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**South China Sea Issue in China ASEAN Relations:
An Alternative Approach to Easy the Tension**

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1. Introduction

The tension in the South China Sea among China and the ASEAN's claiming states over the sovereignty has been drastically escalating since 2009 that almost overturn the sound political and economic relations establishing among China and the states concern since 1997 which were usually described as being "never been this good"¹ as well as the "the golden age of partnership".² Therefore, better handling the issue so as to ease the tension of territorial disputes of South China Sea among the sovereignty claiming states is the key to good-neighborliness among China and ASEAN's claiming states which is never to be overestimated.

The 1982 UN Convention on the Law of Sea (UNCLOS) created a number of guidelines concerning the statues of islands, the continental shelf, enclosed seas, and territorial limits, however, the guidelines has not solved the territorial jurisdictional disputes, but added the overlapping claims in South China Sea. Among those relevant to the South China Sea are: (1) Article 3, which established that "every state has the right to established the breadth of its territorial sea up to limit not exceeding 12 nautical miles"; (2) Article 55-75 define the concept of an Exclusive Economic Zone (EEZ), which is an area up to 200 nautical miles beyond and adjacent to the territorial sea. The EEZ gives coastal states "sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to (above)", "the seabed and of the seabed and its subsoil..."; (3) Articles 76 defines the continental shelf of a nation, which "comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles...". This is important because Article 77 allows every nation to exercise "over the continental shelf

This paper represents author's views, and not the institutions, and the author is responsible for all the errors and mistakes.

¹ Carolina G. Hernandez. ASEAN's China Strategy Towards a Regional Order: A Philippine View, paper for 3rd Beilin Conference on Asian Security, Berlin, 17-19 September 2008

² Ellen Palanca, Philippines-China Relations: "Golden Age of Partnership", in Lai Hongyi and Lim Tin Seng (ed). Harmony Development (ASEAN-China Relations), pp.149-154, World Scientific Publishing Co. Pte. Ltd.2007.

sovereign rights for the purpose of exploring it and exploiting its natural resources”; (4) Article 121, which states that rocks that cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.³ Thus it can be seen that the establishment of the EEZ created the potential for overlapping claims in South China Sea. These claims could be extended by any nation which could establish a settlement on the islands in the region.

The Code of Conduct on South China Sea signed by China and ASEAN countries in 2002 have also not reached the target on promoting a peaceful, friendly and harmonious environment in South China Sea, instead, the past one decade has witnessed numerous clashes between China and Vietnam, China and the Philippines, Taiwan and the Vietnam, Vietnam and the Philippines, the Philippines and Malaysia, Malaysia and Brunei. The South China Sea has actually become potential “batter field” if the consultations or negotiations among the parties concerned have not been effectively or well handled.

After describing briefly the current overlapping states of sovereignty claims of related parties around the sea and under the context, this paper introduces the mainstream reflections of Chinese people in mainland China toward this critical sovereignty issue and to describing the evolving academic viewpoints of the Chinese scholars toward the South China Sea’s territorial disputes along with the development of the situation in the region. From academic perspective, this paper, attempts to seek an alternative approach to handle this complicated sovereignty disputes, some proposals are raised including setting up an effective mechanism on this particular issue within the framework of ASEAN-China Strategic Partnership for Peace and Prosperity with an aim to developing a code of conduct with binding guidelines for the behavior of fishery, transportation, oil exploration and etc. Secondly, bilateral and multilateral dialogues are needed in mitigating tensions over South China Sea, and East Asia Summit (EAS) can play an important role in this respect. Third, emphasis should be put on setting aside disputes for joint maintenance of maritime security, and the government concerned should pledge not to seek unilateral benefit from security cooperation.

2. The Main Actions of Sovereignty Claiming States in This New Round Tension of South China Sea Disputes and the Reasons Explored

2.1 The Main Actions of Sovereignty Claiming States in This New Round Tension of South China Sea Disputes since 2009

The South China Sea has long been a disputed region with the overlapping claims of sovereignty rights with five countries and six parties with some different evidences

³ South China Sea Region (Country Analysis Briefs). <http://www.eia.doe.gov/emeu/cabs/schina.html>.

such as centuries-old evidence of discovery, a 200-mile exclusive economic zone (EEZ), geographic proximity, effective occupation and control and vital interest, as well as statement of some important conference and etc.

As matter of fact, UNCLOS added even more complicated and contradictory factors on the solution of territory disputes in the South China Sea.

The Commission on the Limits of the Continental Shelf (CLCS or the Commission), a body set by UNCLOS regulated the three options and four processes for the coastal states parties (CSP) defining the outer limit of extended continental shelf.⁴

Due to the approaching deadline of claiming outer continental shelves (OCS) designed by the Commission on the Limits of the Continental Shelf was May 13th 2009, therefore, the tension in the South China Sea among China and the ASEAN's claiming states over the sovereignty has been drastically exacerbating since 2009.⁵

On 6 May 2009, Malaysia and Vietnam made a joint submission relating to an area in the South of the South China Sea. On 8th May 2009, Vietnam made a submission on its own relating to an area near the centre of the South China Sea. Previously, Vietnam had invited Brunei to make a joint submission with Malaysia and Vietnam relating to the area in the South of the South China Sea, Brunei had rejected. But on 12 May 2009, Brunei had made a submission to the CLCS showed that the disputed area of South China Sea is also situated beyond 200 Nautical miles from the baselines from which Brunei's territorial sea is measured , but Brunei had not protested Malaysia and Vietnam's joint submission.

While Indonesia isn't technically a claimant state, it has a clear interest in the issue, especially as Chinese claim the "nine-dotted line" map actually includes the water around the Natuna Island. However, Indonesia has no action for submitting the claims to CLCS, but since the 1990s, Jakarta has sought clarification over Chinese claims, but has so far failed to receive an unequivocal response. In an Interview with Indonesian President Susilo Bambang Yudhoyono, Susilo claimed that as chair of ASEAN this year, one of his top priorities would be to make progress over the South China Sea disputes by bringing China into Multilateral talks.⁶

The Philippines has not made a submission to CLCS for any area in the South China Sea. The reason for not making such a submission is to avoid creating new conflicts or exacerbating existing ones since there are overlapping claims on Spratly for five other parts. The Philippines has not protested immediately either Vietnam's

⁴ The three options include firstly the CSP could submit their intention to CLCS in the patterns of a full or partial, or a joint submission, the second is that the CSP could submit their preliminary information indicative of the outer limits of the extended continental shelf. The third is the objections to submissions of the other CSP that may prejudice its right. The four processes are arranged as the follows: 1st phase: Right of the CSP to conduct the scientific survey and collect data, to make submission and obligation to not affect the rights of world community and concerned states. 2nd phase: CLCS evaluate the CSP submission and country's objection of it has. 3rd phase: The advisory process – Revised submissions in line with the CLCS recommendations. 4th phase: final and binding outer limit of the ECS. Nguyen Hong Thao and Ramses Amer, Coastal States in the South China Sea and Submissions of the Outer Limits of the Continental Shelf.

⁵ Donald R. Rothwell. " Issues and Strategies for Outer Continental Shelf Claims", The International Journal of Marine and Coastal Law, Vol. 23, No.2, 2008, p.195

⁶ Evan A. Laksmana, Jakarta Eyes the South China Sea, Centre for Strategic and International Studies, The Diplomat-23 February 2011. <http://www.csis.or.id/Publications-OpinionsDetail.php?id=825>

own submission or Malaysia and Vietnam's joint submission.⁷ Nevertheless, earlier On February 16, 2009, the final version of a bill defining Philippine archipelagic baselines was approved by the congressional bicameral conference committee. The bill which placed the disputed island in South China Sea - Scarborough Shoal and Kalayaan Island Group - under a regime of Islands of the Republic of the Philippines, the islands were actually claimed by the other three parties, Vietnam, China, Chinese Taipei.⁸ On March 10, 2009, the former President Gloria Macapagal-Arroyo signed the bill. On August 4, 2009, the Philippine government objected that The ECS areas are disputed because they overlap with those of the Philippines.⁹

With an aim to strengthen the Philippines' claim to these controversial waters and the natural resources found within, Akbayan party-list member Walden Bello has filed House Resolution No. 1350 proposing to officially name the region the "West Philippine Sea".¹⁰ On June 10th 2011, Philippine Aquino government has apparently made it settled doctrine to use "West Philippine Sea" to refer to the waters west of the country via a statement of Malacañang through China's Ambassador to the Philippines Mr. Liu Jianchao.¹¹

On 7 May 2009, China had made immediate objections on Vietnam as well as Vietnam - Malaysia joint submission. China protested that both the single and the joint submission were infringed upon Chinese sovereignty, sovereign rights and jurisdiction in the South China Sea, at same time, China has presented the U-shaped line to the UN body in the context of maritime delimitation. The reason for this is clear: it is simply to show that Chinese sovereignty over the South China Sea. Whereas, it is impossible to justify China's U-shaped dotted line using UNCLOS's scientific criteria for the outer limits of the continental shelf.¹² The Chinese Foreign Ministry web site reports that the Chinese government reiterates: Huangyan Island and Nansha Islands are historically part of China. Any other country on the Huangyan Island and Nansha islands made territorial claims is illegal and invalid.¹³ In addition, China has sent its patrol boats along the coastal of the South China Sea to safeguarded the interests of Chinese fish man.

At the 10th IISS Asia Security Summit of Shangri-la Dialogue held in Singapore on 5 June 2011, General Liang Guanglie, and our Minister of national Defense in representative of Chinese government again iterated the consistent Chinese government policy toward South China Sea. He said that China is committed to

⁷ Du Tran, Maritime Boundaries and the Spratlys: Chi China causes concern.

<http://opinionasia.com/article/print/653>

⁸ Maila Ager, Bicam OKs baseline bill, INQUIRER.net 02/16/2009.

<http://www.newsinfo.inquirer.net/breakingnews/nation/view/20090216-189576/Bieam-OKs-baseline-bill>.

⁹ Nguyen Hong Thao and Ramses Amer, Coastal States in the South China Sea and Submissions of the Outer Limits of the Continental Shelf.

¹⁰ Dr. Walden Bello is a retired professor from the University of the Philippines and he was also a former co-director of a South Focus, a NGO based in Bangkok, Thailand.

¹¹ Dona Pazzibugan, Norman Bordadora. 'It's West Philippine Sea' Gov't, AFP use it now to refer to disputed Spratly areas, Philippine Daily Inquirer, June 11, 2011

<http://newsinfo.inquirer.net/13833/%E2%80%98west-philippine-sea%E2%80%99>

¹² Du Tran, Maritime Boundaries and the Spratlys: Chi China causes concern.

<http://opinionasia.com/article/print/653>; Nguyen Hong Thao and Ramses Amer, Coastal States in the South China Sea and Submissions of the Outer Limits of the Continental of l Shelf.

¹³ <http://baike.baidu.com/view/2210290.htm>

maintaining peace and stability in South China Sea, and has been actively keeping dialogues and consultations with ASEAN countries in implementing 2002 Declaration on the Code of Conduct on South China Sea, and acknowledged the settlement of the territorial and jurisdictional disputes by peaceful means through friendly consultations and negotiation by sovereign states involved. He also pointed out that security can only achieve through collaboration, and not to engage in any alliance targeting at a third party. Since security challenges in East Asia are complicated and diversified, hence, no regional security could be achieved by any single country alone or through wishful thinking only.

2.2 The Other Major Factors for the New Round Tension

In addition to the factor mentioned above, several factors adding the tension are illustrated as the follows:

Firstly, South China Sea has become important route for trade and commerce, safety of transportation become vital important

In the context of the twine driving forces of economic globalization and East Asian regionalization, the region as a whole has brought forth a higher rapid rate of economic growth through FDI and international trade in the latest two decades. Especially along with the booming of various FTAs and RTAs intra and extra the region, the shipping route of South China Sea is becoming more and more important for global trade and commerce. The Strait of Malacca and Straits of Singapore are the main seaways connecting the Indian Ocean and the South China Sea, which are the shortest route for trade between the Middle East and the Far Eastern countries. Thus for, over half of the world's shipping by tonnage and the half of the world's oil tanker traffic sail through these waters every year, intra-Asian trade is now valued at around \$1 trillion.¹⁴ Taking past decade of total trade value between ASEAN and China for example, it has increases from US\$395.2 hundred million in 2000 to US\$2927.8 hundred million in 2010 according to Chinese official figures, with an increase of almost 6.4 fold.¹⁵ As manufacturing center in the world contributed by MNCs and TNEs, many of the Chinese and ASEAN member states' imports and exports as well as the goods from other western countries are most likely to take the sea route. Along with the robust of East Asian economic growth and economic integration, maritime piracy has plagued the South China Sea since 1990s. According to the annual report of international Maritime Bureau, altogether there were 239 reported pirate attacks in 2006, of which 88 attacks in the South China Sea.¹⁶ Though the pirate attacks have decreased due to the measures taken by national government in the region, still, there are about 100 pirate attacks average since 2006. Hence, the safe of navigation is no

¹⁴ Figure from Ng Eng Hen, Building Strategic Confidence: Avoiding Worst-Case outcomes, and Dato' Sri Najib Tun Razak, Keynote Address at the 10th IISS Asian Security Summit, The Shangri-la dialogue, 3-5 June 2011. <http://www.iiss.org/conferences/the-shangri-la-dialogue/shangri-la-dialogue-2011/>

¹⁵ Shen Hngfang, China-Southeast Asian Economic Relations in the 21st Century: Evolving Features and Future Challenges, International Journal of China Studies, Vol. 1, No.1, January 2010, ICS, University of Malaya.

¹⁶ Wu Shicun, Commentary: A Regional Perspective on South China Sea passage security, in Shicun Wu and Keyuan Zou (ed) Maritime Security in the South China Sea: Regional implication and International Cooperation, p.100. Ashgte Publishing limited 2009.

doubt a matter of paramount important.

Secondly, the rich marine resources, both living and non-living, are explored under unregulated, unreported and even illegal state that causes serious problems

Since all the SCS claimers are claimed a 200 sea miles EEZ, the consequences must be serious. Clashes between different groups of fishers and alleged illegal fisherman and maritime law enforcement forces occur regularly in the area. The alleged illegal, unregulated and unreported fishing and oil exploration among claimers have been causing serious problems in the SCS not only for marine environmental protection, but also for the harmony of the neighbouring countries around the South China Sea. As the fisheries have been over-exploited and catches have declined over the years though South China Sea is one of the world's most productive fishing grounds. As Sam Bateman pointed out that "in a large part, this is due to the lack of agreed limits to maritime jurisdiction," and "...has contributed to over fishing through a "beggar thy neighbor" approach."¹⁷

Asia's robust economic growth has boost demand for energy in the region. As levels of energy self-sufficiency fall and the countries of the region have become more concerned about their energy security. Oil deposits have been found in most of the littoral (adjacent) countries of South China, the oil reserves of the area has been estimated at about 7.0 billion barrels and oil production in the region is around 2.5 million barrels per day, with Malaysian production accounts for almost one-half, the rest are produced by some other Claiming states. The hydrocarbon resource in the South China Sea is also very rich. Estimates by the U.S. Geological Survey and others indicated that about 60%-70% of the region's hydrocarbon resources are natural gas. Many hydrocarbon fields have explored by Brunei, Indonesia, Malaysia, Thailand, Vietnam and the Philippines.¹⁸ As earlier as in 1998, more than 1000 oil wells were already dug by the countries around South China Sea in cooperation with many big Western foreign oil companies, the figure are now expected to rise to about 2000. However, China has not dug single oil well up to now.

The third and most important is the cold war mentality of "China threat" is not disappearing but escalating

I still remember the question I raised in my interview with a well-known scholar 16 years ago in 1995. "What China could do to improve the Sino-Philippine bilateral relations". The answer I received was that "China should expand trade and increase investment to the Philippines", and "China do not have such image", on the contrary, "the out flow of Filipino Chinese merchants investing to their ancestral home that caused the shortage of Philippine investment much more severe". Ironically, 16 years past when China's economy has been on the growing and it hopes to take responsibility to the region, and to share the common prosperity to its neighbors with expanding trade, outward investment and assistance to the Philippines and some other less developed ASEAN member States, "China Threat" is greatly entrenched. Hence,

¹⁷ Sam Bateman, Good Order at Sea in the Southeast China Sea, in Shicun Wu and Keyuan Zou (ed) Maritime Security in the South China Sea: Regional implication and International Cooperation, p.31. Ashgate Publishing limited 2009.

¹⁸ <http://www.eia.doe.gov/emeu/cabs/schina.html>

the question remained still whether a prosperous China or a poor China is benefit to the region as well as to the world?

As matter of fact, some propaganda machines are overestimating China economic and military power. Though China's GDP in total is now rank second, but even primary students of China know that GDP per capita of China is far behind the many middle-level income countries. There are remained more than 20 million Chinese people are living under the poverty line, and the disparity between rural and city, East and West, inland and coastal is large. In addition, due to the different way of measurement used in the calculation of economic scale such as the growth rate of GDP and GNP, plus China's particular situation, some renowned economists and Nobel Laureates Joseph E. Stiglize and Paul Krugman have reached the consensus that China's economic growth rate can only be calculated by half. The past years have also seen the progress of China's defense and military modernization. However, such progress is within the legitimate need of self-defense.¹⁹

Therefore, the saying of "China's rising" is wrong. It has already rectified by Chinese mainstream academy as "China's peaceful development". China has promised again and again to follow unswervingly the path of peaceful development that is fundamentally different from the path of colonial expansion that some countries used to take historically. This is a path that China with the rest of the world through their common interests that ensures an enduring win-win result eventually shares by all nations.²⁰

The last but not the least, intensity of US engagement in Asia in recent years adding a tense atmosphere in the region

Amid heightening tensions in the South China Sea, U.S. Secretary of State Hillary Clinton made an important rhetorical investment in U.S. engagement in Asia at ASEAN Regional Forum in July 2010. Addressed reporters after attending the 17th ministerial meeting of the Association of Southeast Asian Nations (ASEAN) Regional Forum, Clinton declared, "The United States, like every other nation, has a national interest in freedom of navigation, open access to Asia's maritime commons, and respect for international law in the South China Sea. We share these interests with not only ASEAN members and ASEAN Regional Forum participants but with other maritime nations and the broader international community."

Chinese officials were at beginning shocked by the United States was getting involved in a high tone, but realized very soon that Clinton's position was coordinated with some of the concerned Asian nations. In other words, the United States was in fact was pushed by the officials from the Philippines, Malaysia, and Vietnam to remain as a balancer. The SCS claming states want the United States continue to have a sizable military presence in the South China Sea so as to weigh in much more heavily on the South China Sea disputes.

Whether in the public or in private, Chinese official and academy have always

¹⁹ China's latest defense while paper reiterated that "China adheres to a defense policy that is pure in nature", "whether at present or in the future, no matter how developed it may be, China will never seek hegemony or military expansion" adopted from Liang Guanglie, A Better Future through Security Cooperation, Speech at The 10th IISS Asia Security Summit, the Shangri-La Dialogue Singapore, 5 June 2011.p.4

²⁰ Liang Guanglie, A Better Future through Security Cooperation, Speech at The 10th IISS Asia Security Summit, the Shangri-La Dialogue Singapore, 5 June 2011.p.3

been sending the hints that U.S. should keep it away from SCS issue. Most recently, Chinese vice Foreign Minister Cui Tian-kai told foreign media before attending first round of the China-US consultations of the Asia-Pacific affairs on 22 June, 2011 that “the U.S. is not the South China Sea claim sovereign country, so best stay away from these disputes.” He also said: “I think that some SCS claiming states are actually playing with fire, and hope that the U.S. can be of help. I hope the U.S. will not get burned by some of its friends. Though we appreciate this gesture, but this attitude is often only makes things more complicated.”²¹

3 . The Mainstream Reflections of Chinese toward the Recent Tension of South China Sea’s Territorial Disputes

Along with the intensified situation in the South China Sea, a lot of discussions and arguments concerned are taking place in China not only academically, but also publicly. Like the other Asian claiming states, China’s domestic public opinion, which tends to be highly nationalistic about the SCS.

A public debate erupted in China over this question: Should China officially upgrade the South China Sea to a “core interest,” placing it on par with other sovereignty issues like Tibet, Taiwan and Xinjiang that could justify military intervention? The Web site of People’s Daily posted a survey asking readers whether it was now necessary to label the South China Sea a “core interest.” As of January 2011, 97 percent of nearly 4,300 respondents had said “yes”.²²

The Internet-survey did by me showed that whatever old and young, man or woman, who use the Web and chat boards to boost nationalism with strong voices to defend the China’s sovereignty in SCS.

3.1. The Perspectives of Chinese Military Academy

Western medium have already exposed that the tough position of China’s military army toward SCS territory disputes. There was actually an argument how to respond Clinton’s “national interests” to SCS. Using the term of “core interest”, or “indisputable sovereignty”, Chinese senior military officers weighed in on both sides.

The Chinese military can not tolerate the military excises of some sovereignty claimers with some big power alongside of South China Sea targeting China. The sudden changes of atmosphere caused by the actions of submitting the outer limit of extended continental shelf to CLCS of Some Asian claiming countries, even bounded, no doubts set off a new upsurge of Chinese strong nationalism. Some suggested that it is right time to adopt necessary measure to teach some countries a lesson. It is juridical for China to launce a war to the invaders. Earlier in the year, Chinese military officials reportedly told their American counterparts on at least two occasions that the South China Sea was a “core interest” presumably on a par with Taiwan and

²¹ Huang Chao, Individual countries want to play with fire, the United States does not get burned. June 23, 2011. <http://www.dfdaily.com/html/51/2011/6/23/621546.shtml>

²² Question: South China Sea is China’s ‘Core Interest’? <http://www.peopleforum.cn/viewthread.php?tid=83118>

Tibet.²³

Almost all the Chinese higher leading military officials are sharing the same common feeling - “defend motherland is the sole responsibility of the military army. As a Chinese saying “if people do not attack us, we will not attack them, if we are attacked, we will certainly counterattack”. Whereas, in China the army is under the control of the communist party, the military has to be waiting for the instruction from the party.

Also, there are some other saying that also revealed by the western media that Han Xudong, an army colonel and a professor at National Defense University, wrote in Outlook, a policy magazine, that “China’s comprehensive national strength, especially in military capabilities, is not yet enough to safeguard all of the core national interests. In this case, it’s not a good idea to reveal the core national interests.”²⁴ Mr. Zhang Zhongzhao, a well-known military theorist and military critics in China, and also a professor at National Defense University considered that the best time of solving the territory disputes has already passed; diplomatic negotiations alone can not solve the problem..., to defend national sovereignty must use the methods of both civil and military, while proceeding active defense, but also courage to use sword if it is really in need, and the blind patient is not enough.²⁵

3.2. The Perspectives of Chinese Social Academy

There are much more complicated viewpoints held by the Chinese scholars from soft, medium to the hard for this new round tension in SCS.

Search from the web site of “Google” both in Chinese and English, we could find many reports are said that Chinese government returns to Clinton’s “national interests” by using the term of “core interest”. Tracing the source, it appeared firstly from a populist Chinese newspaper, the English-language edition of Global Times. After Mrs. Clinton’s statements, it published an angry editorial that linked the South China Sea to China’s core interests — “China will never waive its right to protect its core interest with military means.”²⁶

An article written by Mr. Dai Bing-guo, a member of Standing Committee of Chinese Communist party pasted on the web site of Department of Foreign Affairs before the end of 2010 has broadened the definition of the term by saying China had three core interests: maintaining its political system, defending its sovereignty claims and promoting its economic development.²⁷ Due to the severer situations in the area at that time, the article has stirred up the strong nationalism in China, and the public opinion has taken the South China Sea and all other sovereignty disputes as falling

²³ Carlyle A. Thayer, The South China Sea: China’s “Indisputable Sovereignty” Versus America’s “National Interest” Peace & Security June 23, 2011
<http://www.chinausfocus.com/peace-security/the-south-china-sea-china%E2%80%99s-%E2%80%9Cindisputable-sovereignty%E2%80%9D-versus-america%E2%80%99s-%E2%80%9Cnational-interest%E2%80%9D/>

²⁴ Question: South China Sea is China’s ‘Core Interest’? <http://www.peopleforum.cn/viewthread.php?tid=83118>

²⁵ http://www.chnqiang.com/article/2011/0504/mil_43555.shtml.

²⁶ Edward Wong, China Hedges Over Whether South China Sea Is a ‘Core Interest’ The New York Time March 30, 2011. <http://www.nytimes.com/2011/03/31/world/asia/31-beijing.html?partner=rss&emc=rss>

²⁷ <http://mil.news.sina.com.cn/2011-01-10/1456627649.html>

under “core interests.” As a result, muddying the whole issue has been the parallel use of “core interests”

However, our government inclined to use the term of “indisputable sovereignty” instead of the term “core interests” as its official policy, and claimed that “China has indisputable sovereignty” over virtually the entire South China Sea, also Taiwan shares this view. Both sides of Taiwan Straits recognize basically the legal status of China’s dotted line in the China Sea, and scholars from both sides have expressed for many times desires to cooperate at the academic seminars on the issues. I supposed the reason to adopt the term of “indisputable sovereignty” instead of “core interests” is mainly from good-wish of China’s good neighboring diplomacy, but it is by no means lower the tone

Many scholars have hold the viewpoint that the Chinese government has been sought to adopt a conciliatory and flexible attitude to the complicated territory rights in South China Sea with an aim to maintain good-neighborly relations with Southeast countries since earlier 1980s, but good wish has got the evil returned. A concord has been almost reached that China has to do something on the issue of SCS instead of the standstill policies of “shelving the disputes and working for joint development” and peaceful settlement of these disputes in according with the UNCLOS. There are strong voices be heard that “the territorial disputes has never been shelved, and joint exploration, or development on the South China Sea between the claiming countries has not been started, but resources, especially oil and hydrocarbon of South China Sea have being carved up” while China has not dug single will until now at our claimed territory.²⁸ More than twenty years after, whereas, the statuesque in the SCS has turned into a great mess. As the “joint development” is in an impossible situation, the Chinese can only take the measure of “positive existence, moderate development” in the South China Sea.

The practice of bounding actions of some SCS claiming states in this new round tension ponder a question to the Chinese Social Academy: whether territory distributes also should be solved by ASEAN way? More important than this, the disputes of SCS are also teaching a lesson to the Chinese government that the “give in” economically can’t release the tension and finally solve the sovereignty disputes.

However, we could also hear some soft sounds, such as put negotiation at the first place, no clash, no war. And As the Chinese saying “And then the win, fighting harms”.

4. An Alternative Approach to Reducing the Tension of South East China Sea

Like other Southeast Asian claimers, the Chinese government is also under the public pressure regarding SCS. If China lost more territory to foreign states, the national

²⁸ Li Jin-ming, *The Stormy Situation of South China Sea: Development and Trend*, World Knowledge, pp.14-20, No.11, 2010; Guo Yuan, *Cooperation: The Only Way to Solve the Issue of South China Sea*, *China’s Border Land History and Geography Studies*, Vol. 19, No.2 June 2009;

honor would be under attack and the people and the army would question the legitimacy of the government. It is of the utmost importance that the government is not considered by people or the army as internally or externally weak which in turn could have severe political consequences.

Though the Chinese government's policies to the SCS at moment not have so much changed as General Liang pointed out in his speech at the 10th IISS Asian Security Summit, The Shangri-la dialogue, 3-5 June 2011, that seems to remain still the "Three No" strategy: "no" to internationalization of the conflict, "no" to multilateral negotiations and "no" to specification LOS.²⁹ Internally, with the rapid changing of the situation in SCS, Chinese political inclination on SCS has been drawing the wisdom to solve the complicated problems, or at least to ease the tension on SCS, and not leave it to the next generation. To my understanding and survey, China will firmly insist in the first "no", but remains some room of flexible for the second and the third "no". With an aim to reducing the tension, and turning the disputes sea into a zone of peace, freedom, friendship and cooperation, some suggestions have been raised herein as an alternative approach.

Firstly, effectively mechanism is badly needed to be established within the framework of China-ASEAN partnership.

Since the 2002 ASEAN-China Declaration of the Conduct of Parties (DoC) in the SCS is neither a legally binding agreement nor enforceable; it has failed to provide any mechanism or procedure to ensure that the parties comply with their obligation to respect the provisions of this declaration. A joint working group consisting of ASEAN and China was set up to manage the SCS territorial dispute better and to review the implementations of the DoC. However, this working group has failed to make any concrete progress so far, mostly due to the highly complex political context. Therefore the new organ should be established with general accepting rules and regulations so as to develop the confidence, and to act as a mediator for handling the conflicts when clashes, conflicts or disputes appeared.

Secondly, setting up the official track of multilateral dialogues within East Asian Summit

The official track of multilateral dialogues aiming at turning the disputes sea into a zone of peace, freedom, friendship and cooperation could be set up within the framework of East Asian Summit, that now include the newly joined members of U.S., and Russia. But multilateral dialogues do not mean the internalization of the issue. The task of the track is to provide some constructive suggestions through multilateral exchanges and interactions, and not engage in any alliance targeting a third party.

Thirdly, starting all kinds of joint exploration in the disputed area

Setting aside disputes for all kinds of joint exploration is badly needed. According to the UNCLCS, there are three options and four processes for the coastal states parties could define their outer limit of extended continental shelf. The first and foremost phase as I indicated in note 5 the right of the CSP to conduct the scientific survey and collect data, to make submission and obligation to not affect the rights of world

²⁹ Niklas Swanstrom, Conflict Management and Negotiations in the Southeast Sea: The ASEAN Way? <http://www.southchinasea.org/docs/Swanstrom.pdf>

community and concerned states. Thus, different kinds of joint exploration including marine recourse and marine seismic are most important since SCS studies have been rather weak. Dr. Rommel C. Banlaoi wrote that "...as an interim measure, the Philippines and China shall seriously start talking about joint development in the South China Sea. Rather than determining which countries have ownership or rights to the disputed territories in the South China Sea, the Philippines and China should open their channels of communication to candidly consider the idea of joint development so that when they celebrate the annual anniversary of their ties in the future, they will share common accomplishments rather than exchange harsh words".³⁰

Last, not the least, territorial disputes of SCS have to be solved on the base of bilateral level.

Unlike economic cooperation and East Asian regionalization that China hopes ASEAN play the role of "hub", and China is willing to be the one of the "spokes" with its good will of enabling ASEAN have much to say in the regional economic affairs and bringing "common development and prosperity" to ASEAN member states amid the tide of regionalization.³¹ Since sovereignty is linked closely with nationalism, all parties in the conflict appear to nationalism and the belief in the "mother country". What has been said about China concerning nationalism and sovereignty could also be applied to the other nations in the region. Many of the parties feel pressure from their people not to lose any territory, especially through the web, and used in the propaganda. This internal division makes compromises hard to reach. However, Shanghai Cooperation Organization (SCO) has set a good example in solving the territorial disputes between member countries (China, Russia, Kazakhstan, Kyrgyzstan, Tajikistan) by bilateral border talks.

³⁰ Rommel C. Banlaoi, Word war in South China Sea: A diplomatic crisis in Phl, China relations? June 10, 2011. <http://www.philstar.com/nation/article.aspx?publicationSubCategoryId=200&articleId=694871> The author is the Executive Director of the Philippine Institute for Peace, Violence and Terrorism Research (PIPVTR) and Member of the Board of the Philippines Association for Chinese Studies (PACS). He is also the author of the book, Security Aspects of Philippines China Relations.

³¹ The definition of "hub and spoke structure" economically means the spokes are the smaller investment vehicles while the hub is considered the central investment vehicle, that investment where several different investment vehicles pool their assets into one central vehicle.