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BEYOND THE UNFINISHED CODE: RETHINKING ASEAN'S MARITIME CENTRALITY WITHOUT A CODE OF CONDUCT

BY DANA LEE

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She has represented her work at high-level ASEAN, United Nations, and many other international conferences, often as one of the few women in the room of security studies. But she doesn't just take a seat. She uses her voice to amplify others. Passionate about breaking barriers in male-dominated fields, Dana is fiercely committed to empowering women in peacebuilding and security dialogues.

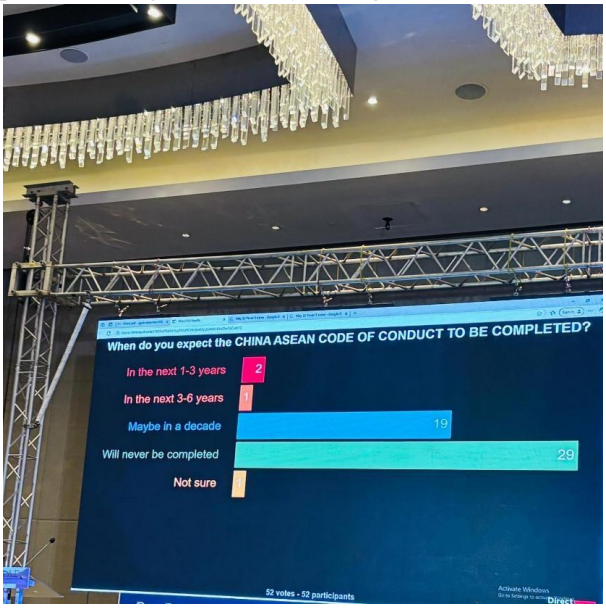

Photo: Survey of experts on May 22 2025 for their opinion on the future of the China-ASEAN Code of Conduct, at the Dialogue on ASEAN Maritime Security. Credit: Dana Lee

An expert survey conducted during the Dialogue on ASEAN Maritime Security on May 22, 2025, revealed a growing consensus: most regional analysts now believe that the long-anticipated Code of Conduct (CoC) for the South China Sea will never be completed. Although formal negotiations for the CoC only began in 2013, the idea dates back more than two decades. Since the 2002 Declaration on the Conduct of Parties (DoC), ASEAN and China have been engaged in a protracted diplomatic effort to manage the South China Sea disputes. Over time, this process has become emblematic of ASEAN's diplomatic limitations, an idealistic project mired in delay, legal ambiguity, and geopolitical evasion. If this pessimistic outlook proves correct, ASEAN and its member states must confront a more difficult question: how can the region maintain maritime stability and defend sovereignty without an enforceable, multilateral agreement?

At stake is not simply a diplomatic document, but the future of Southeast Asia's maritime security architecture. The South China Sea is not only rich in resources and maritime trade routes, but it also sits at the center of geopolitical competition between China and the United States, which many now frame as the strategic core of the broader Indo-Pacific contestation. The area remains highly volatile, with increasing encounters between military and paramilitary vessels, as well as gray-zone operations by China's coast guard and maritime militia targeting rival claimants and civilian vessels.

The problem, however, is not only external. ASEAN's structural limitations have become increasingly apparent. Its foundational principles: non-interference, consensus decision-making, and respect for sovereignty, are core to its identity, but they also constrain its ability to act collectively on divisive issues like the South China Sea. Among its ten members, only four (the Philippines, Vietnam, Malaysia, and Brunei) are claimants in the South China Sea dispute. Each of these states has distinct bilateral relations with China, different levels of economic dependency, and divergent strategic priorities. Meanwhile, non-claimant ASEAN states

often prefer to remain neutral or prioritize economic ties with Beijing, further diluting the bloc's ability to take unified action.

This fragmentation plays directly into China's hands. Beijing has consistently opposed multilateral negotiations over the South China Sea, preferring to resolve disputes bilaterally where its economic and military leverage can be most effective. China's support for the CoC is mostly symbolic. It allows Beijing to appear diplomatic and cooperative, even as it continues to expand its presence and control in the South China Sea. The protracted nature of the CoC negotiations and the lack of substantive progress or enforcement mechanisms suggest that Beijing benefits more from the process than the outcome.

Given this reality, ASEAN must begin preparing for a future in which the CoC remains permanently stalled or, if completed, proves toothless and symbolic. This calls for a strategic shift away from reliance on a single, consensus-based legal instrument toward a pluralistic and layered approach to maritime governance.

One promising avenue is the development of mini-lateral cooperation among like-minded ASEAN claimant states. For instance, the Philippines, Vietnam, and Malaysia share concerns about China's assertive behavior and have overlapping security interests. These states could pursue coordinated coast guard patrols, intelligence sharing, and joint diplomatic positions in international fora. While not formally under the ASEAN banner, such mini-lateral arrangements would allow for greater flexibility and responsiveness, bypassing the paralysis of ASEAN-wide consensus. These efforts could also serve as a form of strategic signaling to China, reinforcing that maritime encroachments will not go unchallenged, even without a unified ASEAN front.

Complementing this, ASEAN should invest in functional maritime institutions that operate below the threshold of high politics. For example, establishing a regional ASEAN Maritime Fusion Centre could allow member states to pool real-time data on maritime incidents, track illegal fishing, and monitor the activities of foreign vessels. Enhanced Maritime Domain Awareness (MDA) does not require political consensus on sovereignty claims; it only requires a shared interest in reducing uncertainty and increasing transparency. Such an institution could serve as a neutral clearinghouse for information, increasing public and international awareness of coercive actions without directly provoking confrontation.

In parallel, ASEAN should more actively employ legal diplomacy. The 2016 arbitral ruling in favor of the Philippines remains a landmark in international maritime law, rejecting China's nine-dash line as inconsistent with UNCLOS. While ASEAN as a bloc may not endorse the ruling, its legal significance can be amplified through coordinated references in diplomatic statements, legal briefings, and regional discussions. Additional claimant states, such as Vietnam or Malaysia, might consider launching their own legal proceedings, further reinforcing international legal norms through precedent.

ASEAN's dialogue partnerships with external actors such as Japan, Australia, India, the European Union, and the United States should also be leveraged more strategically. These partners can support capacity building for maritime law enforcement, provide technical assistance for MDA systems, and participate in joint exercises that emphasize non-militarized cooperation. Framing this engagement as support for ASEAN resilience, not a Cold War-style alignment, can help maintain ASEAN's diplomatic balance while still bolstering its defensive posture.

Plus, ASEAN must rethink what it means by centrality. Too often, centrality is interpreted as requiring consensus and unity at all costs. But in a region as diverse and divided as Southeast Asia, centrality must be reconceptualized as facilitative leadership. ASEAN can remain central by convening dialogues, legitimizing plural initiatives, and creating space for functional cooperation, even if not all member states participate equally. Centrality should be about enabling action, not obstructing it.

Lastly, the concern that a more united ASEAN would provoke China into greater hostility is not inevitable. A coherent ASEAN approach could

serve as a stabilizing force. It may push Beijing toward more serious negotiations by increasing the political cost of coercion. Unity does not necessarily mean confrontation; it can also mean credibility.

The slow demise of the Code of Conduct negotiations should not be seen as a diplomatic failure, but as a strategic inflection point. ASEAN must now diversify its tools, strengthen its internal coherence where possible, and embrace pragmatic cooperation where consensus is impossible. The region's security cannot be held hostage to an unfinished code. The time has come to move from symbolic diplomacy to strategic agency before the maritime status quo slips any further away.