While the South China Sea, with all its complexities, is a potential conflict area, it may also be an area of cooperation with vast potential benefits to the different stakeholders. Certainly this is how the Philippines and Vietnam look at the South China Sea. Both countries have consciously taken the choice of turning this area from a conflict area to an area of cooperation. Over the years, both countries have embarked into ventures that have concretized this choice.

Introduction

There have been so many discussions on the South China Sea, many of these are often focused on it as an area of potential conflict. Looking back at the history and evolution of the South China Sea, these discussions may arguably provide an accurate picture of area – accurate, but not necessarily complete. As with any matter or issue that is being discussed, there are always other facets to the picture that may not be looked upon. While the South China Sea, with all its complexities, is a potential conflict area, it may also be an area of cooperation with vast potential benefits to the different stakeholders.

Certainly this is how the Philippines and Vietnam look at the South China Sea. Both countries have consciously taken the choice of turning this area from a conflict area to an area of cooperation. Over the years, both countries have embarked into ventures that have concretized this choice. While some analyst or commentators would consider these initiatives as modest when compared to the complexities of the South China Sea, or even compared to the work that is yet to be done to manage the disputes, the Philippines and Vietnam definitely consider these as significant steps toward even greater and wider cooperative mechanisms in the South China Sea.

This paper will highlight and describe these cooperative ventures and projects by the
Philippines and Vietnam, the framework in which they were undertaken, the lessons that both countries have learned, and more importantly how these lessons can be used as springboard of future bilateral and multilateral cooperation with other claimants in the South China Sea.

It is the hope that in the modest discussions of these matters in this paper, a broader participation and commitment in making the South China Sea an area of cooperation will be solicited.

Changing Mindset: The South China Sea As A Sea That Binds

As earlier postulated, the modern history of the South China Sea, at least from the post-colonial times up to the present is that it is considered as a flashpoint because of the conflicting claims of several states to the geographical features nestled in this vast area of water. The South China Sea also provides key maritime routes for international navigation as well as naval routes for maritime powers; and contains copious fisheries and mineral resources.

The South China Sea is commonly described as one of three flashpoints (together with the Korean Peninsula and Taiwan Straits) in East Asia for the potential conflict of national interests and threat to peace and security. Security issues around it therefore always remain a focus of international concern. As a semi-enclosed sea, the South China Sea hosts numerous islets and reefs as well as abundant living and non-living marine resources. It also provides key sea routes for maritime shipping and naval mobility. Because of its important strategic location and abundant resources, it becomes a target of contention between/among bordering countries.

In other words, the South China Sea is considered as a sea that divides the interests of different countries, most especially the littoral states surrounding it. However, it must be noted that the South China Sea’s much older history holds a different context for this sea. The South China Sea is vital in connecting vast expanses of land and nations. Prior to European colonization of lands in South East Asia, the Chinese and other seafaring peoples of Asia used the South China Sea as a major shipping and trade route between mainland Asia and Southeast Asia.

The South China Sea route was also a major link between South and West Asia. It was along
the so-called “maritime silk road” which starts from Guangzhou and traversing the straits of Malacca, Indian Ocean, Persian gulf, to the lands in West Asia.

This role expanded in the advent of European colonization. During these times, the South China Sea was used by the European powers as the main access route to and from the ports of Shanghai and Hong Kong, connecting to the Straits of Malacca, in order to trade European goods for Chinese products and other items from mainland Asia.

Indeed, the South China Sea was vital to both the very active intra-regional trading activity in Asia and the transformation of Asia as one of the “fulcrum of the virtual globalized trading at that time.” [2] Of course, incidental to the trade activity, the South China Sea also facilitated the socio-cultural exchanges of peoples within Asia and beyond.

It other words, it was a binding sea.

It is from this standpoint or mindset that one can approach the current challenge of the South China Sea issue. Of course, it is extremely naïve to say that we can set aside the preceding history after these:

Political events in later history, however, disrupted the further development and consolidation of these socio-economic relations among countries of our region. It was clear that the old world, later emulated by the new world, would not be content with sharing products and resources through trade. The geopolitical strategy pursued by extra-regional Powers was to acquire, control and colonize the source of goods and natural resources. And when the interlopers were finally evicted after centuries of domination, imposing differing socio-political structures and governance orientation among the countries of the region, we found ourselves total strangers to each other. [3]

But we could not (and should not) be paralyzed by these turn of events. The juxtaposed contexts of the South China Sea in these two historical contexts clearly teach us an important lesson: that the Sea is what we make of it. It is our choice.
Certainly, it is difficult to just set aside the claims of the countries as these claims are based on many political, social, national, and sometimes sentimental, considerations. But we have found ourselves in this situation where clearly, as earlier demonstrated, we have a choice.

The Philippines and Vietnam have time and again chosen to look at the South China Sea as a sea that binds rather than divides us by trying to promote cooperation of common interests. We have not, in any means, given up any of our claims, but we have certainly worked towards our commonalities rather than our differences. Thus, it is in this mindset that we made cooperation possible. It may not be all the time that we have embraced this perspective, indeed there are still times when we are divided, but on those times that we did adopt the view that the sea is a binding element in our relations, it has bore fruition.

It is also from this perspective that more enduring cooperative endeavors can be achieved, and perhaps an overarching regional cooperative architecture can be established in consonance with existing bilateral framework and evolving multilateral framework, including international law and the Law of the Sea.

**JOMRSRE: Impetus of Philippines-Vietnam Cooperation in the South China Sea**

**Overview of JOMSRE**

The Joint Oceanographic and Marine Scientific Research Expedition in the South China Sea (JOMSRE-South China Sea) is a cooperative bilateral marine scientific research activity initiated by the Philippines and Vietnam in 1994. RP-Vietnam JOMSRE-South China Sea was intended as a bilateral confidence-building measure in the South China Sea agreed upon between the Philippine President Fidel V. Ramos and the Socialist Republic of Vietnam’s President Le Duc
Anh. Between 1994 and 2007, four JOMSRE activities (JOMSRE I to IV) were completed. The four JOMSREs covered the southern part of the South China Sea.

In 2003, the two countries agreed to institutionalize the RP-Vietnam JOMSRE-South China Sea. Subsequently, the Philippines and Vietnam agreed on the expansion of JOMSRE to include scientists from other countries, principally the riparian states from ASEAN, and China. In 2007, during the 4th meeting of the RP-Vietnam Joint Permanent Working Group on Maritime and Ocean Concerns (JPWG-MOC), the Philippines and Vietnam agreed to conclude and designate as Phase I the RP-Vietnam JOMSRE-South China Sea (JOMSRE I-IV). It was further agreed that a JOMSRE-South China Sea Phase II would cover the northern part of the South China Sea and be the next higher and enhanced level of maritime cooperation in the South China Sea. This would include the participation of other ASEAN member countries, and China and international organizations in keeping and towards the direction of, implementing UNCLOS Part IX on Enclosed and Semi-enclosed Seas.

**Why Oceanographic Marine Scientific Research in the South China Sea?**

Even before the escalation of tensions in the South China Sea in 1997 when the Panganiban (Mischief) Reef incident happened, the Philippines and Vietnam already saw common interests in the South China Sea and were already willing to set aside their differences to initiate cooperative undertaking in the South China Sea.

Recognizing the South China Sea’s important biodiversity and the need to protect it, both countries saw the necessity to conduct scientific surveys on the area. At that time, there have been very few of these surveys because of its isolation and the intermittent political tensions that are present there.

The foremost significance of JOMSRE-South China Sea, for marine science and the participating scientists, as well as the countries they represent, is that in this sea area of study, a wide coverage of the South China Sea, no systematic scientific investigation has ever been conducted before. It is therefore virgin territory, a virtual marine science frontier. [4]

Both Governments believed that science is a very compelling reason to embark on joint cooperation, and science transcends politics. Both countries were conscious that the scientific
data generated from such surveys would be of value not only for both countries but also for the rest of the scientific community and in the concerted efforts of various stakeholders to protect and conserve the environment.

...the fact remains that there is a serious dearth of data on the marine environment of the South China Sea that is necessary for a coherent, holistic and credible ocean governance requirements, whether for the establishment of a management mechanism, the formulation of policy, or practical programs for the conservation and management of resources, including especially fisheries and biodiversity. A new add-on subject of study is on climate change, its impact on the marine environment and productivity of the South China Sea, and how possible adverse effects could be addressed or mitigated. [5]

In the course of the four expeditions, a large amount of scientific information has been generated, according to Prof. Dr. Nguyen Khoa Son, Vice President of the Vietnam National Academy of Science and Technology, these data has improved “our understanding and database of natural conditions and natural resources in the South China Sea.”

Many of us who are not scientist might be overwhelmed if we looked deeply into the scientific findings of the Expedition, but in a very palatable and general way, the implications of the JOMSRE-South China Sea was elucidated by Dr. Nguyen Tac An and Dr. Bui Hong Long of the Institute of Oceanography in Nha Trang; their summary of the findings certainly makes even non-scientist (like most of us) appreciate the value of the whole exercise: [6]

Data collected and analyzed during the four JOMSREs have contributed to further understanding of the oceanographic, biological and geological characteristics of the South China Sea and its biodiversity (ecosystems, species compositions). South China Sea is a large marine ecosystem that includes many sub-ecosystems and has an important ecological roles in the development of the surrounding nations, Asia and the world. South China Sea performs important functions such as reducing the impacts of natural disasters, providing support and services for different marine economic activities.

JOMSRE’s results...can be regarded as fundamental scientific basis for further
understanding of the South China Sea
and for co-operative programs
(such as)… (1) prevention and reduction of the impacts of natural hazards, (2) mitigation of the impacts of, and adaptation to, climate change…(3) safeguarding of the health of oceans and ecosystems, and (4) formulation of management procedures and policies leading to the sustainability of coastal and ocean environment and resources. (emphasis added)

It is clear from this description that JOMSRE-South China Sea indeed is a worthwhile endeavor. The 14 years of sustained scientific research is a landmark achievement both for science and the bilateral confidence building activities envisioned in the South China Sea:

The successful conduct of the JOMSREs during the past 14 years reflects the goodwill between Vietnam and the Philippines in promoting their foreign relations and cooperation for mutual benefit. The political and diplomatic significance of JOMSREs has been acknowledged and affirmed by Vietnamese and Philippine high-ranking leaders in high-level meetings involving the scientists and the media.

JOMSREs’ success in the terms of scientific and practical values is evidence of the friendly cooperation between the two nations for mutual benefit and regional security, and has important meaning for the eco-security in the South China Sea and in the world. [7]

It is also important to note that cooperation in marine scientific research (MSR) is also fully supported by the United Nations Convention on the Law of the Sea (UNCLOS) to which both the Philippines and Vietnam are Parties to. Part IX of UNCLOS prescribes that States bordering an enclosed or semi-enclosed sea, like the South China Sea, to co-operate with each other in the exercise of their rights and in the performance of their duties. Among areas of cooperation specified is to “undertake where appropriate joint programmes of scientific research in the area” (UNCLOS Article 123 (c)).

The Future of JOMSRE-South China Sea

The Philippines and Vietnam remain firmly committed in continuing the JOMSRE-South China
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Sea. As mentioned, in 2007, the Philippines and Vietnam have agreed to expand the scope of the Expedition, both in terms of subject and area. They have also agreed to China’s participation in future JOMSREs.

China’s participation is certainly welcome. This will cement the value of JOMSRE as a viable, practical, and important cooperative mechanism in the South China Sea. Hopefully, other riparian States in the South China Sea will also be part of this endeavor. This would further create momentum to a wider cooperative architecture in the South China Sea.

**Building Blocks: Other Philippines-Vietnam Confidence-Building Efforts**

**Joint Marine Seismic Undertaking (JMSU)**

The JMSU was a tripartite agreement among the national oil corporations of China, the Philippines, and Vietnam. [8] The JMSU is a three-year term Agreement of a three-phased study consisting of data gathering, consolidation, and interpretation of seismic data.

Just like JOMSRE-South China Sea, JMSU is a joint undertaking of a scientific nature. Seismic survey is primarily a scientific tool of marine geology for understanding certain aspects of ocean floor; it a sophisticated form of geophysical survey to gather information about submarine topography. [9] Seismic surveys are particularly useful for locating oil and gas deposits commonly found in sedimentary rocks in deep ocean. Primarily, however, seismic surveys remain first and per se scientific tools even though they might be commercially valuable to oil companies. [10]

The JMSU lapsed on 30 June 2008. Notwithstanding some complications and controversies encountered later on by the JMSU, its concept became viable primarily because of its scientific value. In fact the concept of joint marine seismic surveys is still feasible because of this. As Prof. Buszynski of the International University of Japan asserted in last year’s Workshop in Hanoi, the value of JMSU is that “it pointed to possibilities that could be explored in the future...” [11]
Certainly, the JMSU has taught many lessons for all the parties involved and these will be taken into account the Philippines, China, and Vietnam in future joint undertakings. What is important is that an attempt by three important players in the South China Sea was made to forge such cooperation and make it effective and practicable for all parties.

**MOAs on Maritime and Ocean Concerns**

The year 2010 alone, in a span of less than six months apart, the Philippines and Vietnam signed three significant Memorandums of Agreement (MOA) on various maritime and ocean matters which, aside from their value specific to their subject matter, are also forms of confidence-building measures. These three MOAs are: MOA on Cooperation on Fisheries, MOA on Oil Spill Preparedness and Response, and MOA on Search and Rescue at Sea.

The MOA on Fisheries Cooperation was signed on 28 June 2010 in Hanoi. It is a general framework agreement that would pave the way for specific cooperation in the field of fisheries including, among others, exchange of information and data on fisheries, aquaculture development, research activities, post-harvest, and food safety developments and similar cooperation. It also commits the two countries to cooperate on the prevention and combating on illegal, unreported, and unregulated (IUU) fishing. The last point on IUU fishing is particularly essential considering that the Philippines and Vietnam share the same commercial fish stocks in the South China Sea – like scads, mackerels, tuna, and other highly migratory fish stocks – which would be endangered by illegal fishing activities.

The MOA on Cooperation in Oil Spill Preparedness and Response and the MOA on Search and Rescue at Sea were both recently signed during the State Visit of Philippine President Benigno S. Aquino III to Vietnam last 26-27 October 2010. The MOA in Oil Spill Preparedness and Response aims to enhance the capacity of both countries to prevent, control, mitigate and protect the marine environment against pollution caused by oil spills.
This is particularly important in light of recent incidents of oil spills around the world, especially in the Gulf of Mexico. The Philippines and Vietnam have rich marine biodiversity and a large portion of their population is dependent on marine resources. Both countries jointly acknowledge that environmentally destructive incidents, especially oil spills and spills of other noxious substances, could have adverse social and economic impacts to their people.

The MOA on Cooperation in Search and Rescue will facilitate mutual assistance between the Philippines and Vietnam to conduct effective, prompt, and enhanced search and rescue activities for people, vessels, and aircraft in distress at sea. Such cooperation is vital to both countries in the context of their geophysical characteristics. The Philippines is both a maritime and archipelagic country surrounded by waters while Vietnam has an extended coastline. Accidents at sea are recurring occurrences in both nations and adequate responses are needed to save lives and property in such incidents.

Although the application of these MOAs is not specific to the South China Sea, these agreements are evidently results of the continuing maturity and strength of Philippines-Vietnam relations, especially in maritime and ocean matters, in spite of the lingering South China Sea issue.

The focus of the Agreements also indicates that the Philippines and Vietnam have deliberately set-aside their differences in the South China Sea to enhance cooperation on matters which are vital to both their interests. The convergence of these interests and the willingness to acknowledge and act on this convergence is a step in the right direction when bilateral and multilateral cooperative activities will be eventually considered in the disputed areas in the South China Sea.

**Joint Permanent Working Group on Maritime and Ocean Concerns (JPWG-MOC)**

Note that the MOAs mentioned above and the JOMRSE-South China Sea, as well as other promising discussions on future cooperation, were products of the Philippines-Vietnam JPWG-MOC. The JPWG-MOC was established in 2003 by the Philippines-Vietnam Joint Commission on Bilateral Cooperation (JCBC) to serve as a venue in discussing maritime cooperation between the two countries. The first meeting was held in February 2004 in Manila.
The JCPWG discusses cooperative pursuits in areas such as marine scientific research, marine environmental protection, climate and weather studies, fisheries cooperation, safety and security of navigation, and ocean governance. It has contributed much to the improved overall bilateral relations of the Philippines and Vietnam. The last JPWG-MOC (5th) was held in Hanoi in November 2009.

**Partnership in ASEAN and in Other Multilateral Forums**

Philippines and Vietnam have also aligned their interests and their efforts in various multilateral settings, especially in ASEAN, to manage potential conflicts in the South China Sea and to explore effective undertakings that would lead to cooperation.

Both countries have shown their solidarity with ASEAN and their sincerity in trying to find a peaceful solution to the problem in partnership with China when both actively participated in formulating the Declaration of Conduct of Parties in the South China Sea (DOC-South China Sea), which was eventually signed by ASEAN and China in November 2002.

Over the years, both countries have adhered to the provisions of the DOC and have consulted with each other to find common grounds in its implementation. During Vietnam’s Chairmanship of ASEAN in 2010, the Philippines showed unequivocal support for Vietnam’s leadership in trying to come up with implementing guidelines of areas of cooperation envisioned by the DOC-South China Sea.

Like in their purely bilateral undertaking, the Philippines and Vietnam worked hand in hand and in consultations with each other on other maritime and ocean issues discussed not only in ASEAN, but other multilateral organizations, like the IMO, UN, and others. The goodwill generated by finding common positions in these multilateral forums contributes further to both countries’ attitude of setting aside their differences in favor of more productive and beneficial pursuits.
Views On Philippines-Vietnam Cooperation And Future Of Cooperation In The South China Sea

From the discussions above, it is clear that the Philippines and Vietnam are well advanced in trying to find common grounds in dealing with the South China Sea issue, both bilaterally and multilaterally. From the experience of the two countries there are number lessons that can be learned:

· First, there must be a constant affirmation that there is only a single path to achieve peace and stability in South China Sea region, and that is through cooperation. There must be an acknowledgment that while South China Sea has been a source of misunderstanding among countries in South East Asia and China, it could also be a “binding” sea that can draw their common interests. In line with this idea, The Philippines has been discussing informally with other countries its proposal to declare the South China Sea as a Zone of Peace, Freedom, Friendship and Cooperation (ZPFFC) leading to a new management and security architecture in the South China Sea. There are no concrete modalities yet on how this could be implemented, but the idea is clear – to turn the South China Sea from a zone of tensions and conflict into an area of peace and cooperation.

· Second, there must be effort at building upon the positive gains of what has been achieved. This is now what the Philippines and Vietnam is working on, for example, in JOMSRE-South China Sea. Both countries have opened up the activity to China to expand its scope. In the future, other riparian States could also be part of the Expedition. The inclusive attitude towards cooperative undertakings in the South China Sea will eventually redound to more success and benefits for all stakeholders.

· Building on the success of the DOC should also be a priority for ASEAN and China. This can either be done through formulation of implementing guidelines of cooperative projects in the South China Sea or maybe even a Regional Code of Conduct.

· Third, consciously setting differences to concentrate more on vital common interest will lead to more positive results. Issues such as marine scientific research, marine environmental protection, climate and weather studies, fisheries cooperation, safety and security of navigation, and ocean governance could, in the meantime, take precedence over territorial issues. This has
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proven effective in the case of JOMSRE-South China Sea. There are other practical pursuits consistent with the matters mentioned which Vietnam and the Philippines are trying to push. Vietnam, for example, has proposed the idea of establishing Marine Protected Areas (MPAs) in the South China Sea, while the Philippines has proposed a Transborder Marine Peace Park (TMPP) in the South China Sea.

These proposals are laid out to common vital interests, which transcend borders and territorial claims, such as protecting biodiversity, conserving fisheries, and preventing further loss of fish stocks to sustain fisheries resources.

Fourth, the idea that the South China Sea could be a “binding” sea must not be seen merely as abstract idea. There are concrete and well-established principles of international law that points to this direction and serves as a guidepost towards this end. Part IX of UNCLOS, to be specific, provides for a holistic regional ocean governance mechanism that addresses all maritime concerns in a joint, collaborative, and cooperative manner among all possible stakeholders, from coastal/regional States, extra-regional States, to international organizations/non-governmental organizations.

The Philippines and Vietnam has always made all their joint cooperation consistent with international law and especially with UNLCOS. All parties to the South China Sea issue must seriously look into UNCLOS Part IX, including its suggestion to establish a regional maritime organization that could manage regional cooperation in enclosed and semi-enclosed sea, and how this can be applied to the South China Sea.

By discussing these lessons and insights from the Philippines-Vietnam partnership and cooperation in the South China Sea over the years, it is not the intent of this paper to simplify the matter. Conceptually, these lessons are easy to understand, they are, however, difficult to operationalize. This fact has to be acknowledged in order to have a realistic approach to cooperation in the South China Sea. But what the Philippines and Vietnam have also shown throughout the years is that even in the face of seemingly insurmountable challenges in the initial or planning stages of these cooperative endeavors, these can still be achieved by having patience and persistence.

Both countries remain optimistic that cooperation in the South China will continue to thrive and this has been articulated by leaders of both Governments. With the various initiatives underway between the two countries, the Philippines and Vietnam are certainly working hard,
individually and bilaterally, to be dependable pillars in promoting cooperation in the South China Sea.

Author’s Biography

**Atty. Henry Sicad Bensurto Jr.**, is the current Secretary General of the Commission on Maritime and Ocean Affairs (CMOA) Secretariat, Department of Foreign Affairs, Philippines. He is a recipient of the Presidential Award of Gawad Mabini (with the Rank of Commander) for his distinguished contribution and leadership in the passage of Republic Act No. 9522 otherwise known as the Philippine Archipelagic Baselines Law, which came into fruition after 27 years of government efforts in attempting to harmonize Philippine domestic laws with the UN Convention on the Law of the Sea (UNCLOS). As Secretary General of CMOAS, he likewise shepherd the preparation and submission of the Philippine partial claim for Extended Continental Shelf (ECS) before the UN Commission on the Limits of the Continental Shelf (CLCS) in April 2009. As a career diplomat, he has served in various capacities in Philippine diplomatic missions abroad; his most recent was in Washington D.C.

He earned his Bachelor’s Degree in Political Science (minor in Economics) at the University of the Philippines in 1985 and his law degree from the San Beda College of Law, Manila, in 1990. He pursued Graduate studies on Foreign Service at Oxford University in 1995-1996 with a Distinction on Public International Law and Merit on International Trade. He has a Diploma on the Law of the Sea at the Rhodes Academy of Oceans Law and Policy, Rhodes, Greece; Certificate on National Security Law from the National Security Law Institute, Center for National Security at the University of Virginia School of Law, Charlottesville, VA. He also attended short term courses on international Trade Law and Human Rights Law at the Georgetown Law Center and American University in Washington DC.


[3] Ibid.


[5] Ibid.


[7] Ibid.

[8] These are the Chinese National Offshore Oil Corporation, Ltd. (CNOOC), and the Philippine National Oil Company (PNOC), and PetroVietnam.

Just as much as pure biological research is useful to commercial fishery interests, and much fundamental research on the physical properties of the oceans will be used by the designers of military weapons and detection systems. E.D. Brown. The International Law of the Sea, Vol. 1. Aldershot:1994, p. 129.