The South China Sea and ASEAN disunity

MA Thesis

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Abstract

The Association of Southeast Asian Nations (ASEAN) has been recognized as the most successful regional cooperative and multilateral effort in the history of Southeast Asia. This is due to the ability to create and maintain peace and stability in a region that is formed by ten countries with extremely diverse political, economic and socio-cultural backgrounds. Conflicting territorial claims in the South China Sea by four ASEAN countries (Brunei Darussalam, Malaysia, Vietnam and the Philippines) with the territorial lines drawn by China, remain the most pressing challenge for the region and represents a worrying geopolitical struggle that is difficult to reconcile with the common perception of ASEAN as a strong and united regional powerhouse. ASEAN has assumed the South China Sea issue under its multilateral framework, involving China in the creation of a code of conduct in the SCS. Despite these efforts, the position of ASEAN itself on this issue has been inconsistent, as evidenced in its political stance through its annual statement and communique. While the main literature has observed this phenomenon under the assumption that the ever growing Chinese economic power, is the element that could explain what we are observing in the region, I argue that even though the economic power of Beijing does play an important role, it is not enough to explain the various positions that we are seeing between the member of the Association of Southeast Asian Nations and that other factors need to be taken into consideration to better understand the underlying mechanisms that are at play in the region .

Keywords: ASEAN, China, South China Sea Dispute, SCS, Disunity

Introduction: Overview of the South China Sea Dispute and Areas for Academic Study

It is not immediately obvious why the territorial disputes over the South China Sea should be such a prime concern to ASEAN. After all, these disputes are only relevant to certain members of this organization. This issue means something completely different if we look it through the lens of the objective of ASEAN, to create a regional community. The strategic importance of the South China Sea (SCS), for both China and ASEAN countries, is well documented (Dzurek 1985; Hong 2010; Zimmermann, Bäumler 2013, Hayton 2014). The SCS represent one of the most contested areas of the earth's surface today. This region is claimed by four ASEAN countries, namely Brunei Darussalam, Malaysia, Vietnam, the Philippines and China.The historical claim of China to the Nine-Dash line, that practically encompasses the entirety of the South China Sea, complicates the conflict even more (Hong 2010). The Chinese policy towards the SCS has been under the magnifying glass of international attention, and its assertive behaviour has stirred up heated discussions and criticisms in and from the international community. This thesis aims to understand and explain the question of why ASEAN has not been able to achieve unity in the South China Sea dispute, and how much this has to do with the deliberate attempt from the Chinese government to prevent the creation of a united front. The attitude of China toward the South China Sea has never been static and has always been shaped by China international goals. With the 1978 introduction of economic reforms, Chinese diplomatic actions aimed to create a peaceful and favourable international environment to foster economic development. This goal was implemented with the policy of "diplomacy serving the economy"" and the "keeping a low profile" (Zhou 2016) .

Swaine and Tellis argued that in the 1990s China adopted a calculative strategy, to increase its power in a variety of issue areas in a non-provocative way and to avoid precipitating those regional or global responses that would hinder the growth of that power (Zhou 2016). For these reasons, during this period China avoided any assertive actions in pursuit of its own interests in the SCS in order to prevent any deterioration in its standing in the international environment. Since 2010, however, with the rapid increase in the economic power of China and growing concern and vigilance of the United States in regards to the economic rise, the policy of keeping a low profile became less effective. For these reasons, "between 2011 and 2014, Chinese foreign policy went through an overall transition from 'keeping a low profile' to 'striving for achievement'. This caused the status and ranking of the South China Sea disputes on the Chinese foreign policy agenda to undergo a pronounced change" (Zhou 2016). In 2012, the notion of 'building China into a maritime power' was also introduced in the 18th Party Congress report. As stated by Zhou (2016), "this was further influenced by a growth in nationalism in China, caused by the dispute over the South China Sea". Against this background of events, Chinese policies towards the SCS started to become more proactive and assertive (Zhou 2016).

Since the founding in 1967, "ASEAN has been one of the most recognisable and durable regional intergovernmental organisations. It encompass three key elements: regional peace and security, economic integration, and institution building with the goal of advancing the prosperity and well-being of the people" (ASEAN Secretariat, 2017). The members of this organization have recognized the South China Sea dispute as a threat not only to the peace and stability of the region, but also to the unity of ASEAN. ASEAN has decided to deal with disagreements with China through the use of dialogue and consultation mechanisms. The main outcome of these dialogues has been the adoption of the Declaration on the Conduct of Parties in the South China Sea (DOC) in 2002. The DOC not only tries to promote trust,

confidence building, and cooperation between all the parties but also includes the adherence to international law. The DOC also includes the United Nations Convention on the Law of the Sea (UNCLOS). Despite the implementation of the DOC, between ASEAN and China there have been few notable results.

Furthermore, the main goal of the DOC, of implementing a Code of Conduct (COC) in the South China Sea, has yet to yield results. The inability of ASEAN members to resolve not only the internal claims between the various members, but also the failure to present a united front against China on the SCS issue, has promoted the view between scholars of ASEAN as a rhetoric phenomenon filled with political statements and zero implementations (Parameswaran 2012; Pertiwi 2016). A clear example of this has been the role played by Cambodia in derailing ASEAN efforts to issue a joint communiqué on the South China Sea dispute. The first one, during the meeting in Phnom Penh in 2012 and the second one during the 2016, 49th ASEAN Foreign Ministers Meeting in Laos. During both of these events, Cambodia played a key role in preventing ASEAN from issuing a common position on the SCS dispute, sharpening the perception of division among members (Parameswaran 2012; Pertiwi 2016). The thesis will be divided in an abstract, an introduction and six chapters. In the introduction, I will offer the main background information regarding ASEAN and the South China Sea dispute (SCS) and the research question. The first chapter will contain the various hypotheses obtained from the literature. The second chapter will focus on the methodology and the selection of the case study. The third chapter will analyze the history of ASEAN disunity and the reasons for its weakness. The fourth chapter will give an overview on the the main factors responsible for ASEAN disunity and weakness in its response to Chinese claims in the South China Sea and will look at coercion, economic dependence and historical factors. The fifth chapter will focus on the relations between China and Cambodia

and its role in preventing a united ASEAN front. In the sixth and final chapter, I will analyze my findings and I will follow with a conclusion.

Chapter One: Hypotheses from the Literature

Empirical explanations

Scholars on the issue have focused on economic factors and the heightened status of China in the region as explanatory variables (Frost 2004; Zha 2015; Dzurek 1985; Kingdon 2015). The research has mainly defined the actions of Southeast Asian nations in the SCS from the perspective of the economic power of China and the dependence of the economies of ASEAN countries on it. Scholarship largely ignoring other factors like coercion, political affiliation and elite interaction through Track-2 diplomacy.

"China has, for a long time, been a top destination for foreign direct investment (FDI); it overtook the United States of America in 2014 and became the largest recipient of FDI in the world with inflows reaching $129 billion" (Li, Wei 2016). This is a 3.7 percent increase compared to 2013 (World Investment Report 2015). However, to be the largest recipient of FDI assists in becoming a bigger "world factory", instead of a respected world power with sway at the table. The rate of Outward direct investment (ODI) has significantly increased in flow in recent years (Li, Wei 2016), "going from less than $100 million in flows in the 1980s to $56.53 billion in 2009" (Li, Wei 2016). Significant portions of this ODI has been directed toward ASEAN countries. "According to the Thai Board of Investment (BoI), Chinese companies have invested in 42 projects in Thailand with total investment costs of $277.08 million since 1999" (Li, Wei 2016). Beijing has also heavily invested in Countries along the

Mekong river. China has become one of the most important investor both in Cambodia and Vietnam (Frost, Hewison, Pandita 2002; VE 2004). This is having a strong influence on both the domestic and foreign affairs of these countries. To focus only on Chinese economic power and its investments in ASEAN countries as potential explanatory factors limits understanding.

In fact, this approach is not applicable to all members of ASEAN, and fails to explain why it has worked with certain states while with others it has failed. This approach does not tell the whole story. One clear example of this is Cambodia, which demonstrates the effect of Chinese economic power on the foreign policy of Southeast Asian states. The pro-China position of Cambodia in the South China Sea dispute foiled efforts of other ASEAN members to present a united front against China. China has evolved, from being "the root of everything that is evil" to "most trustworthy friend" (Hutt 2016). Although this hypothesis is applicable to the case of Cambodia, it fails to explain the case of Vietnam. China is among the top three investors in Vietnam. Based on the aforementioned theory, this should be reflected in a softer stance from Vietnam towards China on the SCS dispute. However, Vietnam is among the strongest opposition to Chinese expansion into the South China Sea. For these reasons, reducing all of this information to an economic issue not only fails to explain Vietnamese foreign policy and stance, but it also misses subtle elements of the Cambodian case that are nonetheless crucial. This thesis does not argue that the shadow of Chinese economic power is inconsequential, but that economic power is not the only factor to consider. Many factors play a role in influencing the stance of ASEAN members on the dispute. Intimidation, economic dependence and historical factors play all an important role and need to be thoroughly investigated to better understand the situation.

Theoretical explanations

Scholars offer several theories to explain foreign policy formulations of small and politically unstable states. Many of these theories fall under the category of neorealist philosophy. Even if, as reported by Zha (2015), "the major voices in the scholarship agree on systemic factors, that shifts in the distribution of material capacity determine foreign policy behavior of small states, they disagree on how small states respond to rising powers". Kenneth Waltz (1979 p.127) "argues that secondary states "flock to the weaker side" and balance against the rising power". In contrast, Stephen Walt (1987 p. 32) maintains that "the weaker the state, the more likely it is to bandwagon rather than balance". "The mainstream Neorealist tradition, however, is increasingly challenged by students of international relations" (Zha 2015) in the ideological realms of neoclassical realism and liberalism.

These newer theories emphasize that the week democratic institution of small states, gives to the decision of individual leaders a strong influence on foreign policy decision-making (Gideon 1998). This has been further underscored by bouth James Rosenau (1980) and Jeanne Hey (2003) in their researches, were they discovered that variables at the individual-level are important determinants in the foreign policy behavior of small and underdeveloped states. Building on the previous researches, Robert Rothstein (1977) has proposed "the concept of "personalization of foreign policy" and has contested that personalized foreign policy is more likely to suffer from discontinuities when regime change or power transition occurs". As expressed by Zha (2015) though, "the Rothstein theory does not account for the effects of the tailoring of foreign policy being contingent upon an intervening variable; economic dependence of the less powerful state on the major power".

Chapter Two: Methodology

Theories and sources

This thesis investigates the Chinese influence on ASEAN through several factors. The factors of coercion, economic dependence and historical factors illuminate the positions of ASEAN members towards China. Neorealist philosophy, neoclassical realism and liberalism reveal the mechanisms that influence the positions of Southeast Asian nations towards the South China Sea and China. "These political survival theories adopt an eclectic method and examine how the interaction between the domestic and individual level affects foreign policy decision-making" (Zha 2015). As stated by Zha (2015), "political survival theories demonstrate that political conditions particular to smaller and less-developed states provide strong incentives for leaders to employ any means necessary, including manipulation of foreign policy, to maintain a grip on power". Steven David (1991) states that "the most powerful determinant of Third World alignment behaviour is the rational calculation of Third World leaders as to which outside power is most likely to do what is necessary to keep them in power."

These theories, combined with the economic dependence between China and ASEAN nations and the intimidatory and political power of China, assist in understanding the success of the CCP to keep the situation under control. The primary sources of this thesis are mainly news articles, supplemented by secondary sources in the form of research papers written by other scholars on the South China Sea dispute.

Case selection

The Sino-Cambodian relationship has a long history dating back to Cambodian independence in 1953. China has had an important role in shaping the political landscape of this country and has been one of the main supporters of the Khmer Rouge genocidal regime of Pol Pot. Cambodia seems to suffer from selective amnesia, and despite the involvement of

China in the genocide of 1.7 million Cambodians, something that one might expect would make Cambodia one of the stronger antagonists of China in the region, Beijing is considered one of the closest allies and friend of the state. This, combined with Cambodian actions in ASEAN aimed to prevent the creation of a united front of ASEAN nations against China, makes this state an interesting case study to try to better understand what is happening in ASEAN and in the South China Sea in general.

Chapter Three: The story of ASEAN hesitancy, and disunity

To understand the absence of a united front between ASEAN nations against the claims of China in the South China Sea, it is important to understand what ASEAN is now and how it developed. This chapter provides a brief overview of ASEAN history and the root causes of its instability.

Institutional factors

ASEAN was not the first attempt to build a regional community in Southeast Asia. In 1961, Thailand, Malaysia, and the Philippines founded the Association of Southeast Asia (ASA). The main goal of this institution was to foster the stability needed to the development of economic growth. As expressed by the foreign minister of Thailand, Thanat Khoman, this was done mainly to undermine the communist forces within member countries while the Vietnamese quagmire awaited political resolution. ASA thus represented a pact to strengthen elite struggles against communist insurrections.

The Association of Southeast Asia lived a short life, falling apart in the wake of the 1963-66 confrontation (Konfrontasi) war between Indonesia and Malaysia. From the aftermath of the Malay-Indonesian conflict, the new Association of Southeast Asian Nations was born. ASEAN was founded in Bangkok in 1967. The political dogma of ASEAN was remarkably close to those of ASA. The main objective was to maintain economic and social stability, and this was to be achieved through economic cooperation (Lee 2012). Even if the expressed goal of ASEAN was to promote economic, social, and cultural cooperation, a primary objective for this organization was to manage the powder keg of regional security exigencies present in the region. This was further emphasized by the then foreign minister of Thailand, Chatichai Choonhavan, in 1973, when he stressed that the immediate task of ASEAN was to create favorable conditions in the region to enable the peaceful resolution of political and security conflicts between southeast Asian nations (Acharya 2001).

Prior to 1976, ASEAN members were not concerned with developing the structure of this institution with properly formed dispute settlement and compliance monitoring mechanisms. The first step toward that direction was undertaken during the first ASEAN summit in 1976, with the establishment of the ASEAN secretariat. The two main priorities were the elimination of security concerns of member states and to create and consolidate regional principles and rules of conduct to manage intra-regional disputes. To further soothe member states and their concern over an outbreak of armed conflict, ASEAN underlined the non-interference principle in other member states internal affairs as one of the core elements. The creation and consolidation of these norms were vital in these initial years to foster amicable relationship between the various nations. These norms were finally consolidated in the Treaty of Amity and Cooperation (TAC) of 1976 (Jones 2014; Beckman, Bernard et al 2016).

TAC outlined the following international principles: “1) mutual respect for the independence, sovereignty, and territorial integrity of all nations; 2) the right of every state to lead its national existence free from the external affairs of one another; 3) non-interference in the internal affairs of one another; 4) settlement of differences and disputes by peaceful means; 5) renunciation of the use of threat or the use of force; and 6) effective cooperation among the parties” (TAC article II). ASEAN procedural norms however, were derived from the local social, cultural and political backgrounds particular to Southeast Asia. These principles have led ASEAN to develop procedural norms of cooperation and dispute resolutions, known as the ‘ASEAN Way’. This method represents what is defined as the southeast Asian specific diplomatic approach based on non-interference in the internal affairs of other members, and the consensus-based decision-making process. The second document adopted at the Summit was the Declaration of ASEAN Concord, that stated that member states should only rely on peaceful processes in dealing with intra-regional dispute. During the 40th anniversary of the establishment of ASEAN, there were calls to make the institution stronger and more rule-based. To this end, the Eminent Person Group (EPG) was established in 2007 to give advice on the themes of the new ASEAN charter (Jones, Smith 2002).

This process brought on the adoption of the 2010 Protocol to the ASEAN Charter on Dispute Settlement Mechanisms (2010 Protocol) (Beckman, Bernard et al 2016). ASEAN has been considered a success by many scholars, a legacy attributable to ability, as a pillar of Pacific stability to prevent conflicts between members. It is also known for ability to cultivate the staggering economic growth witnessed in the region after its foundation in 1967 until the Asian financial crisis of 1997-98. Because of this, for much of the 1990s, many scholars praised ASEAN as one of the most successful experiments in regionalism in the developing world. Political analysts exalted this method of conflict management, the so-called “ASEAN way”, as a new building block for a new global community that would have replaced the

adversarial posturing and legalistic decision-making procedures in Western multilateral negotiations. The ASEAN way, embodied in the Treaty of Amity and Cooperation (TAC) in 1976, was based on consensus-building, non-binding dialogue among government elites, and noninterference in the internal affairs of member states (Jones, Smith 2002). This approach made possible Southeast Asian nations settling disputes away from intense media scrutiny. The extraordinary economic growth of the Asia-pacific region after 1975 and the establishment of various pan-Asian institutions like the ASEAN Regional Forum (ARF), the ASEAN Free Trade Association (AFTA), and the Asia Pacific Economic Cooperation (APEC), gave way to predictions for a "prosperous and confident region that would occupy a dominant place in the global trading order and would have lead to the "ASEANization" of Australia and East Asia" (Chalmers 1997; Jones, Smith 2002; Kivimäki 2012).

Even though ASEAN economic development is a success story, its ability to resolve internal conflicts is lacking. If the ability of ASEAN to resolve conflict has been the booming success researchers depict it to be (Kivimäki 2012), it is difficult to explain why, in recent years, ASEAN members have resorted to external methods of conflict resolution instead of using the institutional framework already present in ASEAN. An example of this is the 2008 conflict between Cambodia and Thailand over the Preah Vihear Temple. The conflict was ignited by the opponents of prime minister Thaksin Shinawatra to undermine the pro-Thaksin government of Prime Minister Samak Sundaravej. They accused Samak of "selling the nation" in exchange for personal interests that Thaksin had in Cambodia. ASEAN initially expressed concern for the rapid escalation of the conflict which threatened regional peace and security. It pressed to intervene in the conflict, offering to play the role of mediator.

Thailand refused the offer and insisted on dealing with the issue bilaterally, relying on the Memorandum of Understanding (MOU) on border issues signed by Thailand and Cambodia in 2000, and two organizational frameworks, the General Border Committee

(GBC) and the Joint Border Committee (JBC). Cambodia, having lost trust in the bilateral process, decided to turn to the United Nations to intervene in the conflict. The UN refused to interfere on the basis that both countries were part of ASEAN and that it had its own dispute settlement mechanisms, inviting both countries to find a solution through the existing regional framework. To alleviate the tension, ASEAN convened a Foreign Ministers Informal Meeting on February 22, 2011. During this meeting, Indonesia was the ASEAN chair, and released a statement that reminded Cambodia and Thailand of their commitment to the principles contained in Treaty of Amity and Cooperation (TAC) and the ASEAN charter, including the settlement of conflicts by peaceful means and the renunciation of threats or the use of force. This attempt also failed because of the unwillingness of Thailand to have a third party, in the form of Indonesian military observers, involved in the conflict.

Despite the willingness of ASEAN to mediate the conflict, military troops were still entrenched along the frontier and another round of clashes occurred toward the end of April 2011. Cambodia, provoked by the conflict and under pressure from the Thai nationalist groups and the military, filed an application on April 28, 2011, requesting reinterpretation of the judgment rendered on June 15, 1962 by the ICJ in the case concerning the Temple (Chachavalpongpun 2013). In November 2013, the ICJ ruled that the 1962 ICJ judgment that allocated the promontory of Preah Vihear to Cambodia was lawful and that Thailand had to withdraw its forces from the area, thus resolving the conflict (Jenne 2018). These behaviors have been influenced by inherent flaws in the dispute settlement mechanism of ASEAN, especially the lack of instruments to monitor compliance and to enforce decisions. The Association of Southeast Asian Nation has produced key documents over the years, which all members have successfully ratified, but it is still managing the organization based on informality and personal friendship among national leaders. So when they encounter sensitive issues, such as sovereignty-related conflicts, human rights violations or state crimes, the

members tend to call for the upholding of the noninterference rule which has been the cornerstone of ASEAN from the beginning (Jones, Smith 2002).

There are at least four documents that spell out the need to manage conflicts among members in a peaceful manner, that all members are bound to abide by. These documents are the Bangkok Declaration of 1967, the Treaty of Amity and Cooperation (TAC) of 1976, Article 23 of the ASEAN Charter, launched in 2008 and the ASEAN Political-Security Community (APSC) Blueprint. As previously mentioned, despite the numerous documents adopted by ASEAN members, none of them have a provision that compels parties of a dispute to seek involvement of ASEAN. This only further undermines the role of this institution, because bypassing it or rejecting the role of ASEAN as a mediation forum further diminishes the value and credibility of the institution (Chachavalpongpun 2013). The ASEAN Charter is comparatively lacking in compliance monitoring. In article 11(2)(b) is specified that is the duty of the Secretary General to facilitate and monitor the implementation of ASEAN decisions but no instruments have yet been adopted to clarify the role of monitor and enforcer.

TAC, "the principal security treaty of the region, allows for non-regional states to be signatories and represents the only regional mechanism that can be used for disputes arising between an ASEAN state and a non-ASEAN state. To date, Australia, China, the European Union, India, Japan, Russia, the United States of America, South Korea and Timor-Leste have signed the document" (Beckman, Bernard et al 2016). In 2001, Rules of Procedure of the High Council of the TAC established several steps that state parties should follow in the event of a dispute. These steps revolve around the resolution of dispute through negotiation. In case of the inability to reach a consensus, the dispute may be brought before the High Council. The High Council, through a decision made by consensus, can recommend that the parties use appropriate means to resolve the dispute like good offices, mediation, inquiry or conciliation.

It can also offer to assume the role of mediator in the dispute if both parties agree to it. What is notable in this case is that there are no time limits within which the High Council must make a decision.

Furthermore, due to the voluntary nature of this process, there are no obligations for the disputant to undertake the decisions or recommendations of the High Council. In light of all this, TAC being the only mechanism of dispute resolution between ASEAN and non-ASEAN nations, the picture is quite daunting. To this date, the various member states have never invoked the High Council in the 47-year history of ASEAN (Emmers 2014). The lack of enforcement mechanisms and the ability of disputants to disregard the High Council decisions is one of the reasons why so many non-ASEAN countries have signed the Treaty of Amity and Cooperation (Beckman, Bernard et al 2016). The more lenient the treaty, the more inclusive it is. This also makes it less effective in enforcement and mediation of conflict. In an attempt to allocate resources to TAC, in its role of adjudicator in political-security disputes, the 2004 Protocol was established. Consequently, the new legal and institutional framework was unveiled when the Charter was adopted in November 2007, becoming operational in 2008. This marked a monumental step for ASEAN to become a rule-based institution. A "catch all" clause was included to deal with disputes arising from ASEAN instruments with no specified resolution mechanism under article 25. In addition to the role of the ASEAN Secretary-General as a compliance monitor, the ASEAN summit was added as a decision maker in the case of non-compliance with the decisions resulting from an ASEAN dispute settlement mechanism.

However, "there are no guidelines as to how the ASEAN Summit should act in this capacity, including how it can decide that non-compliance has actually taken place, what it will do to ensure compliance, and whether it can impose sanctions on non-compliance nations" (Beckman, Bernard et al 2016).

Historical Factors

In regards to the South China Sea dispute, the position of the chair of ASEAN has been weak at best. Myanmar chairmanship in 2014 happened at the same time as the rising tensions in the South China Sea, presenting a big challenge of having to balance, and to safeguard ASEAN solidarity, and its bilateral relationship with China. The seriousness and the urgency of the incident of the placement of a Chinese oil rig into Vietnamese water pushed the ASEAN Foreign Ministers to adopt a standalone statement followed by the issue of the annual Joint Communique resonating the same statement. What is noticeable about this two statement is that both statements neither mentioned China nor the specific incident between Vietnam and China. Furthermore, as stated by Sun (2014), what is even more interesting is that the Nay Pyi Taw Declaration issued in the light of the forthcoming ASEAN Community of 2015, did not even mentioned the recent tensions in the South China Sea. Although both Vietnam and the Philippines took an aggressive posture against China, all documents avoided picking sides (Sun 2014). In 2015, with Malaysia acting as the chair of ASEAN there were expectations for this state to be the best candidate to push the South China Sea agenda forward, including the conclusion of the COC, especially because of close ties with China and because it was one of the parties involved in the SCS claims. Despite everything, Malaysia did not press hard on it, as it remained a highly controversial issue. Notwithstanding the Malaysian statement that it would always be in line with the voice of ASEAN, it navigated its support in a way that avoided confrontation with China (Ho, Singh, Teo 2015). The Chairmanship of Lao PDR took a similar position to the previous one. No urgency was placed with regard to maritime security or the South China Sea. In addition, there was no reference to the tribunal ruling in the July FM communique, and that the statement of the September Leader just repeated the old rhetoric of DOC, UNCLOS and COC. This caused a negative

tone to rise both in the media and in scholarly works (Ba 2017). The cases of Thailand and Cambodia are far from being the only ones that have resorted to external conflict resolution mechanisms to adjudicate interstate dispute. For example, the International Court of Justice (ICJ), being in itself another regulatory body without enforcement and comply monitoring capabilities (Beller 1994), has been involved in other ASEAN regional sovereignty issues. As reported by Scott (2012), it adjudicated in 2002 in the sovereignty dispute between Indonesia and Malaysia over Pulau Ligitan and Pulau Sipadan Islands. “In 2002, it adjudicated between Indonesia and Malaysia in regard to their sovereignty dispute over Pedra Branca/Pulau Batu Puteh islets, and in 2008 between Malaysia and Singapore with regard to their sovereignty dispute over Middle Rocks and South Ledge” (Scott 2012). These cases are further examples of how the lack of enforcement and monitoring capabilities on the ASEAN side, the general distrust between the various members, and the necessity of both disputant party to agree to ASEAN role as a mediator in the dispute, has pushed members of this institution to result to external mean of adjudication.

In the cases of Malaysia and Indonesia the decision was influenced by the fact that the Malay government did not trust the members of TAC to be impartial on the dispute of Sipadan and Ligitan. The Malay government believed it to be true, because it had other territorial issues with other ASEAN member states; who would inevitably have had a vested interest in the outcome of the dispute settlement mechanism itself (Scott 2012). These elements, that we have encountered until now, are also found in the mechanisms set to deal with territorial disputes arising over the South China Sea. Southeast Asian states and China agreed in 2002 to use and respect the UN Charter, UNCLOS, the TAC and the Five Principles of Peaceful Coexistence, to deal with the SCS issue. Not taking into account the aforementioned lack from ASEAN institutions of supranational powers and lack of foreign policy jurisdiction competency, another crippling element is the fact that the cornerstone of

the COC, that should monitor and regulate the various disputes arising on the South China Sea, is based on compliance with UNCLOS. As stated by Tonneson (2013), "this undermines any normative power, because in itself, the UNCLOS cannot be applied to solve existing territorial disputes because it leaves overlapping claims unresolved". "This is because of the UNCLOS lack of binding enforcement features, and because it does not address how to resolve sovereignty disputes" (Scott 2012). These constraints were further highlighted "in 2009 when the May 13 deadline for countries to submit their continental shelf delimitation applications to the U.N. Commission on the Limits of the Continental Shelf (CLCS) merely generated further divisions.

The joint submission of Vietnam and Malaysia in early May only served to created further friction with China and the Philippines, pushing them to file their respective counter-claims" (Scott 2012). Since the founding in 1967, ASEAN has been able to prevent armed conflict between members by means of consultation, persuasion and negotiation. This statement does not hold though, especially after the Thai-Cambodian mini-war of 2008. If ASEAN has been more effective in settling disputes related to the ASEAN Free Trade Area (AFTA), it has suffered from two factors that contribute to incompetence in dealing with political and security issues: the crisis of the "ASEAN way" and the lack of a coherent position vis-à-vis a given conflict. This is especially apparent in the South China Sea dispute. As stated by Emmers (2014), "the Southeast Asian claimant states (Brunei, Malaysia, the Philippines, and Vietnam) reticent to discuss their claims in the South China Sea under the aegis of their regional body, nor does ASEAN as an international institution want to play such a mediating role". Many questions still surrounds the relevance and effectiveness of the 2002 Declaration. Tonnesson (2003, 56) reminds us that the document "is simply a political statement." These results are a direct byproduct of a lack of confidence in the bilateral

process, the lack of instrumental enforcement, the absence of compliance on the part of its members, and a missing common stance (Tonnesson 2013).

If we combine these two elements: 1) the fact that ASEAN member states are reticent in discussing their claim under the regional body prefering to utilize Track 2 diplomacy and bilateral negotiation to solve political issues, 2) the fact that ASEAN prefers to seek flexibility for security, human rights and socio-cultural matters, in contrast to its preference for hard laws for economic cooperation.

These elements can help us getting a clear picture of ASEAN inability to attempt any method of conflict resolution, giving rise to the current stalemate (Chachavalpongpun 2013; Scott 2012; Beckman, Bernard et al 2016).

Chapter Four: Coercion, Economic dependence, and Historical factors

The importance of the South China Sea, both for China and Southeast Asian states, has been well documented (Dzurek 1985; Hong 2010; Zimmermann, Bäumler 2013). But another important element that needs to be considered is that not all ASEAN members have vested interests in the South China Sea and asking them to support the other states that have a claim in the SCS is not a trivial matter. This is especially true because for these states, China is one of their biggest economic partners. Since the mid 1970s, these littoral states have been competing against each other to undermine the sovereignty and jurisdiction claim of their rival in the SCS in an attempt to extend theirs (Huong 2018). While the importance of the SCS has never changed, the stance of China toward it has. After the confrontational stance of China during the 1970s and 1980s, the dispute was sidelined with the Chinese charm

offensive during the 1990s, only to see the conflict flare up again in 2009 with a return of an assertive posture from China (Castro 2012). While the Chinese approach to the SCS dispute has developed over the years, the techniques to defuse the situation and prevent the creation of a ASEAN united front against its claims have remained substantially unchanged. China has deployed them in various form throughout the years. One that has been mainly researched by scholars and analysts, especially for its ability to escalate this territorial disputes in to all out conflict, has been the coercive power of China.

Coercive power

Coercion can be seen as a psychological phenomenon, with the objective of achieving the desired goals of the coercive party by using its advantageous position over others (Schelling 1970). "It is the threat of damage, or of more damage to come, that can make someone yield or comply" (Schelling 1970). The various methods of coercion that can be used against another state are: "deterrence (raising the cost of a military action to prohibitive levels), dissuasion (to prevent an adversary to initiate a challenge), compellence (persuading and adversary to desist from hostile actions) and blackmail" (Huong 2018). Chinese armed forces have gone through a process of modernization in the past twenty years. The defense spending of the Chinese government has increased at a rate of over 10 percentage point per year from 1989 to 2009 (Kaplan 2015). The People's Liberation Army (PLA) has gone through a rapid phase of modernization, by updating its obsolete equipment and by acquiring more advanced and modern weapons systems, like the Jin-class nuclear-powered ballistic missile submarines, the Shang-class nuclear powered-attack submarines, Luzhou and Luyang-class destroyers, and Jiangkai-class frigates (Liu 2011; Kaplan 2015). China has built a submarine base on the island of Hainan. This seems to be in line with recent white paper released by the Chinese government in which they expressed their intention to improve their

capabilities in a way that could help them shift their defense posture from a traditional coastal defense one to a distant/ far sea defense concept (Castro 2012; Liu 2011).

As explained by Castro (2012), "the development of these capabilities would enable the People Liberation Army (PLA) Navy to increase its operational range from the so-called first-island chain to the second-island chain, which extends from northern Japan to the Northern Marianas Islands, Guam, and further south to Palau". In 2011, China announced a plan to bolster China Maritime Surveillance (CMS) forces. The CMS, that is a paramilitary branch of the PLA Navy, is expected to increase its personnel from 9,000 to 15,000 members by 2020 and to augment its fleet to 520 vessels by 2020 (Liu 2011). China has used its modernized navy, combined with its huge economy to deter other contenders in the dispute to make damaging claims to Chinese interests. Examples of this are not only the armed conflicts between China and Vietnam in 1979 and 1988, and the harassment by Chinese fishing vessel of the US ship Impeccable (Hayton 2014); but also the more recent one in 2012 with the Philippines over the Scarborough Shoal, and with Vietnam in 2011 when two Chinese maritime surveillance vessels harrased a Vietnamese ship surveying for oil and gas deposits in the EEZ of Vietnam (Castro 2012;Liu 2011). Coercion though, if the psychological treat is successfully planted, can continue to influence the behaviour of a subject even when the coercer is not physically present (Huong 2018).

For example, even if China is not physically present during ASEAN meetings, "ASEAN leaders are increasingly avoiding collective decisions, or statements on certain topics that are considered as inimical to Beijing's interests" (Huong 2018). As expressed by Huong (2018), "during the 50th ASEAN Foreign Ministers Meeting in Manila, the Southeast Asian leaders resisted pointing out the militarization of Chinese built artificial islands, despite their impact to regional tensions". An extremely effective exploit used by Beijing in China-ASEAN relations is dissuasion. China has put a lot of efforts in to avoiding that ASEAN

members discussed the SCS dispute in a multilateral arena (Huong 2018). By making clear what China desire, and what it does not, it as reinforced the calculation among Southeast Asian leaders whether a certain issue is grave enough to risk angering Beijing. This has transformed the SCS into a tabu making it an uncomfortable topic to discuss, "even though it was ASEAN that initiated the issue during the 1990s" (Huong 2018). Compellence has also been applied by the Chinese government.

One of the tactics used to achieve this goal has been the "salami strategy" (Castro 2012). As expressed by Donald Weatherbee (2015 p. 146), "this tactic involves offering a claimant state a joint development in the disputed area". "But in doing so, by setting aside disputes and pursuing joint development with a claimant state, China further legitimizes its hold on the disputed territory" (Castro 2012). Castro (2012) as noted that "China has applied this tactic with Vietnam and the Philippines when it convinced them to participate in a Joint Maritime Seismic Undertaking (JMSU) in the South China Sea. However, by doing so, Vietnam and the Philippines became complicit in the Chinese "salami strategy" and muddled the issue in two ways". The agreement negatively affected the position of Malaysia and Brunei, since it underscored the spacial claim of China in the South China Sea, and through the trilateral deal, the united front set up by ASEAN in 1990s was weakened (Castro 2012). China has also resorted to the use of blackmail against states that do not follow Beijing directives. For example, China threatened President Duterte with war if Manila acted on the ruling of the Permanent Court of Arbitration (PCA) that favoured the Philippine claims over the one of China (Huong 2018). The attempts by China to extend the reach of its power have been largely successful.

As noted by Huong (2018), "for the current leaders of the neighboring Southeast Asian states, this development presents opportunities that may outweigh concerns". Together with Beijing's coercive actions, there are Chinese economic promises and inducements. "The

varying ratios of Chinese coercion and inducement tactics are the source of the diverse options that the Southeast Asian states must chose from" (Huong 2018).

Economic dependence

"The economic might of China is increasingly recognized across the region and it is fair to say that by large, Southeast Asia watches Chinese economic growth with admiration" (Huong 2018). So it would be safe to assume that the economic power of China will translate to greater strategic clout from the CCP on ASEAN. The ability of China to outshine ASEAN-led initiatives, including the ASEAN Economic Community (EAC), further underline the position of China as a regional powerhouse (Huong 2018). China is the number one trading partner of five of the ten ASEAN countries (Huong 2018). As stated by Huong (2018) "in 2015, trade between these countries constitutes 15.2% of total ASEAN trade, only second to intra ASEAN trade (24%)". China and Southeast Asian economic relations have grown beyond the scope of mere trades. "One of the more recent projects is the '2+7 Cooperation Framework', promoted by Premier Li Keqiang, whereby China has engaged Southeast Asian neighbors in a new framework of trade, investment and aid" (Huong 2018).

This initiative was first illustrated in 2013 during the China-ASEAN Summit. This initiative tackled not only the terms of an economic cooperation but it clearly linked them to political and security concerns (Huong 2018). As expressed in its research by Huong (2018) "in return for multi-million dollar loans, in investment and development grants, Beijing expects Southeast Asia to join in a China-centred Eurasian community". Interestingly, China as excluded Vietnam and the Philippines from it (Huong 2018). The huge size of Chinese economy, gives the ability to Beijing to create positive or negative effects on other countries economy by changing the way it manages trade deals. As noted by Huong (2018), "by expanding or limiting trade with a given country, China can, in a relatively short period of

time create fluctuations that can impact favorably or negatively the economy of a state". Both Vietnam and the Philippines have experienced economic backlash from China for acting on their claims over Chinese contested territories in the South China Sea (Huong 2018). One of the most notorious example of this form of punishment was the 'banana war', caused by the standoff between China and the Philippines over the Scarborough Shoal. As reported by Huong (2018) "China boycotted the importation of Filipino bananas, creating overnight losses for Philippine farmers estimated at $380 million and reaching 90% of the total banana production of the Mindanao region, and potentially affecting some 200,000 livelihoods". A similar punishment was enacted from China on Vietnam. Because of Hanoi actions against the Chinese HYSY-981 oil rig operations close to the disputed islands, China banned the import of Vietnamese lychees in 2014. Lychee were stopped at the border, and because 60% of them are directed to China it caused substantial damage to Vietnamese farmers(Huong 2018). As Huong (2018) has stated in its research, "such practices of blocking agricultural products is a powerful tool, sending signals of potential future losses to the governments of Southeast Asia, especially since their economies heavily depend on that sector". Economics is rarely separated from politics, and it pays to be a friend to China as a smaller player in Southeast Asia.

The new economic initiatives of Beijing, at the regional and trans-regional level, such as the One Belt One Road (OBOR) initiative and the Asian Infrastructure Investment Bank (AIIB), are very attractive to ASEAN countries (Arase 2015). The AIIB and OBOR represent a strong Chinese economic 'offensive' in the region. The Asian Infrastructure Investment Bank has increased concerns in regards to the economic presence of China in the region (Huong 2018). "Substantial economic benefits are not devoid of political expectations" (The Economist Intelligence Unit 2017a). David Arase (2015) pointed out that "ASEAN states concerns above all of their own economic, political and security agendas; gives the ability to

China to use its economic might to create cleavages amongst ASEAN members, offering various benefits that differ significantly from one country to another". Under these Chinese initiatives, new infrastructure are planned to be built across Asian to reinforce the Chinese idea of "shared interests, destiny and responsibilities" (Huong 2018). It is very difficult for any country, especially the smaller ones, to resist the economic appeal of China. "Even those with conflicting territorial claims, like Vietnam or the Philippines, are keen to be involved with China when it comes to economic and development initiatives" (Huong 2018).

Historical factors

From a political point of view, China is exploiting the absence of a cohesive and unified ASEAN identity, divergent security interests, and intentional rejection of a rule based security architecture, to push the dialogues between these states on a bilateral level. This is leading them away from a multilateral discourse framed inside ASEAN institutions (Liu 2011).

China has been able to maintain control over the situation by recognizing threats posed to its claims and its ability to switch between hard and soft actions to better suit the situation. For example, China used such strategies in the 2010 US pivot to Asia. China negatively reacted to US Secretary of State Hillary Clinton's July 2010 Hanoi speech, in which the US offered to play a facilitating role in resolving the dispute, and sending a clear message to ASEAN states of what China wanted (Castro 2012). During the 2nd US–ASEAN Summit in 2010 in New York, President Obama met with ASEAN heads of states to create a united front to push for a multilateral approach to the South China Sea dispute (Castro 2012). The US hoped that this would push ASEAN to take a stronger position on the SCS dispute asking for its peaceful resolution. It was also expected a statement from bouth ASEAN and President Obama in which they reaffirmed the freedom of navigation in the South China Sea, opposing

the use of threat or force by any claimant state in solving the dispute (Castro 2012). As stated by Castro (2012), the importance of this statement was based on the fact that it would have build on the initial pronouncement on the South China Sea by Secretary Clinton during the 2010 Hanoi ARF meeting. “Three days before the US–ASEAN Leaders Meeting, a Chinese Foreign Ministry spokesperson warned ASEAN states that China was alarmed by the attempt of the US to get involved in the dispute and was opposed to the involvement of any state not an essential actor in the dispute” (Castro 2012). Furthermore, China also agreed to push forward the development of the DOC, that had been previously halted since their agreement on it in 2002 (Emmers 2014). For these reasons, to avert angering China, the ASEAN member-states backed off from a joint declaration on the South China Sea dispute and any mention of the use of force (Castro 2012). This frustrated efforts in Washington. Chinese concession resulted in the signature of the guidelines in 2011 of the DOC, though this agreement was perceived to be mostly nonspecific and therefore rather unhelpful with the eventual implementation of the DOC (Emmers 2014).

The strategy of the People’s Republic of China has been tailored to the developing southeast Asian states, and their need for economic development and to take advantage of the “dynamically evolving political conditions in the region” (Huong 2018). ASEAN institutional norm of decision-making require unanimity to reach a decision, this has made it easier for China to obstruct these processes. By exerting its personal influence with “long-term leaders, often with authoritarian-style leadership, such as Cambodia or populistic leaders like Duterte and Jokowi” (Huong 2018), Beijing has been able to stop those decisions that are deemed detrimental to Chinese interests by preventing the achievement of the quorum. They prioritize short-term economic accomplishments, putting less emphasis on long-term strategic visions, which has made them the perfect exploit for China to further its agenda and impede the

translation of the conflict on multilateral basis by blocking the consensus need to reach any decision (Castro 2012; The Economist Intelligence Unit 2017b).

Chapter Five: Case study on the development of Sino-Cambodian relations and its effects on the SCS dispute

The role of Cambodia as the bulwark of Chinese interests in the South China Sea, has been an hot topic of debate between scholars. The main reasons that have been used to explain this phenomenon have been mainly economical. This approach though, fails to take into account the underlying mechanisms that are shaping the behaviour of Cambodia today.

Historical elements

The relationship between China and Cambodia has a long history. Sino-Cambodia economic and cultural relations can be traced back to 1296, with the visit of Chinese diplomats to Angkor City. Since it gained independence in 1953, Cambodia was already looking at China as a protector and a friend against the threat posed by its neighbors, Thailand and Vietnam. This relationship was further developed in 1958, when Norodom Sihanouk recognized Beijing, going against the advice of the Western world. China remained a strong supporter of Sihanouk, closing its embassy in Phnom Penh after he was overthrown in 1970. From 1975 to 1979 China has played a central role in backing the Khmer Rouge regime led by Pol Pot, who caused the death of 1.7 million people under his rule. China has continued its support of Pol Pot by supplying weapons to the Khmer Rouge along the Thai–Cambodian border between 1979 and 1990, even after the fall of the regime (Heng 2012). In 1979, following the Vietnamese invasion of Cambodia, Hun Sen became prime minister. In 1988 he

wrote a long essay depicting China as the root of everything that was evil in Cambodia (Willemyns 2018). In 1993, The FUNCINPEC party led by prince Norodom Ranariddh and the Cambodian People's Party (CPP) led by Hun Sen formed a coalition (Heng 2012).

From 1993 until 1996, China provided patronage to Ranariddh. After 1996, because of the close relationship between the Prince and Taiwan, China started looking for more suitable candidates to support. The tipping point of Chinese-Cambodian relations came in these years (Sothirak, Pou, et al2012; Heng 2012). In 1996, China invited Hun Sen to a formal visit to Beijing. Before its departure, he stated that the visit would end the suspicion of the past. While in China he met with President Jiang Zemin and Premier Li Peng, and signed a new agreement on trade and investment (Sothirak, Pou, et al 2012). The most significant element of this visit was that FUNCINPEC was not invited from the government of Beijing to join the delegation (Sothirak, Pou, et al 2012). In 1997 Hun Sen, bolstered by the visit to China of the previous year and perhaps confident of its support, ousted Prince Ranariddh in a violent coup. Investors from Western countries withdrew all investment except humanitarian aid and condemned the takeover by the CPP. At the same time ASEAN suspended the membership of Cambodia in the bloc, expected to come in effect the following month (Hutt 2016). Seeing an opening, China, despite the international condemnation, recognized Hun Sen ruling as legitimate and provided him with huge financial aid. China opposed the enactment of any sanctions from the international community against Phnom Penh, and warned Western countries to stay away from the nation's internal affairs. Hun Sen moved quickly to gain the trust of China, after accusing the Taiwan representation in Phnom Penh of helping FUNCINPEC to purchase arms, he subsequently shut down the Taiwan Economic and Cultural Representative Office in Phnom Penh, and expelled all the Taiwanese diplomats (Sothirak, Pou, et al 2012). After the coup, Chinese schools began opening up with the help of

the Chinese embassy. This development, combined with previous actions, endeared Hun Sen to Beijing.

After that, a series of state visits between these two countries played a key role in the bolstering of China-Cambodia bilateral relationship (Sothirak, Pou, et al 2012; Heng 2012). The relationship that Sihanouk had with China and the relationship that Hun Sen has with China have striking differences. “If Sihanouk used China in the 1950s and 1960s to advance neutrality, Hun Sen cannot be said to be doing the same” (Sothirak, Pou, et al 2012). Even if in the past, Hun Sen has boasted that “Cambodia cannot be bought,” few would take this statement at face value. Sophal Ear, an Associate Professor of Diplomacy and World Affairs at Occidental College in California, said that Cambodia is perceived as an extension of Chinese foreign policy and that because of that, it resembles a colony of China, not an independent state.

Economic factors

Even though the US remains the largest export market of Cambodia, China has become its largest provider of foreign aid. This has allowed Hun Sen to govern in a way that, without the support of Beijing, would have incurred sanctions and censure from other countries. As it is being described by Brickell and Springer (2017) in the The Handbook of Contemporary Cambodia,

China is more of an underwriter of the CPP security than a guarantor. Chinese threats have meant that western states are lax on challenging Hu Sen rule. Chinese money and infrastructural developments have given a resemblance of economic development in Cambodia (Hutt 2016). Most researchers have looked into the cause of the sudden shift in the perception that Cambodia had of China, going from the root of everything that was evil to, only 10 years later, to the most trustworthy friend; mainly through economic factors. In

December 2007, China joined the Cambodia Development Cooperation Forum (CDCF) and immediately became the largest donor. In 2008, Chinese investment in Cambodia reached 40 percent of the total Foreign Direct Investment (FDI) received by Cambodia (Sothirak, Pou, et al 2012).

With the establishment of the ASEAN–China Free Trade Agreement in 2010, China has become the biggest trading partner and the number-one export destination for ASEAN countries (Heng 2012). As stated by Heng (2012), "the growth of trade between China and Cambodia is the highest vis-à-vis the bilateral trade between China and any other ASEAN country". In addition to the close economic relationship, we have seen an increase in cooperation between the Chinese–Cambodian military (Heng 2012). Since the late 1990s, China has be the generous provider of economic assistance to Cambodia by various means: from the donation of construction materials in 1999, to assistance to the training of the Cambodian army, human resources, and the repair of military equipment in 2006 (Heng 2012). Cambodia is one of the closest allies of China in Southeast Asia and their relationship has reached close ties in almost all areas of cooperation (Heng 2012). The problem with using only economic factor is that they do not explain why Cambodia is such a close ally of China. Vietnam, in which Beijing also plays an important role as one of the top investor in the country, is continuing to defy Chinese wishes and is one of the strongest opposers to Chinese claims in the South China Sea. Even though Chinese economic power plays a big role, there are elements that have helped the alignment of Cambodia with Chinese policy (Sothirak, Pou,et al 2012).

Political factors

Politically speaking, contemporary Cambodian leaders have courted China for many reasons. Norodom Sihanouk used China as a safety net against the neighbors of Cambodia,

Pol Pot employed it for ideological reasons as a counterweight to Vietnam and to achieve revolution in Cambodia, and Hun Sen used China to counterbalance the negative effect of censure from Western countries because of its undemocratic way of ruling the country (Sothirak, Pou,et al 2012). Even, without taking into account the ruling party, the largest opposition group the Cambodia National Rescue Party (CNRP), that should represent an opposite view to that of the CPP, made it clear by its vice-president Kem Sokha in 2014 by expressing their intention to be allies of the US, is not free of problematic elements (Hutt 2016). Their stance has been prone to alteration when the bête noire comes into question. CNRP's anti-Vietnamese stance is well-documented. As David Hutt (2016) as reported in his article for the Diplomat, In 2014 Sam Rainsy stated that they were on the side of China in the fight against Vietnam, and that they supported Beijing in claims on the South China Sea. "Even though three years later the Cambodia National Rescue Party took a more neutral position on the settlement of the Philippines South China Sea arbitration case, CNRP nationalism would pose certain difficulties if the US would call on the party to support its position on the South China Sea dispute" (Hutt 2016).

Cambodia does not host the largest Chinese population among Southeast Asian states. However, by the end of 1960, it represented the largest minority group in Cambodia, with a population numbering approximately at 425,000 people. Even though the number was significantly reduced during the Pol Pot genocidal regime, according to the Chinese Association in the country the population has reached now about 500,000 people (Heng 2012). This aspect has been mostly overlooked, and Chinese efforts in spreading its culture in Cambodia has been huge. As Heng (2012) has reported in his research, "these attempts can be seen not only through language and education, food and eating, media and entertainment, but also in beliefs and festivals". One such festival is Chinese New Year. Even though is not considered an official public holiday, most of the population of Cambodian celebrate it every

year and a number of public institution are closed during this event (Heng 2012). Mandarin has become the second most popular language after English. “In 2011, there were 56 schools offering Chinese-language classes to some 30,000 students nationwide” (Heng 2012). To further increase the promotion of the Chinese language, a number of Confucius Institutes have been built in Phnom Penh, and with the launch in 2008 of the China-Cambodia Friendship Radio China has further enhanced its cultural presence in the country (Heng 2012).

At the launch of the first Chinese-language class for public servants, the Chinese ambassador Zhang Jinfeng told students from the ministries of interior, defense, education, information and the Council of Ministers, that China has never taken part or intervened in the politics of Democratic Kampuchea. They added that China did not support the policy of the regime, and that instead, China helped the people of Cambodia through food aid that prevented the famine from getting worse (Heng 2012; Sothirak, Pou, et al 2012). This is a revisionist stance, particularly because Beijing did participate in Cambodian politics during the transition period of the 1990’s, where it made it clear that Beijing would have not supported any Cambodian party that would have resumed the civil war. In addition, China used its veto power at the UN security council to warn Khmer Rouge protégés that hostile actions would not be tolerated, and to encourage national reconciliation among the Cambodian factions (Sothirak, Pou, et al 2012). China adopted an obstructionist stance during the 2000-2001 Khmer Rouge Tribunal, attempting to block the passage of legislation by the Cambodian National Assembly to establish a tribunal to try leaders of the former Khmer Rouge regime (Sothirak, Pou, et al 2012). Yang Tingai, a former ambassador to Cambodia, has said that the popularization of the Chinese language in the country has exceeded that of any other Southeast Asian nation and has helped to develop the friendly relationship between Cambodia and China (Marks 2000).

Effects on the SCS dispute

China has used these elements combined with economic might to steer policies of Cambodia in a direction that was congenial to Chinese objectives. The 2009 visits of Chinese Vice President Xi Jinping demonstrate this pattern. This was portrayed as a hallmark of Sino-Cambodian relations, because of the extensive package of grants and aid given by the Chinese government, amounting to US$1.2 billion. In response to this, the Cambodian government, before the arrival of the Chinese vice president to Phnom Phen, "deported 20 ethnic-minority Uighurs seeking refugee status in the country back to China" (Sothirak, Pou, et al 2012). Breaking the 1951 Refugee Convention (that Cambodia was part of), was a move to grow closer to Beijing. During the 2010 US pivot to Asia, China announced a new aid package to the Cambodian army comprised of "257 new military cars, 50,000 uniforms, and 100 million CNY" (Heng 2012). In addition, by 2010, a statement from the International Monetary Fund (IMF) and the World Bank claimed that China held 66 percent of the Cambodian total debt (Heng 2012). In 2012, China promised large sums in aid and loans to Cambodia, right before the ASEAN summit that was chaired by Phnom Penh (Heng 2012). Cambodia received it in the form of three aid packages in just three months. "These included 70 million USD in aid, a 20 million USD military aid deal signed in May, and a 430 million USD loan signed in June of the same year" (Heng 2012; Sothirak, Pou, et al 2012). The only demand made in exchange was that Cambodia was to keep the South China Sea dispute at the margin of the conversation during the summit. Cambodia successfully prevented a united statement over the dispute over the SCS from ASEAN. This was an unprecedented failure for ASEAN (Tomiyama 2016). As stated by Parameswaran (2012) in its article, "it was the inability, for the first time in a 45 year history, to issue a joint communiqué due to disagreement over the dispute".

After a few days the situation was exacerbated when Beijing offered another "600 million dollars in aid and loans" (Hutt 2016). This incident has raised questions on the ability of ASEAN to protect its autonomy and centrality enclosed by great powers with the potential to dominate the region (Parameswaran 2012). This is not only creating concern of external factors affecting the ability of ASEAN to challenge the agenda of China, but is also creating distrust among ASEAN member states. Because of its closeness to China, Cambodia is causing a lot of concern among ASEAN members, with former Singapore Prime Minister Lee Kuan Yew suggesting that everything that is discussed at ASEAN meetings is immediately known in Beijing (Sothirak, Pou, et al 2012). In the end, while the economic power of China has played an important role in its ability to influence the actions of Cambodia, this has only been possible because of the condemnation of the Hun Sen regime and the halting of all investment from western countries to Cambodia, rendering China the only assurance for the survival of the state.

Chapter Six: Concluding Discussion on ASEAN Disunity in the SCS and Chinese Influence

The main reasons offered to explain the erratic behavior of some ASEAN members have myopically focused on Chinese economic might. In the case of Malaysia, China accounted for 12% of its exports and 16.9% of its imports until 2014. In 2010, Mahathir Mohamad, the former Prime Minister of Malaysia, established the 'Looking East' approach, stating that China retained a political system that ensured stability and combined it with a modified version of the Western market system fostering an impressive economic growth. (Dosch, 2014) For these reasons, Malaysia should maintain good relationship with Beijing

(Gilley, O'Neil 2014). Similarly, for Lao PDR, China represents the main economic partner (Reeves, 2016). These behaviors have also been theoretically analyzed using neorealist, liberal and realist philosophies. Neorealist philosophies view the shifts in the distribution of material capabilities as the main determinant in the foreign policy behavior of small states (Zha 2015). While this approach could be used to explain the behavior of Cambodia or Thailand, it fails to thoroughly explain the complete defiance that we are seeing both in Vietnam and Malaysia on the SCS dispute. Both the liberal and realist approaches fail to explain all the subtle nuances of the relationships. The Philippines, under the rule of president Duterte is attempting to ingratiate itself with the Chinese government. This would be against Duterte interests because of the strong anti Chinese sentiment of the Philippine populations, and going against political survival theories, while at the same time courting the US on the South China Sea dispute (Liao 2017). These approaches, while they can be used to explain the actions of some states, neglect relationships between regional players and prevent understanding of ASEAN as a whole.

As Liu (2011) stated in his research, "a growing number of scholars, taking into consideration the importance of engagement measures and economic connectivity in alleviating tensions, and the limitations of institutions operating under a non-rule based security architecture; have argued that, the best way to understand the current trend in China and Southeast Asia, is to use a mid way approach that is neither liberal nor realist". As expressed by both Goh (2007) and Kang (2003), "the region applies different strategies from Western states, refusing to believe in binary choices of whether to balance or bandwagon, to engage or contain. Instead, it would be best to describe it as a regional strategy of omni-enmeshment". They engage both China and the US to align and tie their interests with those of the region, while using subtle and non-direct balancing behaviour against any undesirable Chinese actions that could become a security threat. As explained by Kuik (2008), a

balancing strategy against China from 1990-2005 was not necessary, especially because the growing power of China was largely hypothetical rather than real.

For these reasons, "Southeast Asian nations have responded to the rise of China with a number of hedging strategies, like underwriting their security with subtle indirect balancing while embracing the opportunities a rising China posed" (Liu 2011). The recent increase of Chinese power, especially naval modernisation, has increased the threat perceived by southeast Asian states. As expressed by Liu (2011), this has caused a change on the Hedging spectrum. The increased power and presence of the Chinese navy in the region is is pushing these states towards the balancing end of the hedging spectrum (Liu 2011). While Return-Maximizing Options like diplomatic engagement, strengthening of economic ties continues to be used as effective hedging strategies, the emphasis has shifted towards Risk Contingency options (Liu 2011). We see this phenomenon occurring first in the internal balancing measures of the region. Recent military modernization efforts in southeast Asia are part of a long term adjustment to the new bi/multi-polarity (Philippines-China dispute 2014). The major claimant states in the SCS have been planning significant military modernisation efforts in recent years. The second part of this balancing strategy, as explained by Liu (2011), "is the continued engagement and the expansion of ties with the the traditional security guarantor of the region, the United States". Southeast Asian nations, through facilitating a continued U.S. presence in the region, via deepening bilateral ties and defense agreements or engagement in regional fora, try to indirectly deter any potential Chinese aggression (Liu 2011).

In the capacity of the U.S. as an external guarantor, it is used by these states to bolster internal balancing strategies by attracting U.S. military aid, trade and economic assistance (Liu 2011). Although threat perception of Chinese capabilities has risen sharply in recent years, not all southeast Asian countries perceive it in the same way. While countries like

Vietnam, the Philippines, Singapore and Malaysia are reacting to this threat by trying to balance the rise of China, the same cannot be said of landlocked nations or ASEAN members that are not involved in the dispute like Cambodia, Laos PDR and Thailand. This shows ASEAN disunity and the lack of a united front vis-à-vis the SCS issue. ASEAN has not been able to gain the support of Southeast Asian states that are not involved in the dispute, and has also has failed to create an economic structure to incentivize them to align with the ASEAN agenda and to mitigate the backlash of Chinese sanctions on these countries that could follow from their misalignment with Chinese interests. Even though those states that are actively involved in the South China Sea have developed Hedging strategies, they did so not has a united block, but as isolated units that apply these strategies in ways that serve the goals of their states and that at the same time try to undermine other claims of ASEAN members in the region. The Trump administration and a "free and open Indo-Pacific" approach seem to follow the line of the Obama administration in attempts to correct American foreign policy to align with the increasing importance of Asia. With a "Pivot to Asia" strategy, the new administration has created anxiety in the region regarding the sustainability and shape of U.S. commitment, especially because of the nativism and narrow transactionalism in Trump's "America First" vision, that could possibly signal the end of an "Asia First" foreign policy (Parameswaran 2017).

These anxieties have further increased the uncertainty of the situation, especially because the US has been used by many of the states involved in the SCS dispute as the historical balancer against the China rise. Certain ASEAN members are already looking to find other external balancers to contrast Chinese military power. The visit of Prime Minister Narendra Modi to Vietnam in March of this year is both a testament of this and of the growing closeness in bilateral security ties between Hanoi and New Delhi. On the security side, both states share concerns about the growing Chinese power and how it might affect

their national security. Nowhere is that clearer than in the South China Sea. Because of the aggressive posturing of China in the SCS, Vietnam has called on India to play a more proactive role in Southeast Asia (Rajagopalan 2018). Vietnam, with the visit of its defense minister to Japan in April of this year, is also trying to further bolster the defense relationship between this two countries (Parameswaran 2018). While the Asian democratic score has steadily improved since the implementation of the Democracy Index in 2006 (reaching a peak during 2015 and 2016), in 2017 the score has shown backsliding. This reflects a worrying trend of the re-emergence of undemocratic behaviours in many states. If this is combined with the inconsistent positions of the Trump presidency on democracy and human rights, this could push even more states in the region under Chinese influence, to protect themselves from Western sanctions (The Economist Intelligence Unit 2018).

This thesis has analyzed the reasons why we are seeing such a weak and divided stance in the South China Sea dispute from ASEAN, and what factors had a role in shaping the situation in the present day. It was crucial to analyze whether Chinese actions had an effect on this phenomenon. Even though Chinese power has indubitably increased in recent years, and t has combined it with coercive power, economic, and historical factors, this alone would not be able to explain the astounding success of Beijing strategy in the region. I argue that China has magistrali applied pressure on the weak points that were already present in ASEAN to not only further national goals but also to maintain the status quo and prevent the creation of a united front from the Association of Southeast Asian Nation against its claims. Despite the attempts by ASEAN to become a ruled based institution, all the steps taken so far lack institutional mechanisms to enforce decisions and to monitor compliance. The general distrust in dealing with territorial and security issues through ASEAN dispute settlement mechanisms and a general mistrust between its members have pushed these states to resolve their grievances in a bilateral fashion or to ask for adjudication by an external body, further

preventing the creation of a united ASEAN voice. The inability of ASEAN to engage members that are not directly involved in the dispute, to align with the voice of those who are, and its shortcomings in resolving the dispute between those members who have overlapping claims in the South China Sea, have created a fertile ground for Chinese strategies to take root and flourish. In the end, the reason for ASEAN disunity and inability to confront China with a united front on the SCS dispute are seeded in ASEAN history and in conflict resolution mechanisms rather then the cause of the CCP's actions against it. China has only applied pressure or relieved it depending on the situation, to exploit pre-existing weaknesses in the Association of Southeast Asian Nation to further advance it's agenda. As long as ASEAN is not able to impose and monitor the implementations of decisions and claims of member states are not resolved internally, the future and importance of ASEAN as a regional power will remain uncertain.

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