in the South China Sea (SCS)/Biển Đông (East Vietnam Sea)/West Philippine Sea which reflect in a large part in reality resource conflicts. The rapid growth of China’s population, with an increase of more than ten million people per year, and the general shortage in energy resources to feed her rapid economic growth underlines the importance of the resource-rich SCS. In terms of geopolitics, the Spratlys occupy a highly important strategic position, the key to the control of the SCS and critical hub in China’s sea route transport connection with East Asia, West Asia and the Indian Ocean. Looking at the Spratlys and Paracels disputes as the major military-related security problem in the relations between China and ASEAN, the paper examines the challenges posed by China’s ascendancy in the global arena in recent decades, in particular within the context of the changing ASEAN-China relations in terms of both geopolitical and economic terms, with special focus on the attendant problem of the conflict in the SCS and the critical issue of finding a solution to the conflict.

Keywords: South China Sea (SCS), China, ASEAN, UNCLOS, diplomacy, sovereignty

JEL classification: F51, F52, F59, N45
1. Introduction

This paper looks at the impact of the rise of the People’s Republic of China (PRC) on the geopolitical configuration and international relations in the East Asian region the main flashpoints of which include the high-profile disputes over the ownership of the islands, atolls, reefs, cays and islets in the South China Sea (SCS)/Biển Đông (East Vietnam Sea)/West Philippine Sea which actually reflect in a large part in reality resource conflicts. Due to the rapid growth of China’s population, with an increase of more than ten million people per year, and the fact that despite her immense land mass, only 13 per cent of China consists of arable land and the country has 40 per cent less arable land per capita than anywhere else in the world, the problems of overfarming, overgrazing and overlogging have resulted in deforestation, desertification and river pollution that have led to severe water shortage in almost all major cities in northern China. This plus the general shortage in energy resources to feed her rapid economic growth underlines the importance of the resource-rich SCS especially around the Spratlys. As SCS’s petroleum reserve, according to China, amounts to 60 billion tons which could be adequate for a century’s consumption, it could prove to be a lifeline for China whose own petroleum reserve could hardly last two more decades given the present rate of extraction. Besides, with its other resources worth above US$1 trillion, SCS could prove to be a treasure trove for China, a country so populous yet so relatively short of land resources. Furthermore, the abundance in marine produce of the Spratlys and the neighbouring waters is said to constitute an area not less than 100 thousand square kilometres, i.e. about equivalent to mainland China’s total area of food production, making the former a possible second “granary” of China. In terms of geopolitics, the Spratlys occupy a highly important strategic position, the key to the control of the SCS and critical hub in China’s sea route transport connection with East Asia, West Asia and the Indian Ocean. As more than 70 per cent of China’s import of petroleum is through the Strait of Malacca and South China Sea, the control of the Spratlys is strategically important for ensuring a safe sea route passage for China.

Hence, the Spratlys and Paracels disputes, being the major military-related security problem in the relations between China and the Association of Southeast Asian Nations (ASEAN), can be seen as one of the major challenges posed by China’s ascendance in the global arena in recent decades, in particular within the context of the changing ASEAN-China relations. For instance, the earlier altercation over the Spratlys in 2009 saw China protesting against the Philippine president Gloria Macapagal-Arroyo’s signing of a controversial baselines bill into a law affirming...
the country’s claim of her territorial waters, extended continental shelf, economic zones, and the controversial Kalayaan Island Group (KIG) and Scarborough shoal off the waters of Palawan province, on 10th March 2009, an action described by some to be a political distraction amidst domestic instability brought about by the global financial crisis, but attributed by others to the requirement to meet the deadline of the United Nations Convention on the Law of the Seas (UNCLOS) set on 13th May 2009 for countries and archipelagic states to submit their claims for an extended continental shelf.\textsuperscript{10} Nevertheless, as a general policy orientation, whatever her ultimate strategic concerns, China has been untiringly reassuring her neighbours in this region that hers is a “peaceful” rise or even more carefully, “peaceful development”. An illustration of this stance can be seen when Chinese foreign minister Yang Jiechi 杨洁篪 visited Jakarta in August 2012, and said that preserving stability in the SCS was the joint responsibility of all countries within the region and China was willing to work with the ASEAN countries to implement the Declaration on the Conduct of Parties in the South China Sea and the eventual Code of Conduct.\textsuperscript{11} Despite that, it is inevitable that many in the region would see this Asian giant’s economic ascendance over the last three decades and the concomitant expansion of her “soft power”, if left unchecked, to be a major problem not only to the developing countries in the region but also to the rest of the world. Although it appears unlikely that any major conflict would appear in the SCS area in the near future, the increasing frequency of incidents in the area does translate into a higher possibility of accidental clashes escalating into serious confrontations.\textsuperscript{12} Indeed, experts on the SCS area have written about the potential of military conflicts arising from mere accidents as the margin for error narrows with countries involved in the SCS conflicts constantly pushing the boundaries.\textsuperscript{13}

2. Challenges in Seeking Mechanism for Conflict Resolution within the Context of ASEAN-China Cooperation

As the 2002 ASEAN-China Declaration of the Conduct of Parties (DOC) in the South China Sea is neither a legally binding agreement nor an enforceable document, another mechanism indeed needs to be found involving all parties concerned (mainland China, Taiwan and the ASEAN claimant states) with acceptable rules and regulations, both for confidence-building and mediating conflicts and disputes when they arise. Of course, commitment from all parties is the key to make installation of such a mechanism possible. In this regard, economic reality, historical legacy and resurgent nationalist sentiments could combine to play a negative role. Heightening nationalistic sentiments have been on display
especially in China and Vietnam whether in street protests or writings on the Internet. For example, Major General Luo Yuan 罗援, a researcher at the prestigious Institute of Military Sciences (or Academy of Military Sciences) and a major general of the People’s Liberation Army (PLA), now affiliated with the Research Society on Military Sciences, which is sponsored by the Institute of Military Sciences, advocates for the strategic seaward expansion of China with the construction of a “blue-water” navy, while warning the ASEAN claimant states not to misperceive China’s restrain as China’s weakness in the SCS, as China who has been a victim in the SCS for far too long will not be forever patient and tolerant towards the activities of these ASEAN claimant states who must stop trying China’s patience (see Luo’s interviews in March 2009 and June 2011).14

Another opinion holder with a military background, Colonel Han Xudong 韩旭东, also a scholar at the National Defense University, predicts the possibility of an imminent low-intensity armed conflict in the SCS if China comes to a conclusion that the peaceful means to stop “illegal occupation” of the islands in the SCS by the ASEAN claimant states has failed,15 though he doubts whether China’s military capability is adequate to safeguard all her “core national interests”16, while Zhang Zhaozhong 张召忠, an eminent military analyst and a National Defense University professor, goes further to opine that China must have the courage to resort to military means to recover her sovereignty in the SCS if required17 as he has no confidence in the use of international judicial process to resolve the territory disputes concerned18, and that the best time of solving them by peaceful means has already passed, and further diplomatic negotiations will lead to nowhere.19

It must be noted however that popular nationalism could act as a double-edged sword, limiting the claimant’s room for maneuver – any compromise over border disputes could be seen a sign of weakness, possibly provoking nationalist backlash.20 This is especially so with China facing a leadership transition. Chulalongkorn University’s political science professor, Thitinan Pongsudhirak, opines that China has become “more assertive and less hedged” as it attempts to avoid appearing weak during a key leadership transition year.21 Some analysts see signs of nationalistic tendencies that could lead to greater willingness to use force with the ongoing power transition.22 Further, the recent escalation of the conflict over the Senkaku Islands23 between China and Japan could further complicate efforts for SCS dispute resolution for ASEAN countries. To substantiate her claim for the Senkaku Islands, China is likely to adopt an even tougher stance when dealing with disputes in the SCS area.

One most notable aspect of China’s foreign policy that has often been perceived by the United States of America (US) and other Western
powers as provocative is her global search for energy in terms of her perceived role in accelerating the global arms race and the propping up of dictatorial regimes across the globe from Southeast Asia to Africa. The global financial crisis seems to be turning into an opportunity for China to intensify her global quest for petroleum and other natural resources as while the Chinese economy is equally suffering from the crisis with slower growth, unlike many other countries, her banking system is not as badly affected by the crisis and hence is still able to extend credits to enterprises to support the major projects of the government. While China’s present foreign policy seems to emphasize cooperation and stability in order to promote her own security, development and wealth, her escalating demand for energy resources is today no longer solely a matter of her own domestic concern, but is increasingly acquiring new dimensions that have a powerful influence on her international politico-economic relations. However, it has also been argued that it is not the hunger for undersea resources that brings about increasing assertiveness of the Chinese government – such considerations apply equally to disputes on the land, but have not precluded settlements and compromises. A more probable explanation lies in strategic interests, i.e. China’s national security and her ability to project and expand her powers in the international arena. While both balancing and bandwagoning strategies can be expected to enhance mutual interdependence and security, China seems to be fostering a foreign policy position primarily tailored for resource access, development, wealth and economic gain: a policy that sometimes seems to sit more comfortably with bandwagoning than with balancing.

3. Sino-Vietnamese Relations

On the other hand, with regards to regional bilateral relations, complex legacies from modern history such as that which is still haunting Sino-Japanese relations are not unknown either in the case of Sino-Vietnamese relations. Despite their close alliance during the Vietnam War, relations between the two countries have been plagued by regional rivalries and territorial disputes such as the delineation of territorial waters in the Tonkin/Beibu Gulf and sovereignty over the Paracel Islands and Spratly Islands in the SCS. The potential of offshore oil deposits in the Gulf of Tonkin also raises tensions over territorial waters. Such disputes and post-Vietnam War political realignment finally resulted in the brief but deadly Sino-Vietnamese border war in early 1979 after Vietnam invaded Democratic Kampuchea in 1978 and overthrew China’s genocidal ally, Pol Pot’s Khmer Rouge regime. The ending of open enmity and the resumption of Vietnam War-era friendship between China and Vietnam
did not arrive until the official normalization of ties in late 1991 after the collapse of the Soviet Union and Vietnam’s military withdrawal from Cambodia in 1990. The normalization of ties also saw in subsequent years genuine efforts by the two sides in resolving territorial disputes – both regarding land border and maritime rights – between them both on a bilateral basis and as part of the Sino-ASEAN endeavour for peaceful resolution to territorial disputes and guarantees against armed conflict. Meanwhile, since resuming trade links in 1991, Sino-Vietnamese commercial ties blossomed and China has risen to become a leading trade partner of Vietnam.

4. The Binh Minh 02 Incident and Other Conflicts in SCS

Vietnam lodged a diplomatic protest on 27th May 2011 with China’s ambassador claiming that the actions of three China Maritime Surveillance ships on 26th May 2011 violated international law and Vietnam’s sovereignty when they accosted the Binh Minh 02, a Vietnamese seismic survey ship operating in Block 148, and cut a cable towing seismic monitoring equipment. According to Vietnam, this was not the first instance in which the Chinese had cut the cable of a Vietnamese exploration vessel. China’s response on 28th May was a statement that what had occurred constituted normal marine law-enforcement and surveillance activities in China’s jurisdictional area. Vietnam retorted on 29th May, arguing that the area concerned situates entirely in the exclusive economic zone and the 200-nautical-mile (three hundred and seventy kilometers) continental shelf of Vietnam in accordance with the 1982 United Nations Convention on Law of the Sea (UNCLOS) and hence is not a disputed area. This incident was followed by another on 9th June 2011 in the vicinity of Vanguard Bank in which Vietnam claimed that a Chinese fishing boat equipped with a “cable cutting device” snared the cable of the PetroVietnam-chartered Viking II seismic survey ship which earlier had been involved in two separate incidents on 29th May and 31st May in which Chinese boats attempted to approach its rear deck and interfere with its operations before security escorts successfully blocked their approaches. On the contrary, China claimed that the 9th June incident occurred when armed Vietnamese ships chased Chinese fishing boats from the Vanguard Bank and one of the Chinese boats became entangled in the cable of the Viking II and was dragged for more than an hour before the entangled net could be cut. On 9th June 2011, Vietnam announced a live-fire exercise to be held on 13th June 2011 in the waters near Hon Ong Island (after the Chinese Ambassador to the Philippines called on Vietnam and the Philippines to cease oil exploration and after China announced it would
be conducting routine naval exercises in the Western Pacific), a military exercise swiftly denounced by the official Chinese media as an expression of nationalism to create a new enmity between the two countries.

5. Sino-Philippine Relations over SCS

On the other hand, the Philippines has claimed that there had been six or seven major incursions by Chinese warships, patrol boats, marine vessels, jet fighters, maritime surveillance vessels and People’s Liberation Army Navy (PLAN) ships into waters claimed by the Philippines in the first five months of 2011. The major disputes in the SCS between China and the Philippines are over the sovereignty of the Scarborough Reef and Mischief Reef. Chinese troops detained a Filipino fishing vessel around the Mischief Reef area in January 1995 and tensions were heightened again in 1997 and 1998 when Chinese warships upgraded the construction structures on the Mischief Reef and nearby islands.

More recently, on 12th September 2012, the President of the Philippines, Benigno Aquino III, announced that his government had officially named the waters off the west coast of the Philippines as “West Philippine Sea” and would register the name with the United Nations. According to the President of the Philippines, the name change was designated to clarify which areas the country is claiming. Presidential spokesman Edwin Lacierda said that the move should not cause anger among the country’s neighbours as the area that was renamed was limited to the country’s exclusive economic zone provided under the UNCLOS.

However, China dismissed the Philippines’ renaming of the waters and said that it did not affect China’s sovereignty claims. China’s foreign ministry spokesman Hong Lei said that “the act by the Philippines cannot in the least way change the fact that China has indisputable sovereignty over the islands in the South China Sea and adjacent waters”. An informal white paper by former Filipino officials revealed that the disputes have brought about a sharp deterioration in the country’s relationship with China, increased the need for further cooperation with the US in defense, and accelerated the urgency to build a common consensus among ASEAN nations.

6. Sino-Malaysian Relations over SCS

While such open conflicts over SCS are absent between China and Malaysia, in May 2009 China did protest against submissions by Malaysia and Vietnam to the United Nations Commission on Limits of Continental Shelf when she herself officially submitted a map of her own claims, a
map which contained nine dash lines in a U-shape covering an estimated 80 per cent or more of the maritime area of the SCS. However, this U-shaped baseline basically put ASEAN-5 and their oil exploration facilities in disputing position with China. It is clear from China’s map that these dash marks, which practically covers all of the South China Sea, cut deep into the EEZs that have been declared by the ASEAN claimant states, e.g., Vietnam and the Philippines, which were created by drawing around their coasts straight baselines from which their claims were extended two hundred nautical miles seaward in accord with the United Nations Convention on Law of the Sea (UNCLOS). In her submission, China stated that she “has indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof … The continental shelf beyond 200 nautical miles as contained in the Joint Submission by Malaysia and the Socialist Republic of Viet Nam has seriously infringed China’s sovereignty, sovereign rights and jurisdiction in the South China Sea … the Chinese Government seriously requests the Commission not to consider the Joint Submission by Malaysia and the Socialist Republic of Viet Nam.” (Italics added)

During a meeting with Malaysian deputy prime minister Muhyiddin Yassin in Beijing on 18th April 2011, the Chinese vice-premier Li Keqiang reiterated his country’s position that disputes in the SCS should be resolved on a bilateral basis and asked Malaysia for bilateral talks on the issue of the Spratlys. The Malaysian deputy premier expressed agreement and also offered to relay China’s request for bilateral talks to other claimant states of ASEAN. At the Shangri-La Dialogue held in Singapore in June 2011 Malaysia’s prime minister Najib Tun Razak, in his opening keynote address, predicted that ASEAN and China would soon be able to agree on a more binding code of conduct to replace the 2002 ASEAN-China Declaration of the Conduct of Parties (DOC) in the South China Sea and that “overlapping claims in the South China Sea … have generally been managed with remarkable restraint … I remain fully committed to the common ASEAN position in terms of our engagement with China on the South China Sea, I am equally determined to ensure our bilateral relationship remains unaffected and, in fact, continues to go from strength to strength”.

7. The Importance of Official Multilateral Dialogues for Conflict Resolution

Besides bilateral negotiation, it should also be important to initiate official multilateral dialogues for conflict resolution over the SCS given
the number of claimant states involved in the disputes. So far, disputes over islands in the SCS, i.e. the Spratlys and Paracels, constitute the only major military-related security problem between ASEAN and China. China, Taiwan (Republic of China/ROC) and four ASEAN member states – Vietnam, the Philippines, Malaysia, Brunei – are involved in the Spratlys dispute and the Paracels pose another dispute between Vietnam and China. While ASEAN and China has successfully signed a Code of Conduct document for the South China Sea to increase dialogue and confidence-building, the 1982 UN Convention on the Law of Sea (UNCLOS)’s guidelines on the status of islands, the continental shelf, enclosed seas, and territorial limits have failed to resolve the territorial jurisdictional disputes but instead added complications to the overlapping claims in the particular case of SCS\textsuperscript{33} for alongside the setting up of Exclusive Economic Zones (EEZs) claims could be made by any nation that could establish a settlement on the islands in the region. While it is indeed an irony that an international law that aims to resolve maritime disputes could actually aggravate them, the setting up of EEZs has indeed created the potential for overlapping claims in semi-enclosed seas like the SCS. While UNCLOS’s Article 121 states that “rocks that cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf”, there is no provision to effectively stop any nation from building a settlement on any “island” in the SCS in order to establish a clear title, and indeed clashes had occurred when the various SCS claimant states attempted to set up outposts, mostly military, to conform with Article 121 in pressing their claims. There has indeed been speculation that China’s U-shaped nine-dash-line claim could be founded on her occupation of nine rocks in the Spratlys which bring with them 200-nautical-mile EEZ though it may be legally doubtful as these rocks are unable to sustain human habitation and have an economic function, and hence according to Article 121 they would have no claim to EEZ or continental shelf.\textsuperscript{34}

Clashes in the SCS have long cast a shadow over regional relations, and at times could turn vicious. China and Vietnam have the most severe disputes over sovereignty of the Paracel Islands, with the first armed conflict occurring in January 1974 when Chinese forces overran the South Vietnamese position and have since occupied the islands. In another incident in 1988 at Fiery Cross Reef, the Chinese sank three Vietnamese vessels, killing 72 people. However, after the 1995 Mischief Reef incident, major complaints have reduced though there were still occasions in which shooting took place between Vietnam and China over oil explorations in the overlapping EEZ.
While China and ASEAN-5 have generally abided by the provisions of the Declaration on the Conduct of Parties in the South China Sea signed in November 2002, activities to stake sovereignty in the SCS on the part of China, Vietnam, and the Philippines, however, have not stopped. These include China’s construction of several targeting objects on the Paracels in January 2007, leading to Vietnam protesting Chinese invasion of Vietnamese territory, which was almost immediately followed by Vietnam’s proclamation in April 2007 that elections for National Assembly members were held on the Vietnamese-occupied Paracel Islands, and the Philippine government’s announcement on 14th May 2007 that 247 registered citizens on the Spratlys’ Kalayaan had finished voting in the May 2007 nationwide elections and a later one on 11th March 2009 that the 2009 baseline bill was signed, officially legalizing some islands and reefs in the SCS as Philippine territory – a move that attracted strong protest on the same day from China. Also in mid-March 2009, China sent her largest “fishery patrol ship” (retired naval ships, in lieu of more
directly provocative military vessels) *Yuzheng 311* to the waters around the Spratlys, following a confrontation between Chinese boats and a US naval ship in early March 2009.\(^{35}\) Further in July 2012, China’s Central Military Commission approved the formation of a military garrison for the disputed SCS, making further assertion of her sovereignty claims to the Woody Island\(^{36}\), the largest of the Paracel Islands. The move follows from China upping the administrative status of the seas to the level of a city, naming it Sansha 三沙 in June 2012. According to the Xinhua news agency (新华社), the Sansha garrison is responsible for military missions, national defense and local emergency rescue and disaster relief.\(^{37}\) This action drew stern criticisms from the ASEAN members.

It is apparent that China, Vietnam and the Philippines will continue to confront each other time and again over their conflicting sovereignty claims and overlapping EEZs in the SCS in the foreseeable future as far as a final resolution has not yet been legally reached, despite that such high sea harassments, especially of Vietnam by China, has somewhat reduced since the three countries signed a Memorandum of Understanding on joint exploration in 2005. Such island disputes and maritime boundary issues are apparently made highly intractable by the desire for oil and other resources. Concrete success has not been forthcoming too in the bilateral dialogues between Vietnam and China on their mutual border issues.

The same difficulty arises at the higher ASEAN-China level. In July 2012, ASEAN foreign ministers met in Phnom Penh, Cambodia, at the ASEAN Regional Forum, with the Cambodian prime minister Hun Sen claiming, prior to the meeting, that one of the prime objectives was for member countries to formulate a code of conduct with China in relation to the SCS dispute. The prime minister was of the belief that ASEAN could serve as a platform to promote dialogue and cooperation on political and security issues.\(^{38}\) However, the Phnom Penh meeting failed to produce a joint communiqué for the first time in ASEAN’s 45-year history. Cambodia, chair of the summit, had refused to allow the Philippines to include language referring to a recent standoff over the Scarborough Shoal in the communiqué, insisting that such disputes were bilateral in nature. According to certain quarters, the objection of Cambodia was largely due to China’s influence.\(^{39}\) One report even stated that the microphone went dead right when the Philippine foreign minister Albert Ferreros del Rosario started to raise sensitive issues about the SCS during the summit. Some delegates at the summit expressed concerns about something more sinister than a technical glitch, reflecting their frustration towards Cambodia’s effort to keep the issue off the agenda.\(^{40}\) Some others had argued that the reason for the failure to reach an agreement lay in the Philippines’ pushing for a code beyond conflict
management to include conflict-resolution mechanisms, while other member states resisted the move. Regardless of the true reason for the collapse, a compromise was reached at the end with an outline of the “proposed elements” of a code of conduct. However, there appears to be nothing new in the outline, with no mechanism to make the code of conduct legally binding, and this was even before ASEAN brings forward its case to negotiate with China.\textsuperscript{41} The ASEAN summit shows that divisions within the ASEAN members themselves actually run into several layers deep – between claimants and non-claimants, and even between the ASEAN claimant states.\textsuperscript{42} The dean of the Lee Kuan Yew School of Public Policy at the National University of Singapore claimed that the ASEAN summit outcome is “a disaster”, showing that a new geopolitical struggle between China and the US was crystalizing in the ASEAN region, potentially splitting ASEAN as its member countries were drawn in different directions.\textsuperscript{43} If a consensus could not be reached even among the ASEAN countries, any long-term official multilateral resolution for the SCS disputes will fail to materialize. Indeed, following a meeting with his Chinese counterpart Yang Jiechi, Malaysia’s foreign minister Anifah Aman implied that ASEAN would need a more united front in its negotiation with an “increasingly assertive” China, with the first step being the resolution of overlapping claims among the ASEAN nations.\textsuperscript{44}

8. Cooperative Resource Management and Joint Exploration in the SCS

An amicable solution to the South China Sea conflict can move around the two prongs of protection and development of the Sea. While China and the ASEAN claimant states have agreed since 2002 in principle to avoid using force to resolve the SCS dispute, an agreement on how to develop a resolution of the conflict is never in sight. While a Joint Development Agreement (JDA) has been suggested to put aside the sovereignty conflicts, a sort of to agree to disagree, and concentrate on joint resource development in the SCS, little progress has been made. Rosenberg and Chung (2008) attributes the lack of multilateral regimes providing maritime security in the SCS to, among others, (1) divergent priorities and activities, (2) the fact that many coastal states give higher priority to protecting national sovereignty and control over their newly acquired ocean resources than cross-national collective efforts, and (3) mutual suspicions about military and intelligence-gathering activities.\textsuperscript{45} They rightly point out, under such constraints, the importance of joint development and joint explorations which will undoubtedly help to promote trust and
reduce suspicions and enmity, e.g., cooperative resource management for security and sustainability in the case of fisheries to overcome the problem of overfishing, pollution, etc. and joint seismic surveys for offshore exploration like that has been conducted before between China, Vietnam and the Philippines in the SCS, and others.

For instance, on 11th November 2003, China and the Philippines signed in Beijing a US$700 million agreement to jointly explore petroleum in South China Sea. It represents a valuable step forward to solve the South China Sea dispute since the signing of the ASEAN-China Declaration of the Conduct of Parties in 2002. While the agreement is yet to lead to real exploitation, it has nevertheless paved to road to deeper cooperation and the realization of the approach of setting aside the thorny question of sovereignty to make way for joint development. Of course, there might be political risks domestically, e.g. the Philippine Congress’s accusation against the Arroyo administration’s joint marine seismic undertaking (JMSU) agreement with China, but eventually it is probably inevitable for the claimant nations to set aside whatever conflicting claims and mutual suspicions to cooperate in the exploration and sustainable use of the resources of the SCS, in managing the increase in shipping traffic, as well as to address maritime security threats like piracy.

Another precedent is related to the Sino-Vietnam maritime dispute which is admittedly the most complex component in the South China Sea/ Biển Đông dispute. The Sino-Vietnam dispute mainly involves the Spratlys and the Beibu/Tonkin Gulf. Given the enmity and distrust ensued from the 1979 border war and 1988 sea battle, the settlement of the Beibu/Tonkin Gulf dispute between the two countries with the setting up a common fishery zone was impressive. It is indeed a good example of putting aside the sensitive island sovereignty issue to make way for a win-win solution of joint exploration and development.

9. Constructive Multilateral Exchanges
Ultimately, constructive multilateral exchanges and interactions rather than confrontations and bandwagoning could be the key to solving the SCS conflicts. The US has backed ASEAN initiatives with respect to the Code of Conduct, when at the July 2010 ASEAN Regional Forum (ARF) meeting, Secretary of State Hillary Clinton proposed ASEAN to serve as a multilateral venue for SCS negotiations. In this regard, the US has emphasized the importance of Asian politico-security organizations led by ASEAN: the ASEAN Regional Forum (ARF), the East Asia Summit (EAS, with an upcoming meeting in November 2011), and the ASEAN Defense Ministers’ Meeting-Plus (ADMM+).
Indonesian president Susilo Bambang Yudhoyono in his keynote speech to the 2011’s 44th ASEAN Ministerial Meeting in Bali, which culminated with talks on regional security which would include China, Japan and the US, stated that the ARF could “finalize the long overdue guidelines because we need to get moving to the next phase, which is identifying elements of the Code of Conduct … We need to send a strong signal to the world that the future of the South China Sea is a predictable, manageable and optimistic one.” ASEAN and China seemed to have achieved a breakthrough on 20th July on the contentious SCS issue when they agreed to adopt non-binding guidelines on moving towards resolving the sovereignty conflict in the SCS, which marked the first sign of progress since ASEAN and China signed the informal commitment to resolve disputes peacefully in 2002. 

However, as mentioned earlier, the effort to build consensus through official multilateral exchanges is similarly riddled with difficulties even with support from a powerful third party. ASEAN’s attempt to agree on a blueprint for dealing with territorial disputes with China in the July 2012 summit collapsed in disarray despite US support. During a news conference in Jakarta in September 2012, Hilary Clinton again waded into the dispute and said that it was essential to “get faltering diplomacy back on track” and for China and the Southeast Asian countries to draw up a “code of conduct” in the resolution of the SCS conflict. Further, commander of the US Pacific Command, Samuel J. Lcklear III, stated that the US would remain impartial in the SCS disputes and hope that the disputes could be resolved amicably, through dialogues and other peaceful measures.

However, China’s stance has always been to negotiate disputes with each claimant country individually, resisting a multilateral approach. In fact, China believes that US’s intervention is stirring up further disputes within the region. This is illustrated when Beijing summoned the US Envoy to express “strong dissatisfaction” over a US statement in August 2012 stating that China’s establishment of the Sansha garrison further inflated long-standing tensions over the SCS area. With China and the US being the world’s two leading economic powerhouses, and both countries harbouring strategic suspicion about each other, the US is unlikely to successfully play the mediator role among the claimant countries in the SCS disputes. Not surprisingly, the Chinese Foreign Ministry regarded the intervention as an attack on China despite the US stating in a daily press briefing in August that it had always been encouraging ASEAN to “work with” China. In fact, an “insider” of the ASEAN region, such as Indonesia, Singapore or Thailand, who has no claim to the disputed areas has better chances in facilitating the peaceful resolution of the conflict.
Commendable effort has been seen by countries like Indonesia attempting to rally her Southeast Asian compatriots at the United Nations meeting in September 2012 to reignite talks with China in relation to the SCS disputes. However, there is little to show for the effort thus far.

The road to an amicable resolution for the SCS conflict will not be smooth but the well recognized need to maintain a harmonious environment for regional prosperity, the geostrategic importance to each other between ASEAN and China amidst increasing trade and investment and especially within the framework of newly incepted ASEAN-China Free Trade Area and on the part of China, the long-running guiding initiatives of her “open-door policy” (since 1978), “good neighbour policy” (since 1990) and “going global strategy” (since 2002) and the continuing promotion of her “peaceful rise”/“peaceful development” image will combine to play a positive role to take the July 2011 ASEAN Summit breakthrough further on the road of rational regional reconciliation, confidence-building and conflict resolution over the SCS. Such considerations will also counteract the need to cater for riding domestic nationalism as the recent State responses to domestic nationalistic outbursts, especially in China and Vietnam, serve well to illustrate the State’s awareness of the danger of runaway nationalistic-xenophobic expressions as such, as nationalist sentiments have always been known to be a double-edged sword which do not always complement the interest of the government and whose greatest impact could eventually be felt domestically rather than on the external front.

Notes

* Dr Emile Kok-Kheng Yeoh is Director and Associate Professor of the Institute of China Studies, University of Malaya, Malaysia. Graduated with a PhD from the University of Bradford, West Yorkshire, England (1998), his research interests include institutional economics, China studies, decentralization and fiscal federalism, and socioracial diversity and the role of the State in economic development. His works have been published in journals and occasional paper series such as The Copenhagen Journal of Asian Studies, GeoJournal: An International Journal on Human Geography and Environmental Sciences, Journal of Asian Public Policy, International Journal of China Studies, Malaysian Journal of Economic Studies and the Copenhagen Discussion Paper series, and his recent books, as both editor and contributor, include Ethnic Interaction and Segregation on Campus and at the Workplace (2004), Economic Kaleidoscope (2005), China and Malaysia in a Globalizing World (2006), Emerging Trading Nation in an Integrating World (2007), Facets of a Transforming China (2008), China in the World (2008), CIAS Special Issue (26(2)): Transforming China (2008), Regional
Political Economy of China Ascendant (2009), China-ASEAN Relations (2009), Towards Pax Sinica? (2009), IJCS Special Issue (1(1)): Changing China (2010), East Asian Regional Integration (2010), IJCS Special Issue (1(2)): Social Change in the Age of Reform (2010), IJCS Special Issue (2(2)): Reform, Governance and Equity (2011) and IJCS Focus (2(3)): South China Sea and China’s Foreign Relations (2011). <Email: yeohkk@um.edu.my, emileyeo@gmail.com>

** Susie Yieng-Ping Ling 林燕萍 is Administrative Officer and Project Researcher at the Institute of China Studies, University of Malaya, Malaysia. She holds a Master of Economics degree from the University of Malaya, Malaysia. <Email: susielyp@um.edu.my, susielingyp@hotmail.com>

*** Lionel Wei-Li Liong 梁偉立 is Research Associate of the Institute of China Studies, University of Malaya, Malaysia. He holds a Master of Philosophy degree from the Faculty of Economics, University of Cambridge, England. <Email: iliiew84@yahoo.com>


4. Chinese: Nansha Qundao 南沙群島; Vietnamese: Quần Đảo Trường Sa. The Spratlys are a group of islets, atolls, reefs, cays and islands in the SCS. Besides China (both PRC and ROC) and Vietnam, Malaysia and the Philippines also claim sovereignty over some of the islands of the Spratlys (Malay: Kepulauan Spratly; Tagalog: Kapuluan ng Kalayaan).


6. Equivalent to about 3.69 trillion ringgit.
7. Ibid.
8. Ibid.
9. Chinese: Xisha Qundao 西沙群岛; Vietnamese: Quản Đảo Hoàng Sa. The Paracels are a group of islets, sandbanks and reefs in the SCS.
10. Currently 8 or 9 islands and reefs of the Spratlys are under China’s control, while other countries are in control of about 50 other islands, reefs, shoals and banks, including 29 or more controlled by Vietnam, 9 to 10 by the Philippines, about 10 by Malaysia and 2 by Taiwan (ibid., there are some ambiguities in the numbers due to the definitions of “occupied features” – usually militarily – and “virtually occupied features”).
22. Terry Wang, op. cit.
23. The Pinnacle Islands – a group of uninhabited islands currently controlled by Japan who calls them the Senkaku Islands 尖閣諸島, a part of Okinawa
prefecture 沖繩縣, but claimed by both the ROC and the PRC as the Diaoyutai Islands 釣魚台列嶼 / 钓鱼台群岛, part of the Taiwan province. The largest island of the group is the Uotsuri Jima 魚釣島 / Diaoyu Dao 釣魚島. There are other similar military concerns, such as the June 2009 incident around the atoll of Okinotori-shima 沖ノ鳥島. Such thorny issues, together with the sensitive and complex entwinement of historical legacy and national honour and dignity such as that surrounding the Yasukuni Shrine (Yasukuni Jinja 靖国神社), serve well to illustrate how, almost seven decades after the end of World War II, shadow of the past still lingers to haunt the bilateral relations between these two East Asian powers.

24. Peter Navarro, The Coming China Wars: Where They Will Be Fought, How They Can Be Won, New Jersey: FT Press, 2006. For instance, within the first two months of 2009 alone, China’s overseas mergers and acquisitions totaled 22, involving US$16.3 billion and representing a 2 per cent increase over the same period of the previous year. The main areas of these mergers and acquisitions are natural resources, and in money terms represent 97 per cent of all such acquisitions (ODN, 15th March 2009).


27. The official name of Cambodia under the murderous Khmer Rouge regime.


33. Article 3 of the UNCLOS states that “every state has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles”, while Article 55-75 define an Exclusive Economic Zone (EEZ) as an area up to 200 nautical miles beyond and adjacent to the territorial sea, and Article 76 defines a nation’s continental shelf as comprising “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 …”. The EEZ gives coastal states “sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and its subsoil…” and Article 77
allows every nation or party to exercise “over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.” On the other hand, Article 121 states that rocks that cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.


35. Hong Kong, for instance, in 1994 blamed Chinese authorities for carrying out almost half of the 100 attacks on ships in the SCS.

36. Woody Island, known to China as Yongxing Island (*Yongxing Dao* 永兴岛, literally “Eternal Prosperity Island”) and to Vietnam as Phu Lam Island (*Đảo Phú Lâm*), is the largest of the Paracel Islands. It is currently administered by the PRC. The island is also claimed by the ROC (Taiwan) and Vietnam.


41. Ann Jung, *op. cit*.

42. Ann Jung, *op. cit*.

43. Jeremy Grant, Ben Bland and Gwen Robinson, *op. cit*.


47. *Ibid*.

48. A prospect supported by Malaysia, the Philippines, Vietnam, Brunei (the four ASEAN claimants) but opposed vigorously by China.
