

The ASEAN way in the South China Sea disputes by Aleja Martinez-Barcelon

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The escalation of tensions over disputed claims in the South China Sea (SCS) threatens to turn the region into a flashpoint of global conflict. While the main priority should be deescalating tensions, all claimant countries should pursue a lasting solution to the disputes through peaceful means.

The Association of Southeast Asian Nations (ASEAN), which has four member states directly involved in SCS issues, has consistently called for the peaceful resolution of the disputes. In March 2000, it began negotiations with China to establish a Code of Conduct in the SCS (CoC). Sixteen years later, ASEAN's efforts toward a binding CoC have been slowly progressing, with China agreeing in principle but taking its time to approve the ASEAN draft. China insists on settling territorial disputes through bilateral negotiations while ASEAN claimant states argue that a multi-party issue requires a multilateral solution. Since agreeing on a CoC seems unlikely in the near future, ASEAN SCS-claimants have looked elsewhere for a solution, forging enhanced security cooperation with each other, the US, and Japan.

Despite the stalemate over the CoC, this effort should continue with an emphasis on ASEAN centrality. A less effective ASEAN and its brand of multilateralism would encourage weaker member states to rely more on big powers like the US. This is not to say that a stronger ASEAN is disadvantageous to major powers in the region. Rather, it benefits all to have a strong platform for regional peace, stability, and economic development in the form of ASEAN, which has played a key role doing just that for 50 years.

Still, questions about ASEAN's effectiveness in resolving conflicts among member states and third parties persist. Doubts about the "ASEAN Way" have beleaguered the organization. Compared to other multilateral institutions like the EU, there has been little significant progress toward closer political integration and collaboration.

There is also the perceived influence by China on non-claimant states, namely Cambodia and Laos, which undermines ASEAN centrality. This is evident in two ASEAN meetings. The first occurred in Phnom Penh in 2012 when ASEAN foreign ministers failed to issue a joint communique for the first time. China reportedly pressed Cambodia, then the ASEAN Chair, to keep SCS developments out of the ministers' statement despite the view of majority of member states that these developments impinged on regional security.

The second occurred in Kunming on June 14 during the ASEAN-China Special Foreign Ministers' Meeting, when an

ASEAN foreign ministers' statement on the SCS was retracted after being issued. China was reportedly unhappy with the ASEAN text, and pushed for ASEAN to support a text prepared by China instead. Failing to reach a consensus, the scheduled ASEAN-China press conference was not held. The foreign ministers of Cambodia and Laos reportedly confirmed that they were withdrawing from the consensus, Laos because it could not support the release of the ASEAN text at that time due to sensitive relations between China and ASEAN.

China's actions are detrimental to ASEAN as a bloc and ASEAN efforts in the SCS. China must recognize that undermining ASEAN makes the group weak and renders individual states more susceptible to outside interference. If Beijing is serious about its call for non-interference by big powers (especially the US) then it must realize that undermining ASEAN is contrary to China's objectives and counterproductive to ASEAN-China relations.

A two-pronged approach is needed. First, it is imperative that ASEAN be united and strong and serve as the center of regional cooperation. ASEAN should confront the SCS issue head-on, as a bloc. It has to make solid and distinctive references to the pervasive and alarming changes in the SCS and decisively call on China to stop its provocative actions in disputed waters. As this week's UN Arbitral Tribunal's decision went in the Philippines' favor, ASEAN should now play an active role in ensuring that both China and the Philippines exercise restraint and urge China to return to the negotiating table to establish a legally binding CoC.

The second part of the solution is creating a collective security system in the region, led by ASEAN and China, to monitor developments and ensure the preservation of peace and stability in disputed waters through joint or rotating nautical and air patrols over the SCS, similar to the US Freedom of Navigation Operations (FONOPS). The security mechanism should be exclusive to ASEAN and China to fulfill two vital objectives: first, China's insistence on non-interference of non-parties to the SCS disputes; and second, continuity of ASEAN's centrality in the region. ASEAN and China must ensure that the mechanism is adequately structured, while maintaining flexibility to adapt to changing contexts.

One important consideration is the issue of island-building, construction, and oil exploration activities in the SCS. Since these activities have become a source of tension among claimant states, particularly China, Vietnam, and the Philippines, it would be in the best interest of all parties to stop them, especially those that are construed as "militarization" of island-like features in the SCS. Suspension of these activities is an important precondition for an effective security mechanism in the SCS.

There is, however, the likelihood that China will reject such a mechanism, given its claims of “indisputable sovereignty.” With the arbitral tribunal ruling against China’s “nine-dash line,” and the impact on China’s foreign policy, Beijing is in no position to reject regional efforts. A collective security mechanism in the region will offer China a way to renew negotiations with ASEAN and settle issues with the SCS claimants, allowing it to save “face” by taking account of the arbitral tribunal decision without formally acknowledging it.

The Philippine’s legal victory gives Manila the opportunity to take the lead in engaging with China regarding such an ASEAN-led security mechanism. While it seems that new Philippine President Rodrigo Duterte does not embrace his predecessor’s assertive strategy, strong public sentiment favoring the tribunal ruling suggests that Philippine leaders should remain firm on the Philippine’s territorial and maritime claims in the SCS. If Manila’s official statement, “strongly affirming its respect for this milestone decision as an important contribution to ongoing efforts in addressing disputes in the SCS,” is any indicator, the Philippines considers the ruling as a distinct gain to move forward in better addressing the SCS disputes. There is the possibility that Beijing will quietly reach out for bilateral talks with Manila in the very near future. But Manila should use the ruling, not as a means to flaunt its victory and risk further aggravating China, but as an impetus to renew negotiations with China in the context of regional cooperation through ASEAN.

Chinese Premier Li Keqiang said at the East Asian Summit in 2015 that “China does not want the SCS to become a source of tension for the region,” and is ready to work with regional partners “to maintain the freedom of navigation and overflight.” If he speaks for the entire Chinese government, then ASEAN should step up and meet China halfway. It is time for ASEAN leaders to consolidate ranks, stand up as a cohesive organization, and take a unified position on the SCS disputes. Only then can it ensure that multilateral and regional solutions are rules-based, beneficial for all concerned, and will preserve regional peace, stability, and development.

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