

## CHAPTER V

### CONCLUSION

In order to avoid the conflict escalation, ASEAN together with China and South East Asian countries tried to find the resolution of the conflict since last 1974. The formal agreement formed as The Declaration on the Conduct of Parties in South China Sea which contain of normative regulations toward disputant countries in the case of South China Sea dispute. In the process of peace settlement, the mediation power from ASEAN is very important in order to mediate and negotiate the clash between two parties, China and Southeast Asia countries.

Some of ASEAN Member States made a Multilateral and formal cooperations with People's Republic of China. However, China only formally accept the dispute settlement in South China Sea region by using non-formal and Bilateral meeting. The claimants States fight for their interest in the South China Sea. Where this region is become very important for each claimants States as their sovereignty which based on each evidences.

ASEAN as the regional organization of Southeast Asia countries have an important role in conflict settlement of South China Sea dispute, and find the resolution to the South China Sea border. By using the mediation way, ASEAN and its negotiation and diplomacy strategy positively effective in decrease the tension and conflict that occur between People's Republic of China and Southeast Asia countries. The one of ASEAN's efforts in order to settle the dispute is by the held of ASEAN Regional Forum (ARF) and Declaration of Code Conduct of Parties (DOC) which bring much benefit toward the development of dispute settlement in South China Sea. In the process of conflict

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4. ASEAN shall increase mass their existence capabilities and more responsible

in order to resolve the conflict. The South China Sea disputes is a complicated conflict that occur in the region between China and Southeast Asia region, therefore, ASEAN shall more concern and serious in order that the conflict could be resolve effectively.

The resolution to the South China Sea maritime border dispute is difficult because it is as complex as these multiple claims are various in the motives and concerns. It would be summarized that the dispute is difficult to be solved by using one approach as its commitment has been both limited and ambiguous behind, involved with territory, maritime zone and the rich resources assumed existed in the South China Sea. Other underlying claimant motivations vary but economics is clearly another common driving factor.

The potential for profit in the form of oil, gas, fish, and mineral resources seems to be behind many claims, although (especially in the case of oil) this is based more on expectations of future discoveries than on proof of existing reserves. The desire to use claimed territories to extend exclusive economic zones (EEZs) and continental shelf zones within which a country may control exploration, exploitation, and preservation of natural resources provides additional motivation. National pride and other manifestations of nationalism remain a key driving factor, particularly. National security is another. But another, potentially crucial, reason for the absence of solutions is general misinterpretation of the current situation.

ASEAN should play a role to manage the conflict and being as a bridge of confidence and security building among its members and China. As ASEAN has initiated and got involved Since 1990', it somehow contribute the way a regional forum to employ

in order to help the members to mediate a peaceful settlement in the South China sea

dispute as in the past through ARF, ASEAN-China meeting, CBMs and other related dialogue. However, its efforts cannot succeed unless the claimant nations themselves are willing to engage in multilateral negotiations.

The primary means available to the six claimants to influence the outcome of the dispute are diplomacy and military force or some combination of the two. Clearly, the claimants do not all possess equal strengths and capabilities, particularly in the area of military power, and have developed their strategies accordingly.

Meanwhile the relations between the conflicting parties have been at a level where their behavior does not seem threatening and the militarization is unlikely used to solve the problem. The sovereignty disputes in the South China Sea are intractable and are unlikely to be resolved in the foreseeable future. Another extremely difficult problem is the status of the features in the Spratly Islands and the maritime zones those features can generate. Given these obstacles it is unlikely that the States concerned will be able to reach agreement on the maritime boundaries in the Spratly Islands.

Nevertheless, the claimant States have obligations under UNCLOS to make every effort to enter into provisional arrangements of a practical nature pending final agreement on the boundaries. Furthermore, until the sovereignty and boundary issues are finally resolved, they have an obligation not to take any measures that would jeopardize or hamper the reaching of a final agreement on the boundaries.

One major obstacle to agreement of provisional arrangements concerning joint development in the Spratly Islands is a lack of consensus on the precise geographic area which will be subject to joint development. This problem is exacerbated by the fact that the claimants have fundamental differences over the appropriate forum for addressing

these issues. China argues for bilateral negotiations and the ASEAN claimants argue for negotiations between China and ASEAN.

The United States has been important for generating a feeling of security in Southeast Asia, thereby creating space for the ASEAN to engage China and vice versa. As a result, the U.S. should support every effort to peacefully solve South China Sea disputes, but it should do so without getting directly involved. It must encourage, cajole, and facilitate without intervening, interfering, or obstructing. That calls for a sensitivity to regional interests and a willingness to let others lead. It also requires patience and an understanding of the many facets of this difficult dispute. These have not been American strong points in recent years, but the complex nature of the South China Sea dispute suggests that there is no other option.<sup>123</sup>

If the claimant States are able to generate the necessary political will to take the steps required to move toward joint development, it will be a major step in managing potential conflicts which is the common interests of the region.

An equitable solution to the dispute over South China Sea territorial claims can only come from the claimants themselves, acting in good faith, in a spirit of cooperation and compromise. All claimants must recognize that military conflict, while perhaps unlikely, is neither impossible nor unprecedented and would have far-reaching international consequences.

All the nations of the Asia-Pacific have a vested interest in promoting and supporting a peaceful resolution of the conflict, consistent with the Law of the Sea Convention. Given the impact of hostilities on its own as well as broader regional security interests, the U.S should unambiguously declare and demonstrate its commitment to a peaceful

resolution, even while remaining neutral regarding specific claims.

The interrelated nature of regional economies increases the stakes of all Asia-Pacific nations, claimants and non-claimants alike, in the event of hostilities. It also provides the nations of the region with considerable leverage in responding to actual or threatened unilateral acts of provocation, should they choose to do so. Again, the U.S. should encourage and support any ASEAN response to conflict in the South China Sea.

Armed conflict over the Spratlys serves no nation's long-term security interests. All nations would suffer from an outbreak of hostilities in the South China Sea and China would suffer most of all were the conflict to be PRC-initiated. Hopefully, a greater understanding of the economic, political, and overall security implications of conflict in the South China Sea will increase the resolve of claimants and non-claimants alike to seek a peaceful resolution of this lingering territorial dispute.

More dialogue is needed among the claimants in order to better understand, and develop the means of avoiding or defusing, a potential conflict. Merely desiring a peaceful outcome is not enough. More pro-active confidence building measures are needed, along with support for on-going initiatives aimed at reducing the prospects for conflict in this potentially volatile region.

On India's part, if New Delhi is concerned about the freedom of navigation in the SCS. It is only too aware that this is an issue that will profoundly impact Indian foreign policy. New Delhi realizes, now more than ever, that capacity building and maritime cooperation between India and ASEAN will be the key to stability in the region. However, the question arises, how will India sustain its position in the SCS, either through OVL or