

# The South China Sea in Multilateral Forums: Five Case Studies

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Presentation to

The 11<sup>th</sup> South China Sea International Conference

“Cooperation for Regional Security and Development”

Co-hosted by the Diplomatic Academy of Vietnam,

Foundation for East Sea Studies and the Vietnam Lawyers’ Association

Pan Pacific Hotel, Hanoi

November 6-7, 2019

# Outline

## 5 Case Studies

1. 45<sup>th</sup> ASEAN Ministerial Meeting (July 2012),
2. Third ADMM Plus Meeting (November 2015),
3. Special China-ASEAN Foreign Ministers Meeting (June 2016),
4. Mid-Term Meeting of the Non-Aligned Movement (April 2018), and
5. 32<sup>nd</sup> ASEAN Summit (April 2018)

# 45<sup>th</sup> ASEAN Ministerial Meeting (July 2012)

- Drafting of AMM joint communique
  - Indonesia, Malaysia, Philippines and Vietnam
  - 132 paragraph draft including 3 paragraphs on South China Sea
- Philippines wanted inclusion of Scarborough Shoal standoff
- Vietnam wanted China National Offshore Oil Company's award of oil exploration blocks in its EEZ mentioned
- AMM Retreat
  - Cambodia's Foreign Minister Hor Namhong ASEAN Chair

# 45<sup>th</sup> ASEAN MM Retreat (July 2012)

- Paragraph 16

- we discussed in-depth recent developments in the South China Sea, including the situation in the affected Shoal / disputed area, exclusive economic zones and continental shelves of coastal states, particularly those contrary to the provisions of the 1982 UNCLOS
- All ministers spoke, then Indonesia, Malaysia, Philippines and Vietnam had interchange with the ASEAN Chair
- Indonesia and Singapore broker compromise
- Cambodia walks out, no joint communique issued

# Third ADMM Plus Meeting (Nov 2015)

- Impasse reached over mentioning construction of artificial islands in South China Sea in joint statement
  - China and Russia object, reference dropped
- U.S, five Plus and ten ASEAN members “no statement better than one that avoids mentioning artificial islands and militarization”
  - No joint statement
- South China Sea included in Chair’s Statement

# Special China-ASEAN Foreign Ministers Meeting (June 2016)

- Co-hosted by China and Singapore, Kunming
- Press Conference scheduled at end of meeting
- ASEAN ministers agree on media statement
- China presents '10-point consensus' at last minute
  - Rejected by ASEAN ministers
- Singapore's foreign minister leaves Kunming
- China blocked release of ASEAN media statement

# Special China-ASEAN Foreign Ministers Meeting (June 2016)

- ASEAN ministers agree each free to issue own statement
- Malaysia releases media statement to Agence France Presse
- China seeks clarification from ASEAN Chair (Laos)
- ASEAN Secretariat instructs Malaysia to recall media statement
- China then claims media statement was not official
- Indonesia, Philippines, Singapore and Vietnam release individual statements

# ASEAN Media Statement

- “We noted that 2016 is a milestone for ASEAN-China relations as it marks the 25th Anniversary of ASEAN-China dialogue relations. We look forward to working together with China to bring ASEAN-China cooperation to the next level. *But we also cannot ignore what is happening in the South China Sea as it is an important issue in the relations and cooperation between ASEAN and China* [emphasis added].”

# Mid-Term Meeting of the Non-Aligned Movement (April 2018)

- Held in Baku, Azerbaijan
- ASEAN recognized as regional organization for Southeast Asia
- In 2016, ASEAN filed reservation on wording of Southeast Asian section omitted from Final Document
  - NAM bowed to Chinese pressure to delete references to the South China Sea in its Final Document
- 2018 ASEAN proposal to update the Southeast Asia section of the Final Document was not accepted

# ASEAN update to Paragraph 526 in Southeast Asia section of Final Document (2018)

- freedom of navigation, the full implementation of the DOC, and early conclusion of an effective COC
- MOFA hotlines and CUES
- “took note of the concerns expressed by some Leaders on the land reclamations and activities in the region, which have eroded trust and confidence, increased tensions and may undermine peace, security and stability in the region.”
- non-militarisation and self-restraint

# 32<sup>nd</sup> ASEAN Summit (April 2018)

- Held in Singapore on April 28, 2018
- Zero Draft of Chair's Statement – 25 points
- 7 points on South China Sea
  - 16 annotations from six members
  - Cambodia inserted 10 annotations or 44%
- 4 points deleted in their entirety
  - Vietnam-Philippines “welcome Award by Arbitral Tribunal”

# 32<sup>nd</sup> ASEAN Summit (April 2018)

1. freedom of navigation and overflight
2. implementation of DOC in its entirety
3. negotiations with China on a Code of Conduct
4. practical measures – hotlines, CUES
5. “concerns expressed by some Leaders on the land reclamation
6. self-restraint, peaceful resolution of disputes
7. non-militarisation and self-restraint

# Recent Developments

- *Haiyang Dizhi 8* standoff and Vietnam's call for support by international community
- U.S. Department of State (20 July and 22 August)
- Trilateral Security Dialogue/European Union
- Three new themes:
  - Concern about oil and gas production
  - China and Philippines obligated to implement AT Award
  - COC to respect legal rights of third parties

# Conclusion

The five case studies provide compelling evidence that **multilateral forums did not moderate China's behaviour with respect to the maritime disputes in the South China Sea nor did multilateral forums mitigate major power rivalry within multilateral forums.**

Internal divisions within ASEAN, exacerbated by Chinese interference, undermined the ability of multilateral forums to moderate state behaviour as evidenced by the three-month standoff between Vietnam and China in the waters near Vanguard Bank

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