

# Managing the South China Sea Disputes: A View from Cambodia

Vannarith CHHEANG

Cambodian Institute for Cooperation and Peace

Vannarith CHHEANG is Executive Director of the Cambodian Institute for Cooperation and Peace. A graduate of the Institute of International Relations in Vietnam, he received his MA in international relations from the International University of Japan and his Ph.D. in Asia Pacific studies from the Ritsumeikan Asia Pacific University. His research interests include international relations in East Asia and the Cambodian political economy.

\* 이 글에 포함된 의견은 저자 개인의 견해로 제주평화연구원의 공식입장과는 무관합니다.

At the 20th ASEAN Summit held in Phnom Penh in early April 2012, ASEAN member states extensively discussed on the South China Sea with incremental progress in moving toward common understanding and approaches to the issue. China and ASEAN seem to share common views that Code of Conduct (COC) should not aim to solve the sovereignty dispute but it is an important instrument to promote cooperation, deepen trust, and ensure peace and stability in the region. COC is part of the implementation of the Declaration on the Conduct of Parties in the South China Sea (DOC). It needs to be progressive and incremental.

The ASEAN leaders, at the 20th ASEAN Summit, reaffirmed the importance of DOC, the universally recognized principles of international law, including the 1982 United Nations Convention on the Law of the Sea (UNCLOS), and the willingness to move forward for the eventual realization of COC. The ASEAN leaders supported the convening of the ASEAN-China Joint Workshop to commemorate the 10th Anniversary of the DOC, in Cambodia, in the fourth quarter of 2012. They also looked forward to the holding of the 5th ASEAN-China Senior Officials' Meeting on DOC and the 8th Meeting of the ASEAN-China Joint Working Group. Moreover, ASEAN Maritime Forum (AMF) and other existing ASEAN mechanisms are encouraged and believed to contribute to regional maritime security cooperation.

The ASEAN Leaders shared the common views that the existing ASEAN-China Mechanisms on the DOC should be the way forward to ensure peace and stability with regard to the South China issue, and the interference from the outsiders would complication for ASEAN to address the issue on South China Sea. However, there is no consensus within ASEAN regarding whether China should be included

in the process of discussion on the key elements of COC.

With regards to the process of discussion the key elements of COC, there are several pending issues need to be addressed including how to define and clarify the disputed and non-disputed areas, and joint cooperation areas in the South China Sea, and whether to include dispute settlement mechanism in the COC.

South China Sea issue is also discussed at different forums in ASEAN and between ASEAN with dialogue partners. In the joint declaration of the ASEAN Defence Ministers' Meeting which is adopted on 29 May 2012, it reaffirms ASEAN Member States' commitment to fully and effectively implement the Declaration on the Conduct of the Parties in the South China Sea, and to work toward the adoption of a regional Code of Conduct in the South China Sea that will further promote peace and stability in the region underscores the importance of freedom of navigation in, and over-flight above, the South China Sea as provided for by universally recognized principles of international law, including the 1982 United Nations Convention on the Law of the Sea (UNCLOS) and welcomes the ASEAN Maritime Forum (AMF) as a venue for enhancing regional maritime cooperation, including the proposal to convene an expanded AMF as noted by the 19th ASEAN Summit and the 6th East Asia Summit, and reinforce the ADMM's efforts to actively participate in the Forum.

For the upcoming ASEAN Regional Forum in July 2012, 21st ASEAN Summit in November 2012, and 7th East Asia Summit, South China Sea will be one of the topics for discussion and elaboration. Cambodian Prime Minister Hun Sen stated at the press conference after the 20th ASEAN Summit in Phnom Penh that South China Sea was regarded as an important wheel or instrument of building an ASEAN Community. It had become a norm for ASEAN to discuss the issue in order to promote peace and stability in the region. But he emphasized that South China Sea needed to be addressed and solved under ASEAN-China framework only.

Reflecting on the past experiences, we can approach the South China Sea based on several instruments such as confidence building measures, resolving the conflict through dialogues and cooperation, promoting information sharing and transparency, implementing preventive diplomacy, linking security with economic interests, enhancing the roles of military in promoting cooperation to address non-traditional security issues, strengthening regional institution especially ASEAN, respecting international laws and regional legal instruments, and working towards the realization of the Code of Conduct.

South China Sea needs to be examined in the complex connection between economic and security dimensions. Stronger economic interdependence and link between the claimant states can reduce tension. The claimant states and stakeholders of the South China Sea need to improve confidence

and trust among themselves. Specific issues should be identified and discussed to find common solution based on common understanding and interests. Frank exchange of views on the issues at all tracks including track 1 and track 2 should be further strengthened.

We need to solve the disputes and differences through dialogue and cooperation. Things need to be changed from zero sum game to positive sum game or win-win for all parties from blame game to frank dialogue and negotiation from sticking to position to the understanding of motivations from strategic competition to strategic and economic cooperation and integration and from nationalism to regional citizenship and interests.

Both bilateral and multilateral dialogues and cooperation need to be maintained and strengthened at both formal and informal mechanisms. Full coordination between and among concerned parties is necessary. Hot line communication and cooperation between Vietnam and China is a good example.

The claimant states need to exercise utmost restraints in any action that may lead to tension and conflict. The engagement of the extra-regional powers should be restricted at a certain level in order to avoid strategic misunderstanding. In order to build trust and confidence, all parties need to be more transparent in their activities in the South China Sea. Information sharing mechanism needs to be strengthened.

Regional preventive diplomacy mechanism and real implementation steps should be in place in order to make sure that regional peace and stability can be surely maintained and guaranteed. The claimant states need to sustainable bilateral mechanisms together with multilateral framework in order to build trust and confidence and identify as early as possible the potential risks and differences that can stir the tension and disrupt regional cooperation process.

International Law is the foundation of the international cooperation, development, management and solution of the South China Sea. As far as regional legal framework is concerned, the Code of Conduct built upon the Declaration on the Conduct of Parties in the South China Sea (DOC), is necessary since it can provide more binding legal principles to shape the behavior of the state parties in the South China Sea.

The new areas cooperation should focus more on the role of the militaries such as establishing and bringing into full play the existing cooperation mechanisms among ASEAN armed forces such as ASEAN Defence Ministers' Meeting (ADMM), ADMM Plus, ASEAN Naval Chiefs' Meeting (ANCM), ASEAN Heads of Asia Coast Guard Agencies Meeting strengthening the capabilities and close coordination among maritime forces which include naval forces, maritime police, border guards, customs, and other forces to combat crimes at sea, while providing assistance in mitigating consequences of natural disasters establishing hot lines among navies, maritime police forces, border

guards, customs to share information launching sea patrols to cope with non-traditional security issues cooperating in training and scientific research aimed at enabling the capacity to cope with maritime security challenges providing assistance in logistics and technical equipment, improving the capabilities of armed forces to tackle maritime security challenges and conducting regular search and rescue exercises.

May 29, 2012

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