

**Non-Interference Principle or Doing Nothing?
Role of ASEAN in Contemporary Geopolitical Conflicts:
The Case of South China Sea Dispute**

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List of Acronyms

AFTA	ASEAN-Free Trade Agreement
AICHR	ASEAN Intergovernmental Commission on Human Rights
APSA	African Peace and Security Architecture
APSC	ASEAN Political-Security Community
APT	ASEAN Plus Three
ARF	ASEAN Regional Forum
ASEAN	Association of Southeast Asia Nations
ASEAN-IPR	ASEAN-Institute for Peace and Reconciliation
AU	African Union
BRI	Belt and Road Initiative
CSDP	Common Security and Defence Policy
EAS	East Asia Summit
EEAS	European External Action Services
EU	European Union
EUGS	European Union's Foreign and Security Policy
GAM	<i>Gerakan Aceh Merdeka</i> (Free Aceh Movement)
ICJ	International Court of Justice
JI	Jamaah Islamiyah
MERCOSUR	Southern Common Market
OAS	Organization of American States
OAU	Organization of African Union
OBOR	One Belt One Road
PRC	People's Republic of China
PSC	Peace and Security Council
PULO	Patani United Liberation Organization
SAARC	South Asian Association for Regional Cooperation
SCS	South China Sea
TAC	Treaty of Amity and Cooperation
TPP	Trans-Pacific Partnership
UN	United Nations
UNAMID	United Nations-African Union Mission in Darfur
UNMISS	United Nations Mission in South Sudan
USSR	Union of Soviet Socialist Republic

Abstract

This research is an examination of ASEAN's non-interference principle towards ASEAN's role and capacity to respond to the regional geo-strategic conflicts, specifically in the case of South China Sea (SCS) Dispute. In ASEAN, the principle is an embryo to uphold the value of mutual respect of internal affairs, as well as to promote perpetual peace and everlasting amity among member states. However, the respective non-interference principle is questioning the role of ASEAN towards conflict resolution and management. Thus, it becomes an everlasting debate in academics and practitioners arena, especially in the backdrop of SCS dispute. By applying two different approaches in semi-structured interviews and secondary analysis data, this thesis questioned ASEAN's way and capacity in addressing the SCS dispute with the criticized non-interference principle. With the development of ASEAN in various sectors over decades, the principle remains firmly strong as a main feature in conflict prevention. Nonetheless, in facing critical conflicts such as SCS dispute, the principle is challenged as it hampers ASEAN's capacity in embracing the dispute. Moreover, the dynamics of the conflict among ASEAN member states and between ASEAN and China will influence the approach towards ASEAN's conflict management. Therefore, analysing ASEAN's capacity in handling SCS dispute, with the challenge of non-interference principle and variety dynamics that occurred along the process, would bring a transformative actualization of ASEAN for the future approach and policy production in conflict management

Relevance to Development Studies

Regional organization is an important entity in the regional and global development of peace. With variety of dynamics in many sectors, such as security, economics and socio-cultural, this area is an attractive subject of analysis. Furthermore, there is ASEAN as a regional organization that consist of ten member states in Southeast Asia. With different political backgrounds and economic conditions, the development and dynamics relations among member states surely would affect the development of ASEAN, including the conflict that occurred in the area of Southeast Asia such as South China dispute. The dispute affects not only ASEAN member states and China as claimant states, but also international community in general. This thesis offers critical approach towards the respective dispute by examining ASEAN's capability in conflict management. This thesis aims to unpack the dynamics relations from the conflict that would affect the development of ASEAN member states and international community in the context of economic and trade activities. Therefore, despite the fact that the main point of this thesis is regarding how ASEAN deals with SCS dispute, the development of the conflict, dynamics relations that occurred in the conflict, and the impacts for the ASEAN member states and international community would be relevant to development studies, development practitioners and policy-makers to equip them with multidisciplinary perspective and to address the conflict in a peaceful way.

Keywords

ASEAN, Non-Interference principle , Regional Geo-strategic Conflicts, SCS Dispute.

Chapter 1 Introduction: Contextualizing Regional Organization and their Role in Regional Conflicts

1.1. Regional Organization: A Comparative Perspective

The aftermath of World War II has brought a new era for international relations among countries. Having witnessed and experienced the horrors of the World War II, in order to avoid another Great War and conflict with such of magnitude to ever happen again (Neff 1953: 315), most countries realized and agreed to outlaw wars of aggression and demand peace by forming a single entity that unites them in the name of cooperation and peace, called United Nations¹. Although the establishment of the UN indeed became the prominent achievement in the aftermath of World War II, nonetheless one of the most conspicuous developments in international relations after World War II was the proliferation on various continents of regional groupings under the notions of the international and regional organization (Lawson 1962). The midst of 20th century onwards experienced an emergence of regionalism in world politics and the growth of regional organization were increasing after the World War II was ended.

These indications could clearly be seen as how the regional and international organization in many parts of the continent have flourished. Starting with the establishment of European Union (prior form was European Coal and Steel Community) in 1957², Association of Southeast Asian Nations (ASEAN) in 1967³, South Asian Association for Regional Cooperation (SAARC) in 1985, Southern Common Market (MERCOSUR) in 1991⁴, African Union (AU) in 2002⁵, and many collaborated regional organizations. From another perspective, considering UN has its mandate to maintain international peace and security, protect human rights, deliver humanitarian aid, promote sustainable development, and uphold the international law⁶, the UN still provide a spatial room for the regional organization to take part in the maintenance of international security and peace specifically and support the respective mandate generally. Chapter VIII (Appendix A) UN Charter Article 52-54 draws the picture on how regional arrangement has been established and supported under an international framework. Chapter VIII gives exclusive focus to the role of UN and regional organization. The Chapter also *“provides the constitutional basis for the involvement of regional arrangement towards the maintenance of International peace and security”*⁷.

Moreover, the cooperation between the regional organization and United Nations is also emphasized and captured on several occasions, for example UN Secretary-General Boutros-Ghali Agenda for Peace on January 1999. Then, in 2005, Kofi Annan pleaded for the introduction of memoranda of understanding to enhance the cooperation and partnership between the regional organization and UN. Considering aforementioned explanations on the broader picture of the development of regional organization under the international framework (Chapter VIII UN Charter), it can be concluded that the dynamics of conflict management between UN and the regional organization are based on cooperation and partnership. Towards the Chapter VIII, therefore the

¹ History of the United Nations from January 1942, the coined of United Nations name until October 1945 the realization of United Nations. The source can be accessed in <https://www-un-org.eur.idm.oclc.org/en/sections/history/history-united-nations/index.html>. Accessed on 5 May 8, 2019.

² The EU, in brief, could be accessed in https://europa.eu/european-union/about-eu/eu-in-brief_en

³ The ASEAN in glance could be accessed in <https://asean.org/the-asean-declaration-bangkok-declaration-bangkok-8-august-1967/>

⁴ MERCOSUR in details retrieved in <https://www.mercosur.int/en/>

⁵ African Union details could be accessed in <https://au.int/en>

⁶ UN Mandate could be accessed in <https://www-un-org.eur.idm.oclc.org/en/sections/what-we-do/>

⁷ Chapter VIII of the United Nations Charter (Attached in the Appendix 1)

regional organization is authorized to deal with their regional disputes and/or conflicts as long as it is in line and consistent with the purpose and principles of the UN.

Post-Cold war Dynamics in Geo-political Conflicts and Regional Organizations

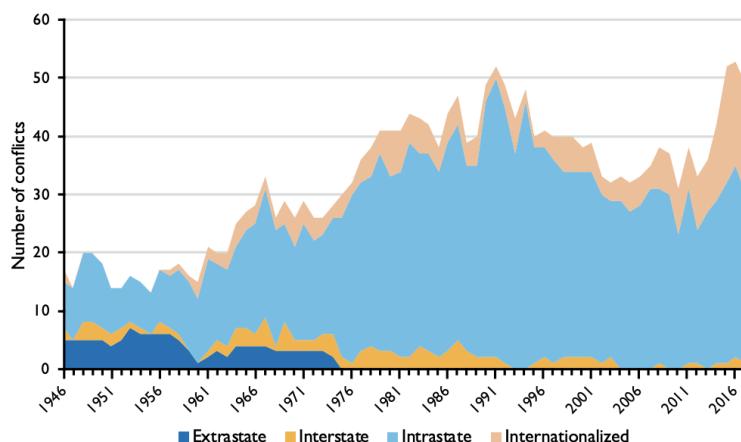


Figure 1: Number of armed conflicts by type of conflict, 1946–2017

The end of the 1990s brought the new era of global politics and international relations. It was marked with the dissolution of Union of Soviet Socialist Republic (USSR) in December 1991. Although the root of regionalism had already taken root before the Cold war ended, the changing tide of international relations had occurred with the collapse of the old bipolar system (Fawcett and Hurrell 1995). It marked the actualization

of the regional organization for the new interest and international cooperation and relations as stated by Fawcett and Hurrell (1995: 17-18). It also brought the decentralization of international system that strengthened the argument of regionalism, as stated by Barry Buzan, “*the removal of old ‘overlay’ patterns of great power influence has encouraged multipolarity and contributed to an international system in which the ‘regional arrangement’ can be expected to assume greater importance*” (1991: 208).

It is also interesting to note that the end of Cold War changed the character of violent conflicts. Based on Uppsala Conflict Data Program (UCDP)⁸, the data showed that the number of violent conflicts waged around the globe began to decline significantly. Between 1992 and 2006, the percentage dropped by 40% and over the same period, the highest intensity conflict (that kills > 1000 people a year) had been declined dramatically. With global trends of Armed conflict figure from Uppsala University’s Conflict Data Program and International Peace Research Institute, Oslo, it can be clearly noticed that the Intrastate conflict⁹ has increased rapidly. There are three major factors for the decline of Armed conflict Post-Cold War (Mack 2007) which are the end of colonialism, the end of cold-war and the substantial increase in the international campaign by United Nations towards preventive diplomacy, peacekeeping and peace-making mission.

On one hand, the changing characters of conflicts and international system Post-Cold war indeed brought challenges for international relations among countries globally. On the other hand, the changing characters of conflicts Post-Cold war that are marked by intra-state in nature and the establishment of various regional organizations in the midst of Cold-War raise the question of how do the regional organizations adapt to the changing dynamics of conflicts Post-Cold War and what is their role in management of these conflicts?

Situating ASEAN Way as Conflict Management and Resolution Mechanism

⁸ Uppsala Conflict Data Program (UCDP), Peace Research Institute of Oslo (PRIO)

⁹ a conflict that fought between a government and/ or non-state actors within the same country

It has been 52 years since the first five South East Asian countries signed the declaration to agree, unite, and take aside their differences to form Asia's first regional body that survived until today, ASEAN or the Association of Southeast Asian Nations. The ASEAN Declaration (or Bangkok Declaration), Treaty of Amity, and Cooperation or TAC (1976) became the embryo of ASEAN further cooperation, set out the basic principle of this intergovernmental regionalism, including Cooperation, Amity, and Non-interference. The non-interference principle that upholds the value of mutual respect of internal affairs promotes perpetual peace and everlasting amity among member states with two sides of coins in terms of regional conflict and stability, not limited only to member states, but also to signatories' parties that acknowledged the treaty. On one side, the treaty has become the original, yet normative norms to guide ASEAN's behaviours and manners among its member states. By acknowledging the treaty, the member states have been discouraged from meddling in one another's domestic affairs and from supporting political revolts in neighboring states (Disc 2011).

Other than the establishment of the respective regional body, ASEAN becomes an instrumental body that promotes the economic growth of their 10 member states. According to 2017 ASEAN Economic Community Chart book, the combined economies of ASEAN countries grew by 4.8 % in 2016 and in 2017, its Gross Domestic Product was \$7.9trillion, which placed it as the fifth largest economic block in the world (the Balance, 2018).

Nevertheless, the new ASEAN-style of diplomacy, called "*Prosper Thy Neighbour*"¹⁰ promotes and supports prosperity among its member states and to some extent, prevents any internal conflicts and provides resolution that could be admired. With the glorified jargon of "ASEAN Way" (Acharya, 2001) as a consensus mechanism and decision making, and also their doctrine to promote, share, and establish regional cooperation, common interest, and good understanding as stated in Bangkok Declaration which only tend to foster economic cooperation. Nonetheless, with those over-intensified economically defined ways of cooperation, leaves out questions and gaps on how ASEAN as a regional organization, plans to deal with more political-security oriented affairs among member states?

On the other side, 43 years have passed and the world is no longer in the midst of the Cold War. The challenges and the obstacles have evolved from globalization process to developmental issues that emphasize human security rather than state-sovereignty (Jetscke and Ruland 2009). Thus, the principle is being questioned as an instrument regarding conflict resolution and management mechanism. For instance, border dispute between Cambodia and Thailand that occurred since 2008 and the role of ASEAN as an intergovernmental regional organization has been questioned for their existence towards this bilateral conflict and both parties agreed to submit the respective dispute to the International Court of Justice (ICJ)¹¹. The ASEAN towards its Chairmanship at that time, Indonesia, sent the Foreign Minister of Indonesia, Marty Natalegawa to Cambodia and Thailand based on the new ASEAN Charter¹² that allows the parties of the dispute 'to request the Chairmanship of ASEAN or the Secretary-general of ASEAN acting in ex-officio

¹⁰ Keynote Address By The Honourable Dato' Seri Dr Mahathir Mohamed The Prime Minister of Malaysia, 30th Meeting of ASEAN Foreign Ministers. Accessed in <https://asean.org/?static_post=keynote-address-by-the-honourable-dato-seri-dr-mahathir-mohamed-the-prime-minister-of-malaysia>

¹¹ ASEAN and the Cambodia-Thailand Conflict, 2011 can be accessed in <https://www.eastasiaforum.org/2011/03/01/asean-and-the-cambodia-thailand-conflict/>

¹² ASEAN Charter Chapter VIII Dispute settlement can be retrieved in <https://asean.org/storage/images/archive/publications/ASEAN-Charter.pdf>

to capacity to provide the good offices, conciliation, and mediation'. Afterwards, three of the parties were invited to the United Nations Security Council in 14th February and made a statement. Although the members of UNSC provided an appraisal for ASEAN's action, the dispute had not been settled and the conflict led to severe test for both ASEAN and Indonesia as the Chairman at that time. The aforementioned conflict was only the tip of an iceberg for ASEAN member states. The various conflicts had occurred since the end of 1990s in ASEAN both conventional and contemporary, including:

- a. Indonesia-Malaysia sovereignty dispute over Sipadan-Ligitan Island between 1998 and 2002 that was concluded by the International Court of Justice¹³.
- b. The spread of Islamic Extremism in Southeast Asia started from end of 1990s till now, included but not limited to Jamaah Islamiyah (JI) and its branches in Indonesia, Abu Sayyaf in Philippines, Patani United Liberation Organization (PULO) in Thailand, Darul Islam Sabah in Malaysia¹⁴.
- c. The various separatism movement from Free Aceh Movement (GAM) and Free Papua Movement in Indonesia, Sabah-Serawak in Malaysia, Bangsamoro Islamic Freedom Movement in Philippines, Patani in Thailand (Minahan 2002).
- d. Rohingya humanitarian Crisis in Myanmar¹⁵, and
- e. The ongoing yet prominent one is the territorial dispute in the SCS among several countries including, People's Republic of China (PRC), Republic of China (Taiwan), Brunei, Malaysia, Indonesia, Philippines and Vietnam¹⁶. And other various conflicts.

Those are many of the examples of how ASEAN showed its limitations towards regional conflict management. On the contrary, looking at how European Union (EU) address and intervene conflict around the world by using the Global Strategy for the European Union's Foreign and Security Policy (EUGS) with the one of priorities by employing Integrated Approach (IA) to external conflict and crisis (EEAS 2017), it is quite significant. EU uses its own internal model of governance as a prominent approach to resolve conflict. The respective approach named Neo-Functionalism Peace can be defined as an approach to resolve "protracted dispute by deconstructing highly political issues into technical meanings in order to achieve mutually acceptable agreement (Visoka and Doyle 2016). It is important to note that peace building and conflict prevention are the heart of European External Action Services (EEAS). EU has undertaken various overseas operations by utilizing the military and civilian instrument in various countries in three continents (Europe, Africa and Asia) as part of its Common Security and Defence Policy (CSDP). Below is the overview of the current EU mission and operations.

¹³ Sovereignty over Pulau Sipadan and Pulau Ligitan between Indonesia and Malaysia retrieved at <https://www.icj-cij.org/en/case/102>

¹⁴ Islam Extremism throughout history in Southeast Asia can be accessed in <https://russiancouncil.ru/en/extremism-asean>

¹⁵ Rohingya Humanitarian crisis in Burma/ Myanmar can be retrieved at <https://www.hrw.org/tag/rohingya-crisis>

¹⁶ Territorial dispute in South China Sea can be accessed in <https://www.cfr.org/interactive/global-conflict-tracker/conflict/territorial-disputes-south-china-sea>



EUROPEAN UNION CSDP MISSIONS AND OPERATIONS 2019

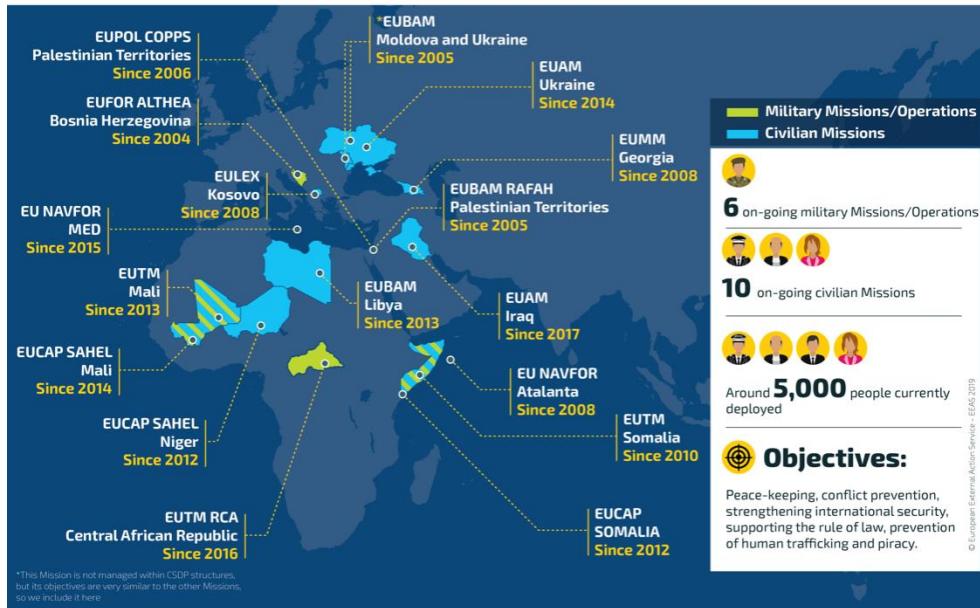


Figure 2. EU mission and operations. Source https://eeas.europa.eu/headquarters/headquarters-homepage/430/military-and-civilian-missions-and-operations_en

From the figure above, despite various criticism and limitations, it could clearly be seen that the European Union is one of the most prominent supranational organizations that is relatively active to promote peace, security, and justice. Looking at another exemplary regional conflict management by regional organizations, the African Union is one the best examples. Africa, the region flooded by various kinds of conflicts and disputes, such as ethnic/religions, border, civil strife, civil wars and genocides, made this region in needs of conflict resolution and management mechanism. Collier and Hoefller stated that fourteen out of the sixteen wars fought in Africa from 1990 to 1997 is categorized as intrastate wars, while in 1992 the respective continent hosted 46.7% of all civil wars in the world (Collier and Hoefller, 2004). Hence, with the backdrop of Charter 33 of United Nations Charter, Africa Union pursues resolution through mediation, negotiations and intermediation without an imposition of authorities' decisions. In regards to the regional arrangement towards conflict intervention, there was a significant change towards the principle of non-intervention. The prior form of AU, which was the Organization of African Union (OAU) with the OAU Charter clearly prohibited the OAU member states to interfere with the internal political affairs of member countries (Ezeibe and Oguonu, 2014).

Nevertheless, with newly AU security organs called the Peace and Security Council (PSC) as a key pillar of African Peace and Security Architecture (APSA), AU may intervene in conflict within member states when there are clear human rights abuses. As outlined in several articles of PSC Protocol Relating to the Establishment of the PSC of the AU, including:

- a. Preamble of the Protocol, quoted ‘*DESIROUS of establishing an operational structure for the effective implementation of the decisions taken in the areas of conflict prevention, peace-making, peace support operations and intervention, as well as peace-building and post-conflict reconstruction, in accordance with the authority conferred in that regard by Article 5(2) of the Constitutive Act of the African Union*’;
- b. Article 4 Principle:

Point J and K quoted “the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity, in accordance with Article 4(h) of the Constitutive Act;” and “*the right of Member States to request intervention from the Union in order to restore peace and security, in accordance with Article 4(j) of the Constitutive Act*”.
- c. Article 5 Functions Point 4 quoted “*peace support operations and intervention, pursuant to article 4 (b) and (j) of the Constitutive Act; etc.*”

Furthermore, towards the PSC, AU has developed holistic approach towards conflict resolution and management to achieve peace, security and development by emphasizing the importance of national ownership of post-conflict reconstruction efforts (International Colloquium Report, 2012). Despite some limitations on AU conflict resolution and management such as the external interference and internal constraints, the regional efforts in Africa have been successful. It has been proved that AU played a very essential role in conflict resolution towards mediations and peace-keeping operations in the region. To some extent, AU also succeed to raise the alarm for international community to intervene and served as a catalyst for international support and the return of UN Peacekeepers to Africa (including UNMISS and UNAMID).

Conversely, returning to regional conflict in Southeast Asia, one of the most challenging and prolonged conflicts and/or dispute that occurred in more than a decade is SCS Dispute between People’s Republic of China, Taiwan, and several ASEAN member states, including Philippines, Brunei, Malaysia, Indonesia, and Vietnam. The ASEAN as an entity in the form of “community” can do nothing about it, although the tension could lead to military action and could impose conflict towards violent conflict. However, the economic support and investment under Belt and Road Initiative (BRI) provided by China to most of the ASEAN countries, made ASEAN countries vigilant towards the dispute (The Diplomat 2018).

1.2. What is the Problem?

The role of regional organization towards conflict resolution and management is important. Nonetheless, the development of regional organization and the mainstream discourse on regionalism are determined by the economic-oriented factors such as cooperation and economic integration. With the rise of various regional organizations and changing dynamics of geopolitical conflicts, the needs of putting back regional organization into the discourse is essential and actualizing the political, security and conflict dimension are necessary for further analysis.

In this background, ASEAN as a raising and emerging regional organization has become the center of attention in the wider academic debates and concern on the aforementioned challenge. As a potential regional organization, ASEAN could develop more in terms of their Political-Security dimension and to some extent, integrity in the future. On the other hand, with the rise of China as one of the biggest, yet fastest-growing economic power in the world, (IMF Report, 1980-2018) various benefits may be brought for ASEAN member states. However, the existential issues such as SCS between mostly ASEAN member states and China is something that cannot be denied.

China's economic and political ambitions do clash with ASEAN's interest and sovereignty (Gerstl, *et al* 2017).

In the context of aforementioned dynamics in the Southeast region, this research proposes to conduct a critical analysis towards ASEAN's role in the SCS dispute. In the backdrop of contemporary geopolitical conflict, the dispute between China and several member of ASEAN is an existential and unavoidable conflict to be examined and analyzed. Looking at the facts that the area of disputes between countries in SCS are far beyond political, yet it has a greater impact on economics and relations between ASEAN member states and China as a bilateral partner and ASEAN and China as regional partner. An underlying narrative and in-depth analysis towards the SCS dispute over other conflicts have proven why it is highly important and interesting to analyze the SCS dispute over other conflicts in Southeast Asia region. The justification also implies on how the objectives of the research paper to deeply question and analyze the non-interference principle and ASEAN mechanism towards the aforementioned conflict.

In an overall perspective, this paper questions the role of ASEAN in conflict management and how ASEAN non-interference principle can help or inhibit engaging with contemporary geopolitical conflict in Southeast Asia region, especially in regards to the territorial dispute in the SCS that concerns several ASEAN member states and China: a regional and global power.

1.3. Research objectives and question

The objectives of this research can be understood in two ways. First, to understand the challenge of conflict management in ASEAN by taking into consideration the non-interference principle into the discussion. Second, to analyze the dynamics relations that occurred between ASEAN member states, ASEAN and China. Hence, this research paper generates critical understanding of the ASEAN mechanism to conflict management in addressing SCS dispute. Furthermore, in the backdrop of Non-interference principle as a fundamental principle that shaped ASEAN's approach to conflict management over the years, this paper investigates ASEAN's challenges and limitations in addressing the SCS dispute. In Therefore, this research paper asks the following research questions:

What is ASEAN's role in conflict management and resolution in geopolitical conflicts in the Southeast Asia region, namely South China Sea dispute?

1.3.1. Research Sub-questions:

On the other hand, to answer the bigger question on the role of ASEAN in conflict management towards the dispute of SCS, the strategy of this research paper provides two sub-research questions as follows:

1. To what extent the ASEAN's non-interference principle reflects the contemporary dynamics of South China conflicts?
2. How does the ASEAN's handle the South China Sea dispute impact relations among ASEAN Member states, ASEAN member states with China and ASEAN with China?

1.4. Motivation and Methodological Journey

As one of the International Relations scholars and current Master degree student that specialized in Conflict and Peace studies, supported by experiences as one of an officer at ASEAN Intergovernmental Commission on Human Rights (AICHR)¹⁷ in 2015, the issues of peace capacity building in ASEAN brought me towards this topic. With couple of months experience in AICHR, and engaged in various discussion with several ASEAN's figures and officers made me realize that there has been one of the most prominent challenges that comes into ASEAN's development as a regional organization and as a community, called Non-interference principle. Reminiscing my serving period in AICHR, the challenge of Non-interference principle does not only intricate within the discussion and above the papers towards the convention, but also on how certain intergovernmental organization such as AICHR that has a mandate to protect and promote human rights across the region has not been optimized and maximized. Moreover, with the conceptual knowledge that I acquired along my period as an International relations student that focus on regionalism, geopolitics and international peace and security, made me aware and urged me to deliver this research paper. Thus, engaging in the discussion and analyzing the discourse of Non-interference in ASEAN's regionalism can extend and offer alternative approaches towards the respective issues.

Indeed, without any further rebuttal, the experiences and my background makes me fully aware of my biases towards this research paper. The biases I would encounter is mostly regarding the professional relation with ASEAN officers. However, to prevent problematic research biases, I would follow the protocols of performing scientific research as being professional and objective to observe this issue. This research applied semi-structured qualitative interview as the main method. With the network that I acquired during my period at AICHR, I did an internship to collect the primary data and semi-structured interviews regarding the current Security capacity building in ASEAN with recently developed Peace Institute in ASEAN, named ASEAN-Institute for Peace and Reconciliation (ASEAN-IPR)¹⁸. These people had taken four semi-structured interview from four different institutions that have a critical understanding and historical attachment and the development of the issue as well. The primary source is essential because it would serve the reader about the personal and professional perception and point of view regarding the respective case of SCS. By having the personal and first-hand experience in managing the conflict, supported by the variety of background of the interviewees, the argument would move beyond the limitations of the institutions and to some extent would deliver their personal opinion without an entitlement for their official position in the ASEAN.

The research also relied on secondary data collection that I gathered from policy documents, ASEAN documents, terms of references, written deliberations High officers Meeting, and project reports of the on-going development of a case of SCS Dispute and the development of ASEAN conflict resolution mechanism that has been collected along my research at ASEAN-IPR. The secondary data is required to draw a formal and normative framework to justify various author's arguments and assumptions regarding the respective matters. By having the secondary data

¹⁷ AICHR in ASEAN. <https://asean.org/asean-political-security-community/asean-intergovernmental-commission-on-human-rights-aichr/>

¹⁸ ASEAN-IPR or ASEAN-Institute for Peace and Reconciliation is establish in 2012 with mandate to undertake capacity building, research and information dissemination. Access to the Web: <https://asean-ipr.org/about-us/>

analysis, I could deliver the valid argument in regards to formal and normative matters. In doing so, I could also comprehend and embrace the limitation that lies in the normative documents then examines it with primary data.

1.5. Justification and the Challenges of the Research

The significance of this research lies on the debate of non-interference principle as a fundamental principle that shaped the framework of ASEAN conflict management. The principle that has become an endless debate among scholars and international community is indeed interesting to discuss. Moreover, the changing pattern of character of the conflict in an international arena makes the management of conflict to be more challenging. Addressing the dispute, considering the importance of the area as an international trade route with potential resource makes the dispute as a central of the discussion in creating a stability and peace for maintaining status quo. On the other hand, ASEAN as a central actor in Southeast Asia region and most of ASEAN member states have shared border in the respective dispute could be the reason why this topic remains relevant in the discussion of ASEAN in the context of conflict management.

The challenge and limitation to this research are how to acquire an up-to-date documents and variety interview respondents towards the issue of SCS dispute. Considering the scale of and the timeframe of the issue, limiting the scope of the issue is important to analyze and examine it in the frame of conflict management. Nonetheless, limiting the scope of the analysis into two sub-research questions that focus on the non-interference principle and the dynamics relations among ASEAN and China would provide a more interesting result. On the other hand, bearing in mind that the ASEAN itself consists of ten member states, it is quite a challenging to acquire every personal perspective and political point of view in regards of the dispute. Thus, ASEAN is considered as an independent variable and unit of analysis is essential in the discussion.

1.6. Chapter Outline

Other than the introductory chapter, this research paper consists of four other chapters. The next chapter will discuss the theoretical framework used and presents the concepts of new regionalism, multitrack diplomacy, ASEAN conflict management and mechanism in APSC blueprint. Chapter three and four will engage with ASEAN conflict management and its relation with ASEAN SCS dispute, including ASEAN-China dynamics relations and the changing character of non-interference principle. The chapter five will compressively explain the new regionalism approach as a new direction for ASEAN.

Chapter 2 Theorising ASEAN as New Regionalism and ASEAN Conflict Management Mechanism

2.1. Introduction

This chapter discussed the theoretical framework which is used as tools of analysis of this research. The first major conceptual framework of this research is based on “New regionalism approach” that comes under the scholarship of “Theories of Regionalism”. New regionalism highlights the multidimensionality and interdisciplinarity of contemporary regionalism, following the work of Björn Hettne and Fredrik Söderbaum (1998). Afterwards, this research draws the ASEAN mechanism on conflict management by also involving multi-track diplomacy to examine the use of alternative track in managing conflicts in ASEAN. Lastly, with the backdrop of ASEAN conflict management, this research will provide the conceptual framework from one of the ASEAN fundamental document in management conflict, ASEAN Political-Security Blueprint to deeply analyze the case of SCS dispute itself.

2.2. New Regionalism Approach: ASEAN as New Regionalism

New Regionalism Approach or NRA is an approach which was suggested as “*a broad, open-ended framework to analyze regionalization in a multilevel and comparative perspective*” (Hettne and Söderbaum 1998). This approach critically analyzes the changing nature and dynamics of regionalism in the contemporary international relations. This approach came to an existence by referring to the phenomenon that began in the verge a Cold-war onwards. With the shift of power from bipolar to multipolar, the rise of various international and regional organizations, and many countries’ put more positive attitude towards regionalism making the dynamics of regionalism become more broad and complicated. As what Hettne and Söderbaum implied that “the new regionalism is a comprehensive, multifaceted and multidimensional process, implying a change of a particular region from relative heterogeneity to increased more homogeneity with regard to a number of dimensions, including culture, security, economic policies and political regimes” as stated by Hettne & Söderbaum (1998: 2-3).

Furthermore, the concept of New Regionalism Approach was reflected towards various transformations and phenomenon in world politics from 1980s onwards, starting on how regionalism was actualized in the discussion of international political economy and the shift of world system from bipolar to multipolar after the end of Cold war. The actualization of regionalism and the rise of NRA into the discourse of international relations do not mean that it replace the concept of world approaches, in fact, it must be complemented the world approaches “*from the ‘outside-in’ and monodisciplinary by interdisciplinary approach*” (1998: 11).

Moreover, in the concept of NRA, the process of regionalization can be described in terms of increasing levels of *regionness*. In which a concept as a central component of NRA to provide basic frameworks form comparing emerging regions and observe how and which geographical region is transformed in subject to the capacity to articulate interest of emerging region. By conceptualizing the dynamics of *regionness* into the concept of NRA, a specific identification on how the

regionalism as a phenomenon should be distinguished by specific categories can be done as follows:

- a. Intergovernmental regional cooperation and state-promoted regional integration
These refer to an infinite process in which individual states act together for mutual benefits and in order to solve common problem, such as infrastructure, water, energy, etc. Whereas the state-promoted regional integrations relates to policy design to abolish barriers for the mutual exchange, such as goods, people, service and capital.
- b. Market and Society induced regionalization
As stated by Hurrell that it refers to growth of undirected process of societal and economic interdependence and interaction (Hurrell 1995: 39). In this stage, new regionalism has transformed into transnational regional economy and civil society.
- c. Regional convergence and coherence
This phenomenon points out on how the process of increasing regionness is understood. Hurrell explained that it can be understood in two main ways, (i) when region has a definitive role in the relations to the rest of the world, and (ii) when region serves as an organizing body across a wide range of issues within the region.
- d. Regional identity
This phenomenon underlines the essential differences between the old and the new regionalism. It points out on how the awareness of regionalism, the existence and its identity are increasing within the region.

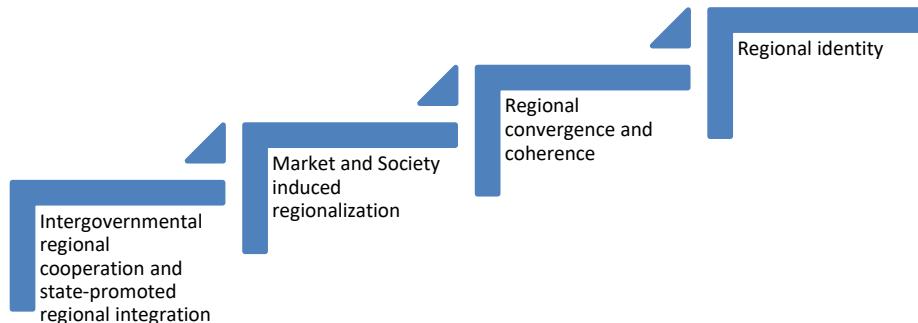


Illustration 1: New Regionalism Approach 4 stages of phenomenon. Author's illustration based on the work of Hettne & Söderbaum

In the context of ASEAN, with the given above illustration, the conceptual framework of NRA could determine the shift and dynamics that occur within the ASEAN as a regional organization. By looking at the changing dynamics of ASEAN since its establishment and how they respond to specific issues of conflict, it would determine the dynamics characteristic of current ASEAN. It has been noticed that the high intensity integration from intergovernmental cooperation towards building regional identity makes the level of *regioness* of ASEAN increase significantly. The momentum was the agreement of ASEAN Community in 2009 making ASEAN has a clearer vision towards regional identity with the jargon,

“One Vision, One identity, and One Community”

With the expansion of member of ASEAN until 1999, the agreement with the international community to have AFTA in 1993, the open channels of various dialogue partner with ARF, EAS, ASEAN+3 and ASEAN +1 and until it reach its momentum in ASEAN community declaration in 2015. The illustration of ASEAN as a new regionalism that become more open and on their pathways building their identity is presented on the Figure below.

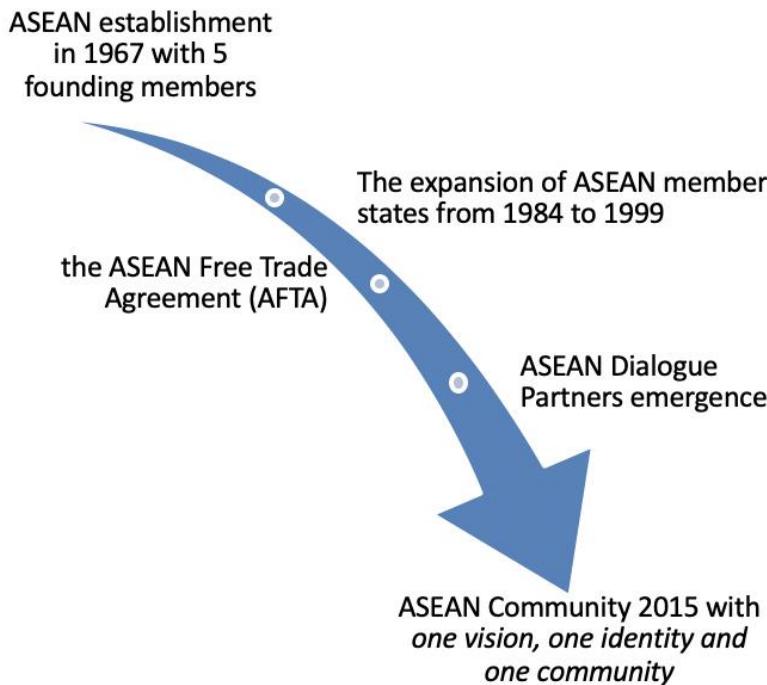


Illustration 2: Illustrated by writer from secondary data collection

Nevertheless, the NRA also has limitation on the practice of analyzing regionalism. First, the NRA only give a general understanding in explaining the changing character of regionalism by comparing with the character of the “Old regionalism”. The Old regionalism has a similar character of power structure with the bipolar cold war power structure system that “was often imposed, directly and indirectly, from above and outside” (1998: 3) while the new regionalism tend to emerge from below and within the region, in line with its peculiarities and problem. Second, the NRA does not give any specific measurement to identify the extent of regionalism that could develop as a regionalism. The level of regionness provided by the approach only serves as a tool to analyze the level of rapidness and tool to measure the capacity of a region to articulate its interest. However, as a central component of NRA, the level of regionness could determine the logic of contemporary processes of regionalization in the contemporary world. However, the third critics from this approach is the lack of variety and it tends to reflect on European-centric approach.

Bearing in mind that the notion of “new regionalism” came into existence with the emergence of European Integration in the first half of the 1980s which marked with the significant increase of regional trade agreement and externally-oriented type of regionalism (Söderbaum 2015). With the tendency to reflect on European Union as a primary example of a new form of regionalism, this approach does not quietly address the variety of characteristics from every regions, such as South America, South Asia and Southeast Asia itself. Moreover, the limitation in applying the approach is also because of the approach stands from the greater paradigm and perspective of international relations, such as rationalist, constructivist, and neo-liberalist. Hence, it does not clearly address the variety of components that makes the regionalism becomes a “new regionalism”

in particular. Furthermore, in the current debate on how to evaluate and postulate the “new regionalism approach”, James Mittleman in his journal invited the reader to rethink the ‘*New Regionalism*’ in the context of Globalization (Mittleman 1996) by critically evaluates the literature and extends the theoretical framework to induce a neglected dimension of this approach. As the NRA is acknowledged to be multifaceted and more comprehensive than the conventional paradigm of regionalism, and to some extent is developing in a multipolar context. Apart from that, the model is eagerly drawn by the process of Europeanization and the development of regional identity in Europe (Hettne 1994), the European value that attached and instilled in the institutionalization setting of EU with legally fixed framework and series of deadlines does not aspire and share the stated aspiration of ASEAN countries. Another difference is in the formation of regionalism itself, although it is new, with the backdrop of European integration with the old territorial based approach based on the Westphalian system of nation state still underlies this approach, while the conflicts nowadays are increasingly characterized beyond the territoriality framework and are more transnational in nature.

Therefore, indeed the NRA still can be used as an alternative to examine the changing form of dynamics regional organization in the application, however in the more advance security complex dimension, the need to expand the discussion into more comprehensive and multidisciplinary context is necessary in the case of Southeast Asia region. Nevertheless, despite having various critics and complexity in the application, the approach remains as an important component to prove and justify how the regional organization could develop by examining the level of its regionnes. In the ASEAN context, the level of regionnes from expanding their member states, having various market enlargement towards building an identity in various dimension marked the high integration level that ASEAN had in a general term as a new regionalism. The following sub-section will comprehend the ASEAN conflict management mechanism framework and its relations with other tracks and SCS dispute mechanism.

2.3. ASEAN Conflict Handling Mechanism

“*The establishment of ASEAN itself is a good example of Conflict management*” (Jenie, 2019).

The above quote is an integral argument delivered by Mr. Rezlan Ishar Jenie as the first Executive Director of ASEAN-Institute for Peace and Reconciliation (ASEAN-IPR)¹⁹. The aforementioned quote was addressed while I was asking him about the changing character of conflict management in ASEAN and how it influenced the flexibility of the uphold principle of ASEAN non-interference itself (Interview Jenie, 2019). Moreover, despite the fact that ASEAN is hampered by its own principle and has not been very successful in handling most of the conflicts in the region, it has proven to prevent high scale and hard security conflicts for decades (Soomro 2017).

This sub-section provides a comprehensive understanding regarding the ASEAN conflict management in terms of its mechanism and introducing ASEAN dialogue partner as an integral part of ASEAN role towards conflict development. The first part of this section presents the existing conflict management mechanism from ASEAN framework and the involvement of ASEAN

¹⁹ In a nutshell, ASEAN-IPR is a is “ASEAN’s knowledge hub and center of excellence in building capacity on conflict resolution and reconciliation and further strengthening peace-oriented values towards harmony, peace, security and stability in our region and beyond” (ASEAN-IPR Mission accessed in <https://asean-ipr.org/about-us/>, September 14, 2019).

dialogue partners. Afterwards, this sub-section examines contested ASEAN's principle of Non-interference in the contemporary and the development of ASEAN conflict management over decades by presenting my preliminary findings and interviews and how it influenced the changing character of ASEAN conflict management mechanism. Furthermore, with the dynamics development of ASEAN in managing conflict, it involves the mechanism and the approach of settling conflict by engaging with various informal actors and applying more people-centered approach of ASEAN.

For five decades since the establishment of ASEAN as a regional community, there are eight fundamental ASEAN documents in handling conflict management that comprehensively summarized the values, purposes, mechanism and principle for ASEAN member states and conflicted parties to be uphold for, in which the eight key fundamental documents in shaping ASEAN conflict management are appended in the annex 2 (Amer 2015). Those documents provide a contemporary approach of ASEAN to be more inclusive and more people-oriented by engaging with non-states actors in their activity, such as optimizing the role of civil society organization, non-governmental organization, scholars and researchers, and many other track that will be explained in latter sections. Furthermore, this document also sets up norms and principles for ASEAN member states in handling dispute by preserving their original value and principle from previous documents. In general, the eight ASEAN fundamental documents set out the ASEAN rule, principles, norms and values in shaping ASEAN conflict management mechanism. ASEAN's current approach is mostly a continuation of what was set up when it was started. However, considering the fast changing context and character of conflicts, the adaption is clearly needed in responding upon those matters.

Main Argument related to the ASEAN Conflict Management



Illustration 3: ASEAN Document on Conflict Management.
Illustrated by the writer from Ramses Amer Report

some high level tension such as Myanmar-Thailand in the late 1990s, Cambodia-Thailand in 2009 and 2013. Nonetheless, learning from the character of ASEAN and its member states, in terms of Conflict Management, **"ASEAN has displayed a preference for bilateral talks and dialogue on the disputes with other members of the association** (Amer 2002). To some extent, if the

In an overall perspective, regarding the conflict management in ASEAN, reflecting on the various documents that sets out the framework, norms, values and principles of ASEAN in handling conflict, **ASEAN is similar to the two sides of the coin, very successful on one hand, and very slow and hampered on the other hand**. For example, on one hand, the examination of ASEAN achievement in conflict management in an conflict related to the prevention of militarized dispute and hard security issues shows that the track record ASEAN is really impressive, "since no dispute has led to a militarized inter-state dispute among original member states and high degree of success in managing disputes between the original member states of ASEAN (Amer 1998). However, the expansion of member states has brought ASEAN into another level and challenge, considering there were

bilateral effort is insufficient, then the international jurisprudence is necessary, such as in the case of Indonesia-Malaysia dispute conflict over Sipadan-Ligitan Island.

On the other contested argument, the question rises, whether this bilateral framework and mechanism of ASEAN are signs of weakness of the regional ASEAN framework or is it an integrated part of it. How does the promotion of bilateral dialogue among member states in line with its regional framework? Therefore, it is clearly not a sign of weakness. One of the examples is the case of Vietnam border dispute settlement since 1990s. “The settlement has been primarily achieved through bilateral approach, but in line with ASEAN principles and mechanism for conflict settlement” (Amer and Thao 2005; 2007). The line of argumentation draws on the logic that:

“as long as bilateral approaches are not contradict with regional approach, and it adhere to the same basic principle that regional approach is based upon. Moreover, the bilateral effort to manage dispute settlement can be facilitated and supported by the mechanism that ASEAN created and by enhancing the effectiveness of these mechanism.”

From aforementioned findings on ASEAN conflict management, I examined the argument by having the results of primary interviews on respective matters. Based on the interviews results, those assumptions are justified by most of my interviewee’s perspective on ASEAN mechanism which concluded that it is exactly the ASEAN Way. By building and having the high conformity level and trust towards adoption of ASEAN fundamental documents, the bilateral approaches will not be contradicted, because it will adhere with the regional approach in handling the conflictual parties. Therefore, with the regional mechanism that ASEAN created, the bilateral efforts to manage dispute settlement are facilitated. Indeed, it is quite different with the approach of EU in handling conflict. After all, the level of *Regioness* of ASEAN was measured based upon the European standards (EU), then it could never be the same. ASEAN has different characteristics, values, principles and mechanism. Nonetheless, ASEAN has a lot more to offer to become a comprehensive, yet integrated community to handle inter and intra states conflict in the future, even without disposing their main principle and value in the implementation. First, as what ASCPA affirms on the ASEAN member states to “*endeavour to use existential regional dispute mechanisms and processes*” and in those documents by establishing and taking into realization of High Council of the TAC as the preferred option. The High Council of the TAC itself is a high level/ ministerial-level body that was initially mentioned in the document of TAC 1976 Chapter IV about Pacific Settlement of Dispute, Article 14 and 15, stated that:

Article 14

*“To settle disputes through regional processes, the High Contracting Parties shall constitute, as a continuing body, a **High Council comprising a Representative at ministerial level** from each of the High Contracting Parties to take cognizance of the existence of disputes or situations likely to disturb regional peace and harmony.”*

Article 15

*“In the event no solution is reached through direct negotiations, the **High Council shall take cognizance of the dispute or the situation and shall recommend to the parties in dispute appropriate means of settlement such as good offices, mediation, inquiry or conciliation.** The High Council may however offer its good offices, or upon agreement of the parties in dispute, constitute itself into a committee of mediation, inquiry or conciliation. When deemed necessary, the High Council shall recommend appropriate measures for the prevention of a deterioration of the dispute or the situation.”*

The proposal to establish the High Council to enhance trust among member states of ASEAN remains unclear. Nonetheless, the positive and constructive initiative for ASEAN member states to foster trust and conformity level keeps increasing over the years. Although, the existing

mechanism *status quo* for dispute settlement is through bilateral dialogue with the backdrop of ASEAN norms, values, and principles, but then again, there are plenty of channels that ASEAN could use in order to foster their role in conflict management. On the other hand, ASEAN conflict management cannot stand independently as there are many channel and instruments in handling conflict and dispute among member states, such as ASEAN dialogue partner in the wider region. I would mention the variety of ASEAN dialogue partners that included in the dynamics of ASEAN relations with other entities in the wider region.

2.4. ASEAN Dialogue Partners

ASEAN has numerous dialogue partners across the globe, the countries and organizations have been integrated as ASEAN dialogue partners for various fields, such as investment, human resource development, trade, security, and others. I would only mention the most relevant and central dialogue partners and forum that related to conflict management and cooperation in the political-security issues. In terms of ASEAN Political-Security that related with external parties, ASEAN has **ASEAN Regional Forum (ARF)**. ARF currently includes various countries as participants, including Australia, Bangladesh, Brunei Darussalam, Cambodia, Canada, China, Democratic People's Republic of Korea, European Union, India, Indonesia, Japan, Lao PDR, Malaysia, Mongolia, Myanmar, New Zealand, Pakistan, Papua New Guinea, Philippines, Republic of Korea, Russia, Singapore, Sri Lanka, Thailand, Timor-Leste, United States, and Viet Nam²⁰. The ARF is used as a venue for “*bilateral and multilateral dialogue and consultations and the establishment of effective principles for dialogue and cooperation, featuring decision-making by consensus, non-interference, incremental progress and moving at a pace comfortable to all*”²¹. One of the main goals of the forum is “to foster dialogue and consultation, and to promote confidence building and preventive diplomacy in the region²². The forum is a strategic forum and an important platform to enhance peace in the region, with plenty of achievements. It has been proved that in the tenth year of ARF, the forum had attained record of achievements that contributed to peace, security and cooperation, such as cultivating the habits of dialogues and consultation, promoting transparency in exchange information related to defense policy, built developed networking among national security, defense and military officials²³.

Subsequently, **ASEAN** have **ASEAN Plus Three (APT)** that began their cooperation in December 1997 with the Plus three included China, Japan and Republic of Korea. The cooperation among ASEAN+3 is included in multidimensional pillars, which are Political-Security, Economic Cooperation and Socio-Cultural. APT became the essential instrument to foster East Asian Regionalism and as a vehicle for long-term goal of East Asian Community, while ASEAN has a central role as a driving force (ASEAN Plus Three Cooperation 1997). Considering how strategic and essentials are China, Japan and South Korea for ASEAN, this forum indeed brought a numerous impacts for ASEAN member states development in various sectors. Nevertheless, the relationship is mutual, therefore by engaging with ASEAN, three biggest economic power in the East Asia would benefit from this platform, including an encouragement for regional organization in East Asia.

East Asia Summit (EAS) is an annual regional forum that consists of 18 countries in the East Asia, South Asian regions, ASEAN Plus Six mechanism, United States and Russia and surely Southeast Asia itself. These are the following members of East Asia Summit: ASEAN member states, Australia, China, India, Japan, New Zealand, Russia, South Korea and United States. The

²⁰ The participants of ARF could be accessed in <http://aseanregionalforum.asean.org/about-arf/>, accessed on 18th of September 2019.

²¹ *ibid*

²² *ibid*

²³ Australian Government (DFAT) on ARF, accessed on <https://dfat.gov.au/international-relations/regional-architecture/Pages/asean-regional-forum-arf.aspx>

annual summit itself is an important driving force in the regional architecture of Asia-Pacific theatre.

Then, last but not least, ASEAN has **ASEAN +1** as a framework of dialogue and trade agreement between ASEAN plus and its 10 dialogue partners, which are Australia, Canada, China, India, Japan, the Republic of Korea, New Zealand, the Russian Federation, the United States and the European Union. This dialogue relations between ASEAN and other countries as well as international organization, in fact bring various benefits for all parties, not only in terms of free trade agreement, but also in political-security issues.



Illustration 4: ASEAN dialogue partners illustrated by the writer from ASEAN Website

During my fieldwork research, I found the projects and various regional architectures are ideally to shape a desired image from one parties to another based on the dependency and strategical forum to conduct a further cooperation among states. Nonetheless, functionally, I found those forums to be really important towards many aspect, aside as a network of dialogue partners, the aforementioned forums and dialogues also showed ASEAN's centrality role in the forum. One of my interviewees, Mr. Rezlan addressed the important role of this forum as "*ASEAN as main player and central figure in bridge-builder of long term cooperation*". In fact, the dialogue partner between ASEAN and China in the form of ASEAN+1, ASEAN-China Dialogue which has been established since 1996 has become an instrument of dialogue in relation with the SCS

dispute. The ASEAN-China dialogue has raised the dispute into the table and eager to search for the best mutually agreeable mechanism to manage the situation (Amer, 2002). The output-product from their discussion was the setup of the "**ASEAN-China Working Group on the Regional Code of Conduct on the South China Sea**" in 2002. Despite many areas of disagreement and difficulties in reaching agreement and the reconciliation proposal for ASEAN and Chinese, "the scope of application" of both proposed mechanism could be encompassed in the SCS. In the end, after the ASEAN member states compromised and reconciled their differences, the "**Declaration of the Conduct of Parties in the South China Sea (DOC)**" was then signed on November 2002.

In conclusion, ASEAN needs this forum to harness and strengthen their role towards many aspect of cooperation, and it has been proved that the centrality of ASEAN in various forums remain essential to channel their interests, including conflict management. Afterwards, I would explain the dynamic character of ASEAN in the next section by relating it to the concept of multitrack diplomacy, particularly how ASEAN engages with other tracks and could be their new pathways of conflict management.

2.5. Multi-track Diplomacy

Although the number of conflicts has decreased over decades, the complexity of interstate and intrastate conflicts has become a critical challenge to the discourse of conflict resolution. On the other hand, diplomacy as a formal instrument and inter-state relations then was employed as a tool towards conflict resolution. Nonetheless, with the ever-changing and shifting dynamics in conflict discourse, the new concept of diplomacy is needed to analyze the contemporary conflict in 21st century, which challenged by the dynamic of contemporary conflict.

In regards to those social changes, more comprehensive approach of theories and practice is needed to advance the application of conflict resolution by not only depending on a conventional pattern of diplomacy, but also to go beyond diplomacy by adapting the contemporary dynamics of conflict. Multi-track diplomacy brings the different approach towards conflict management. Diamond and McDonald coined the idea of multi-track diplomacy into concept by not only putting government official (Track 1 Diplomacy) but also involving other entities (Nine tracks) into practice (2003). Herewith the illustration model made by both scholars:

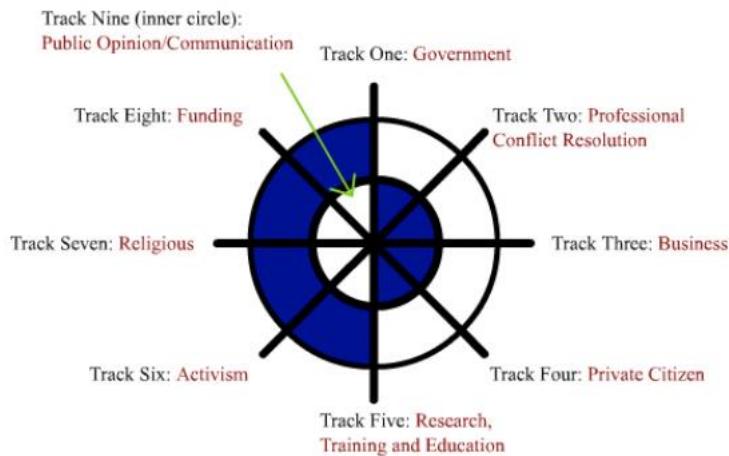


Diagram 1: Multitrack diplomacy by Diamond and McDonald, The Institute for Multi-Track Diplomacy (IMTD)

The diagram is shaped similar to a compass, which means it eliminated the hierarchical approach to understand conflict resolution. Each of the tracks has its own “resources, values, and approaches”. The above compass is a new approach toward conflict management or what Diamond has called as a “*systems approach to peace*”. By employing this compass and examine the changing model that ASEAN has applied over decades, it can be seen how they use the other track to open up any alternative towards conflict resolution.

Referring to ASEAN conflict resolution mechanism towards one of the three pillars of ASEAN community, the Political-security pillars plays an important role in handling conflict resolution. Initially, the establishment of APSC as an integral pillars within ASEAN Community brings an enormous development towards the more specific issues around conflict, peace and security cooperation to the higher plane. The vision, characters, and roadmap that reinforce the APSC blueprint “*shall promote political development in adherence to the principles of democracy, the rule of law and good governance, respect for and promotion and protection of human rights and fundamental freedoms as inscribed in the ASEAN Charter*” (APSC Blueprint 2009).

Furthermore, based on the aforementioned vision, the APSC envisages the character of rule-based community, shared responsibility and a dynamic and outward-looking region. The characteristics are mutually reinforcing and inter-related that should be achieved in a balance and consistent manner. Hence, to effectively realize the APSC, “*the APSC Blueprint is an action-oriented document with a view to achieving results and recognizes the capacity and capability of ASEAN Member states to undertake the stipulated actions in the blueprint*” stated on APSC Blueprint (2009: 2-3).

2.6. ASEAN Conflict Resolution Mechanism as the Implementation of Multi-track Diplomacy

In the context of SCS dispute, by employing the role of APSC towards the issues, the APSC blueprint that consists of ASEAN Dispute Settlement Mechanism addresses the guideline and mechanism towards the respective issue. The diagram that illustrated from APSC blueprint is shown below:

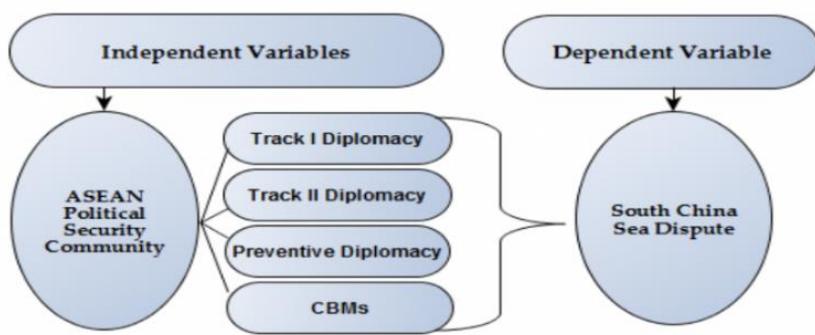


Diagram 2: APSC Blueprint on ASEAN dispute settlement mechanism

dispute as dependent variable. By looking at the diagram and employing it as a guideline, the researcher would analyze how the APSC facilitate and encourage transactions, trends, and trust by looking at on how the norms of behavior, mechanism monitoring, and sanctions to enforce the norms and its attempts to resolve the SCS Dispute (Seng 2014).

In the above diagram, the APSC is an independent variable that is separated into four categories, including Track 1 Diplomacy, Track 2 Diplomacy, Preventive Diplomacy and Confidence Building Mechanism while on the other side of the diagram is SCS

Chapter 3 ASEAN and South China Sea Dispute

3.1. Introduction

This chapter will discuss the background case of SCS dispute and potential resource in it to determine its important role in a dynamics of the conflict. After the contextual background on how important the area is elaborated, in geopolitical and geo-economic context, ASEAN mechanism capacity on conflict management towards the SCS dispute will be discussed by applying ASEAN framework mechanism towards the case, including the involvement of other tracks and the conceptual framework from APSC blueprint. In general, by having various justification and preliminary findings from my fieldwork, this chapter would answer the main research question on ASEAN mechanism conflict management in SCS dispute.

3.2. South China Sea: Resources and Dispute

South China Sea is a contested sea area that lies as a part of Pacific Ocean with covers around 3.5 million square kilometre and encompasses an area around Karimata and Malacca (International Hydrographic Organization (IHO) 1953). It is currently contested and disputed area because it claimed by both maritime and island among various sovereign states including People's Republic of China, Taiwan, Brunei, Malaysia, Philippines, Vietnam and Indonesia. Among many others, the reasons why this area is conflicted is because of its tremendous strategic importance as world's shipping trade, lucrative fisheries, and potential huge oil and gas reserves²⁴. The area itself is an archipelago with various islands on it.

Geographically, the claimant states are mostly Southeast Asia countries and member states of ASEAN including Brunei, Vietnam, Philippines, Malaysia and Indonesia, while others are China and Taiwan. Considering ASEAN-China relations in trade agreement, following by an enlargement of market among themselves to enhance and economic activities. In the economic context, annually, an estimated US\$ 5 trillion of global trade passes through the respective area of conflict²⁵. The respective estimation worth of goods are transported through SCS shipping lanes for each year, *“including more than half the world’s annual merchant fleet tonnage and a third of all maritime traffic worldwide”* (Fensom, 2016). To some extent,



Figure 3: South China Sea Map by <https://asiapacific.anu.edu.au/mapsonline/base-maps/south-china-sea-colour>

²⁴ China Power Team. “How much trade transits the South China Sea?” China Power. August 2, 2017. Updated October 27, 2017. Accessed September 16, 2019. <https://chinapower.csis.org/much-trade-transits-south-china-sea/>

²⁵ Fensom, A. (2016). *§5 Trillion Meltdown: What If China Shuts Down the South China Sea?*. [online] The National Interest. Available at: <https://nationalinterest.org/blog/5-trillion-meltdown-what-if-china-shuts-down-the-south-china-16996> [Accessed 28 May 2019].

the oil transported traffic between the SCS lanes is compared to Suez or Panama Canal, the SCS lanes that connects the Malacca strait from Indian Ocean, route to East Asia has triple the amount in total that the oil transported through the Suez Canal and even fifteen times the volume that transits on the Panama Canal. Thus, the economic activities that passes through the SCS lanes making this area of dispute become one of the most contested area in the contemporary global politics and actualizing on how this issue is important to be discussed.

Aside from being one of the world's most economically important waterways, the SCS itself is a potential area with rich oil and gas reserve, as elaborated by the collected data from department of ecology and biodiversity, University of Hongkong: (See Table 1)

Region of South China Sea	Potential Oil and Gas Reserves
Southern China	1500 million barrels
South of Hainan Island	210 million barrels
Gulf of Tonkin	95 million barrels
South Vietnam	2847 million barrels
Sunda Shelf	180 million barrels
Borneo/Sarawak	9260 million barrels
Philippines	409 million barrels

Source: Swire Institute of Marine Science and Department of Ecology and Biodiversity, University of Hong Kong: <ftp://ftp.fisheries.ubc.ca/l.teh/destructive%20fishing/South%20china%20sea.pdf>

Despite many debates and no consensus has been confirmed yet on the numbers of potential oil in the respective area, the region contains oil reserve of at least 7.7 billion proven barrels with more optimistic forecast reaching as high as 213 billion barrels. Therefore, even without any exact round numbers on the approximate amount of oil, many believes that there remains a significant hydrocarbon prize in the region (Vagg 2012). Vagg continued, aside from oil reserves, "natural gas might be abundant and sought-after the hydrocarbon resources". The estimated total of natural gas reserves is around 266 trillion cubic feet and make up 60-70% of region hydrocarbon's resource. On the other hand, not only natural resources in the form of gas and oil reserves, but the region itself consisted of rich food materials. According to Filipino Department of Environment and Natural resources, SCS area holds one third of the entire world's marine biodiversity and has provided ten percent of the world's catch, including hairtail, black scraper, anchovy, crabs, shrimps, chub mackerel and smaller fishes (Vagg 2012). However, due to the uprising dispute, 40% of the stocks collapsed or overexploited and 70% of the coral reefs are significantly depleted. Many believes that the uprising conflict in the area suggested that disputes over fishing rights have a larger driving conflict compared to hydrocarbon reserves (Kleine-Ahlbrant, *Foreign Policy* 2012). Considering how rich the area is, it was noted that the SCS is filled with fishing vessels, there had been 23.000 fishing boats in August 2019 from China alone after the annual ban for auspices environmental protection was lifted.

Furthermore, other than economic activities and potential resource that occur in the SCS, the actors that are involved in the dispute also encourage the extension of the conflicts. Formally, the disputed actors are included as several member states in ASEAN, with China and Taiwan as claimant parties outside ASEAN member. Nevertheless, with the emphasis on the importance and significance SCS for international trade, there are many external non-claimant parties that also

provide their progressive views and stance towards the respective conflict, including United States and Japan (Andre 2008) (Taylor 2014).

Moreover, the rise of China's economic power and the alignment between China and various member states of ASEAN as well as China with ASEAN as a region increase the importance of the issues to be examined and deeply analyzed (Frost, Hewison and Pandita, 2002). Indeed, China's great economic power cannot be denied as an important element towards the discussion, therefore it is insufficient to engage in deeper analysis to explain the dynamics relationship between ASEAN member states within their regional organization and other multidimensional factor that should be taken into account to obtain better underlining knowledge and understanding in the backdrop of ASEAN mechanism towards contemporary geopolitical conflict in Southeast Asia. Thus, by also considering China as an important geostrategic and geo-economics partner of ASEAN, and the fact that its member states are facing an avoidable, yet challenging issues in ASEAN's backyards, this may become a test and examination for ASEAN over its strength, images and value as a community and regional organization.

On security and military dimension, the intensity of the conflict is rising over the time. China's approach towards this measure is certainly influenced by the intensity of the conflict. China's attitude by placing many installation and conducting military drills in the conflicted area has increased the tension of the conflict and as a sign of aggression for all parties. With the backdrop of profitable area with huge potential energy resources, China has invested a massive budget in the area. The area that dubbed as the "second Persian sea" by China's official making this area as a core of interest for China's policy²⁶. It was proved with the plan to spend US\$ 30 billion from the China's state-owned enterprises Offshore Exploration Corp in the next 20 years to exploit oil in the respective region with the potential annual production capacity of 25 tons of oil and natural gas. This plan is also acknowledged in the government's 12 Five-Year Plan (2011-2015)²⁷. To achieve those purposes, starting in 2013, seven artificial man-made island sprouted around distant reefs that controlled by China have built an installation of missiles, military radar and reinforced bunkers for warplane²⁸. This attitude is an "*assertive attempt to proclaim de facto sovereignty over disputed maritime features by militarizing its man-made bases*" as stated by Commander of US Pacific Command, Admiral Harry Harris²⁹. On the other side, bearing in mind with the potential capacity and the significance of the area for international trade, the SCS also becomes a national interest for United States, as stated by Secretary of States Hillary Clinton in 2011³⁰. Upon those blunt statements, until now the SCS also becomes a military drill theatre for United States and its allies. The US has stepped up its military activity and naval presence in the recent years, with the operations that called Freedom of Navigation Operations (FONOPs) since May 2017. In his visit to Southeast Asia in November 2017, Donald Trump addressed the importance of the operations to ensure free and open access

²⁶ "The South China Sea economy and national defense significance are all known as "the Second Persian Gulf" accessed in <https://news.qq.com/a/20110620/000254.htm>

²⁷ Global times in "Oil Bonanza in South China Sea". Accessed in <https://web.archive.org/web/20110423040541/http://special.globaltimes.cn/2011-04/645909.html>

²⁸ The Economist, "China is resorting to new forms of bullying in the South China Sea". Accessed in <https://www.economist.com/asia/2019/10/03/china-is-resorting-to-new-forms-of-bullying-in-the-south-china-sea>

²⁹ South China Morning Post, "China has built seven new military bases in South China Sea, US navy commander says" Accessed in <https://www.scmp.com/news/china/diplomacy-defence/article/2133483/china-has-built-seven-new-military-bases-south-china>.

³⁰ The New York Time, "China Hedges over whether South China Sea is a core interest worth war". Accessed in <https://www.nytimes.com/eur.idm.oclc.org/2011/03/31/world/asia/31beijing.html>

to the area. This is a reactive counterparts from the US in challenging China's assertive territorial claims and land reclamation efforts by the conduction series of FONOPs operations and bolstering support from Southeast Asian partners³¹. Supporting its allies, Japan also sold their military ships and equipment to the Philippines and Vietnam to improve their maritime capacity in deterring China's aggression³². Considering energy exploration and exploration on one side, military aggression on the other side, SCS is indeed important and essential for not only conflicting parties, but international trade and peace.

This section has discussed and acknowledged how important and essential the area of SCS for not only to all claimant parties, but also to all international actors. The next section will examine and analyze the conflict management of SCS dispute by engaging with ASEAN conflict mechanism.

3.3. ASEAN Handling Mechanism on South China Sea Dispute: From Workshops to the Declarations

As one of the most contested area in Southeast Asia-Pacific over the years, SCS dispute became a central point of discussion and debates in the international affairs. The potential resource that the area has served as the international trade routes and currently as the theatre of military exhibition for external great power brings the discussion of conflict settlement in the respective dispute to become more complicated than it was before. Every eyes of international parties is on ASEAN, which depended as an existential regional organization in respective geopolitics. Nonetheless, since the tendency of the conflict increases over period of time, the role of ASEAN to mediate and manage conflict has been questioned (Soomro 2017). Moreover, with the involvement of several member states of ASEAN into the dispute (including Vietnam, Philippines, Malaysia, Brunei and Indonesia), the urgency to manage the conflict into multilateral meaning is challenged. Not to mention the strict principle regarding utmost respect on territorial integrity making the multilateral meaning in high official level seems to be in the difficult situation.

In my interview with Lead researcher of ASEAN-IPR Mr. Jamil Maidan Flores stated that

"The negotiation progress in the case of South China Sea between ASEAN and China was made in informal workshop, it was called Workshop on Managing Potential Conflict in the South China Sea". (Flores 2019)

He later then explained that the informal workshop that was initiated with Ministry of Foreign Affairs of Indonesia, together with *Centre for Southeast Asia Studies* have been held for 28 times since 1990. The workshop itself was attended by government and military high officials, academics from littoral states of the dispute as well as non-SCS countries as observers (Song 2010). The initial aim of the workshop itself is to be a continuing dialogue process to prevent any extension and appearance of potential conflict by exploring the area of cooperation among littoral states in the disputant area by creating a conducive atmosphere and develop concrete operation on technical matters³³. The mechanism of the respective workshop is simple and in informal setting. The participants, some of them are government officials, may attend in their private capacities, therefore the formality and

³¹ Center for Foreign Policy. "Territorial Disputes in the South China Sea" Accessed in <https://www.cfr.org/interactive/global-conflict-tracker/conflict/territorial-disputes-south-china-sea>

³² *ibid*

³³ The activities centered on environmental protection, navigational safety and communications, fisheries assessment and management, non-living resource assessment, political and security issues, territorial issues, and institutional mechanisms for cooperation. See Djalal (2001, p. 98).

responsibilities do not limit their perspective to speak freely in the technical matters, then it would be easier in a “step-by-step manner” (Laksmana 2018). Despite some disagreements of the merits of the workshop, some of the parties believed that the workshop has facilitated a frank and non-confrontational forum between the claimants’ parties and explored alternative solution for further cooperation. Upon those backgrounds, Hasjim Djalal delivered the three main objectives and modalities that were considered to be essential and could be developed in regards to the willingness and readiness of the participants of the workshop, as follows (Djalal 2010):

1. To promote dialogue and mutual understanding between the parties through the exchange of views and ideas;
2. To encourage the parties concerned to seek solutions to their disputes by creating a conducive atmosphere as much as possible; and
3. To develop concrete cooperation on technical matters on which everyone would and could agree to cooperate, no matter how small the matters were or how insignificant they might appear.

Based on the past 28 years and 28 workshops that have been conducted, Hasjim Djalal concluded some of the achievements of the workshops, which are:

- a. The awareness about the problems and the willingness of participants to promote cooperation and dialogues have increased over the years. Even the countries outside the region that included in ASEAN Regional Forum have increased their attention in an informal way towards the issues.
- b. The results product of the workshop, particularly drafting of code of conduct in the South China Sea has taken into formal mechanisms, such as ASEAN-China Dialogue.
- c. The formulation of code of conduct in the form of bilateral meaning as resulted by bilateral discussion because of increasing dialogues between parties, such as China and Philippines, Vietnam and Philippines.
- d. This workshop has officially become the only available forum in which all littoral and interested parties in the dispute participate and to some extent has been hailed worldwide as a positive contribution towards stability, peace and cooperation in the region.

The given results are indeed surprisingly exhilarating. By product, one of the achievements of the workshops was the issue of DOC that has been acknowledged to be originated from the principles that laid out in the second series of workshops in Bandung 1991, then led to the discussion of COC drafting to set out norms, building trust and confidence building measurement to then promote peace and stability in the region (Laksmana 2018). The DOC is indeed non-legally binding and did not designed to resolve any territorial and jurisdiction dispute, but to maintain the peace in place while preventing a potential conflict that may occur. Nonetheless, by having DOC and currently in drafting of COC, the strategy is to prevent any extension of the conflict. Once the biggest conflict is escalated, then the conflict may be spill-over and will harm any sectors and any parties entirely (Thayer 2013).

Bear in mind that the regional organization such as ASEAN can maintain various potential conflicts towards dialogues and informal workshop. Although the genuine intention was not to settle the dispute in a direct measure, ASEAN’s action to remain calm in the middle of the storm showed the importance of ASEAN’s centrality to enhance their role in the regions. Nonetheless, such development cannot be taken for granted. The development of ASEAN was also contributed by various stakeholders that in the implementation, encourage the respective entities to contribute to ASEAN. As has been mentioned earlier that ASEAN acknowledge and encourage their character in their charter, which stated ASEAN as “*a rules-based Community of shared values and norms*”, in

which ASEAN through APSC blueprint, in the subchapter of **Cooperation in Political Development**, clearly stated that to “**Promote understanding and appreciation of political systems, culture and history of ASEAN Member States**” by points out several actions that firmly related to an engagement of **Track 2** diplomacy, such as assigning appropriate ASEAN sectoral bodies to **held of at least two track-two events per year**, including academic conferences, workshops and seminars (APSC Blueprint). By encouraging ASEAN sectoral bodies to conduct an informal platform for **professional conflict resolution/ research institution**, more comprehensive and objective understanding towards the respective matters can be achieved. As such, considering this blueprint is a continuous process, ASEAN is aware that by conducting the informal venue for frank discussion in technical manners, it would provide a progressing development on the issues. Therefore, learning from what ASEAN can achieve in SCS issue over the years, putting an article into plan of action in the security blueprint will give a significant influence on the development of the case.

Another plan of action that should be considered to promote understanding and appreciation among ASEAN member states is by issuing periodic publication of the dynamics ASEAN activities for dissemination to the public, given one of the purposes to actualize ASEAN in a more people-centered is by having various engagements with the public. The research of **Attitude and Awareness towards ASEAN: Findings of a Ten Nation Survey** that conducted on behalf of ASEAN Foundation discovered (See table 2 below):

TABLE Q1
In general, how familiar are you with ASEAN? (%)

	Very Familiar	Somewhat Familiar	A Little Familiar	Not at All Familiar	Very or Somewhat	Little or Not at All
Brunei	1.0	52.8	46.1	.0	53.8	46.1
Cambodia	2.3	56.5	40.3	.9	58.8	41.2
Indonesia	5.0	63.3	31.2	.5	68.3	31.7
Laos	13.0	71.5	15.0	.5	84.5	15.5
Malaysia	6.6	59.3	32.8	1.2	65.9	34.0
Myanmar	2.1	7.5	48.1	42.2	9.6	90.3
Philippines	6.4	53.2	36.8	3.6	59.6	40.1
Singapore	2.6	47.7	42.5	7.1	50.3	49.7
Thailand	8.0	60.0	30.0	2.0	68.0	32.0
Vietnam	43.8	44.8	10.8	.5	88.6	11.3
Total	9.1	51.7	33.7	5.9	60.7	39.2

Table 2: Survey of ASEAN foundation on ASEAN Familiarity

The table shows that in the question related with familiarity of ASEAN people with ASEAN is pretty dynamic. Only in Vietnam, people are very familiar with the regional organization, and in most of the country, the answer is mostly “very or somewhat” familiar with the organization. Thus, by enforcing plan of action to engage more with the public, ASEAN as an essential organization will build a good image and become more people-centered. Therefore, by engaging with other tracks, ASEAN can be objective and has more variety in developing the issues. In the context of SCS, it is reflected in the concept of multitrack diplomacy, where the involvement of other entities has been acknowledged in their conventions and agreement. We could see at the *Workshop on Managing Potential Conflict in the South China Sea*, ASEAN together with *Centre for Southeast Asia Studies* held annual workshop on the development of SCS dispute. On another sector, the involvement of ASEAN Business Advisory Council or ASEAN-BAC as private sectors

engagement with other entities in various sectoral groups³⁴. All in all, ASEAN in terms of managing SCS dispute in particular and conflict management as well as other activities in general, tries to engage other track in its diplomacy.

3.4. ASEAN Political Security Blueprint

In examining the concept of ASEAN mechanism by using the ASEAN Political Security Community (APSC) blueprint as an instrument, we should bear in mind that the APSC is a regional regime within the ASEAN Community. Furthermore, as shown in the Diagram 2 on page 20, acknowledging the role of APSC as facilitator and encouraging trust and trends by monitoring mechanism help to establish norms of behavior in resolving SCS dispute. The main argument of this analysis is ASEAN has been implemented various measures through Track 1 Diplomacy (High Officials), Track 2 Diplomacy (as scholars and experts), *Confidence Building Measure* (CBM), and preventive diplomacy to contain any potentials conflict from escalating into outright dispute (Seng 2014). In the above diagram, it can be seen that the ASEAN through APSC fulfils its key role in managing conflict through given mechanism such as Track I Diplomacy (high officials), Track II Diplomacy (expert, scholar through workshop and dialogue), Preventive diplomacy and Confidence building measure. Despite the complicated and ‘nightmarish’ bureaucratic management of ASEAN, there are plenty of factors that evidently hampered its progress towards resolving the dispute, however, these mechanism are appraised for avoiding the escalation of the SCS dispute to spill-over to more volatile conflict and allowing ASEAN to buy more time to be more prepared in seeking out a more creative and peaceful way in handling the dispute.

3.5. Conclusion

ASEAN conflict management approach in handling South China Dispute is strategic, diverse and flexible. Despite its differences in mechanism, the flexibility that occurred shows similarity with EU mechanism in handling dispute³⁵. Collectively, although the approach of ASEAN in the dispute does not seem to entirely ‘resolve’, it has been able to keep the actors engaged and keep the tensions below a certain threshold. Because the rising tension of the conflict could disrupt a stability and peace in the region. In a worst case scenario, Southeast Asia would be a theatre of World War III between the current two great powers in economy and military, China and the United States. Furthermore, by maintaining status quo, despite China’s aggression and violation against international regulation and norm, by keeping China in the forum of discussion, it would prevent any massive conflict among the parties. Only by including all the parties into the discussion, the potential conflict could be prevented and the escalation would be maintained.

On the other hand, by engaging with other tracks of diplomacy in applying ASEAN mechanism, ASEAN can achieve more progressive results rather than only depending on the formal level. Considering how strategic the SCS itself, ASEAN had used other channel in the process of conflict management. With the backdrop of ASEAN conflict management, and the level of conformity that occurred among ASEAN member states, it would ease the mechanism of handling the respective conflict. It was written on ASEAN Political-Security Blueprint by how ASEAN sets-out the mechanism of handling SCS dispute. All in all, the new ASEAN that involves other entities in their works is how ASEAN can be more people-centered in applying its action.

³⁴ Overview of ASEAN-BAC can be accessed in <https://asean.org/asean-economic-community/sectoral-bodies-under-the-purview-of-aem/public-private-sector-engagement-ppe/overview-2/>. Accessed on 18 September 2019

³⁵ EU global Strategy Document page 9, http://eeas.europa.eu/archives/docs/top_stories/pdf/eugs_review_web.pdf

Chapter 4 Operationalizing the Non-Interference Principle: the Dynamics, Challenges and Prospects

4.1. Introduction

This chapter presents the findings of the sub-question on how the non-interference principle reflects of the contemporary dynamics of SCS. As we acknowledged that the principle challenged ASEAN to achieve more progressive result in conflict management. It focuses on three key aspects, first on how the principle becomes flexible as a fundamental guidance for ASEAN's action. Considering the changing character of conflicts and the needs to adapt into newer circumstances, redefining the principle without disposing it is the best alternative towards conflict management. Second, the dynamics relations that happens in managing the dispute of SCS, including potential crisis that could appear from existential dispute would affect the economic cost of all parties in the form of maritime insurance, crude oil prices, tariffs and trade cost and the challenge to ASEAN unity by its member states relationship with China in terms of economic and political dependency, such as Sino-Cambodia relations with the case study of the failure of joint communique in 2011. Third, how the rivalry between US and China in terms of economic war with exclusive market initiative proposal that can be optimized as a prospect for ASEAN to actualize ASEAN Centrality with its own rule of the game with ASEAN Outlook on the Indo-Pacific.

4.2. The Flexibility of Non-Interference

The first notion of Non-interference appeared in the Treaty of Amity and Cooperation in 1976 as the first fundamental document of ASEAN conflict management mechanism. It was stated in the Chapter 1: Purpose and Principles, Article 2 as ASEAN fundamental principle that stated:

'Non-interference in the internal affairs of one another' (TAC 1976)

The fundamental treaty remains for almost five decades without any fabrication and amendment. It is without doubt that the respective principle is appraised on one hand and criticized on the other hand. As aforementioned argument, on one hand the principle has prevented the extension of interstate conflict among member states where the force and military measure are required and not to mention that the consensus has served the conductivity of members fairly well. On the other hand, it has hampered ASEAN on conducting a fairly successful measure towards its conflict management (Soomro 2017).

However, in the interview with Mr. Rafendi Djamin, I found a really interesting notion on how the principle has become flexible in regards of the newest legally-binding document of ASEAN Charter that agreed upon various points of commitments in solving various conflict among member states of ASEAN. He quoted:

“The flexibility of non-interference that I mentioned was related with the commitment of ASEAN towards Human rights in ASEAN Charter that all member states should respect good governance, democracy, and fundamental freedom. That is an article that legally binding to member states. Normatively, binding norms become framework. In that context, flexibility is occurred. Then, non-intervention that defines conservatively would collide with the charter that been approved by the member states, that is human rights and freedom. It is then become a collective responsibility and actions towards the issues, whether it’s prevention and resolution. Flexibility occurred in norms level” (Djamin, 2019).

Apart from Mr. Rafendi’s argument concerning the flexibility of non-interference, historically, the channel to seek another path without erupting the strict and fundamentally binding principle has been going on for decades. It was started in 1997, when the Deputy of Prime Minister of Malaysia, Anwar Ibrahim proposed to adopt a policy of “constructive intervention” (Ibrahim 1997) to enhance more compassionate side of ASEAN. Principally, “the idea was ASEAN should invite each other’s service to boost east others’ civil society, human development, education and national economy to avoid the kind of political crises experienced by Cambodia after Paris Peace Accord signing up to 1997” (Haacke 1999). Nevertheless, from the side of Malaysia itself, the idea did not imply or lead to Malaysia’s stand on the non-interference principle. Even though the idea was supported by Foreign Minister of Philippines, Domingo L. Siazon suggested that ASEAN should retool to deal more effectively with new challenges (Siazon 1997) and to some extent implied that ASEAN’s non-interference as “a policy of benign neglect” (Lee 1998) Afterwards, with the haze of regional financial crisis that occurred at that time, the idea of rethinking ASEAN’s principle of non-interference was signaled by the ASEAN Secretariat (Severino 1998) with some extension from representative of ASEAN member states and their strategic international studies within ASEAN-ISIS “to suggest that rethinking of ASEAN Way should include reassessment of whether an invitation to become involved in the affairs of one another was really required” (Wanandi 1998; Hernandez 1998). But then again, in the Thirty-first ASEAN Ministerial Meeting in 1998, Thailand Prime Minister Dr. Surin Pitsuwan proposed the idea of “flexible engagement”. The idea was a new approach for member states to address and openly-discuss states’ domestic affairs with cross-border effects (Pitsuwan 1998). Even though the proposal from Dr. Surin has been denied by most of the ASEAN member states, except Philippines, the insightful idea about the “enhanced interaction” without formal constraint marked the starting point of new dynamics of ASEAN diplomacy and the debate over the interpretation of non-interference principle has continued (Katsumata 2004).

Nonetheless, there is an urgency to have various channels of diplomacy without changing the normative principle. Until they have compromised by agreeing on a framework that they called “Retreats” whereas matters of common concern are discussed frankly in an informal way. It started in 1999 regular annual meeting, 2001, and even 2002 ASEAN Ministerial Meeting (AMM) in which the foreign ministers *“reaffirmed the usefulness of informal, open and frank dialogues...to address issues of common concern to the region”³⁶*. Furthermore, the common convention on the legally-binding ASEAN Charter in 2007 emphasizes the importance of ASEAN in various contexts, including new political commitment at the top level, new and enhanced commitments on legal framework and personality, more variety of ASEAN bodies and entities, more roles of ASEAN foreign minister and the commitment to share the value of democracy, good governance and fundamental freedom among member states³⁷. All in all, the principle of non-interference that shaped ASEAN in a strict and

³⁶ ASEAN, “Joint Communique, the 35th ASEAN Ministerial Meeting,” Bandar Seri Begawan, Brunei, July 29–30, 2002

³⁷ Charter of the Association of Southeast Asian Nations. Accessed at <https://asean.org/asean/asean-charter/charter-of-the-association-of-southeast-asian-nations/> on 16 September 2019.

limited ways of diplomacy has evolved to an open and frank discussion. The mechanism of conflict management has developed and will remain develop without disposing the fundamental principle of ASEAN itself, the Non-interference principle.

All in all, the existence of non-interference principle as guiding principle of ASEAN conflict management is indeed both appraised and criticized, mostly by scholars (Interview Jamil, 2019). The collections of norms, value, principles and mechanisms have been written in the aforementioned guideline documents for ASEAN as a complete community. Aside from documents, dialogue partners also played an eminent role towards a comprehensive cooperation that could spill over in the field of conflict management, such as ASEAN-China dialogue that resulted in compromising the Declaration of the conduct of parties (DOC) in the SCS dispute. On the other hand, one of the most contested principle of ASEAN that has been criticized in most of discourse, the non-interference principle, over the years since the ASEAN establishment until ASEAN past its golden years (52 years), the non-interference principle has experienced the flexibility in its application. By collective agreement in the form of mutual conventions, the inclusive engagement, and its commitment towards specific issues, such as human rights, environment and humanitarian issues.

4.3 Potential Crisis = Increasing Cost

One of the reasons why the development of conflict management and resolution in SCS dispute is really long and claimants states tend to keep the *status quo* in the table is to prevent an extension of the potential conflict is because of the dispute itself, considering the importance of their economic activities in the respective area and maintaining peace and stability would be a safest way for all claimants specifically, and international community generally. Quoting from Michael Tene as Spokesperson in the Office of the Minister of Foreign Affairs of Indonesia, on his perspective regarding the dynamics relations, he said (Tene, 2019):

“If there is an existential conflict in area of South China Sea, a little disruption it would affect tariffs, oil prices, maritime insurance, and increasing the trade cost. Thus, maintain stability and peace would be a common compromises for all claimants”

Extending on what Mr. Michael delivered, Vietnamese Prime Minister Nguyen Tan Dung in 23rd World Economic forum on East Asia also addressed the potential impact that would occur when conflict is escalated in SCS, and he noted (Venzon, 2014):

“An escalating tension in the South China Sea interferes with trade and has an unforeseeable impact on regional and world economies. It may even reverse the trend of global economic recovery.”

As one of the busiest trade route that carries one-third of the world's shipping trade and \$5 trillion of trade flowing through the area annually, it is indeed would be a prominent threat if the crisis escalated, not only to claimants parties or states in general, but also to numerous business sectors. Justifying on what Mr. Michael Tene and FM Nguyen Tan Dung said earlier, Andrew Booker as a Founding partner of Marine Specialist Latitude Brokers said that maritime insurance rates may spike and vessels would have to pay a premium to transit in the area (Candran, 2019). Aside from insurance rate, the currency would depreciate and the global crude oil price would climb. Any escalation would disrupt the transportation of energy resource then would curb overall supply.

With the potential resource that SCS hold in terms of energy and the significant roles of the respective trade routes, the most important job for ASEAN as a prominent actor in the region is to maintain and contain the potential crisis that could occur because an extension of conflict itself. On the hand, the mechanism that been built by both ASEAN and China towards this dispute with the Declaration on the Conduct (DOC) of Parties in 2002 that leads to drafting the Code of Conduct (COC) would maintain and contain the potential crisis of the respective dispute with peaceful and harmonious meaning. Continuing Mr. Michael words on this matter, he said that,

“the overleaping claim needs to be done by dialogue, but in between there should be efforts to manage potential conflict that appears from this overleaping claim. Thus, there are 2 problems, first the overleaping claimant issues and second, potential conflict that could appears because of the issues should be maintained by any form of mechanism to avoid unwanted accident that disrupt peace and stability among member states. the second one is on how these mechanism could manage and contain the conflict, instead of resolving the first one”

All in all, it could be said that the dynamics relations between ASEAN and China in regard of the dispute could be managed by having a containment and managing the potential crisis that could appear when main conflict escalated. Thus, putting aside their differences in the conflict with regards of increasing cost and tariffs of their economic activities should be a priority instead of urging to resolve the conflict immediately.

4.4. ASEAN (dis)Unity and Global Trade-war: Challenge and Potential.

ASEAN Way is a unique way of ASEAN in expressing their value, principle as well as their plan of action. The discourse in regards of that jargon consistently acquires both praise and criticism and has become subjects to intense public debates since the establishment. Among others, ASEAN Consensus is one of them. As an ASEAN Way of decision-making process, as a consensus-driver rationality, it could be defined as *“each and every action taken in the name of ASEAN must either contribute to or be neutral, but not detract from, the perceived national interest of the individual ASEAN member states”* (Kurus 1995). Hence, ASEAN consensus becomes the legacy and language of diplomacy for ASEAN. The consensus itself works in a simple manner and all member states need to agree. If there is one out of the 10 member states objects the idea or proposal, then none in place. Bearing in mind with the diversity that ASEAN member states has, the consensus style has been appraised for keeping and bringing ASEAN unity in place for 52 years since its establishment. Nonetheless, as aforementioned, the value that put on consensus is certainly been appraised, but on the other hand, it has become an insightful criticism and potential fragile ground for external parties to imposed their interest, including in the SCS dispute (ASEANnews 2019).

Interestingly, in relation with the flaw of the consensus and the case of SCS, in the fifty two years of the establishment of ASEAN, there is only once that the all member states failed to issue a joint statement, which was in Forty-fifth Annual Ministerial Meeting (AMM) in July 2012 in Phnom Penh, Cambodia in regards to the case of SCS dispute. At that time, Cambodia as an ASEAN Chair through the Ambassador Hor Nam Hong rejected the wording of all successive drafts of joint communique. They firmly insisted that *“the case were bilateral issues and should not be included in AMM joint statement”* (Thayer 2013). Considering Cambodia’s positionality as a close

economic partner of China, ASEAN unity became an expense to fulfil Beijing's interest towards the internationalization of the SCS issue in geopolitical level (the Diplomat 2019).

The dependency level between Phnom Penh and Beijing was dominant, Ly Bora wrote that *"the investment of China in Cambodia accounted three times from 1997 to 1998 and expanded in 40% in 1999 making China the big investment by foreigners in Cambodia. Moreover, in 2009 China has become the biggest Cambodia's benefactor for 2009 spending plan with \$ 257 Million and both partied achieved 732 million dollars in 2006 altogether"* (Ly, the Diplomat, 2018). It has been proved that with the backdrop China has as a dominant economic partner for Cambodia, Beijing would impose their interest towards this relation. Nonetheless, with contested consensus, it would be much easier for Beijing to impose their interest towards one of the 10 member states of ASEAN. In short, the unity in diversity with the ASEAN mechanism and ASEAN way itself bring a prominent challenge for the dynamics relations toward the conflict management of SCS dispute.

On the other hand, aside from ASEAN disunity challenge, ASEAN is also standing between two giant economy and military power, United States and China, in Global trade war. The intensifying trade war that was initiated by the US President Donald Trump marked the shifting from "peaceful coexistence to a new form of confrontation" between two great powers (Le 2018). Without putting aside ASEAN into the discussion, the global trade war would be inevitable for ASEAN member states and all international economic actors. With the intense movement from high political stance and military initiative from both countries, all countries have eyes on what ASEAN would do as regional community that lies between both great powers. Considering on both ambitious economic plan with TPP from United States and BRI from China, ASEAN would be in question, on which side are you on? Should each of any member states join either one of them and discard ASEAN in the game? Or should all member states in ASEAN unite as a compromising and offering an alternative into the table?

Finally, on June 2019, ASEAN released ASEAN Indo-Pacific Outlook as a counterargument on negating allegations that the regional community takes a weak position on the issues of trade war and as an attempt to set their own rules of the game on the table (Bhatt, South Asian Voice 2019). The ASEAN Indo-Pacific Outlook is seen as an opportunity for ASEAN to actualize their "ASEAN Centrality" to promote an inclusive cooperation in the Indo-Pacific region with ASEAN-led mechanism like East Asia Summit (EAS) as a platform of dialogues and implementation of the Indo-Pacific cooperation³⁸. Quoting from Bhatt, *"The document should be seen as ASEAN's stand against great power rivalry in the Indo-Pacific, seeking to display "collective leadership" in order to be "an honest broker within the strategic environment of competing interests" in the region and emphasizing "dialogue and cooperation"* (Bhatt 2019).

In the blueprint itself, ASEAN envisions the Asia-Pacific and Indian Ocean as a closely integrated and interconnected region, with ASEAN plays a central and strategic role in it. Furthermore, my source in the Office of Minister of Foreign Affairs also addressed the importance of this respective blueprint as a middle ground compromises between TPP and OBOR without excluding certain countries in the implementation. On the other hand, these initiatives also strengthen and actualize the various mechanism that ASEAN has in the political area, such as ASEAN Regional Forum (ARF), ASEAN +3, and East Asia Summit (EAS). All in all, it is in agreement with what Mr. Michael delivered in the interview that *"the ASEAN Outlook on Indo-Pacific is proposed not to compete or replacing the existing mechanism, but to strengthen the multilateral dialogues forum of ASEAN with the new concept"* (Tene 2019).

³⁸ Blueprint on ASEAN Outlook on the Indo-Pacific Cooperation, 2019.

4.5. Conclusion

Talking about non-interference, considering how fundamental the principle for ASEAN conflict management is, ASEAN would develop and achieve more in their conflict management only by redefining the term. The principle cannot be defined conservatively and should adhere to non-intervention or non-engagement attitude. For ASEAN, the principle does not mean non-engagement. ASEAN remains to play a central role in the discussion of the conflict with attached principle as a guiding and standard limit of their engagement. Nevertheless, by disposing the non-interference principle into the body of ASEAN, then the role of ASEAN might be absent in the Southeast Asia geopolitical dynamics. After all, the principle is based on historical meaning attached to it. Its track record of various levels and types of engagement on SCS dispute stands evidence to this. The measures that ASEAN taken so far has been relatively successful to contain the issues and eruption of major direct violence confrontation with China and among its member states. By having the guiding action and norms in the products of DOC then lead to COC, despite high political tension has been raised among claimants' parties and external actors, the direct escalation and eruption of the major conflict have been maintained. Other thing to be considered is by maintaining the *status quo* into the table, it would be beneficial for all parties, not exclusive only to the claimant parties in the SCS conflict. The potential disadvantage that might occur when the main conflict escalated is the spill-over to trade tariffs and prices, and it would not only apply to claimant parties but to all international communities in general. Furthermore, in-depth relations between ASEAN and China would determine the tides of the conflict. By only unite and actualizing their centrality, ASEAN would play a more significant role in determining the tides of the conflict. The disunity ASEAN would weaken ASEAN's leverage towards China, but the unity ASEAN would resist to China's influence.

In conclusion, despite major aggression from China's policy towards the conflicted area, it is beyond the regional scope of affairs, however global and international peace and stability are influenced. Reflecting on what ASEAN does with its conflict management towards SCS, ASEAN does not really try to resolve the dispute and put an end to this dynamics conflict, because ASEAN will lose the prominent and more existential effects from the spark of the conflict. Potential damage from escalation conflict in the theatre of SCS could harm not only the region, but also global scale. On the other hand, this trend is not new in the current global landscape. Conflicts are increasingly resistant to resolve, dynamics, multidisciplinary, transnational and have many functions for parties in disputes and to others, around the main point of contentions. Nonetheless, what ASEAN do is what ASEAN does best. Maintain the conflicted parties in the discussion, contain any spill-over and escalation of the conflict, sets out norms and guiding principle to actions, and keep the water under the bridge and consolidating internal unity among its members while targeting the common external aggressor are ASEAN way of non-interference.

Chapter 5 Conclusion

ASEAN as a dynamics regional organization is both appraised and criticized for its development. Indeed, for 52 years since its establishment, ASEAN has experienced many dynamics changes both inward and outward. From five original member states to ten, dozens regional co-operation and many regional meetings, then created a community that sustained by three different pillars, Political-security, Economics and Socio-cultural. The changing dynamics of ASEAN as a new regionalism can be analyzed with the concept of New Regionalism Approach. The rapidness of regional relations among ASEAN member states making the level of *regionnes* increases and ASEAN needs to adapt into this dynamics changes. Nonetheless, despite many development occurred in the organization body of ASEAN, the fundamental principle, namely Non-interference principle remains firmly strong. As a principle that upheld the value of mutual respect of national sovereignty and integrity, the principle is an essential part in the foundation of ASEAN. To some extent, the principle itself is a core framework of ASEAN mechanism on conflict management over the years together with consensus, it creates ASEAN way as a jargon of ASEAN. On the other hand, most criticism addressed the principle that might have been “handicap” and or “hamper” ASEAN capacity in handling geopolitical conflict in the region, however the principle is appraised to maintain peace and *status quo* for ASEAN member states. From another perspective, considering the non-interference principle itself is an interpretation of non-intervention as an international norms, however reflecting on what European Union and African Union do with the principle in conflict settlement are pretty much different with what ASEAN does. Non-interference does not mean non-engagement for ASEAN. In ASEAN perspective the non-interference has considered different variables, such as spirit and norms, ASEAN has its own way for conflict management. One thing that is improbable is disposing or discarding the non-interference principle in the conflict or dispute management. Because, after all, disposing the non-interference principle means ASEAN can do nothing and the order from regional organization might be absence in the Southeast Asia region. Hence, the question rises, to what extent ASEAN can manage its conflict without discarding the respective principle into the discussion and how it has invented range of supporting tools to work around the conflict with the attached fundamental principle.

On another context, the changing character of the conflict is another variable to take into consideration on conflict management. With the backdrop of various international events that occurred for past few decades, the dynamics character of the conflicts is certainly influenced by it. From hard security and high intensity interstate conflict to intrastate and low intensity conflicts, the capacity of international organization such as United Nations is shared by the growing regional organization. Nevertheless, despite the fact that the tendency of the conflict is more into the intrastate conflict, such as transnational crimes, terrorism, separatism, refugee, and environmental issues, however the existence of interstates conflict, for instance SCS dispute between some of the ASEAN member states and China, cannot be denied. The dispute that has been existed for decades and has various variables to be taken into consideration, such as potential natural resources, strategical geopolitics, and international trade route is surely important to manage. Bearing in mind, the importance and significance of the dispute in the area of Southeast Asia and international society, the “elephant in the room” is indeed an interesting topic to be discussed by analyzing ASEAN’s capacity as a central actor in the area with the backdrop of its fundamental non-interference principle into the table.

To answer the main question related to ASEAN’s role in handling South China Sea, we need to refer to ASEAN handling conflict mechanism with the relation of concept multitrack diplomacy and ASEAN framework on conflict management. As aforementioned about the framework of ASEAN conflict management that sustained by the fundamental principle of non-interference, variables considered as essential parts for the conflict management mechanism are eight

ASEAN fundamental documents and the involvement of other entities beyond ASEAN, such as dialogue partner and other tracks of diplomacy including conflict research institution, civil society organization, non-governmental organization, etc. The ASEAN eight important documents are indeed important to set out rules, norms, principles, values and decision making in a higher level. All kinds of conflicts in Southeast Asia, from border conflict, human trafficking, human rights, separatism extremist group and other conflicts using those mechanism in the management conflict. However, in a unique case such as SCS dispute, the scope of analysis and variables needs to be interdisciplinary and creative. The earlier approach of ASEAN member states towards SCS dispute by using first track diplomacy channel, in fact did not work really well. Thus, by using other tracks and involving other channel into the conflict management, yet with the guidance from ASEAN norms, value and principles, the development of the dispute will be far more effective rather than imposing into only first track and high level official. Considering that ASEAN way on decision making is using consensus, not to mention varying dependency level among member states with China, only by unite and involving other tracks into the table the management process can really progress. It was reflected on what ASEAN did for the past 22 years with the development of the dispute lies on the **Workshop on Managing Potential Conflict in the South China Sea** that has become an annual event to support the development of SCS dispute. Nevertheless, the development of the dispute is also supported by other channels of cooperation such as ASEAN-China Dialogue as part of ASEAN+1 initiative to expand its cooperation with other entities. By the result, the Declaration of Conducting Parties (DOC) was agreed and currently on the discussion of Code of Conduct (COC) to prevent any extension on the conflict.

In relations with question of how the dispute impact relations among ASEAN member states and between ASEAN and China itself, we need to refer to more multidisciplinary context such as interrelation among parties and centrality of ASEAN in the region. As the biggest economic powers in the Asia and the world, China's influence is undoubtedly significant to other states, including several ASEAN member states in particular. Taking example on the relation between China and Cambodia as the loyalist alliance. With the dominant leverage in economic interest, China interfered with ASEAN business through that relations. It was noted in Forty-Fifth Annual Ministerial Meeting (AMM) in Phnom Penh, Cambodia, when the delegates of China could influence the Chairmanship of Cambodia in ASEAN and made the first-ever failure in issuing joint statement. Other dynamics variables to be taken into consideration in the development of the dispute is the potential conflict that would appear if the main conflict escalated. To what I found in my findings when I did my research at ASEAN and Ministry of Foreign Affairs of Indonesia, it was stated that the *status quo* or in other words holding everyone in a strategic balance under a certain threshold of violent escalation of the issue the SCS dispute remains firmly maintained by all the claimant parties, even though the atmosphere of the conflict is rising with the mobilization of military armament and the attitude of China, but as a key players in the area, ASEAN should become an instrument of peace to prevent any extension of the conflict. Because, by forging any arms towards each of the parties, it would also become a universal threat for all international communities. Bearing in mind is the importance of the area, with all the potential resource and as an essential trading route, the potential conflict could affect the economic cost of all parties in the form of maritime insurance, crude oil prices, tariffs and trade cost. Thus, maintaining *status quo* as a common ground is the best alternative to prevent any disadvantages in other sectors. Aside from the maintenance of *status quo* to prevent any potential conflict to escalate, the other factors to be considered is the centrality of ASEAN in handling conflict. Against all the odds, the criticism of capability and capacity of ASEAN in handling the respective conflict are unavoidable. With the involvement of other great powers in the region, such as the United States and Japan, the escalation of the conflict is on the verge of uprising. With the backdrop of how strategic and important the area is, the conflict does not only appear at the surface like military exhibition competition, but also in the market initiative competition. It has been proved with the proposal for the market cooperation from the United States in the form of TPP and China BRI that were offered to many

countries but their rival. These exclusive initiatives with the atmosphere of the respective dispute would make the development of the conflict worsen. Thus, ASEAN offered other inclusive initiative to all the parties with **ASEAN Outlook on Indo-Pacific** that covers wide area of potential cooperation without excluding United States nor China in the application. It is a win-win solution for all parties and surely for ASEAN is an actualization of centrality in their role of conflict management.

All in all, reflecting on the title of the research and the aforementioned discussion about the fundamental principle, indeed, ASEAN non-interference principle would never be absent in the discussion of conflict management and to some extent remains important in reflecting contemporary dynamics in the conflict. The respective non-interference principle does not equate to non-engagement. The principle has experience the flexibility in their application towards various issues, including on South China Sea. Bearing in mind that the fundamental principle is the soul of ASEAN Way, by not disposing and only by redefining the term, ASEAN would achieve more progress in their conflict management. Thus, in the end, the non-interference is always be the best possible choice for ASEAN, rather than doing nothing about it.

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Appendices

Annex 1:

CHAPTER VIII: UN CHARTER REGIONAL ARRANGEMENTS

Article 52

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.
2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.
3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.
4. This Article in no way impairs the application of Articles 34 and 35.

Article 53

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.
2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

Article 54

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security

Annex 2

Eight ASEAN Documents on Conflict Management

ASEAN Declaration or Bangkok Declaration

The ASEAN Declaration is a most fundamental framework on the establishment of the association in the first place. Adopted on 8th of August 1967 then decided as the date of the anniversary of ASEAN, this declaration sets out the overall goals, aims, mechanism, and the function of ASEAN should be achieved (ASEAN Declaration 1967). In the declaration the reference to the conflict management implied to:

*“**DESIRING** to establish a firm foundation for common action to promote regional cooperation in South-East Asia in the spirit of equality and partnership and thereby contribute towards peace, progress and prosperity in the region”.*

Afterwards, the notion of non-intervention as a universal value of respect nation sovereignty explicitly outlined in the preamble of declaration:

*“**CONSIDERING** that the countries of South-East Asia share a primary responsibility for strengthening the economic and social stability of the region and ensuring their peaceful and progressive national development, and that they are determined to ensure their stability and security **from external interference in any form or manifestation** in order to preserve their national identities in accordance with the ideals and aspirations of their peoples;”*

ASEAN Concord I

Signed on February 24th 1976 in the very first ASEAN Summit Meeting in Bali, the document addressed the establishment of “Zone of Peace, Freedom and Neutrality” (ZOPFAN) in Southeast Asia and emphasized on the mutual respect on “self-determination, sovereign equality and non-interference in the internal affairs of nations” (Declaration of ASEAN Concord I 1976).

Treaty of Amity and Cooperation (TAC)

Similarly with ASEAN Concord I, the adoption of TAC was on February 24th 1976 in Bali. This documents sets out particular guidelines in the conflict management field towards relation of peaceful settlement of disputes. In the Chapter I, “Purpose and Principle”, Article 2 consisted six fundamental principles of this association, as follow (TAC 1976):

- a. Mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations;
- b. The right of every State to lead its national existence free from external interference, subversion or coercion;
- c. **Non-interference in the internal affairs of one another;**
- d. Settlement of differences or disputes by peaceful means;
- e. Renunciation of the threat or use of force;
- f. Effective co-operation among themselves.

This is the most comprehensive document that sets out rules of the game for conflict management in ASEAN. Nonetheless, from the document, there are three main factors of managing intrastate conflict, which are:

1. ***Non-interference,***
2. ***Peaceful settlement, and***
3. ***Coverall cooperation.***

apart from aforementioned six principles, there are plenty of articles within various chapter that addressed the management of conflict in ASEAN itself.

The Rules of Procedure

Thirty years after the adoption of TAC as the fundamental rules of the game for ASEAN in handling conflict management, in the 34th ASEAN Ministerial Meeting (AMM) held in Hanoi. As the continuation of the initiative to form the High Council of TAC, the member states of ASEAN adopted the “**Rules of Procedure of the High Council of the Treaty of Amity and Cooperation in Southeast Asia**”, consists of ten parts and encompassing 25 rules (Rules of Procedure 2001).

The ASEAN Concord II

Adopted on 7th of October 2003 in the 9th ASEAN Summits, ASEAN Concord II re-emphasizing the importance of non-interference in the preamble, stated that “*Reaffirming the fundamental importance of adhering to the principle of non-interference and consensus in ASEAN Cooperation*” (ASEAN Concord II 2003). However, this document also sets out one of the most historical development of ASEAN towards integration, by declaring to move towards Community to achieve a dynamic, cohesive, resilient, and integrated ASEAN Community with three pillars, including:

1. ASEAN Security Community (APSC),
2. ASEAN Economic Community, and
3. ASEAN Socio-Cultural Community (ASCC).

For the very first time ASEAN acknowledge and directly mainstreaming the conflict management issues by forming a regime or institution that relevant in respective field.

ASEAN Security Community Plan of Action

After agreed on establishing pillar of security in ASEAN Security Community (ASC), the reinforcement of ASC was at 10th ASEAN Summit in Vientiane, November 2004. This document lies the core principles ASEAN conflict prevention and resolution, by giving emphasize on “*shared norms and rules of good conduct in inter-state relations; effective conflict prevention and*

resolution mechanism; and post-conflict peace building activities" (APSC 2004). The APSCA also stressed ASC process should be progressive and guided by:

"well-established principles of non-interference, consensus based decision-making, national and regional resilience, respect for the national sovereignty, the renunciation of the threat or the use of force, and peaceful settlement of differences and disputes which have served as the foundation of ASEAN cooperation".

ASEAN Charter

Adopted in the 13th ASEAN Summit 2007 in Singapore, ASEAN Charter created a legally binding document that sets out ASEAN's objectives and reaffirms numbers of fundamental principles for ASEAN member states. In the Preamble, it stated that:

*"**RESPECTING** the fundamental importance of amity 10 and cooperation, and the principles of sovereignty, equality, territorial integrity, non-interference, consensus and unity in diversity" (ASEAN Charter 2007).*

It also broaden the principle of ASEAN in regards of their action that should be accordance to fourteen principles, that in an overall conclusion sum up the whole values, norms and principles of ASEAN in terms of non-interference, respecting sovereignty, territorial integrity, peaceful settlement of dispute, upholding the United Nations Charter and international law and emphasizing the centrality of ASEAN in external political, economic, social and cultural while remain actively engaged, inclusive, non-discriminatory and outward-looking (Principles, ASEAN Charter 2007). Nevertheless, in the Chapter VIII about **Settlement of Disputes**, the charter have not exactly provides the mechanism of dispute settlement by clearly stating in Article 25, **Establishment of Dispute Settlement Mechanism**:

"Where not otherwise specifically provided, appropriate dispute settlement mechanism, including arbitration, shall be established for dispute which concern the interpretation or application of this Charter and other ASEAN Instrument"

Then, in the Article 25 stated that the unresolved disputes would *be referred to the ASEAN Summit, for its decision*. Aside from it, they also sets out the possibilities of non-compliance towards the charter by having the Article 27 about Compliance.

The Political-Security Community Blueprint

One of the most important document that consist the fundamental characteristic of ASEAN and clearly mentioned about the current dispute and conflict settlement mechanism. This is the only document that not specifically mentioned the notion of non-interference principle, even though indirectly the essence of the principle affirmed in the section B.1.4, stated:

“Strengthen efforts in maintaining respect for territorial integrity, sovereignty and unity of ASEAN Member States as stipulated in the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations” (APSC Blueprint).

Furthermore, the APSC blueprint envisaged the characteristic of ASEAN by stating it in the paragraph 10, as follows:

- a. *“A rules-based Community of shared values and norms;*
- b. *A Cohesive, Peaceful, Stable, and Resilient Region with shared responsibility for comprehensive security; and*
- c. *A Dynamic and Outward-looking Region in an increasingly integrated and interdependent world.”*

On the other perspective, as a regional regime, within this blueprint also mentioned two prominent instrument of conflict prevention, which are Preventive diplomacy and Confidence Building Measure (CBM). These instrument to mitigate tension and prevent dispute to arise among and between ASEAN member states, as well as ASEAN and non ASEAN member states, and to some extent prevent the escalation of existing dispute. Herewith the plan of actions and initiative to strengthen confidence-building measures (APSC Blueprint 2009):

Strengthen confidence-building measures

Actions:

- i. Organize **regional exchanges among ASEAN Defense and military officials**, at all levels, including among military academies, staff colleges and defense universities in
- ii. the ASEAN Member States; Promote the **exchange of observers of military exercises**, commensurate with the
- iii. capability and condition of each ASEAN Member State; **Share information** among ASEAN Member States on submissions to the UN Register of
- iv. **Conventional Arms**; Promote bilateral exchanges and cooperation between defence officials and exchange visits between military training institutions to promote trust and mutual understanding;
- v. and **Conduct joint research projects** on defence issues between government-affiliated policy and strategic research institutes in the region.

Annex 3:

Key Informants Interview Profile on the Research

No	Name	Institution
1.	Rezlan Ishar Jenie and Hanika	ASEAN-IPR
2.	Jamil Maidan Flores	Lead Researcher for ASEAN-IPR and was Speechwriter for Indonesia's Ministry of Foreign Affairs Ali Alatas (1988-1999) and Hassan Wirajuda (2001-2009)
3.	Rafendi Djamin	Senior Advisor of Human Rights Working Group (HRWG) and AICHR Representative (2009-2015)
4.	Michael Tene	Spokesperson for the Office of the Ministry of the Foreign Affairs (MoFA)

Interview Guide

1. How do you describe the changing dynamics of ASEAN as a regional organization in conflict management and resolution over the years, from conventional to contemporary with the challenge of Non-Interference principle?

Keywords:

ASEAN Conflict Management and Resolution, Changing dynamics of geopolitical conflicts, Non-interference principle

2. What is your personal and professional reflection regarding South China Dispute as a prolonged conflict between ASEAN member states and China? And how you see the impacts from dynamics relations in terms economic cooperation from both of parties?

Keywords:

South China Sea Dispute, ASEAN-China Relations,

3. How can ASEAN's approach effectively and peacefully address the South China Sea dispute in the process and in the future? What can you describe the attitude of ASEAN regarding the issues?

Keywords:

ASEAN attitude towards security issues, Peaceful and effective meaning