



THE SOUTH CHINA SEA TERRITORIAL DISPUTES: A Multilateral Perspective

Event Report
1 December 2016

Institute of Defence
and Strategic Studies

Event Report

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A Multilateral Perspective

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Grand Copthorne Waterfront Hotel

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Report of a roundtable jointly organised by:

The Regional Security Architecture Programme,
Institute of Defence and Strategic Studies (IDSS),
S. Rajaratnam School of International Studies (RSIS),
Nanyang Technological University (NTU),
Singapore

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EXECUTIVE SUMMARY

1. Several bilateral and multilateral approaches have been utilised to attempt to manage the tensions involved in the South China Sea territorial disputes. Suggestions for a fresh alternative to the existing approaches include the adoption of a minilateral approach (i.e. trilateral or quadrilateral ad hoc groupings).
2. The changes in the Philippines' approach to the South China Sea under President Duterte (which includes his apparent move away from the U.S. towards China and his reluctance to emphasise the 12 July 2016 arbitral tribunal ruling) has significant implications for the region. This is especially so since 2017 is the year in which the Philippines takes on the role of ASEAN Chair.
3. With Donald Trump as the U.S. President, there is a great deal of uncertainty for the future of U.S.-ASEAN relations. If the U.S. does not engage ASEAN substantially and support its multilateral efforts in managing the South China Sea issue, Southeast Asian claimant countries might move towards an increasingly bilateral approach with China. This would then have implications for ASEAN's centrality in the regional security architecture.
4. Now that President Trump is likely to withdraw the U.S. from the Trans-Pacific Partnership (TPP), the Regional Comprehensive Economic Partnership (RCEP) is likely to have a larger role to play in the region. Therefore, it is important to examine the future of the RCEP and how ASEAN centrality could shape it since these issues would have implications for regional economics and security.
5. China's economic strategy in relation to the South China Sea has been to use "commercial diplomacy" to bring the ASEAN member states closer to China. This is also done with the hope that the ASEAN member states' respective South China Sea policies will be more accommodating of China's sensitivities.

6. It was argued that China has been using economic incentives/ disincentives to influence the Philippines' South China Sea policy. Under President Aquino, who had adopted a more hardline position towards China, it was noted that China had been tougher on the Philippines in economic terms. However, since Duterte became President and changed the Philippines' approach to the South China Sea disputes, China has responded favourably by lifting its travel warning to the Philippines and eased up on its previous ban on the import of bananas.
7. There needs to be more awareness of the economic implications of environmental damage in the South China Sea since the perceived lack of immediate economic effects by governments may hamper any efforts to implement real change. Even in the environmental sphere, a multilateral effort is essential for any successful outcome to materialise in the South China Sea.
8. The South China Sea's rich biodiversity must be protected from its two main threats of coral reef destruction and overfishing. The building of artificial islands and the increase in the trade of endangered species have contributed to the destruction of huge coral reef systems throughout the South China Sea.
9. Overfishing in the South China Sea could quickly turn into a huge security concern — the lack of fish in the region could lead to food insecurity for millions in the region, thereby causing unrest and poverty. A possible solution could be to set fishing quotas, which was something that Norway and the then Soviet Union had managed to agree to in the Arctic during the tension-filled years of the Cold War.

Panel Session 1: “Multilateral/Bilateral Approaches in the Politics and Security Domains”



Dr Euan Graham
Director, International Security Programme
Lowy Institute

Dr Graham noted that political events in Manila and Washington are accelerating a shift in the South China Sea, likely at the expense of ASEAN’s centrality in regional diplomacy. Southeast Asian states are likely to step up bilateral relations with each other and other interested external parties. However, in order to stand up to Chinese pressure, regional countries will need to consider minilateral approach (i.e. trilateral or quadrilateral ad hoc groupings). ASEAN efforts have centred on the Declaration on the Conduct (DOC) of Parties in the South China Sea and the Code of Conduct (COC) negotiations, and indirectly through ASEAN forums and Track II dialogues. The South China Sea issue has cast a divisive shadow over ASEAN meetings, but ASEAN did not fail the test entirely as the 12 July 2016 arbitral tribunal ruling was indirectly incorporated in some ASEAN documents. At the same time, China is bilateralising the issue to enable the maximisation of its relative strength. Dr Graham noted that despite the Philippines’ shift towards China, its ability to align ASEAN outcomes with China’s interests as the ASEAN Chair might be limited. Indonesia under Jokowi has been less active in leading ASEAN from behind the scenes, but China could potentially draw it out of neutrality through provocation. Finally, the U.S. would see a reduction of interest in ASEAN under Trump, but could still have a positive influence in supporting a rules-based approach in the South China Sea in minilateral engagements. The U.S. will remain engaged, but in a more transactional, interest-based and unilateral manner.

Panel Session 1: “Multilateral/Bilateral Approaches in the Politics and Security Domains”



Mr Julio Amador III
Deputy Director-General
Foreign Service Institute of the Philippines

Mr Amador III emphasised that the South China Sea disputes involved different sovereignty claims and interpretations of the United Nations Convention on the Law of the Sea (UNCLOS), including on freedom of navigation. He emphasised that the existing mechanisms to manage the disputes — including Vietnam’s systematic high level and party-to-party interactions with China — is in contrast to the lack of existing processes between China and the Philippines. Before the election of Duterte as President, the main response of the Philippines to perceived Chinese incursions had been to strengthen its military and the Philippines’ ties to the U.S. While the Philippines has tried to initiate high-level talks with China, they have always hit a roadblock whenever the latter insists on recognition of the nine-dash line. President Duterte has been able to reduce tensions and enabled fishermen to return to Scarborough Shoal, but he would be unable to discount the arbitral tribunal ruling, though he might give Beijing some concessions. Multilaterally, the ASEAN role comprises management of tensions rather than resolution, but bilateral mechanisms are necessary to prevent a deterioration into open conflict. China’s assertion to keep the discussions bilateral sidesteps ASEAN as a conflict management player, allowing China to dictate the terms of engagement and drag on COC negotiations. ASEAN has already faced problems even before President Duterte came into power: (i) Malaysia and Vietnam spoke of bringing about a group of South China Sea claimants together without involving ASEAN; and (ii) China’s check of a united ASEAN by engaging with Cambodia and Laos.

Panel Session 1: “Multilateral/Bilateral Approaches in the Politics and Security Domains”



Dr Bhubhindar Singh
Associate Professor, Coordinator of the Regional
Security Architecture Programme, IDSS
RSIS

Assoc Prof Singh sought clarification as to why the small states of ASEAN do not have collective institutions, why they did not feel more comfortable with fellow ASEAN members and the reasons behind them getting closer to China instead. He raised the question of whether China has a coherent strategy towards Southeast Asia, as well as the possibilities of unilateralism. He inquired on the implications of the Philippines’ Chairmanship of ASEAN, as well as its Country Coordinator role for ASEAN-China dialogue relations (starting from mid-2018). He also asked for the differences in Vietnam’s and the Philippines’ approaches towards China regarding the South China Sea disputes, and how ASEAN’s processes could be improved.

Panel Session 1: “Multilateral/Bilateral Approaches in the Politics and Security Domains”

Questions & Answers

The discussion focused on ASEAN’s role in the South China Sea dispute. One issue raised was ASEAN’s structural limitations, including the principle of consensus and the amount of individual sovereignty its member states are willing to forgo. Southeast Asian states value ASEAN not just for providing collective bargaining power towards major powers, but also against each other due to continuing mistrust, with the South China Sea claimants failing to develop a common platform. ASEAN will also be unable to move forward collectively, unless Indonesia invests in its processes. ASEAN’s membership is seen as too broad, allowing some countries to join ASEAN but with veto powers such that they could become tools for external powers. A participant suggested that ASEAN should reassert its centrality and take ownership of the South China Sea issue rather than treating it as a bilateral one. Suggestions were raised on the possibility of a new grouping of claimant states, a new concert of powers, or that ASEAN cut its membership to the original core maritime member states. There is also opportunity for the development of minilateral arrangements as a common platform providing recognition for one another’s claims and shared interests.

The Philippines would prioritise maritime security and look into non-political issues that China and ASEAN can work together on, such as marine protection. Despite his overtures to China, President Duterte views ASEAN as indispensable. The Philippines as the ASEAN Chair is unlikely to dilute the maritime agenda — unlike its Lao counterpart — since there have been no indications of any change in viewpoint from President Duterte’s administration regarding the Philippines’ sovereignty claims. Vietnam is engaging in both military balancing and continuing its close relationship with China. There was debate over whether Malaysia is truly pivoting to China, given its strong professed assertion on ASEAN having a united voice.

As for China, the country is said to have a regional military strategy, rather than a global one, involving the prevention of military intervention in its near seas. There was discussion on whether there was actual coordination between Chinese fishing vessels and the Chinese coast guard especially in the Natuna incident, and whether China has clarified its nine-dash line claims. As for the U.S., its ASEAN policy is considered to be in limbo, and

Southeast Asian countries may consequently be forced to cooperate more closely with one another. There might be a convergence between President Duterte and Trump, but it is uncertain how U.S.-Philippines relations (or the U.S.' Southeast Asia policy) will proceed. Australia will likely develop relations further with other ASEAN countries based on shared interests in a rules-based order, especially with Singapore.

Panel Session 2: “Understanding the South China Sea Disputes from a Multilateral Economic Perspective”



Dr Takashi Terada
Professor of International Relations, Faculty of Law
Doshisha University

Prof Terada spoke about China’s economic strategy in relation to the South China Sea and the impact of the Trans-Pacific Partnership (TPP) and Regional Comprehensive Economic Partnership (RCEP) on China. He emphasised China’s use of “commercial diplomacy” with the ASEAN member states and the fact that many countries had become the largest trading partner of China (instead of the U.S.) during the 2000s. China’s increasing economic pull definitely has had an impact on the foreign policies of several Southeast Asian countries. Regarding the TPP and RCEP, he said that if the TPP is to be realised (although admittedly that is only a slim possibility due to the Trump Administration) and if the RCEP is not achieved, China will suffer a loss of approximately US\$22 billion. He added that although the RCEP’s development has been quite modest and while it is more “shallow” than the TPP, RCEP’s strength lies in its wider and Asia-centered membership whereas the TPP is mainly dominated by the U.S. and Japan. China’s response to TPP was thus to set up the Asian Infrastructure Investment Bank (AIIB), which is proving to be very useful to help China connect to the Southeast Asian states. Through the AIIB’s assistance, some Southeast Asian states may be increasingly pulled into China’s sphere of influence, which would then have an impact on these countries’ respective South China Sea policies.

Panel Session 2: “Understanding the South China Sea Disputes from a Multilateral Economic Perspective”



Dr Malcolm Cook
Senior Fellow
ISEAS - Yusof Ishak Institute

Dr Cook spoke about three recent major changes regarding the South China Sea issue. First, the arbitral tribunal ruling has had global implications since it was the first ruling on what constitutes an island, a rock or a low-tide elevation. Second, the Philippines has changed the manner in which they pursue their claims. And lastly, China’s diplomatic approach to the Philippines has changed. He pointed out that China has been using economic incentives/disincentives towards the Philippines due to the latter’s South China Sea policy. He substantiated this claim by citing some punitive measures that China had enacted from 2012 to 2016 under President Aquino. These include: (i) the original Chinese “One Belt One Road” map did not include the Philippines; (ii) China gave less money than IKEA for humanitarian assistance to Typhoon Haiyan; (iii) issuance of a travel warning to Chinese tourists not to go to Philippines; and (iv) restriction of banana imports from the Philippines. President Duterte has however changed the Philippines’ approach to the South China Sea in ways that are more consistent with what China wants. For instance, the Philippines no longer uses “West Philippines Sea” to refer to the South China Sea. The Philippines has also reduced its commitment to the U.S.-Philippines alliance in areas that China finds sensitive. In return, China has responded favourably by lifting its travel warning to the Philippines and making it easier for the Philippines to export bananas and coconuts to China. This again shows that China is using its economic levers to influence other countries’ approach to the South China Sea disputes.

Panel Session 2: “Understanding the South China Sea Disputes from a Multilateral Economic Perspective”



Dr Kaewkamol Pitakdumrongkit
Assistant Professor and Deputy Head of Centre for
Multilateralism Studies
RSIS

Asst Prof Pitakdumrongkit sought further evidence of China’s threat to use sanctions against countries that did not support its position since threats alone can change other states’ behaviour. She also questioned whether China’s establishment of the AIIB was indeed a response to the TPP especially since the former’s focus on infrastructure is different from the latter’s focus on trade globalisation. Assuming that the TPP fails to be achieved, she suggested that the presenters could further examine questions such as “what is the future of the RCEP?” and “how ASEAN centrality would shape the RCEP?” since these issues would have implications for regional economics and security.

Panel Session 2: “Understanding the South China Sea Disputes from a Multilateral Economic Perspective”

Questions & Answers

The discussion included talk about the future direction of the Philippines-U.S. alliance and its impact on the South China Sea (especially under the leaderships of President Duterte and Trump). Although President Duterte has threatened to break the Philippines’ alliance with the U.S., Trump’s election victory might now be an opportunity to reset the direction of this bilateral relationship. Moreover, President Duterte is also moving the Philippines away from being a frontier state in the South China Sea disputes. He appears to want to improve bilateral relations with China in order to obtain more economic benefits from China.

On the topic of RCEP, the participants debated over the role of ASEAN in it. Some participants saw ASEAN centrality as critical to the success of the RCEP and of the fact that countries had to first be ASEAN+1 members before they could join RCEP. One participant spoke of how ASEAN could contribute to the wider East Asian region too since China, Japan and South Korea could develop some security cooperation in the future under the RCEP framework. However, some other participants were not convinced by the concept of ASEAN centrality in RCEP. For instance, it was argued that if Japan and China had not come together to make a joint announcement to make four working groups, RCEP may not have been launched in 2013. The additional argument against ASEAN centrality was that the ASEAN Economic Community (AEC) cannot go beyond its current level and it still needs to overcome some non-tariff barriers. Moreover, the AEC is essentially a low quality FTA whereas the RCEP involves a high-level framework.

Regarding the influence of China’s economic diplomacy on Southeast Asian states, one participant said that China’s economic power had already brought over many Southeast Asian states and that the South China Sea dispute is currently not as hot an issue as it was earlier in 2016. Besides examining China’s actions, it is also important to look at the issue from the other party’s perspective. For instance, why is Malaysia receiving China with open arms and willing to downplay its sovereignty claims in the South China Sea? In addition, the decrease in the price of oil in recent times may have also reduced the attractiveness of the South China Sea’s resources to countries in the region.

Panel Session 3: “Marine Environmental Protection in the South China Sea”



Mr Bertrand Theodor Santos
Law Reform Specialist
Institute for Maritime Affairs & Law of the Sea,
University of the Philippines Law Center

Mr Santos provided an account of the current state of the marine environment in the South China Sea. Two issues were highlighted: (i) the building of artificial islands; and (ii) the staggering increase in the trade of endangered species such as reef sharks, corals and giant clams. Both factors have contributed to the destruction of huge expansions of coral reef systems throughout the South China Sea. Overfishing is also a huge concern as it could prompt the potential collapse of regional fisheries as well as endanger food security and economic development. Whilst the election of President Duterte presents an opportunity to reset relations with China, his threats of withdrawal from the UN, the Climate Change Treaty or the International Criminal Court are adding a whole new layer of uncertainty to the South China Sea issue. Mr Santos argued that the Philippines must seek to recalibrate its position by establishing friendly relations with its neighbours and the wider ASEAN community. A good way to start re-establishing confidence would be for all claimants to engage in “uncontroversial” marine scientific projects. These projects have the potential of leading to more challenging cooperation schemes such as an eventual South China Sea-specific environmental COC.

Panel Session 3: “Marine Environmental Protection in the South China Sea”



Dr Tabitha Mallory
Director of Corporate Relations and Fellow
The National Bureau of Asian Research

Dr Mallory stressed that the rich biodiversity in the South China Sea must be protected as it has huge implications both economically as well as in terms of pharmaceutical research and scientific advancement. She argued that there are currently two main issues threatening the sea’s marine biodiversity: overfishing and coral reef destruction. As the region is severely over-fished, fishermen have started looking for other resources such as giant clams or coral, further perpetuating the vicious circle of overfishing and the marine environment destruction. The consequences of overfishing are already palpable: fisheries in the coastal areas are now engaging in subsistence fishing, endangering food security and economic development. Dr Mallory welcomed the Philippines’ recent decision to declare a lagoon within Scarborough Shoal a marine sanctuary. She also shed light on the South China Sea’s potential for eco-tourism, just like Palau did a few decades back, converting part of its area into marine sanctuaries might give the marine systems time to regenerate. Other ideas explored by Dr Mallory included the development of a legally binding instrument to govern maritime diversity.

Panel Session 3: “Marine Environmental Protection in the South China Sea”



Dr Tan See Seng
Professor of International Relations, Deputy Director
and Head of Research of IDSS
RSIS

Prof Tan acknowledged that all parties are guilty of overfishing in the South China Sea. He agreed that a multilateral effort is essential for any successful outcome to materialise in the South China Sea. He raised questions about the economic implications of environmental damage in the South China Sea and noted that the perceived lack of immediate economic effects may hamper any efforts to implement real change. He also asked how realistic it was for China to accept any concrete plans/proposals (this could include, for instance, the UN’s proposal of creating an international legal instrument of governance for marine diversity) without being perceived as being too tied to the arbitral tribunal ruling or yielding to international demands. Accepting that marine biodiversity transcends national jurisdiction could be seen as a “move away from sovereignty” by certain elements of Chinese society, which is a prospect dreaded by China.

Panel Session 3: “Marine Environmental Protection in the South China Sea”

Questions & Answers

The participants recognised the importance of acquiring a long-term vision when implementing environmental policy in the South China Sea, especially concerning overfishing. Overfishing could quickly turn into a huge security concern: if food security cannot be guaranteed, unrest and poverty will ensue. Setting fishing quotas could be a solution. Although their implementation might be a thorny issue, there have been positive examples in history that could set a precedent for the South China Sea. A participant noted how in the midst of the Cold War, Norway and the then Soviet Union agreed on a set of quotas to tackle overfishing in the Arctic.

Another major theme running through the discussion was the need to start a cohesive, region-wide effort to protect marine biodiversity in the South China Sea. A participant noted that when hard action was taken against illegal giant clam harvesting in the sea, Chinese border officials saw an unprecedented surge in smuggling via land borders in Guangxi province, evidencing how illegal activities would only come to a stop when a region-wide strategy is developed.

Finally, the discussion also included talk of the Philippines’ response to the arbitral tribunal ruling. Participants noted that its response has been rather smart: by giving China “some room”, this will help soften behaviour from both sides. A participant further added that China cannot be seen as giving into international demands due to its domestic public opinion considerations. Therefore, the Philippines’ softer stance when dealing with the ruling might generate more constructive responses from China.

Roundtable Programme

0930 hrs

Registration

1015 hrs

Panel 1: Multilateral/Bilateral Approaches in the Politics and Security Domains

Moderator and Discussant

Dr Bhubhinder Singh

Associate Professor and Coordinator, Regional Security Architecture Programme, IDSS, RSIS

Speakers

Dr Euan Graham

Director, International Security Program, Lowy Institute

Mr Julio Amador III

Deputy Director-General, Foreign Service Institute, The Philippines

1200 hrs

Lunch

1330 hrs

Panel 2: Understanding the South China Sea Disputes from a Multilateral Economic Perspective

Moderator

Dr Bhubhinder Singh

Associate Professor and Coordinator, Regional Security Architecture Programme, IDSS, RSIS

Speakers

Dr Takashi Terada

Professor of International Relations, Faculty of Law, Doshisha University

Dr Malcolm Cook

Senior Fellow, ISEAS-Yusof Ishak Institute

Discussant

Dr Kaewkamol Pitakdumrongkit

Assistant Professor and Deputy Head of Centre for Multilateralism Studies, RSIS

1515 hrs

Coffee Break

1530 hrs

Panel 3: Marine Environmental Protection

Moderator and Discussant

Dr Tan See Seng

Professor of International Relations, and Deputy Director and Head of Research of IDSS, RSIS

Speakers

Mr Bertrand Theodor Santos

Law Reform Specialist, Institute for Maritime Affairs & Law of the Sea, University of the Philippines Law Center

Dr Tabitha Mallory

Director of Corporate Relations and Fellow, The National Bureau of Asian Research

1715 hrs

Closing Remarks

Dr Bhubhinder Singh

Associate Professor and Coordinator, Regional Security Architecture Programme, IDSS, RSIS

Speakers and Discussants

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Foreign Service Institute of the Philippines

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ABOUT THE INSTITUTE OF DEFENCE AND STRATEGIC STUDIES

The Institute of Defence and Strategic Studies (IDSS) is a key research component of the S. Rajaratnam School of International Studies (RSIS). It focuses on defence and security research to serve national needs. IDSS faculty and research staff conducts both academic and policy-oriented research on security-related issues and developments affecting Southeast Asia and the Asia Pacific. IDSS is divided into three research clusters: (i) The Asia Pacific cluster – comprising the China, South Asia, United States, and Regional Security Architecture programmes; (ii) The Malay Archipelago cluster – comprising the Indonesia and Malaysia programmes; and (iii) The Military and Security cluster – comprising the Military Transformations, Maritime Security, and Humanitarian Assistance and Disaster Relief (HADR) programmes. Finally, the Military Studies Programme, the wing that provides military education, is also a part of IDSS.

For more information, please visit www.rsis.edu.sg/research/idss.

ABOUT THE S. RAJARATNAM SCHOOL OF INTERNATIONAL STUDIES

The S. Rajaratnam School of International Studies (RSIS) is a professional graduate school of international affairs at the Nanyang Technological University, Singapore. RSIS' mission is to develop a community of scholars and policy analysts at the forefront of security studies and international affairs. Its core functions are research, graduate education and networking. It produces cutting-edge research on Asia Pacific Security, Multilateralism and Regionalism, Conflict Studies, Non-Traditional Security, International Political Economy, and Country and Region Studies. RSIS' activities are aimed at assisting policymakers to develop comprehensive approaches to strategic thinking on issues related to security and stability in the Asia Pacific.

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