

**THE DEPLOYMENT OF TRACK TWO DIPLOMACY IN
INDONESIAN LED WORKSHOP ON MANAGING CONFLICT
IN THE SOUTH CHINA SEA, 1990 – 2002**

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ABSTRACT

Conflict in the South China Sea became a flashpoint in Southeast Asia in the 1970s. Located in a strategic area which has important sea lanes and rich in living and non-living resources, the South China Sea is claimed by six states namely China, Taiwan, the Philippines, Vietnam, Malaysia and Brunei. However, in that period, there was no formal forum like the ASEAN Regional Forum (ARF) through which the conflict could be handled and as a result, Track Two Diplomacy was applied to manage the conflict through a series of meetings entitled “Workshop on Managing Potential Conflict in the South China Sea” led by Indonesia from 1990 to 2002. The statement of the problem of the thesis is why Track Two Diplomacy was chosen as a suitable mechanism to manage the conflict and to what extent was this experiment successful and effective. The objectives of the study are as follows: firstly, to examine the reasons for the deployment of Track Two Diplomacy as a mechanism of conflict management and Indonesian support for the workshop; secondly, to investigate the process, outcomes and effectiveness of the workshop. This research employs the qualitative method whereby a case study of the workshop is undertaken. Both primary and secondary data are analyzed. Theories used in this research are Constructivism which provides understanding on how socialization, identity and norms guide behaviour of states and Functionalism which stresses on promoting cooperation to enhance peace. The significance of this study is to suggest ways in which Track Two Diplomacy can be usefully deployed in managing conflicts in the South China Sea and elsewhere. The findings of this study are as follows: firstly, the interactive process of dialogue developed by the workshop has been able to create a sense of community and norms building. Secondly, the workshop succeeded to establish functional cooperation in less sensitive issues. Thirdly, the workshop further enhanced the concept of Track Two Diplomacy. Finally, the workshop was able to maintain peace in the region as indicated by absence of major military conflict since 1990.

Key words: Constructivism; Functionalism; Indonesia; South China Sea; Track Two Diplomacy.

ABSTRAK

Kawasan Laut China Selatan telah menjadi zon konflik di rantau Asia Tenggara pada tahun 1970-an. Kawasan ini sangat strategik dalam aspek laluan laut antara bangsa dan juga kaya dengan sumber hidup dan bukan hidup. Sejak tahun 1970-an, kawasan ini dituntut oleh enam buah negara iaitu China, Taiwan, Filipina, Vietnam, Malaysia dan Brunei. Namun, tidak wujud satu forum rasmi pada masa itu, seperti ASEAN Regional Forum (ARF) bagi membolehkan konflik ditangani. Oleh itu, Diplomasi Laluan Kedua telah diguna pakai untuk menguruskan konflik melalui satu siri pertemuan yang bertajuk “Bengkel Pengurusan Konflik di Laut China Selatan” yang disokong oleh Indonesia dari tahun 1990 hingga 2002. Permasalahan kajian dalam tesis ini tertumpu kepada persoalan sebab utama Diplomasi Laluan Kedua dipilih sebagai mekanisme yang sesuai untuk menguruskan konflik dan sejauh manakah kejayaan dan keberkesanannya. Objektif kajian ini ialah untuk meneliti sebab Diplomasi Laluan Kedua digunakan sebagai mekanisme pengurusan konflik dan sokongan Indonesia terhadap bengkel berkenaan. Seterusnya, objektif kajian ialah untuk mengkaji proses, hasil dan keberkesanan bengkel yang dilaksanakan. Kajian ini menggunakan kaedah kualitatif dan kajian kes terhadap bengkel yang dilaksanakan. Kedua-dua data primer dan sekunder akan dianalisa. Teori yang digunakan dalam kajian ini merupakan teori Konstruktivisme yang memberikan pemahaman tentang cara sosialisasi, identiti dan norma yang membimbing tingkah laku sesebuah negara dan teori Fungsionalisme yang menekankan kerjasama untuk meningkatkan kedamaian. Kepentingan kajian ini adalah untuk mencadangkan cara pelaksanaan Diplomasi Laluan Kedua yang bermanfaat dalam menangani konflik di Laut China Selatan dan di tempat lain. Hasil kajian ini antara lain menunjukkan proses dialog interaktif yang dibangunkan daripada bengkel ini yang dapat mewujudkan semangat komuniti dan pembangunan norma. Kedua, bengkel yang dilaksanakan telah berjaya mewujudkan fungsi kerjasama dalam isu yang kurang sensitif. Ketiga, bengkel tersebut berjaya meningkatkan konsep Diplomasi Laluan Kedua. Akhir sekali, pelaksanaan bengkel juga dapat mengekalkan keamanan di rantau ini yang terbukti melalui ketiadaan konflik ketenteraan semenjak tahun 1990.

Kata kunci: Konstruktivisme; Fungsionalisme; Indonesia; Laut China Selatan; Diplomasi Laluan Kedua.

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LIST OF ACRONYMS

AICOHR	ASEAN-ISIS Colloquium on Human Rights
AMM	ASEAN Ministerial Meeting
APR	Asia Pacific Roundtable
ARF	ASEAN Regional Forum
ASEAN	Association of Southeast Asian Nations
ASEAN-ISIS	ASEAN Institute of Strategic and International Studies
Bakosurtanal	<i>Badan Koordinasi Survei dan Pemetaan Nasional</i> (National Coordinating Agency for Surveys and Mapping)
CBMs	Confidence Building Measures
CBP	Confidence Building Process
CCP	Chinese Communist Party
CIDA	Canadian International Development Agency
CoC	Code of Conduct
CONEFO	Conference of New Emerging Forces
CSCAP	Council for Security Cooperation in the Asia Pacific
CSIS	Centre for Strategic and International Studies
DoC	Declaration on the Conduct of Parties in the South China Sea
DRC	Democratic Republic of Congo
EAS/RCU	East Asian Sea Regional Coordination Unit
ECSC	European Coal and Steel Community
EL	Environmental Legislation
ELS	Exercise Luzon Sea
ETM	Education and Training of Mariners
GDP	Gross Domestic Product
GEF	Global Environment Facility
GEM	Group of Experts Meeting
HDI	Hydrographic Data and Information Exchange
ICR	Interactive Conflict Resolution
IGGI	International Governmental Group on Indonesia

IMO	International Maritime Organization
IPS	Interactive Problem Solving
ISDS	Institute for Strategic and Development Studies
JOMSRE	Joint Oceanographic Marine Scientific Research Expedition
LM	Legal Matters
MEP	Marine Environmental Protection
MSR	Marine Scientific Research
NAM	Non-Aligned Movement
NEFOS	New Emerging Forces
NHM	Non-living, Non-hydrocarbon Mineral Resources
NIC	Newly Industrialized Country
OLDEFOS	Old Emerging Forces
OPEC	Organization Petroleum Exporting Countries
PKI	<i>Partai Komunis Indonesia</i> (Indonesian Communist Party)
PLAN	People's Liberation Army – Navy
PRC	People's Republic of China
PSW	Problem Solving Workshop
RAWD	Resource Assessment and Ways of Development
RCSS	Regional Centre for Strategic Studies
<i>REPELITA</i>	<i>Rencana Pembangunan Lima Tahun</i> (Five Year Development Plan)
ROC	Republic of China
SAARC	South Asian Association for Regional Cooperation
SAP	Strategic Acting Programme
SAR	Save and Rescue
SCS	South China Sea
SG	Study Group
SIIA	Singapore Institute for International Affairs
SLOC	Sea-Lanes of Communication
SNSC	Safety of Navigation, Shipping and Communication
SRA	Supporting Regional Authority
SRIAS	Search and Rescue and Illegal Acts at Sea

TAC	Treaty of Amity and Cooperation in Southeast Asia
TWG	Technical Working Group
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
US	United States of America
ZOC	Zones of Co-operation
ZOPFAN	Zone of Peace, Freedom and Neutrality

CHAPTER ONE

INTRODUCTION

1.1. Background

Conflict is inevitable in inter-state relations, but there is always an opportunity for cooperation among the conflicting parties to build everlasting peace. Many parties, including states, have made efforts to solve their conflict. However, some of these efforts have succeeded and others were stuck in deadlock, especially on the complicated conflict. In essence, a complicated conflict is a complex and acute conflict in which the parties involved resist to de-escalate or resolve the conflict (Coleman, 2000). It is triggered by interlinked factors such as economy, politics, ethnicity, sovereignty and territorial jurisdiction. States are reluctant to enter into official negotiations (Track One Diplomacy) in such conflict fearing the possibility of losing their sovereignty or autonomy (Kemper, 2007). Therefore, unofficial negotiation (Track Two Diplomacy) is needed to aid the process of finding a solution to the conflict as well as transforming it into policy via Track One Diplomacy. Furthermore, Track Two Diplomacy enables the conflicting parties to socialize new perspective ideas; to provide alternative norms and to shape common identity as well as to propose cooperation actions (Kaye, 2005).

Track Two Diplomacy has been employed in various conflicts in the world in order to find solutions in hot-spot areas such as the Middle East, South Asia, Africa and Southeast Asia. One example of the complicated conflicts in Southeast Asia is the South China Sea (hereafter SCS) conflict.

The SCS is a body of water surrounded by China, Republic of China (hereafter Taiwan), the Philippines, Malaysia, Brunei, Indonesia, Vietnam, Singapore, Thailand and Cambodia. There are three groups of islands in the SCS namely Pratas Islands, Paracel Islands, Spratly Islands and one submerged bank called Macclesfield Bank. All things considered these are tiny islands. For instance, Itu Aba Island, the largest island in the Spratly Islands for example, is only 36 hectare in size (Catley & Keliat, 1997, p. 2). Notably, the majority of these islands are uninhabited. From a geographical angle, the SCS is a strategic location. It connects the Pacific and the Indian Ocean, and hence, the water is an important sea lane for ships, both commercial and military as well as oil tankers. As a matter of fact the sea is rich in natural resources especially species of fishes and its biodiversity. The sea-bed area, especially in the Spratly Islands, is also suspected of containing extensive deposits of oil and natural gas. Below is Figure 1.1 which depicts the South China Sea Map.

Given the potential of the groups of islands in the SCS, sovereignty over the islands and jurisdiction of maritime demarcations are naturally claimed by many states, constituting the basic conflict of the SCS. China and Taiwan claim the Pratas Islands and Macclesfield Bank. In much the same way, China and Vietnam claim the Paracel Islands. Meanwhile, the Spratly Islands, the largest

group of Islands in the SCS, are claimed by six states: China, Vietnam, Taiwan, the Philippines, Malaysia, and Brunei. China, Taiwan and Vietnam assert their sovereignty claims mostly over the SCS, including all part of the Spratly Islands.

Figure 1.1. The South China Sea Map



Source: The South China Sea Online Resource, (2011).

The Philippines and Malaysia claim only certain parts of the Spratly Islands, and Brunei is only concerned about overlapping claim affecting its legal Exclusive Economic Zone (EEZ). According to the 1982 United Nations Convention of the Law of the Sea (hereafter UNCLOS), coastal states have sovereign rights over

natural resources and certain economic activities EEZ 200 nautical miles (nm) around the coastline.

Notably, tensions in the SCS increased since the 1970s. Prior to the 1970s, the situation of the SCS was relatively stable. Most of the claimants were preoccupied with their domestic affairs. At least three factors escalated the conflict. First, the oil crisis in 1973 triggered by the Yom Kippur War resulted in an oil embargo against western states. The Yom Kippur War was an Arab-Israeli war involving a coalition of Arab states led by Egypt and Syria on one hand and Israel on the other hand. Western states initiated massive support to their respective allies (especially Israel) during the war. To weaken Western support for their common foe, the Arab States stopped their oil exports on October 6, 1973. The oil price sky rocketed from US\$ 3 to US\$ 5.11 per barrel in a day, and rose to US\$ 11.65 by January 1974 (Trumbore, 2002). As mentioned earlier, the SCS, especially in the Spratly Islands and its surrounding waters, is known to have huge deposits of oil and gas reserves. Given that, it is not surprising therefore that tensions have risen in the SCS because the area is strategic and a possible alternative energy supply for Western states and other regions. A survey report conducted by the Chinese Ministry of Geology and Mineral Resources stated that oil deposits in the SCS amounted to about 130 billion barrels (Naes, 2001, p. 554).

Second, in 1973, the third UNCLOS' conference was opened and agreed in 1982. According to the UNCLOS, littoral states enjoyed the sovereignty of 12 nm of territorial sea, and also rights of exploration in the EEZ of 200 nm. This

indicates that if a state could enact sovereignty over the islands in the SCS, it will enjoy the opportunities of extending maritime jurisdiction.

Third, a power vacuum occurred in South East Asia when the United States (US) withdrew from South Vietnam at the end of 1973. This vacuum deepened in the post-Cold War era when both the Soviet Union and the US degraded their military assets in bases in Vietnam and the Philippines respectively. Unsurprisingly, these political and geo-strategic shifts enabled China to occupy the islands in the SCS and caused counter responds from Vietnam and the Philippines.

In 1974, a year after Paris Peace Accords which called for the US withdrawal from South Vietnam, the South Vietnamese garrison in the western Paracel Islands was attacked by China's forces. The battle of Paracel caused the South Vietnam to lose its presence in the islands, altered by China. China started to conduct routine military exercises in the Paracel waters (Tonnesson, 2002a). Again, in 1988, after having a mandate from the UNESCO Intergovernmental Oceanographic Commission, the People Liberation Army Navy (PLAN) of China established observation posts on the Fiery Cross Reef in the Spratly Islands. Military clash between PLAN and Vietnamese troops which were garrisoned in the Spratly Islands could not be avoided. Vietnam was defeated and lost several vessels and its 74 sailors were killed ("South China Sea", 1992). The military skirmishes between Vietnam and China demonstrated the Chinese military superiority. It can be noted that China always launched military actions when its rivals were in weak position (Ming, 1990, p. 20).

Similarly, in 1995, after the US left its military bases in the Philippines, China occupied the Philippines-claimed Mischief Reef in the western part of the Spratly Islands and built Chinese markers. The Philippines armed forces attempted to evict the Chinese and destroyed the Chinese markers. It was the first conflict between China and a member of ASEAN.

Disputes concerning oil exploration have also broken-out. In May 1992, the China National Offshore Oil Company signed a contract with the US' Crestone Energy Corporation to explore oil and gas in the Spratly Islands area which is also claimed by Vietnam. Vietnam then demanded China to stop the oil exploration. In May 1994 Vietnam leased a block area to the US Oil Company Mobil. The block is situated near the Crestone contract. China's foreign minister stated that China's sovereignty over the Spratly Islands and its surrounding waters is undisputable. Therefore, China urged Vietnam to terminate the exploration immediately (Song, 1999, p. 22).

Due to the increasing demand for fish as a source of protein, competition in catching fish among the fishermen from the claimant states in the over-lapping claim areas is unavoidable. Since the 1990s Chinese fishermen have been repeatedly harassed by the Philippines' Navy. On 25 March 1995, for example, the Philippines detained Chinese trawlers and its crew in the area of the Philippines' claim. They were charged with illegal fishing and illegal entry (Tasker, 1995). Furthermore, in 1998, it was reported that 51 Chinese fishermen were detained for about six months ("True story", 2012). Between 1990 and 1995, there were over 120 incidents of fishing boats from Taiwan being subjected to

inspection of China's security police. These incidents demonstrated that China has jurisdiction over Taiwanese boats (Cossa, 1998).

Conflict escalation in the 1990s between Vietnam and China as well as between China and the Philippines caused small arms race among Southeast Asian states. Malaysia acquired more MiG 29 fighter aircraft and frigates Meko-class. Vietnam added SU-27 fighter bombers to its air force. The Philippines strengthened its arms collection with F-5E interceptors and Peacock-class corvettes. Indonesia also decided to purchase Su-30K fighter-bombers in order to protect its oil fields in the SCS. Even Brunei ordered missile corvettes to increase its navy capability ("Pembelian senjata" [Arms purchase], 1995).

In short, in the 1990s, the conflicts occurring in SCS are one of the most important security issues affecting peace in Asia Pacific region. In the context of the 1990s, the SCS together with North Korea, Taiwan Strait, Bosnia and the Middle East were listed as five of the most dangerous flashpoints in the world (Song, 1999). For the SCS conflicts include sovereignty and jurisdiction issues, these conflicts are very sensitive and complicated.

By the end of 1980s, no party has been taking initiatives to establish dialogues among the claimants. Hasjim Djalal, a retired Indonesian diplomat who is an expert on ocean law as well as the director of Centre of Southeast Asian Studies in Jakarta, took an initiative to conduct dialogue among participants not only from the claimant states but from all states surrounding the SCS. Indonesia as a non-claimant has a neutral position in the disputes, and fully supports this dialogue initiative.

Considering the sensitive and complicated nature of the issues, Track Two Diplomacy was chosen as the mechanism of the dialogue initiative. As indicated earlier, Track Two Diplomacy is an approach of informal-unofficial negotiations in which participants could express their views freely in order to find common understanding. The aim of Track Two Diplomacy is to pave the way for settling down the dispute through formal-official negotiation or Track One Diplomacy channels.

With financial support from the Canadian International Development Agency (CIDA), Djalal conducted annual workshops entitled 'Workshop on Managing Potential Conflicts in the South China Sea' (hereafter the workshop) starting in 1990. Participants from all ASEAN members as well as from China and Taiwan attended the workshop. The participants came from various backgrounds and included government officials, academicians, researchers and experts. Regarding the informality, they were present at the workshop in their personal capacity.

The workshop was designed to fulfill three objectives. First, to facilitate an exchange of views through dialogue among participants. Second, to develop confidence-building measures that ensures that the claimants are comfortable with each other. Third, to manage the disputes by exploring areas in which every party is able to cooperate (Djalal, 2000. P. 14). By and large, these objectives will enhance mutual understanding among the parties to the dispute.

The workshop was convened from 1990 to 2010. When the SCS became relatively stable, in the middle of the workshops' process in 2001, CIDA

terminated its supporting fund. The Workshop process was then continued with self-funding from the participants.

1. 2. Problem Statement

Track Two Diplomacy has been used to manage conflict in various regions of the world with varying degrees of success. In the case of Southeast Asia, this mechanism was chosen and deployed in the Indonesia-led workshop from 1990 to 2002 in an effort to manage the South China Sea conflict. The issue that arises is why was Track Two Diplomacy chosen as the preferred method of managing the said conflict by the workshop and to what extent was this experiment successful and effective. It is also pertinent to enquire therefore whether Track Two Diplomacy can be usefully employed as an effective mechanism in other cases of conflict management. In trying to resolve these issues, the Indonesia-led workshop from 1990 to 2002 will be used as the case study in this work.

1. 3. Research Questions

The research questions are as follows:

- a. How did Track Two Diplomacy develop as a mechanism of conflict management?
- b. What is the background of the conflict in the South China Sea?
- c. Why was the workshop experiment chosen by Indonesia and how was it organized?
- d. How did the workshop process develop and what was its outcomes?

- e. What was the usefulness and effectiveness of Track Two Diplomacy represented by the workshop as a mechanism of conflict management?
- f. To what extent is Track Two Diplomacy useful to employ in other cases?

1. 4. Objectives of the Study

The objectives of the present study are as follow:

- a. To examine the development of Track Two Diplomacy as a mechanism of conflict management.
- b. To explain the background of conflict in the SCS.
- c. To analyze the reasons of Indonesia in choosing the workshop experiment and its organization.
- d. To scrutinize the workshop process and its outcomes.
- e. To evaluate the usefulness and effectiveness of Track Two Diplomacy represented by the workshop as a mechanism of conflict management.
- f. To appraise the usefulness of Track Two Diplomacy in other cases.

1. 5. Significance of the Study

This study is motivated by a number of considerations.

- a. The findings of this study could make a significant contribution to the literature on diplomacy. In particular, this study is important in evaluating

the role of Track Two Diplomacy in creating stability and security in the Southeast Asia region. After all, there is a small volume of studies that have examined the impact of Track Two Diplomacy in managing conflict in the South China Sea.

- b. In a wider scale, the study on the South China Sea case will improve the knowledge in understanding and employing Track Two Diplomacy for managing conflict in the South China Sea itself and resolving international disputes in other parts of the world.

1. 6. Scope of the Study

- a. This study will focus mainly on Indonesia's support for the use of Track Two Diplomacy in maintaining peace through the annual "Workshop on Managing Potential Conflicts in the South China Sea".
- b. The time frame of the study is between 1990, the year when annual workshop started, and 2002, the year when the first cooperation project was implemented.

1. 7. Literature Review

This section provides a literature review using categorical structure. This review consists of three categories, namely Track Two Diplomacy, Confidence Building Measures and the South China Sea. Reviews on the South China Sea are divided into three sub-categories including general analysis on the SCS conflict, the analysis of particular issues on the SCS conflict, and international law interpretation.

1. 7. 1. Track Two Diplomacy

There are many scholars analyzing Track Two Diplomacy initiatives in conflicting regions such as the Middle East, South Asia, Africa and Asia-Pacific. Their studies show some initiatives are successful but some fail or only obtain minimal targets. These conditions depend on various factors including the characteristic of the conflict itself, political-will of the elites, degree of acceptance from the people and availability of supporting external parties, especially on donor funding to conduct the initiative.

Kaye (2005) conducts research on comparing the effectiveness of Track Two Diplomacy in the Middle East and South Asia, particularly on Israeli-Palestinian and India-Pakistan conflicts. The author's work entitled *Rethinking Track Diplomacy: The Middle East and South Asia* finds similarity in the two regions. The conflict in both regions is complicated involving territory and sovereignty as well as blended with religious and nationalistic ideology. As a result, people who live in the conflicting regions highly distrust each other and have a 'zero-sum' view that their enemy should be negated. It is noted, the two regions also bear extremist groups who always oppose the efforts of political compromise. Moreover, the conflicting parties have been engaged in numerous wars, creating political conditions conducive to unstable and vulnerable regimes. Thus, establishing cooperation and conciliation as well as Confidence Building Measures' (CBMs) actions are a difficult endeavor. To make matters worse, the disputants have developed nuclear powers and are engaged in an unending arms race. This condition is exacerbated by the dominant powers within the two regions

- Israel and India - that have resisted multilateral regional security in favour of bilateral forums or platforms.

Besides the similarity, the author recognizes different situations in terms of social and political context. For example, the disputants in South Asia enjoy a strong degree of democratic culture, indicating the ability of the public in influencing the decision-making process. In addition, this region has a multilateral forum, namely, South Asian Association for Regional Cooperation (SAARC), in which differences and disputes of its members can be discussed or mediated. Given that context, the author concludes that the application of Track Two Diplomacy in South Asia is relatively successful compared to that in the Middle East.

In a related study, Goldberg (2012) examines in detail the practice of Track Two Diplomacy between India and Pakistan through his work entitled *Track Two Diplomacy in India and Pakistan: Initiatives, Impact, Challenges, and Ways Forward*. There are many activities of Track Two Diplomacy namely Balusa Group, the Ottawa Dialogues and the Regional Center for Strategic Studies (RCSS) Workshop. Balusa Group mostly consists of retired official governments and military officers from both countries. This Group focuses on resolving conflict in Kashmir and develops collaboration projects, for example 'Peace Pipe Line' project, a project that lays energy pipeline from Iran to India and Pakistan. Meanwhile, Ottawa Dialogues are serial meetings sponsored by Ottawa University and attended by academicians and high level of retired government and military officers. The dialogue focuses on avoiding nuclear deployment through

arms control and CBMs. Recommendations of the Dialogue are accommodated by both governments. It has been suggested that the best practice of Track Two Diplomacy, is the RCSS Workshop. This Workshop is attended by young professionals with leadership capacity, projected to be the elites in governments and non-government organizations. The Workshop aims to transform the participants' negative perception of their adversaries into positive ones since young participants are more open-minded to welcome new ideas and new ways of thinking.

Arguably, the Israeli-Palestinian conflict ranks the most complicated conflict in the world. For more than 60 years, this conflict remains unsettled though many efforts, either Track One or Track Two Diplomacy, have been attempted. The conflict involves religious sentiments among Jewish, Christian and Moslem believers that make it difficult to resolve. Hauger (2011) through his work entitled *Stalemate in the Holy Land: A Critical Examination of Palestinian-Israeli Interreligious Initiatives as Track-II Diplomacy* investigates the role of religious elites' dialogue to contribute in building peace in the Holy Land when official dialogues are stalled. He finds that dialogue among elites from dominant religious groups have positive contribution in enhancing better understanding among the participating parties. More importantly, dialogue generates new ideas among the religious elites' followers. However, the impact of inter religious initiatives using Track Two Diplomacy, are limited only to the horizontal level rather than the vertical level because the religious elites are not able to influence the government's elites.

By the same token, studies of Track Two Diplomacy in Africa have also been undertaken. One of these studies was carried out in the Democratic Republic of Congo (DRC) conflict by Naidoo, and is entitled *The Role of Track Two Diplomacy in the Democratic Republic of Congo Conflict*. There are a number of initiatives to complement official negotiations in solving the dispute in the DRC including The Montreal Conference for Durable Peace and Democratic Development in the DRC, Durban-based African Centre for the Constructive Resolution of Disputes, and National Council of Development NGOs in Congo. Considering conflict in Congo is deeply-rooted on ethnicity, culture, and external intervention, the result of Track Two Diplomacy is only minimal. The significant contribution of the Congo's Track Two Diplomacy is enabling unarmed actors to voice their position on the official peace negotiation process.

Meanwhile, Job (2003) and Kraft (2000) examine Track Two Diplomacy in the Asia Pacific. After the Cold War, there was a power transition and changing security architecture in the Asia Pacific. The existing security concept that emphasizes a state-centric perspective in which government escorts their monopoly of authority both in domestic and international context has become outdated. Security does not merely have to do with the existence of a military threat to national security but it includes the threats to social wellbeing, social and political stability, and environment and cultural preservation. Therefore, the concept of security needs to be broadened and deepened. In that regard, Job's work entitled *Track 2 Diplomacy: Ideational Contribution to the Evolving Asia Security Order* investigates the impact of a non-governmental institution, that is, the Council for Security Cooperation in the Asia Pacific (CSCAP), in contributing

regional CBMs by enhancing dialogue, consultation and cooperation in the region. The CSCAP is an institution established in 1993 by ten strategic studies institutes around the Asia Pacific. Job concludes that CSCAP is a good experiment on building norm and cooperation to anticipate the security uncertainty as well as to contribute to the establishment of ASEAN Regional Forum (ARF), a formal forum to discuss security in Asia Pacific.

The work of Kraft entitled *The Autonomy Dilemma of Track Two Diplomacy in Southeast Asia* focuses on evaluating the role of ASEAN Institutes for Strategic and International Studies (ASEAN-ISIS) and CSCAP in strengthening regional security cooperation including the establishment of the ARF. ASEAN-ISIS was founded in 1984 by strategic studies institutes of ASEAN members. The main task of this institution is to contribute recommendations to the ASEAN on security issues. The institution intensified its activity in 1993 when it established the ARF. According to Kraft, the partnership between ASEAN-ISIS and ASEAN is ideal in terms of the complementary effect between Track Two to the Track One Diplomacy. However, Kraft finds some drawbacks of ASEAN-ISIS as an instrument of Track Two Diplomacy. First, some members of ASEAN-ISIS are government agencies, and as such act like government representatives. Second, as a Track Two instrument, ASEAN-ISIS should take a pluralism approach which is open to various groups to participate on security dialogue. In fact, ASEAN-ISIS selects a number of groups or individuals in discussing security issues. Thus, the Track Two Diplomacy is trapped as an exclusive club. Third, Track Two Diplomacy in Southeast Asia is a fragile institution. For example, during the economic crisis, institutions which were involved in Track Two

Diplomacy reduced their activities and became inward-looking. Kraft concludes that Track Two Diplomacy is facing an autonomy dilemma.

The context of Track Two Diplomacy in the SCS through the workshop process is discussed by Djalal (2000) as well as Catley and Keliat (1997). Djalal in his article *South China Sea Island Dispute* highlights the possibility of developing regional cooperation in Southeast Asia in the aftermath of the Cambodian conflict which ended in 1989-1990. However, the dispute over the SCS marked by military skirmishes between China and Vietnam in the Spratly Islands in 1988 makes the vision of strong regional cooperation difficult to realise. Therefore, it is important to find ways for preventing those potential conflicts from erupting into armed conflagration. Commendably, Indonesia as the largest state in Southeast Asia and a party not directly involved in the conflict over the SCS has taken an initiative to manage the emerging conflict and transform it into actual cooperation. In 1990 Indonesia-led annual workshops were embarked on. Informal dialogue was chosen as the mechanism to find the solution, due to the sensitiveness and complexity of the issue at hand. Informal mechanism enables the participants to make interaction one another easily and deliver their view freely. So far, until the workshop in 1995, though there is rapprochement among the claimants as well as states surrounding the sea, it has not been able to reach concrete actions in managing the conflict. Meanwhile, Catley and Keliat through their book entitled *Spratly: The dispute in the South China Sea* explains briefly the process of the workshop. Although all participants were able to exchange views from the beginning in 1990 until 1995, the situation in the SCS remains unstable, marked by China's action in Mischief Reef that is endangering the

Philippines' security. In short, analysis on Track Two Diplomacy in the SCS is still inadequate considering the absence of concrete cooperation among the claimants.

To summarize the ideas mentioned above, Track Two Diplomacy is effective if it can pave the way for Track One Diplomacy. Moreover, it is not easy to measure the effect of Track Two Diplomacy in isolation. This impact is not instantly seen but it needs a long-term process of dialogue. If the initiative in Track Two Diplomacy is unable to contribute in solving a dispute, it can manage the conflict by building better understanding and reducing suspicion between the disputants.

1. 7. 2. Confidence Building Measures

Confidence Building Measures (CBMs) are basically efforts that lessen suspicion and anxiety by making the parties' conflictual behavior more predictable and transparent. The aim of CBMs is to transform the parties' inaccurate perceptions of each other's motives and to avoid misunderstanding concerning military actions or policies that might provoke conflict (Maiese, 2003). Works on confidence building measures in Asia and Southeast Asia are numerous with various points of views. Baviera (2001) in her article entitled *Bilateral Confidence Building with China in relation to the South China Sea Dispute: A Philippine perspective*, conducts a study on confidence building between the Philippines and China. The tensions in the relations between the two states escalated in 1995 when China occupied Mischief Reef of the western part of the Spratly Islands that is also claimed by the Philippines. Although confidence-building measures are not

running smoothly, the author argues that confidence building between the two states is possible under certain conditions. First, on the Philippines' side, China is the rising economic power in Asia and as such it is important to develop close economic relations with China. Furthermore, the Philippines lacks the military capability or muscle to challenge China. For that reason the Philippines should avoid any military conflict with China at all costs. Second, on China's side, the Philippines as member of ASEAN is the entry point to build a friendly neighborhood policy with Southeast Asia states. Any deterioration in the Sino-Philippines relations may raise suspicion of China's intentions in the region among the ASEAN members.

A confidence building analysis between China and Southeast Asia concerning the SCS is carried-out by Morton (2007) entitled *Becoming a Good Neighbor in Southeast Asia: The Case of China's Territorial Dispute in the South China Sea, 1998-2006*; Nicholson (2006) entitled *From the Dragon's Claw to the Panda's Paw: The Socialization of China in the ASEAN Regional Forum*; Odgaard (2002) entitled *Maritime Security between China and Southeast Asia: Conflict and Cooperation in the Making of Regional Order*; and Weissmann (2010) entitled *The South China Sea conflict and Sino-ASEAN Relations: A study in conflict Prevention and Peace Building*. Morton argues that China should transform its foreign policy orientation from hard-liner to soft-liner posture when it is participating in the ASEAN Regional Forum. In a related study, Nicholson examines confidence building between China and Southeast Asia which is premised on three categories of measures, namely, declaratory, transparency and cooperative. The declaratory category entails making a public statement on

security policy, transparency relates to the openness on arm budgeting for example by publishing 'white paper' and the cooperative category refers to cooperation activities such as cooperation on military exercises. Through these categories, China has behaved more friendly with neighboring Southeast Asian states. Likewise, Odgaard demonstrates that the SCS conflict has had an impact on China and Southeast Asian states. The conflict offers opportunities for rapprochement (including cooperation) as well as the risk of open conflict. It is a fact that China and Southeast Asia states are in a process of developing an order based on shared rules and common assumptions on security issues. Sharing this perspective, Weissmann who has analyzed conflict in the SCS since 1990, views the developments as a successful case of transformation from unstable peace to a more stable peace. Such a situation is a result of increased elite interaction and dialogue through Track Two diplomacy. In any event rapprochement between China and ASEAN states is also coming to fruition through economic relations and cooperation. After all, economic interdependence is mutually beneficial.

The work of Swanström (1999) entitled *Conflict management and negotiations in the South China Sea: The ASEAN Way?* tries to seek the ideal way to solve the dispute in the SCS by examining various conflict management strategies. In his study, he analyzed which strategy would be the most appropriate in obtaining a settlement or in reducing the intensity of the conflict. Two styles in conflict management are compared. The first approach is the 'ASEAN Way', a diplomatic style developing by ASEAN which stresses informality. In contrast, the second strategy emphasizes a formal management mechanism. According to the author, an informal style is more proper to solve the conflict in SCS because

informal negotiation creates openness and confidence among disputants. Informal approach, then, reinforces formal negotiation.

Considering that the SCS conflict, especially in the Spratly Islands, is complicated, it will take a long time to settle. Therefore it needs interim solutions to manage the dispute by avoiding military conflagration. Meanwhile, Kuan-Ming Sun (1996) through the article *Freeze the tropical Seas: An Ice-cool Prescription for the Burning Spratly Issues!* suggests that the conflict can be managed by adopting an Antarctic Treaty-like approach. The Antarctic Treaty was signed in 1959 and entered into force in 1961. It regulates Antarctic as a continent for scientific investigation and bans military activities by taking aside sovereignty issues. The treaty established a commission charged to promote conservation of marine living resources. The idea of applying an Antarctic Treaty-like strategy in the Spratly Islands is simply to freeze the status quo of the islands by taking aside sovereignty issues, and hopefully transforming political confrontation into cooperation. Another study entitled *The Spratly Islands Dispute in the South China Sea: Problems, Policies, and Prospects for Diplomatic Accommodation* undertaken by Joyner (1999), indicates that joint development is an urgent and intermediary solution to the SCS dispute. If the claimants do not have a mechanism in implementing joint development, tried and tested mechanisms from other areas can be adopted such as the mechanisms on Antarctic Treaty and on Timor Gap. Joint development in the Spratly Islands can be arranged under a Spratly Resource Development Authority. To establish this authority, of course, a multilateral forum is required. The necessity to convene a multilateral talk is for the sake of building confidence, trust and transparency among the claimants.

To summarize the views mentioned above, the SCS conflict is still a source of instability in the Southeast Asia region. Many efforts have been done to reduce tension by developing CBMs, but the conflict is still unsettled. CBMs have no instant effect but they should be carried-out in a long and continual process.

1. 7. 3. The South China Sea Conflict

1. 7. 3. 1. General Analysis

Several works on the SCS conflict present a general analysis covering various issues such as history, law, economics, politics, security and environment. The example of this category is a book entitled *War or Peace in The SCS?* edited by Kivimaki (2002) that presents a broad perspective. The book is compatible for the beginner to study about SCS. It contains many aspects such as history, law, environmental values, economic and political dimensions, and military security. Kivimaki concluded that there are alternatives to end the dispute. Given that there is an absence of a resolution of the sovereignty-related dispute, the claimant states can establish Joint Development Zones or Joint Management Zones. As can be seen the arrangement on the Gulf of Thailand between Thailand and Malaysia and the Timor Gap Treaty are good models of territorial dispute settlement. Another way to settle the conflict is by adopting international law principles. The conflict can be solved diplomatically on the basis of UNCLOS with unquestionable sovereignty. The key element is all claimant states should agree that most features in the SCS cannot support human habitation or sustain an independent economy so it cannot take more than 12 nm of territorial waters.

Similar work on a general overview of the SCS is conducted by Catley and Keliat (1997). This book entitled *Spratlys: The Dispute in the South China Sea* emphasizes the history of the conflict, strategic value of the SCS and the interest of external powers (the US, Japan, and Russia) in the region. These works conclude that conflict in the SCS, especially in the Spratly Islands was very complicated. Unlike Kivimaki's work, they do not give suggestion on solving the conflict.

A study of the scenarios to solve the Spratly Islands conflict is provided by Stinnett (2000). Her thesis entitled *The Spratly Island Dispute: An Analysis* discusses four scenarios, namely: status quo scenario, resolution by UNCLOS through the International Court of Justice (ICJ) scenario, joint development scenario as well as application of military power scenario. The status quo scenario refers to efforts in maintaining the current obtaining situation. Without a legally binding obligation, this scenario, according to the author, is dangerous as it enables the claimants to expand their occupation. The second scenario is based on the UNCLOS. Since all claimants ratified the UNCLOS except Taiwan, they can choose one or more of the following manners for dispute settlement including the International Tribunal for the Law of the Sea, the International Court of Justice, and arbitration tribunal or regional arbitration mechanism. However, none of the claimants accepted the mechanisms stipulated by the UNCLOS. The joint development scenario has two positive aspects. First, each claimant still could gain economic benefit from developing and exploring resources in the dispute area. Second, the decision making to develop certain area relies on the agreement of the claimants themselves. Indeed, joint development is also facing a significant

problem. All claimants are reluctant to lessen their sovereignty claim. Military scenario would be the last alternative anytime a conflict escalated. When the situation is getting worse, extra regional forces may be needed to take action to de-escalate the conflict. This scenario is certainly difficult to implement since it is incompatible with Zone of Peace, Freedom and Neutrality (ZOPFAN) principles. She concludes that each scenario has strengths and weaknesses. However, the joint development scenario, according the author, is the best choice to implement instead of doing nothing.

All the works mentioned above give a broad and obvious picture of the complexity characterizing the SCS conflict. Shorty to say, the works lack of detail and depth analysis regarding the conflict in the region.

1. 7. 3. 2. Analysis on Particular Issues

The second sub-category provides in-depth analysis from a single discipline point of view. As can be seen the SCS is a vast region that can be studied by various disciplines such as environment, economic, politics and security. However, some scholars have used an environmental frame of analysis of the SCS region. Among them are Morton and Blackmore (2001) who explore the SCS from an ecological point of view in an article entitled *South China Sea*. They examine the geography of the region, and the seasonal variables. This approach may be instructive given that the SCS lies on a tropical area, having unique flora and fauna. Coupled with the abundance of fish, the SCS has enormous economic potential for common people living around, such as fishermen. Since the coastal areas surrounding the SCS are industrialized, pollution is a potential threat to the environment.

Generally speaking, environment degradation is a serious problem in addition to sovereignty and overlapping jurisdiction claims.

Regarding the innumerable flora and fauna together with its strategic location and mineral resources, the SCS is a potential object of conflict among many parties. According to Rosenberg (1999) in his article *Environmental Pollution around the South China Sea: Developing a Regional Response to a Regional Problem*, the conflict exacerbates the environment condition of the region. It is important to note that the economic crisis of the 1990s (the Asian financial crisis) which affected the states surrounding the SCS left the environment of the sea in critical condition. Only a combination of regional and international efforts preserved the environment. Therefore, international organizations focusing environment protection such as the United Nation Environment Program (UNEP) should continue to play a key role in this region.

Arguing along a similar line as Rosenberg, Naes (1999) in his study entitled *Environment and Security in the South China Sea Region: the Role of Experts, Non-governmental Actors and Governments in Regime Building Process* pays attention to the role played by non-governmental organizations in preserving the environmental condition in the SCS. This is crucial because the claimant governments have demonstrated in the past that there are not able to solve their differences on the overlapping jurisdiction of the environment. More specifically, Naes expects environmental experts to set up an epistemic community that is critical in saving environmental degradation with actual actions.

On economic issues, Chen-peng Chung (1999) through his article *The Spratly and other South China Sea Islands Disputes* analyzes the contribution of

Multinational Corporations in conflict settlement. According to the survey carried out by the Chinese Ministry of Geology and Mineral Resources in 1989, the Spratly Islands and its surrounding waters have 130 billion barrels of crude oil reserves (p. 19). This amount is greater than the amount of crude oils beneath the East China Sea, Yellow Sea and Bohai Gulf. Due to the technological difficulties and financial constraints, China invites foreign oil companies to run exploration in the region. Between 1979 and 1994, more than USD 3 billion in foreign funds have been invested in oil exploration in the SCS (p. 21). Foreign investment, certainly, needs a stable and conducive atmosphere. On the other hand, the trade between China and ASEAN's members increased from USD 20.4 billion to USD 24.4 billion between 1996 and 1997 (p. 35). Owing to this increasing economic interdependence, political leaders are more amenable to build cooperation and establishing stability in the region because of the mutual beneficial effect.

An other study on economic issues in the SCS is entitled *Multinational Oil Companies and the Spratly Dispute* by Sanqiang Jian (1997). Considering that economic development needs energy supply and the SCS, particularly in the surrounding water of Spratly Islands, has potential deposit of oil, claimant states are racing to occupy the islands. Due to financial shortage and technological difficulties to carry out oil exploration in the Spratly waters, none of the claimants have the capability to explore the oil resource independently. Therefore, western oil multinational companies are invited to invest. The security aspect, of course, takes high priority consideration from the multi-national companies. When foreign oil companies invest their capital in the disputed area, the author argues, they can exert a positive influence both to their government and to the host

government. The companies are able to internationalize the dispute to gain international attention. Hence, the companies can indirectly urge the claimants to adopt a more cooperative behavior in order to ensure a peaceful environment conducive for foreign investment.

On political issues, an article entitled *Domestic Politics and Conflict Resolution in the South China Sea: China and the Spratlys Disputes* written by Mak (2000) argues that analysis on the SCS conflict should look behind China's behavior since she is the key role of the dispute. Opening the "black box" on China's domestic politics will help to get clear picture of the reason why China adopts an inflexible behavior. It has been pointed out that the domestic political analysis of China brings to the new insights. First, the SCS conflict has different degrees of importance among the claimants. For China, the SCS issue has strong domestic implication that might threaten the survival of the ruling Chinese Communist Party (CCP) regime. For that purpose, nationalism and sovereignty have been used by the CCP as a tool to legitimate its position. Second, China's inconsistent behavior is a reflection that the ruling regime has to deal with both its domestic constituency on the one hand and its external actors on the other. Third, because of its use of nationalism as a key legitimating tool, China has become a hostage of domestic sentiment. With this in mind one can say that the Chinese government does not have autonomy or space to negotiate about the dispute. To that end, China always refuses any kinds of formal rule-based negotiation and international organization intervention.

In line with Mak's work, Christopher Chung (2000) analyzes decision making on foreign policy towards the Spratly Islands among three claimants:

China, the Philippines, and Malaysia. His study entitled *The Spratly Islands Dispute: Decision Units and Domestic Politics* has found that the principal actors on foreign policy making are associated with the statecraft apparatus. It excludes the involvement of the private sector, public interest groups, academics or non-governmental organization in the foreign policy decision-making process. Several factors explain this phenomenon. First, the Spratly dispute is an inter-governmental issue, so the decision-making is restricted to a small circle of regime members. Second, the implementation of the decisions rely on the instrumentalities of the state apparatus such as diplomacy, military, legislation, instead of extra-governmental approaches.

China currently depends on energy supplies to drive its complex economic growth, domestic politics and social stability. Therefore, oil policy is one of the top priorities of China's national security and interest. In a related study, Snidal (1999) conducts a study entitled *Chinese Energy Policy and the South China Sea* that scrutinizes China's decision making. He finds out three competing groups on oil policy making. These are: the People Liberation Army Navy (PLAN), business sector in the coastal area; and China's oil bureaucracy especially in the State Oil Company. If the PLAN wins the competition, it is predictable that China's policy in the SCS will assume a more assertive approach. Conversely, a soft-line approach will be adopted if the business sector and oil bureaucracy have strong influence on the top decision makers. Based on these dynamics, China's policy in the SCS seems inconsistent as it depends on the winner of the competition and rivalry among the key domestic forces.

Relations between China and ASEAN in the SCS are examined by Almonte (2000) through his article entitled *ASEAN must speak with one voice on the South China Sea*. China holds a key role in the SCS conflict as the only external actor in relation to ASEAN members. Hence, it must be treated with respect by the ASEAN states. Nonetheless, he argues that the Southeast Asian states could not live with the SCS controlled by China. Therefore, ASEAN members should unite their actions vis-à-vis China. ASEAN unity can compel China to negotiate the SCS dispute with ASEAN as a whole, instead of separately with each ASEAN's claimant states. After all there is strength in numbers.

All the works mentioned above indicate that the SCS dispute have multi-dimensional factors, from the soft ones such as environment to the high politics issues. Therefore, the efforts to settle the dispute must involve non-state actors as well as state actors. However, if state actors find obstacles to solve the dispute, it is possible to start with non-state actors.

1. 7. 3. 3. Interpretation on International Law

Works on international law analysis relating to the Spratly Island and the SCS conflict mostly focus on the role of UNCLOS. Furtado (1999) argues in his article entitled *International law and the dispute over the Spratly Islands: Whither UNCLOS?* that UNCLOS is not a tool to solve the problem. It merely gives guidance on how to solve the problem. On the other hand, from the beginning, UNCLOS has shortcomings, so it cannot be applied blindly to the dispute. He finds that UNCLOS has vague wording. It stipulates, for instance, on innocent passage through the territorial sea, but there is no clear provision regarding the passage of foreign warships. This is possibly misinterpreted by the claimants for

their own sake. International law, including UNCLOS, is an effective tool to solve the conflict with a legal position, whereas the Spratly dispute has complicated dynamics. To be effective the legal factor should be complemented by a strong historical background and highly political calculations. Therefore, conflict settlement merely by UNCLOS is almost impossible. It must be combined with other means, especially with political manners.

Loopholes of the UNCLOS enable states to interpret provisions based on their own perspective. Different interpretations may bear new conflict. An article entitled *Rough waters in the South China Sea: Navigation Issues and Confidence-building Measures* written by Guoxing (2001) examines the collision incident of Chinese and US planes in the 70 nautical miles off the southeast coast of Hainan Island on the SCS in 2001. The incident was caused by different interpretation of the EEZ concept concerning the freedom of navigation and of over flight. To reduce the tensions in the SCS, Guoxing suggests that littoral states plus the great powers interested in the SCS should establish confidence building measures on navigation code of conduct.

Furthermore, dispute settlement provided by UNCLOS is not always compatible with certain cases including the SCS conflict. Nguyen (2006) argues in his article entitled *Settlement of Disputes under the 1982 United Nations Convention on the Law of the Sea: The case of the South China Sea Dispute*, that though UNCLOS provides informal mechanisms in the dispute settlement, compulsory procedures entailing binding decisions are the central characteristic of the system. With this in mind, all the claimants of the SCS should avoid accepting

formal and legal binding, and thus rendering the UNCLOS procedure difficult to apply.

In like manner Gault (1999) examines the legal aspect but with a sociological nuance. His article entitled *Legal and Political Perspectives on Sovereignty over the Spratly Islands* establishes that most scholars do not realize that the legal approach is not always compatible with certain cases. For example, Gault points out that the legal approach is less suitable to apply in both China and Vietnam. Culturally, in both countries the word 'court' is closely associated with 'criminal court'. Consequently, China always attempts to refuse the settlement of the sovereignty conflict over the SCS via the legal route.

Withing (1998) in his article entitled *The Spratly Islands Dispute and the Law of the Sea* examines the application of UNCLOS concerning the SCS conflict between China and Vietnam. He predicts that the settlement of conflict through legal means will take longer time, yet some of the issues such as pollution and environmental degradation require urgent and faster dispute resolution methods. It is imperative to note that besides the legal approach, there are still many other ways to settle the dispute in the SCS. For that reason experts and government leaders with strong political-will must find such ways. One way, for example, is to develop a joint concept of development while taking aside sensitive issues such as sovereignty and jurisdictional claims.

In view of the foregoing legal analyses, it is instructive to note that UNCLOS which most claimants of the SCS have ratified with the exception of Taiwan stipulates that all disputes must be settled down by peaceful conduct. It also provides that conflict settlement mechanisms can be chosen freely by the

claimants. However, the dispute settlement mechanism under the UNCLOS has drawbacks such as the provision that allows the claimants to interpret for their own benefit. As a result, the efforts to settle the conflict have always resulted in a deadlock.

Nonetheless, the Legal approach is not the sole option that can yield peaceful conflict resolution in the SCS even though it can settle the dispute permanently. Considering the SCS conflict is complicated and complex, it may be better to find interim solutions such as encouraging an agreement for joint development and exploration of the resources in the SCS. Once joint development is agreed, it is easy to establish joint administration which will result in all claimants benefiting from the disputed area.

1. 8. Research Gap

The SCS dispute is a complex issue with political, economic, military, jurisdictional and environmental tentacles. Unsurprisingly, a majority of scholars have focused on how to resolve this intricate dispute. Under those complex circumstances, the dispute is still unsettled even today. A number of interim solutions have been proposed to maintain peace. Some of the measures include a call for joint development, applying UNCLOS and by building cooperation through CBMs. Yet, these solutions are still not fully successful..

In fact, the claimants of the SCS have a long deep historical adversary relationship that has soiled efforts to develop constructive dialogue among them. Surprisingly, this condition is frequently neglected by the scholars and researchers alike. Maintaining peace in the SCS requires the habit of dialogue, especially

through informal dialogue or Track Two Diplomacy that covers trouble-free and un-sensitive matters as well the complicated ones. Interestingly, studies on Track Two Diplomacy in the SCS as well as its contribution to Track One Diplomacy are still few and limited. Therefore, this study is intended to fill this void.

1. 9. Methodology

This research employs the qualitative method as the research design. More specifically, the study utilizes the case study approach to qualitative inquiry. Hence, this research is categorized as a single-case study. Robert Yin (2003) identified at least six sources of evidence in case studies, which include documents, archival records, interviews, direct observation, participant-observation and physical artifacts.

This research uses two main sources of data, that is, primary sources and secondary sources. Primary data consist of archival materials and the interview transcripts. The main archival materials used in this work are transcript of speeches, statements, meeting proceedings, and the workshop reports. These materials are also complemented with other primary data such as annual reports, official publications and newspaper articles. The sources of primary data include the Library of Indonesian Ministry of Foreign Affairs – Jakarta and ASEAN Secretariat – Jakarta.

In-depth interviews with resource persons who have knowledge concerning the topics were conducted in Jakarta. They were chosen from various backgrounds including organizer, participant and observer of the workshop,

diplomat, Indonesian foreign affairs analyst and official of Indonesian Foreign Affairs. The names of these resource persons are:

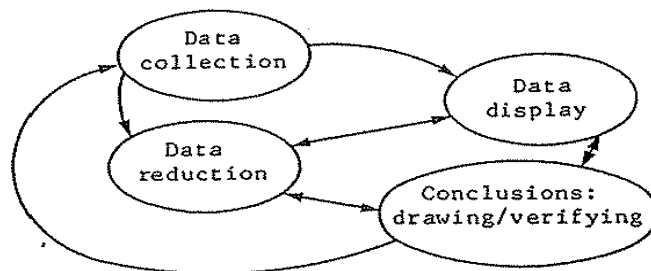
1. Ambassador Dr. Hasjim Djalal, organizer of the workshop and director of the Centre for Southeast Asian Studies - Jakarta. As an organizer of the workshop, Dr. Djalal has abundant information of the workshop process.
2. Dr. Siswo Pramono, participant of the workshop and Head of the Center for Policy Analysis and Development on Asia-Pacific and African Region, Indonesian Ministry of Foreign Affairs. Dr. Pramono has a wealth of knowledge about the whole process of the workshop and participated in the implementation of the outcomes of the workshops as Indonesia's foreign policy.
3. Mr. Asep Setiawan, an observer of the workshop and *Kompas* journalist. This resource person has information of the workshop process from an independent position.
4. Ambassador Dr. Boer Mauna, a senior diplomat of Indonesia. Dr. Mauna is an expert on Indonesian diplomacy in the 'New Order' era.
5. Dr. Ganewati Wuryandari, an Indonesian foreign affairs analyst at Indonesian Institute of Science and Research. She is an expert on Suharto's foreign policy.
6. Mr. Ardian Budhi Nugroho, Head of the Section for Politics and Security Cooperation, Directorate General of ASEAN Cooperation, Indonesia Ministry of Foreign Affairs. He has the task of formulating Indonesia policy in the ASEAN context.

Secondary data related to the issue of the SCS conflict were in the form of articles, books and periodicals which were collected from Sultanah Bahiyah Library – Universiti Utara Malaysia, Center of Strategic and International Studies (CSIS) Library - Jakarta, and *Lembaga Ilmu Pengetahuan Indonesia* (Indonesian Institution of Science and Research) – Jakarta.

To validate the information, the study utilized the triangulation technique of using more than one methods of collecting data (Richardson & Pierre, 2005). This research employs two techniques of collecting data, textual data by collecting archival materials and verbal data by using interview technique.

After collecting data, the data are analyzed by employing the interactive model. The interactive model, as can be seen in figure 1. 2, has four components, namely, data collection, data reduction, data display and conclusion drawing or verification (Miles and Huberman, 1994).

Figure 1.2. Interactive Model



Source: Miles and Huberman, 1994, p. 12

Data collection in this work means activities in collecting raw data, both textual and verbal, from many places. Most of the data were collected in Jakarta. The next step is data reduction in which the researcher seeks relevant data by relating it to the workshop process through simplifying, selecting and confronting raw data and

then transforming into report note. Notably, irrelevant data is omitted from the analysis. The next step is data display in which the researcher organizes as well as interpreting data in report note as a foundation to draw conclusion. However, data analysis which uses the interactive model is a continuous process that will be discontinued if the researcher has been satisfied with the findings.

1. 10. Chapterisation

Chapter One: Introduction

This chapter discusses briefly the background of the research, problem statement, research questions, objectives of the study, significance of the study, scope of the study, literature review, research gap, research methodology and chapterisation of the theses.

Chapter Two: Theoretical Framework

This chapter aims to provide a comprehensive approach to the theoretical framework that serves as the foundation and guide for the research undertaken in this study. The first section of this chapter discusses Constructivism theory, a popular theory in international relations since the Post-Cold War era. The theory provides an understanding on how socialization, identity and norms shape the parties' behavior. The second section deals with the Functionalism theory, a theory which stresses on promoting functional cooperation to enhance peace. The third section explains the framework analysis in the study.

Chapter Three: The Development of Track Two Diplomacy

This chapter investigates the development of Track Two Diplomacy as an experiment to assist in resolving conflict. The first section of this chapter elaborates the concept of peace and conflict settlement procedures to show the position of Track Two Diplomacy. The second section focuses on the actualization of Track Two Diplomacy including its conflict management mechanism as well as its strengths and limitations. The third section explains the practice of the various models of Track Two Diplomacy in handling conflicts in many parts of the world. Considering that Track Two Diplomacy has a strong correlation with Confidence Building Measures, the last section discusses the CBMs.

Chapter Four: The Background of the South China Sea Conflict

This chapter explains the background of the SCS conflict in five sections. The first section discusses briefly the history of the dispute since the pre-colonial period until the post-Cold War period. The second section examines the significance of the SCS concerning its strategic location, environmental and ecological issues as well as the potential existence of oil and other mineral resources. The third section analyzes the UNCLOS regulations related to the SCS issue, and the fourth section investigates the arguments of each state in claiming their sovereignty and jurisdiction. Finally, the fifth section explains the impact of the dispute on Southeast Asian regional stability.

Chapter Five: Indonesia's Initiative to Support the Track Two Diplomacy and the Organization of the Workshop

This chapter aims to analyze the background for Indonesia's support to the employment of Track Two Diplomacy to manage dispute in the SCS through the experiment of the workshop process. To understand these motives, it is necessary to pay attention to the direction of Indonesian foreign policy toward Southeast Asia region as well as its national interests. This chapter consists of six sections. The first section analyzes the principles and dynamics of Indonesian foreign policy. The second and third sections deal with Indonesian foreign policy under Sukarno and Suharto respectively. The fourth section discusses Indonesia's interest in the SCS which is a derivative from its national interests within the context of the 1990s. The fifth section investigates the reasons behind Indonesia's selection of the choosing Track Two Diplomacy mechanism through the workshop experiment in managing the conflict in the SCS. And the sixth section explains the workshop organization, particularly its procedures and mechanisms.

Chapter Six: The Chronology of the Workshop and the Operationalization of Constructive Ideas

This Chapter examines the process of the workshop based on chronological sequence and the operation of exchange ideas through constructive dialogues among parties. The first section of this chapter highlights the process of the workshops from the first to the twelfth meeting. The second section discusses the workshop as a social learning process among the participants in their quest to socialize their ideas on certain issues. The third section explains how the workshop creates a sense of community as the step to build common identity. Finally, the fourth section explores norms building in conducting behavior.

Chapter Seven: Outcome of the Workshop in terms of Functional Cooperation

The idea of conducting the workshop is to manage the conflict by transforming prejudice and suspicion into cooperation. This chapter explores the workshop drives to develop functional cooperation. Five major themes of functional cooperation as reflected in the sections will be elaborated namely Marine Scientific Research; Resource Assessment and Ways of Development; Marine Environment Protection; Safety of Navigation, Shipping and Communication; and Legal Matters.

Chapter Eight: Conclusion

This chapter evaluates the usefulness and effectiveness of the workshop process in managing conflict in the SCS. It also examines the contribution of Track Two Diplomacy to the Track One Diplomacy in the SCS dispute. This chapter also outlines the significance of the workshop in theory building as well as the possibility of the process being extended and applied to other conflict areas in the world.

CHAPTER TWO

THEORETICAL FRAMEWORK

2. 1. Introduction

The main aim of this chapter is to provide a comprehensive outline of the theoretical framework that serves as a guide for the research undertaken in this study. To that end two theories will be discussed in this chapter, namely, Constructivism and Functionalism. The first section of this chapter examines Constructivism, a theory which is increasingly gaining popularity in the post-Cold War era. The second section discusses Functionalism, a theory that focuses on building peace through the establishment of functional cooperation. It is therefore not surprising that Functionalism has been a popular theory since the end of the World War II. The third section explains the framework of analysis and the last section employs the framework of analysis in this study.

2. 2. Constructivism

When the Soviet Union was dissolved and the Berlin Wall fell down, marking the end of Cold War, scholars of international relations thought that theories of that discipline should be readjusted to be in tandem with emerging developments. Under those circumstances dominant rational-materialist and positivist approaches of the Cold War era such as Realism and Liberalism theories were to be

complemented with approaches stressing on non-materialist (idealist)-post-positivism thoughts to provide of better understanding of the changing international affairs (Philips, 2007). This approach has various names. For example, Robert Keohane (1988) calls the new approach the reflective approach because it is a mixture of two dominant traditions, that is, sociology and socio-psychology. Nonetheless, the popular name given by scholars for this approach is social constructivism. However, Adler (1997) notes that Constructivism has less clarity in relation to its nature and substance. According to Kratochwil (1996), the constructivist approach is becoming a theory.

It is important to note that Nicholas Onuf is the first scholar who proposed Constructivism in 1989 (Jackson & Sorensen, 2010). According to Onuf, international politics is basically a world of our own making (Onuf, 1989). Constructivism was then popularized by Alexander Wendt through his seminal book entitled *Social Theory of International Politics* (Wendt, 1999). Wendt challenged the rationalist approach particularly Neo-Realism theory on the concept of anarchy. Neo-Realists believe that anarchy is a condition caused by the absence of central power in international politics, resulting in states not fully trusting other states' intentions. Therefore, in order to survive under an anarchical international system, states should develop offensive capabilities in terms of military and economic power (Waltz, 1979). However, according to Wendt, the nature of anarchy in the international system is determined by states. In other words, if states behave in a confrontational manner towards each other, the nature of international anarchy will be conflictual, and vice versa. Therefore, anarchy is neither conflictual nor cooperative. There is no nature of international anarchy.

Anarchy is what states make of it (Wendt, 1992; Weber, 2010). Tellingly, Constructivism was established as a counter movement to the rationalist approach of international relations (Weiner, 2003). It should be noted that Constructivism emphasizes that reality is not merely driven by material factors, but also is socially constructed by cognitive structures which give meaning to the material worlds (Hopf, 1998; Ulusoy, 2005).

According to constructivists, international politics is ‘socially constructed’. The term ‘constructed’ means that the world is coming into existence through a process of interaction between agents or actors (individuals, states and non-states) and the structure of their broader environment. It is a process of mutual constitution between agents and structures (Adler, 2002). Wendt breaks down the term ‘socially constructed’ into two basic elements: (1) fundamental structures of international politics that are social rather than strictly material; and (2) these structures shape the agents’ identities and interests rather than just their behavior (Wendt, 1995). Thus, international politics according to Wendt consist of social structures which have three basic elements: shared knowledge, material resources, and practices.

Shared knowledge means that social structures are defined by shared understandings and expectations. These constitute the agents in a situation either cooperative or conflictual. The security dilemma situation, for instance, is a social structure which is composed of inter-subjective understandings that states distrust each others’ intentions. As a result, they adopt self-help mechanisms by maximizing their power capabilities vis-à-vis other states. On the other hand, a

security community, a different social structure, is composed by shared knowledge where states trust one another to resolve their dispute peacefully. These two social structures depend on the ideas shared by the elements that build the particular structure (Wendt, 1995).

Material resources are meaningful for human action through the structures of shared knowledge in which they are embedded. For instance, five hundred British nuclear weapons are less threatening to the United States than five North Korean nuclear weapons, because Britain is viewed as a friend and North Korea is considered a foe by the US (Checkel, 2008).

Social structures exist in practices, neither in agents' heads nor in material capabilities. Hence, social structures exist only in a continuing process. For example, the Cold War was a social structure of shared knowledge of the superpowers' relations. But once the superpowers stopped acting like stiff competitors, the Cold War ended. In concrete terms, when the United States and the Soviet Union decided not to build enmity, there was no Cold War (Jackson & Sorensen, 2010).

Copeland (2000) adds three characteristics of social structures. First, social structures are able to constrain and shape the agents' behavior through communication. Second, the structures lead agents to redefine their interests and identities in the process of interaction. Third, structures and agents co-constitute and co-determine each other. Structures constitute agents in terms of their interest and identities. But at the same time, structures are also produced, reproduced and altered by discursive practices of agents. Thus, interests and identities of state are

not static. They are always evolving as they interact with each other in a certain environment.

Despite its increasing importance as a theory of international relations in the Post-Cold War era, Constructivism is not something new in social science. It can be traced back at least to the 18th century. Giambattista Vico (1668-1744), an Italian philosopher for example, indicated that there is the natural world which is made by God, and the historical world is man-made. In other words, human beings make or co-create their own history. They also make states which are historically constructed. If they want to change, states and the historical world will also change (Jackson & Sorensen, 2010). Another philosopher is Immanuel Kant whose writings were written over 200 years ago argued that human beings can obtain knowledge about the world, but it will be subjective knowledge because it is filtered by their consciousness. Similarly, Max Weber, a social science theorist, emphasized that the social world or human interaction arena is totally different from the natural world because humans rely on ‘understanding’ of each other’s actions and assigning ‘meaning’ to them. In order to understand human interaction, it cannot take the same way to acquire knowledge as is the case in the natural world. It needs interpretative understanding of methods or *verstehen* (Smith, 2004). Later, in the 21st century, Constructivism was enriched by the thoughts of a new generation of prominent social science scholars such as Anthony Giddens and Jurgen Habermas.

Constructivism consists of many traditions of social science ranging from the interpretivist paradigm, sociology, social-psychology and linguistics.

Therefore, some scholars labeled Constructivism as a meta-theory rather than a single coherent theory (Guzzini, 2003). Furthermore, it lays on the continuum between positivism and post-positivism. It is not surprisingly that Constructivism has two variants, namely, conventional or modern Constructivism and critical or post-modern Constructivism (Hopf, 1998; Phillips, 2007). Conventional Constructivism which is popular in North America mostly examines the role of social norms in shaping international and foreign policy outcomes. This variant is interested in uncovering top-down/deductive mechanism and causal relationship between actors, norms, interests and identities, and as such lean on positivism. Advocates of this strand of Constructivism include Alexander Wendt, Christian Reus-Smit, Ted Hopf, Peter Katzenstein, Emmanuel Adler, and Martha Finnemore. On the other hand, critical Constructivism which is developed in Europe focuses on criticizing the structures of power, hierarchy, and domination that are embedded within the global structure. Proponents of this type of Constructivism include Nicholas Onuf, James Der Derian, Friedrich Kratochwil, Ann Tickner and Andrew Linklater. They mostly explore the role of language in mediating and constructing social reality. They are committed to apply the inductive (bottom up) research strategy, especially the linguistic technique to reconstruct state identities (Checkel, 2008; Phillips, 2007; Jackson & Sorensen, 2010).

Conventional Constructivism has evolved into three forms namely Systemic, Unit-level and Holistic Constructivism (Reus-Smith, 2005). Systemic Constructivism focuses on the relations of states in the international system but ignores the role of domestic political developments. Wendt and Finnemore are

scholars associated with systemic Constructivism. Wendt believes that state identity informs its interest and actions. He makes a distinction between social and corporate identities of the state. It is suggested that a state's social identity refers to the status, role or personality that international society ascribed to a state, whereas corporate identity relates to the internal human, material, ideological or cultural factors that make a state what it is. Because Wendt concentrates on systemic theory-making, he neglects corporate state identity. He only stresses on the international structural context, systemic process and strategic practices that produce and reproduce different kinds of state identities (Reus-Smith, 2005). On the other hand, Finnemore focuses her study on the norms of international society that affect states' identities and interests. She concludes that state behavior is defined by identities and interests which are defined by international forces (Finnemore, 1996). Systematic Constructivism, however, does not provide adequate explanation of the drastic changes in the international society and states identities particularly in the globalization era.

Unit-level Constructivism is the reverse of Systemic Constructivism. Instead of stressing international domain, unit-level Constructivism focuses on the relationship among social and legal norms, identities, and interests of the states. Interestingly, these domestic factors are neglected by systemic Constructivism. The study of Katzenstein (1996), for instance, demonstrates why Japan and Germany which have common historical experiences of military defeat, economic development, and transition from authoritarian to democracy adopted different internal and external security policies. Katzenstein highlights the importance of institutionalized regulatory and constitutive social and legal norms in shaping

states identities. He pays attention to the internal and domestic determinants of national policies rather than that of the international domain.

Reflecting from systemic and Unit-level Constructivism by reproducing the traditional dichotomy between international and domestic matters, Holistic Constructivism tries to bridge the two poles. It tries to accommodate the entire range of factors conditioning the states identities and interests internationally and domestically. Holistic Constructivism is a unified analytical perspective that treats the international and domestic factors as two domains in a single social and political order (Reus-Smit, 2005). Furthermore, Holistic Constructivism also accommodates the contributions of non-state agents in constructing state identities and interests through the interaction process across national borders. Given its unifying rationale, this approach, therefore, will guide this research process.

To understand international relations through Constructivism lens, three core concepts should be elaborated, that is, socialization, identity and norms (Acharya, 2001).

2. 2. 1. Socialization

There are two ways of constraining actor's behavior. The first is by giving material rewards and punishments. In international relations, a state responds to positive or negative sanctions provided exogenously by an institution or state(s) such as rules or membership requirements in international organization. The second is by persuasion, a process of social interaction that leads to the internalization of normative understanding, creating a new definition of interest independent of exogenous material constraints (Johnston, 2003). This persuasion

process in social and international relations literature is commonly called socialization. Constructivists emphasize socialization as a vehicle to internalize norms through learning processes of actors' interactions and their impact in creating new identities. Furthermore, Copeland (2000), states that most aspects of human reality are produced by socialization through discursive practices.

By definition, socialization is a process by which social interaction leads an actor to endorse expected ways of thinking, feeling and acting so that the actor becomes incorporated into organized patterns of interaction (Johnston, 2003). Ideal norms can create the actors' social interaction from day to day and in the long run shape their interest and behavior. Gradually, the ideal norms then become collective norms. In international relations, the norm for avoiding dispute settlement by force for example, was developed by states and societies' interactions. Through social interaction, different interests and behaviors can be transformed into common interests and then the actors' behaviors can be synchronized.

It is common in international relations, for states or international organizations to take certain actions in order to change the behavior of other state(s) which in their view should be "educated" to hold the ideal behavior. There are two common ways practiced by states or international organizations to change the behavior of other states. The first is by employing the engagement policy and the second is by conducting multilateral diplomacy.

2. 2. 1. 1. Engagement Policy

Engagement policy can be defined as a mix of incentives and punishments also known as the “carrot and stick” policy, which is used to condition the behavior of a targeted state (Key-young, 2006). For instance, if an enemy state changes its behavior from aggressive to peaceful behavior it will enjoy advantages or certain benefits. But if the state continues its aggressive behavior, it will face certain disadvantages or punishments. Notably, the engagement policy became popular after the Cold War, substituting the containment policy which was dominant during the Cold War. Containment policy was applied by the Western allies to contain the spread of Communist ideology in Europe, Africa, Latin America, and Asia. The Containment strategy leaned on military force to encircle the enemy, whereas the engagement policy encouraged rapprochement with adversarial states in order to restructure and transform relations from confrontation into cooperation.

As can be seen the engagement policy present opportunities for creating good relations between rivals and adversaries. From constructivist vantage point, good relationship is an entry point to share ideas and knowledge, and in the long run to build trust (Key-young, 2006). Trust building between adversaries is an avenue for building collective norms, which in turn can shape their identities and behaviors.

2. 2. 1. 2. Multilateral Diplomacy

The term multilateralism has two characteristics. First, it refers to the actors, consisting of at least three actors to maximum all parties and the various

gradations in between. Second, multilateralism emphasizes coordination and cooperation among parties. The coordination and cooperation aspects usually occur through institutions and there are usually confined to the activities of states (Taylor & William, 2006). Coordination and cooperation should take place in a good relationship to pursue a certain goal. States coordinate their relations on the basis of generalized principles of conduct without regard to particular interests of the parties (Ruggie, 1998). Multilateralism is taken into consideration by the parties to carry out activities that cannot be executed through bilateral engagement. Multilateralism has been widespread after the World War II when the world problems became so complex that resolving them by unilateral or bilateral manner was not possible.

2. 2. 2. Identity

As mentioned above, Constructivism places emphasis on ideational or inter-subjective factors including ideas, culture and identities which play a determinant role in shaping foreign policy. The term identity, as a part of inter-subjective factors, is adopted from social psychology. It refers to the image of individuality and distinctiveness. Identity was held and projected by actors and modified over time through relations with the other actors. Identity formation which builds through the relation with the others can develop a collective sense of not only 'who we are', but also 'how we differ from others' (Acharya, 2001). Thus, collective identity, formed by interaction and socialization in continuous time can shape and redefine the interests (Hobson, 2003).

2. 2. 3. Norms

Generally speaking, a norm is a standard of appropriate behavior for an actor with a given identity (Finnemore & Sikkink, 1998). It is defined in terms of right and obligation in a social community's life. Norms guide behavior, they inspire the behavior, they may rationalize or justify behavior and they may express mutual expectations about behavior. In short, norms constitute an actor's behavior (Ruggie, 1998). The concepts of norms and rules have been used interchangeably as their meanings overlap. Yet, rules have specific meaning. A rule is a subset of norms and explicit statement of a preference when behavior becomes obligatory or compulsory (Buszynski, 2003). Norms are derived from cultural of society so it can help an actor to distinguish what is normal and what is abnormal behavior. Norms can also coordinate expectation that should be reached and decrease uncertainty. It influences decision making so that the actor's behavior become legitimized. In the international community, norms contribute to the establishment of international order by prohibiting certain behavior violating the collective goals, by providing a framework of dispute settlement, and by establishing the basis for cooperative schemes to enable each member of the international community can enjoy the benefit.

Norms in the Third World, according to Acharya (2011), have two forms, norm subsidiarity and norm localization. He defines norm subsidiarity as “a process whereby local actors establish rules with in order to preserve their autonomy from dominance, violation, or abuse by more powerful central actors” (Acharya, 2011, p. 97). In other words, it enables the weak actors to diffuse their

own norms to challenge the domination of powerful actors. Norm localization, on the other hand, means local actors act as norm-takers. They adopt foreign or global norms to be applied in local circumstances (Acharya, 2011).

In the context of Southeast Asia, for example, relations among states are guided by at least two norms which are derived from cultural society and global norms. The two norms are procedural norms called “ASEAN Way” and behavioral norms, for guiding the states’ behavior. The “ASEAN Way” emphasizes non-discrimination and decision-making by consultation and consensus as well as informal dispute resolution (Poole, 2006). It encourages the members of ASEAN to seek an informal and incremental approach for cooperation through lengthy consultation and dialogues (Katsumata, 2003). Severino (2001), the former secretary general of ASEAN, describes that ASEAN Way deals with the manifestation of goodwill and trust that yield agreements through consultation (*musyawarah*) and consensus (*mufakat*), instead of the across-table negotiation with bargaining in a formal atmosphere. The original formula of the “ASEAN way” can be traced back to the traditional village in Indonesia where the decision making process was conducted by consultation and consensus in informal conditions (Thambipillai & Saravanamuttu, 1985).

Meanwhile, ASEAN’s behavior norm, on the other hand, was established at the first ASEAN summit in Bali 1976 when the Treaty of Amity and Cooperation (TAC) was signed. The TAC, especially article 2, consists of some basic principles as follows: non-interference in the internal affairs of one another; mutual respect for sovereignty and territorial integrity; the ‘settlement of

differences by peaceful means'; the renunciation of the threat or use of force; and effective cooperation among themselves (ASEAN Secretariat, 1976).

It is clear that the "ASEAN Way" was adopted from local experiences which are transformed into regional norms. On the other hand, the TAC is derived from the principles of global norms, that is, the Charter of United Nations, especially article 2(3) and 2(4). Article 2(3) stipulates that the members shall settle their dispute by peaceful means in which the international peace is not endangered (The United Nations, 1945). Meanwhile, article 2(4) says that all members shall refrain in their international relations from threat or use of force against the territorial integrity or political independence of any state (The United Nations, 1945). Thus, through the TAC, ASEAN tries to localize global norms in regional arrangements.

2. 3. Functionalism Theory

In the post-World War II, many scholars began to find alternatives to prevent wars from happening. They examined the causes of war as well as finding ways of building peace (Folker, 2000, p. 100). According to Functionalism theory, a leading theory after the war, the main reason why war breaks out is the behavior of states. It is proffered that the root cause of war is a state's nationalism that fails to fulfill the basic human needs of its citizens such as economy, education and health. Thus, the strategy to build peace is to satisfy citizens' needs and demands (Kurt, 2009, p. 43). The concept of Functionalism is derived from Kantian thought which indicate that human activities are performed as the functions of social systems based on the demands of individuals, societies and the whole of

international system. Functionalism, therefore, proposes that common needs and human desires can unite people across state borders (Soderbaum, 2009; Tanter, 1969). It is further argued that strategies to build peace should be started from “low politics” i.e. economic, social and cultural matters and then migrates to issues of “high politics” (Chen, 2011). Relating to the states’ role, Functionalism views human needs and public welfare is more important than power politics (Kurt, 2009).

David Mitrany, the leading functionalist theorist, argues that a state does not have the capacity to solve all problems of public management, distribution and allocation of resources, welfare and communication which are more complex and complicated after the war. Legalistic structure and rigid constitutional aspects of the state character, cause obstacles in the drive to understand and interpret social changes. Hence, there is needed to be innovative and creative to find flexible solutions to transnational problems (Kurt, 2009, p. 49).

World peace, according to Mitrany, can be built through cooperative efforts in various functionalist fields such as economy, education, science and technology, and environment. International conflict can be avoided and managed through international cooperation conducted by people (rather than political elites) who have technical capability with less political agenda such as economists, educators, scientists, engineers and environmentalists (Banloi, 2001). Mitrany also proposes the ramification doctrine whereby development of cooperation in one technical field leads to comparable behavior in others technical fields. In other words, functional cooperation in one sector generates a same feel of need for

functional cooperation in another sector (Dougherty & Pfaltzgrapff, 1990, p. 432). Thus, broadening and widening cooperation across the national border has the prospect of avoiding war through transforming pattern of behavior from adversarial to cooperative posture.

Neo-Functionalism, on the other hand, criticizes the Functionalist approach for neglecting the political dimension. Neo-Functionalism, a variant approach of Functionalism, emphasizes more the power element and thinks many factors other than economic and technical factors contribute to regional integration. Ernst Haas, a leading theorist of neo-Functionalism, postulates that power cannot be separated from welfare (Dougherty & Pfaltzgrapff, 1990, p. 438). He argues that states start integration modestly in an area of “low politics”, and a high level authority should be set up as a sponsor of further integration. From this step, a form functional pressure for integration of related sectors will emerge and then the momentum would gradually entangle national economies and social interests. Deepening integration, therefore, pushes the need for further institutionalization, making political integration and leading to regional peace (Rosamond, 2000). Thus, political integration according to Haas means a “process whereby political actors in several particular national settings are persuaded to shift their loyalties, expectations and political activities to a new centre, whose institutions possess or demand jurisdiction over pre-existing national states. The end result is a new political community, superimposed over the pre-existing one” (quoted from Dosenrode, 2010, p. 4).

Similar to Mittrany who proposes the ramification doctrine, Haas also proposes the spillover concept. This concept was developed from his research of the European Coal and Steel Community (ECSC). In the early stages, only few European elites were interested in and supported this new organization. After the ECSC operated for several years, more elites from trade unions and political parties became supporters of the Community. The groups of elite then presented themselves as a vanguard of efforts for European integration. Elites who have had experience from supranational institutions such as ECSC tend to expand their efforts into other sectors (Dougherty & Pfaltzgrafff, 1990). Put another way, the success in establishing an economic integration within the framework of a supranational organization, will spread in other sectors and in the long run, political integration is a necessity almost automatically guaranteed (Ozen, 1998). Haas then describes spillover as: “Earlier decisions spillover into new functional contexts, involve more and more people, call for more and more inter bureaucratic contact and consultations, meeting the new problems which grow out of the earlier compromises” (quoted from Dougherty & Pfaltzgrafff, 1990, p. 439).

There are three aspects of Haas’ idea. These aspects are functional spillover, political spillover and the importance of supranational organizations. Functional spillover means that integration in particular functional areas push actors to further build integration in other areas. Political spillover is related to integration in some areas, leading to support for the new political dispensation, strengthening the new centre and potentially providing support for new

community. Functionalism and political spillover, therefore, become the foundation to build trust in a supranational organization (Obydenkova, 2011).

2. 4. Framework of Analysis

As mentioned earlier, Constructivism has several theoretical ancestries and as such offers a heterogamous research approach. With this in mind, Constructivism should be combined with different theories to make it work (Hopf, 1998, p 196). In this study, Constructivism combines with Functionalism theory to analyze the application of Track Two Diplomacy in the South China Sea conflict.

Functional cooperation on ‘low politics’ is generally regarded as a starting point in the build-up to peace as well as in the avoidance conflict. In a distrustful and hostile situation, it is always difficult to achieve cooperation. As a result, the first step is to build trust among the conflicting parties, and hopefully create a conducive atmosphere. This can be done by an initiator (state, non-state actor or eminent person) to provide a mechanism for interaction among parties to share their knowledge on each other. Through social interaction or socialization, this might yield common interests and identities. As pointed out by Finnemore, “interests are not just ‘out there’ waiting to be discovered; they are constructed through social interaction’ (Finnemore, 1996, p. 2). Basing on common interests and identities, the parties may develop norms (including functional cooperation activities) to guide their behavior as social practices.

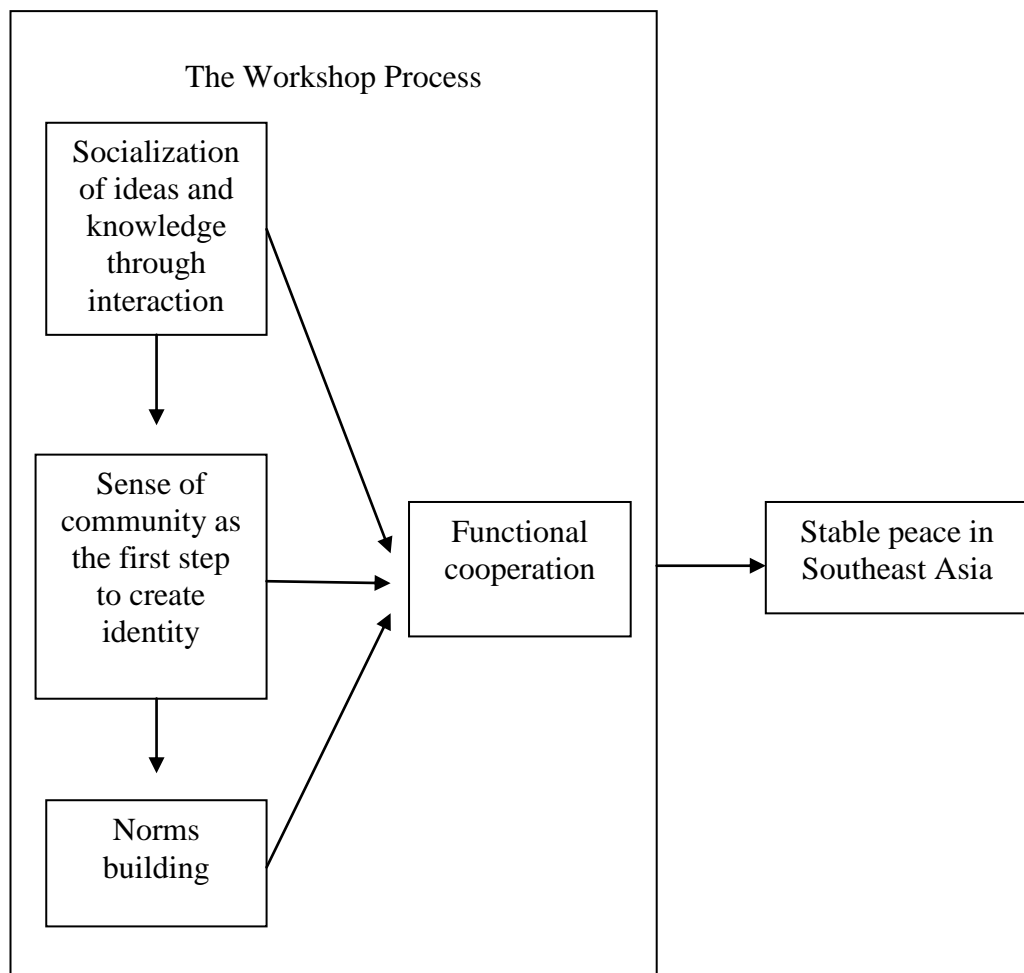
It should be noted that if the conflicting parties are states, then, is almost impossible to provide space for social interaction among them. As such, it could be started from non-state actors or persons with private capacity. Their ‘informal’

social interaction together with its outcomes in the long run will influence the states' behavior.

2. 5. Employing the Framework Analysis in the Study

Based on the framework of analysis, the diagram of analysis undertaken in this study is outlined in Figure 2. 1 below.

Figure 2. 1. Diagram of Analysis



Track Two Diplomacy as it represented by the workshop process provides space for socialization, enabling the participants to get involved in the process of

interaction, thus enabling them to communicate on some particular issues. This study will investigate issues arise in the workshop, which issues are skipped from the agenda and which issues sustain for further discussion.

Meanwhile, the process of dialogue can also create the sense of community and identity. This work also identified the strategies taken by the workshop process how to create sense of community among the participants. The two components, sharing ideas through dialogue and the creation of a sense of community, are prerequisites to build norms. This research also analyzed the norms produced by the workshop approach and to what extent these norms have shaped behavior of the conflicting parties. Based on these components, functional cooperation which starts from issues of 'low politics' can be arranged and then implemented in order to transform the conflict situation into stable peace in Southeast Asia. To put it differently, discursive practices which take place in a social institution like Track Two Diplomacy, produce identities and norms as well as cooperation activities that may contribute to stable peace in Southeast Asia. This aura of stability is marked by a conducive atmosphere for dialogue as well as the absent of military conflagration in the region.

2. 5. Conclusion

Constructivism theory with its emphasis on the role of ideas provides a better understanding of international relations since the post-Cold War. It complements the existing theories focusing on rational-materialist aspects as reflected in Realist and Liberal approaches. International politics, according to Constructivists, is 'socially constructed' from the process of interaction between agents and its

structure's environment. As a social structure, international politics is composed of inter-subjective understandings which shape the agents' behavior, identity and interest. Not to mention that the agents constitute the structure's existence.

Equally, Constructivism theory is enriched by many social science traditions including sociology and linguistic. Notably, Constructivism has two variants, namely, Conventional Constructivism and Critical Constructivism. The former focuses on actors' norms, identities, and interests by using positivist-deductive mechanisms; and the latter focuses on deconstructing the power structure by using the post-positivism-inductive mechanism.

Conventional Constructivism has three forms namely Systematic, Unit-level and Holistic Constructivism. Systematic Constructivism studies the relations of states in the international system; Unit-level Constructivism focuses on domestic aspects as the units of analysis; and Holistic Constructivism uses the eclectic approach to bridge international and domestic domains as well as accommodating the role of non-state actors.

Meanwhile, Constructivism has three concepts commonly studied, that is, socialization, identity and norm. Socialization refers to the interaction process among actors on various issues; identity is related to the collective sense on building understanding of 'who we are'; and norm is the result of both socialization and identity. In essence, norms refer to a process of building common standards for guiding behavior.

As indicated earlier, Functionalism theory, a prominent theory after the World War II on the other hand, searched for mechanisms of avoiding war.

Functionalists believe that the war break-out as a result of the states' failure to fulfill the people's basic needs. Peace according to Functionalists can be achieved by encouraging functional cooperation in issues of 'low politics' by avoiding sensitive issues related to the basic needs of the people such as economic matters. This level of functional cooperation may spillover into other fields as well as spreading across national borders. In the long run, functional cooperation lays the foundation to establish regional cooperation and integration as prerequisites to building everlasting peace.

Since Constructivism has several ancestors, it is possible to combine it with other theories. Hence, in this study, Constructivism is combined with Functionalism theory. In a nutshell, functional cooperation in issues of 'low politics' may in the long run transform a conflict situation into a peaceful situation. However, functional cooperation only can be implemented in a social interaction context where conflicting parties are able to share their ideas and knowledge, and thereby creating common identities and norms.

CHAPTER THREE

DEVELOPMENT OF TRACK TWO DIPLOMACY

3. 1. Introduction

As mentioned in the previous chapter, Track Two Diplomacy is used as an instrument for implementing the socialization process in which exchange ideas can be developed through constructive dialogue. The socialization process enables the creation of identities and norms. Furthermore, this process is essential in establishing cooperation which in turn transforms conflicting behavior into friendship and peace.

Since the end of the Cold War, conflicts within (intra-state) and between states (inter-state) have become more and more complicated. Generally, states have attempted to build peace by settling their conflict through traditional diplomacy or Track One Diplomacy. This is not surprising considering that traditional forms of diplomacy place emphasis on the role of the government apparatus. However, efforts of state actors sometimes encounter deadlock due to the deep-rooted nature of the conflict. They need instruments to reduce the tension and Confidence Building Measures (CBMs) through Track Two Diplomacy before entering formal negotiation.

This chapter outlines the development of Track Two Diplomacy. The first section of this chapter examines the meaning of peace and conflict settlement as the main goal of Track Two Diplomacy. The second section explains the actualization of Track Two Diplomacy in terms of the techniques as well as the limitations. The third section discusses the best practices of Track Two Diplomacy in various conflicts in the world. And the last section examines CBMs as an important element that should be embedded in Track Two Diplomacy in attempts aimed at reducing the tensions.

3. 2. Defining Peace and Conflict Settlement

The ultimate goal of conducting Track Two Diplomacy is creating peace in the conflicting region. However, the term of peace has various meanings. It is common to define peace in a simple way as a situation in which war is absent. This definition, of course, is inadequate to describe the reality of peace, that is, merely a condition without war. There are several qualities of peace. Lund, for example, classifies peace into four levels, namely, crisis, unstable peace, stable peace, and durable peace (Lund, 1996).

In the first level, crisis refers to a situation close to war. At the crisis stage, the risk of war is high, military action is the maximum option but no parties open regular violence, but sporadic violence occasionally occurs. This situation is marked by deployment and mobilization of armed forces which are ready to fight and sometimes incidents of low-level military skirmishes do happen (United States Institute of Peace, 2008).

The subsequent level of the peace continuum is unstable peace that lay in between crisis and stable peace. In unstable peace, the root cause of the dispute still remains unresolved and tension tends to rise. Suspicion among parties in this situation is so high, but violence is absent or only sporadic. Unlike in the crisis situation, armed forces are not mobilized but the conflicting parties perceive one another as foes. Peace is no longer guaranteed (Swanström & Weissman, 2005).

The next level is stable peace, a situation where the level of tension between adversaries is low. In this level, embryonic connections and cooperation are established, particularly cooperation in non-sensitive issues. Efforts to solve the dispute begin to emerge in the peace level. The parties have the capacity to go to war against each other but restraint is a strong possibility (Allan, 2006). In the stable peace situation, the conflicting parties start to open communication and to conduct limited cooperation except on military matters. Although the differences still exist, disputes among parties have been generally handled by nonviolent means. The prospect of war is low since it is beyond the calculation of any parties involved (Kacowicz & Tov, 2000; Bouilding, 1978).

The highest level is durable peace, known as positive peace, a situation that involves highly mutual understanding and cooperative activities in various fields based on shared values, norms and institutions. This situation is also marked by economic interdependence and the emerging sense of international community (Weissman, 2012).

Stable peace is the most relevant level that mirrors the situation of conflict in the SCS. In the next chapters, it will show that during the workshop there were

no military skirmishes among the adversaries. They also engage in dialogue as well as cooperating in non-sensitive issues.

In order to maintain peace and avoid war, the conflicting parties should attempt to settle the dispute through formal/official or Track One Diplomacy. Track One Diplomacy is an instrument of foreign policy which enables a state to communicate or negotiate with other states on certain issues. This action is conducted by official actors as representatives of their government (Nan, 2003). Due to a number of reasons Track One Diplomacy is considered to be the primary method for dispute settlement. First, Track One Diplomacy has the capacity to mobilize political power resources to influence the negotiation process in order to obtain maximum benefit. Second, Track One Diplomacy enables access to material as well as financial resources to heighten leverage during the negotiation process. Third, Track One Diplomacy is able to employ abundant information about the parties' interests collecting from intelligence sources (Mapendere, 2005).

In dispute settlement literature, there are various methods of peaceful settlement under Track One Diplomacy, ranging from non-binding to binding ones. The methods include negotiation; good office and mediation; fact finding inquiry and conciliation; arbitration; judicial settlement; and settlement through international institutions such as the United Nations, global or regional organizations and other agencies (Bilder, 2003).

When the Post-Cold War period emerged, there was a phenomenon concerning the changing characteristic of conflict in which the officials were

unable to handle the conflict by themselves. The roots of conflict, both inter-state and intra-state were more complicated than before. The conflicts were not only about disputes of interest, but frequently involved disagreements of values related to the various issues such as ethnicity, identity, dignity, security, culture and justice (Demirdogen, 2011). Therefore, support from unofficial or Track Two Diplomacy was highly required to manage the conflicts.

3. 3. Actualization of Track Two Diplomacy

Unofficial diplomacy is also known as citizen diplomacy, Interactive Conflict Resolution (ICR), Interactive Problem Solving (IPS) and Track Two Diplomacy which is the most popular term to label unofficial diplomacy. All the terms have the same meaning that the initiative is conducted by citizens who do not represent their government. Meanwhile, ICR emphasizes on direct or face-to-face communication between unofficial representatives of parties engaged in a conflict, which is usually mediated by an impartial third party practitioners, to solve the problem of the conflict (Fisher, 2007). Similarly, Kelman (2005) describes IPS as an unofficial mediated third party to the resolution of both international and inter-communal conflicts (Kelman, 2005, p. 41).

The primary instrument to conduct ICR, IPS or Track Two Diplomacy is a Problem Solving Workshop (PSW), an unofficial face-to-face meeting which involves the representative of the conflicting groups and is usually facilitated by a neutral third party. The PSW process provides an opportunity for the participants to examine their perspectives, hopes, needs, fears, and priorities in their quest to engage in joint thinking and finding the best solutions to the conflict

(Demirdogen, 2011, Kelman, 2005). The PSW can contribute to the accomplishment of the negotiation process conducted under official diplomacy (Track One Diplomacy) through three levels: pre-negotiation, para-negotiation, and post-negotiation. In the pre-negotiation level, the PSW facilitates the examination of barriers as well as creating conducive atmosphere to hold negotiations. In the para-negotiation level, if needed, the PSW can intervene in the on-going negotiation by identifying the obstacles or providing analysis on difficult issues. In the post negotiation, the PSW can help create a plan of agreement or a plan of implementation (Fisher, 2007).

Usually, the PSW invites participants from the conflicting parties in equal measure. The PSW is designed to discuss four agendas. First, each side is requested to explore fundamental concerns of the conflict such as the need to fulfill the solutions being proposed. In this session, any debate concerning the issues is not permitted. The purpose of the agenda is to achieve the understanding from both sides' perspectives. Once the participants reach better understanding of their needs, the PSW proceeds to the second agenda. In this phase, participants develop ideas through the interactive process to find the comprehensive solution to the conflict. After obtaining a common platform for the solution, the agenda moves to the third phase. In this phase, the participants examine socio-political and psychological constraints that possibly emerge in the society. These constraints, of course, will create barriers for further negotiation. Finally, in the last phase, the participants are asked to evaluate all the phases to develop assurance steps in the form of acknowledgements or confidence building

measures (Kelman, 2005). More importantly, the outcomes of the PSW process can be adapted to decision making at the formal level.

Meanwhile, Track Two Diplomacy is a broader term encompassing all efforts or initiatives taken by persons in their private capacity to conduct diplomacy. The term Track Two Diplomacy was introduced firstly by Joseph Montville, an American Foreign Service officer who defined it in 1981 as “unofficial interaction between members of adversarial groups who have goals in developing strategies, influencing public opinion, and organizing human and material resources in ways that might help to resolve the conflict” (Cited from Jones, 2008, p. 1). It should be noted that Track Two Diplomacy is derived from the belief that war can be minimized if contacts between people are increased and intended to build friendship and understanding. Such contacts can be carried out by dialogues, problem-solving workshops, and cultural exchanges (Naidoo, 2000).

As a supporting tool for dispute settlement, Track Two Diplomacy has some basic assumptions. First, Track Two Diplomacy focuses on the process that improves the relationship between the adversaries through communication and understanding. Such processes break psychological barriers and pave the way for the conduct of official diplomacy. Second, the process enables the adversaries to explore ideas and reactions concerning alternative solutions in a non-obligatory framework. Third, Track Two Diplomacy is designed only as a supplement by providing inputs into each stage of the official negotiation process (Schiff, 2010).

The term Track Two Diplomacy is not without critics. It is not clear who should attend the process. The term ‘unofficial’ could involve participants ranging

from ordinary citizen to the official government in their private capacity. If it is attended by ‘amateur’ people, Track Two Diplomacy will not obtain maximum results, and it may even hurt the negotiation process (Jones, 2008). In order to conduct effective unofficial diplomacy, Susan Nan (2003) suggests that the process should be attended by people who have the capacity and direction to conduct public policy making. Ideally, such people are government officials in their private capacity.

Effective Track Two Diplomacy can shape how elites, and the public, recognize the problems causing conflict as well as generate new ideas to address such problems. The function of Track Two Diplomacy is only to reduce tension, manage the conflict, provide confidence-building and form new identities that allow actors to frame and approach the problems in similar and preferably cooperative ways (Kaye, 2005). Dalia Kaye proposes three steps on obtaining effective Track Two Diplomacy namely socialization, filtering and transmission process (Kaye, 2007).

In line with Constructivism theory it is imperative to understand all aspects of human reality shaped by socialization through discursive practices. With that in mind, Track Two Diplomacy also emphasizes on the socialization process. This entails participants organizing forums to share their views on various issues related to security, cooperation and lessons learned based on their experience to obtain common understanding. This process also enables the discussion of extra-regional norms in a regional context before transforming them into local context. It is crucial that local norms are discussed in a regional context

before being transformed into the regional environment. Of course, there is need for frequent meetings and interactions among participants of the process in their quest to reduce misperceptions and inaccurate assumptions. The next step is the filtering process, a step where the outcomes in the first step are introduced into the public domain through media or public lectures. The main aim of this stage is to ensure that the ideas obtained in the first step are transformed into the public agenda. The final step is the transmission process where the public interests related to the dispute settlement are transmitted into public decisions (Kaye, 2007, Kraft, 2000). Thus, Track Two Diplomacy in this context can be defined as “unofficial policy dialogue focused on problem solving, in which the participants have some form of accesses to official policymaking circles” (Kaye, 2007, p. 8).

In order to avoid misinterpretation of Track Two Diplomacy, John McDonald and Louise Diamond (2012) categorizes the tracks of diplomacy into nine tracks for peacemaking of which eight tracks refer to unofficial diplomacy. Track One Diplomacy is governmental peacemaking in which diplomacy is conducted by official persons who are representatives of their government. Track Two is action taken by non-governmental professionals in their attempt to examine, prevent and manage conflict. Meanwhile, Track Three refers to diplomacy through channels of commerce. It is essentially an effort at peace-building which provides business people opportunities to conduct activities in the economic field. Track Four is related to diplomacy conducted through personal involvement. This track enables private citizens, NGOs, and interest groups to participate in peace-building. Track Five is diplomacy through learning. This track encompasses research, training and educational activities in peace building.

Track Six is diplomacy through advocacy in various issues such as environment, human rights, disarmament, and socio-economic justice. Track Seven is diplomacy through faith/religious activity. This is the realm of spiritual or religious leaders as well as religious communities in which there is a drive to build morality-based movements that promote peace. Track Eight refers to diplomacy premised on resources. This track highlights the role of funding communities and philanthropists in providing financial or other supporting resources for activities undertaken by other tracks. Track Nine is diplomacy through information. This track examines the fields of media and arts in shaping public opinion.

For the purpose of this study concerning the SCS conflict, Track Two Diplomacy is presented as an informal dialogue conducted by persons in their private capacity who seek to manage the conflict by developing constructive communication on various issues including assessing cooperation activities in less sensitive fields.. These persons come from both the conflicting parties and non-conflicting parties involved in the SCS. It should be pointed out that Track Two Diplomacy does not seek conflict settlement but rather aims at reducing tensions by establishing confidence building measures and creating conducive atmosphere to pave the way for formal negotiation.

It should be noted, the most important aspect of Track Two Diplomacy study is how the outcome leads to Track One Diplomacy. Scholars have developed various opinions about this issue. Some of them assume that new ideas, innovative findings and positive changing of participants' attitudes in Track Two

Diplomacy will later on automatically transfer to the official policy-making level (Cuhadar, 2009). This idea, of course, is very simplistic and inadequate to assist in understanding the transferring process. Therefore, Fisher (1997) suggests that the proximity of Track Two Diplomacy's participants to the decision-makers, the more likely that transfer to Track One Diplomacy will be direct. Conversely, the more distant they are from decision-makers, the more that transfer will be indirect.

Besides the problem of transferring outcomes of Track Two to Track One Diplomacy, Track Two Diplomacy has other limitations. Kaye (2005) identifies three limitations, namely, participant context, domestic context and regional environment. Participants of Track Two Diplomacy represent the most critical factor. There are two types of participants, the 'wrong' type and the 'right' type. The 'wrong' type usually comes from the inner circle of decision-makers. This type of participant is dominated by an ideology that he or she does not believe in the value of cooperation, feels skeptical of the will of adversary, and acts like he/she is representing of his/her government. The 'right' type participant open-mindedly attends the meeting and is ready to listen to the other sides' perspectives. However, this person usually does not come from either the decision-maker or official circles such as academician, think-tank's member or NGO's activist. He or she has limited access to influence official policymakers. In the final analysis, it is essential to select participants from the inner-circle of decision makers but are open-minded to receive new constructive ideas.

The second limitation comes from the domestic context. Participants face challenges to spread new ideas and new policy formulas obtained from the Track

Two Diplomacy at home. The formulas of cooperative security for example, are likely to be unpopular with the public who have long-standing experience of conflict with high levels of violence. It also presents opposition groups with the chance to de-legitimize the government regime.

The third limitation is concerned with regional environmental issues. New ideas on security cooperation can be introduced to a wider regional environment if the level of conflict in the region is relatively low. In contrast, due to the high-level regional conflict and the absence of official dialogue between the adversaries, transformation of security cooperation ideas to policymakers is difficult to be implemented.

Although Track Two Diplomacy contains some limitations, in the context of the Asia Pacific region, it has four positive contributions that preserve security. First, Track Two Diplomacy can serve as useful source for developing policy advice to the governments, particularly on new issues. Second, Track Two Diplomacy provides a “laboratory” for testing new concepts or ideas. The new concepts can be debated in an atmosphere within which controversial concepts that cannot be discussed in the official level are examined. Third, Track Two Diplomacy provides an alternative way to the continuation of regional security dialogues when the official-level forum has stalled. Fourth, Track Two Diplomacy performs as a mechanism for socialization. At the basic level, it allows participants to know each other and develop a sense of trust and togetherness. At the advanced level, participants are able to achieve shared understandings of complicated issues (Jones, 2008; Ball & Taylor, 2006).

3. 4. Practices of Track Two Diplomacy

3. 4. 1. The Harvard Project

The conflict between Israel and Palestine is considered as the most difficult and challenging conflict in the world. Starting from the creation of the State of Israel in 1948, this conflict is still unresolved though many efforts have been carried out to establish peace through formal and informal diplomatic channels. One example of this effort was the Harvard Project, a third party approach of Track Two Diplomacy sponsored by Harvard University. Occasional meetings between Israeli and Palestinian started in 1971 and culminated intensively between 1990 and 1993 prior to the Oslo Accords.

From 1990 to 1993, the meetings were designed so that the participants from Israel and Palestine could interact to solve their problems in workshop forums. Therefore, this activity was also called Interactive Problem-Solving Workshops, an instrument which is commonly applied in Track Two Diplomacy. Space of interaction was provided enabling the parties to explore each other's perspective and gain insight into the root of the conflict and find the way how to settle it.

The workshop was facilitated by a third party consisting of a panel of social scientists who had knowledge in international conflict and the Middle East affairs. The panel was chaired by Professor Herbert Kelman, an expert in Middle East affairs and social-psychologist from Harvard University. He was assisted by other social scientists from both Israel and Palestine. Prior to the workshop, the third party had conducted two pre-sessions in which they met separately with each

of the Israeli and Palestinian parties. Discussions of the workshops were completely private and confidential (with no statements issues) in order to protect the safety of participants who were selected from the mainstream of their societies and representing the center of the political spectrum (Kelman, 2005). Participants of each side consisted of three to six persons with various professional experiences such as parliamentary members, political party leaders, political movement activists, journalists, and scholars.

Besides developing academic nuances in its interactive process, the Harvard model focused on the role of the third party as facilitator. In the workshops, the third party did not propose solutions nor got involve in the substantive discussion. The third party only created a process whereby ideas for settling the conflict emerged out from the interaction between the parties themselves. Thus, the main tasks of the third party were to set-up basic rules of the whole process, stimulate participation to keep the discussion moving in the right track, and intervening when the need arises due to questions and challenges (Kelman, 2003 & 2005).

The Harvard Project, according to Kelman, strived to change the individual participants' perspectives and transfer the changes into the political process. Through the workshops process, participants were able to learn together about the root cause of the conflict, obtained new ideas on solving the conflict as well as developing a better understanding of the other's perspective. The changing perspective at individual level was hoped to change the policy at the policy-making-level forum since the participants came from the inner circle of political

or social arena (Kelman, 2005). In fact, many of the workshops' participants acted as representatives of the both sides in other formal negotiations as well. The former workshops participants' facilitated the conclusion of the Oslo Accords in 1993 which were signed by Israeli and Palestinian Liberation Organization (PLO) leaders. The Accords were designed to end conflict between these two adversaries and stipulated the following: that Israel recognizes the PLO as Palestine's official representative; and that the PLO recognizes the existence of Israel and renounce the use of force. Another outcome of the Oslo Accords was that both parties agreed to Palestinian self-rule in Gaza and West Bank and the withdrawal of Israeli forces from that region (Jones, n. d.). Unfortunately, the implementation of the Oslo Accords were derailed by a number of developments, that is, the assassination of Israeli Prime Minister Yitzak Rabin, the rise of Hamas and the increasing influence of the *Intifada* movement (Yaniv, 2013).

3. 4. 2. Regional Center for Strategic Studies Workshop

This Track Two Diplomacy activity was initiated by some experts of South Asian conflicts, Dr. Stephen Cohen and Dr. Chris Smith, in collaboration with the Regional Center for Strategic Studies (RCSS) in Colombo as the host and Ford Foundation as the supporting fund donor. The context of this activity was South Asian conflicts, particularly the India-Pakistan conflict. The workshop was the main instrument employed. Therefore, this project was named 'Regional Center for Strategic Studies Workshop'. The ten-day RCSS workshop started in summer 1999 and continued annually until 2006 when the Ford Foundation terminated its financial support. The workshop focused on various issues including common

security, non-proliferation nuclear weapons, globalization, governance and environment.

Unlike the Harvard Project, the workshop participants were not elites close to the political arena but young talented professionals with leadership potentiality, including women. They were selected from South Asian countries, especially from India and Pakistan. Dr. Stephen Cohen explained the reasons why he invited young professionals so that it is distinct from other Track Two Diplomacy activities. First, through the workshop, participants who were projected to be leaders in their countries were formed as cadres of peace in certain issues. It was anticipated that in the near future when they obtained high positions in public or private domains, they would spread peace in the region. Second, young people were more open and tend to accept new ideas and new ways of thinking more readily, even if it came from their adversary. As can be seen these features were in contrast with those of older people with high rank positions. These older people were seen as inflexible and intoxicated with the government's narrative of thinking, making them unable to generate new ideas and new ways of thinking. Third, in terms of cost, programs for young people cost less than for senior people with high rank positions. It did not matter if they flew in economic class or stayed in low-cost hotel (Goldberg, 2013). Although the outcome of the workshop was not instant in transforming the existing public policy but in the long-term it may impact on policy change when the participants hold positions which are closer to the social and political spectrums.

Although the workshop conducted to avoid political and sensitive issues, the activities did not run smoothly. Fundamentally, the activities depended on the degree of the conflict situation between India and Pakistan. For instance, when the organizer planned to carry out workshop at the same time the crisis between the two countries increased, the Pakistani government rejected foreign participants' visa applications. On the other hand, when the workshop took place in India, Indian police interrogated participants and even interfered in the activity processes. Of course, these experiences made participants uncomfortable and affected the proceedings of the process. To avoid Pakistani and Indian government intervention, some meetings moved to a neutral place including China and Sri Lanka (Goldberg, 2013). Overall, the youth-to-youth dialogue produced positive impacts. It was predicted in the long run that when the youth were in power, they would make better measures aimed at resolving the conflict.

3. 4. 3. The ASEAN-ISIS

The ASEAN-Institute of Strategic and International Studies (ASEAN-ISIS) is a unique experiment of Track Two Diplomacy based on three premises. First, this experiment is not designed to solve particular conflicts like Israel-Palestine and India-Pakistan but to be a contributor of recommendations for ASEAN's policy. Second, ASEAN-ISIS is composed of research institutions within ASEAN with private status or relatively free from government influence. Third, unlike the players of Track Two Diplomacy which do not need registration, ASEAN-ISIS is registered as an ASEAN's NGO. This uniqueness enriches the practice of Track Two Diplomacy.

The establishment of ASEAN in 1967 and the slowdown of its development in the 1970s and mid of 1980s, generated the need for policy analysis to revitalize its activities. Meanwhile, the SEAN Secretariat lacked staff to conduct policy research and to act as advisory functionaries (Stone, 2011). This condition provided an opportunity for think tanks as well as university researchers in Southeast Asia to supply research and policy analyses to ASEAN on economic and security cooperation. With this in mind, Jusuf Wanandi from Centre for Strategic and International Studies of Indonesia in 1984 initiated a program of building an informal network of Southeast Asia scholars. This network of scholars included leading figures from strategic studies institutes. Based on personal friendship among scholars, they proposed to establish ASEAN-ISIS. In 1988 ASEAN-ISIS was founded by five institutes of strategic studies including Centre for Strategic and International Studies – CSIS Indonesia, Institute for Strategic and International Studies – ISIS Malaysia, Singapore Institute for International Affairs – SIIA Singapore, Institute for Security and International Studies – ISIS Thailand, and Institute for Strategic and Development Studies – ISDS the Philippines. The institute members of ASEAN-ISIS increased in line with the widening of ASEAN new member countries. ASEAN-ISIS is known as the first experiment in regional networking among scholars and intellectuals to influence policy making in Southeast Asia (Stone, 2011).

The purpose of establishing ASEAN-ISIS was two-fold, idealistic and pragmatism. The idealistic rationale is related to development approaches aimed at promoting regional cooperation outside the government framework and providing input to ASEAN from a non-state actors' perspective on peace and

security. Meanwhile, the practical rationale is connected with attempts at strengthening coordination in the conduct of strategic and international researches as well as intensified communication among ASEAN scholars and analysts (Aguilar, 2008, pp. 47-48).

ASEAN-ISIS has three main activities aimed at providing analysis and interpretation for ASEAN as well as ASEAN members' government. There are the Asia Pacific Roundtable (APR) for Confidence Building and Conflict Resolution, the SEAN-ISIS Colloquium on Human Rights (AICOHR), and the ASEAN People's Assembly. The APR, which started its activity in 1987, is the largest dialogue forum to discuss security and sensitive issues and to provide recommendation for ASEAN and ASEAN member's governments. Since 1994, ASEAN-ISIS initiated discussions on human rights issues through AICOHR. It showed that ASEAN-ISIS has moved beyond traditional security issues such as inter and intra-state conflicts and arms races. In order to accommodate the interests of civil society, ASEAN-ISIS convened the ASEAN People's Assembly in 2000, a gathering event of NGO's leaders and activists from grassroots organizations throughout Southeast Asia (Aguilar, 2008).

The remarkable outcome of ASEAN-ISIS is the establishment the ASEAN Regional Forum. Facing the security uncertainty in the Post-Cold War, ASEAN-ISIS enlarged its scope of activities in the Asia Pacific region by establishing ARF in 1993. This forum provides dialogue for security issues and Confident Building Measures (CBMs) in the region.

3. 5. Confidence Building Measures

The main purpose of conducting Track Two Diplomacy is to establish Confidence Building Measures. The phenomenon of CBMs is not new in security studies. This phenomenon can be traced back to ancient Greece. However, up to now, there is no single definition of CBMs. Basically, CBMs are developed to reduce tensions and suspicions between and among adversaries. In the Cold War era where military tensions escalated between the West and the East blocks, the concept of CBMs was used in the military context in terms of arms control and disarmament.

As tools for reducing tensions and suspicions as well as for building trust between and among adversaries in the military context, CBMs need concrete measures. There are various concrete measures developed during the Cold War such as communication, constraint, and transparency (Zulfqar, 2013; Luhulima, 1999). Communication means the establishment of communication channels among political leaders or military commanders such as effective arrangements of hot-lines for crisis management purposes. Constraint measures include abstaining from provocative military actions in border areas, enacting demilitarized zones and conducting routine inspections. Transparency measures refer to the openness and accountability of military capability in the following areas: military expenditures, strength and deployment of arms forces, notification before conducting military maneuvers and military exercises.

The concept of CBMs was codified for the first time in the Helsinki Final Act, signed on 1 August 1975 by 33 European states, United States of America

and Canada. The Act was a culmination of the first Conference on Security and Cooperation in Europe as a détente between East and West blocks. The term CBMs became commonly used to describe mutual agreements between and among adversaries for reducing the risk of unintended war and particularly the risk of surprise attack (Mahiga & Nji, 1987).

Since the Helsinki Final Act, scholars in security studies tried to define the concept of CBMs, its scope as well as its objectives. United Nations, for example, states that the ultimate goal of CBMs is “to strengthen international peace and security and to contribute to the development of confidence, better understanding and more stable relations between nations, thus creating and improving the conditions for fruitful international cooperation” (United Nations, 1982, p. 6). Based on the UN’s statement, the scope of CBMs is not only on military context but includes non-military matters as well. (Holst, 1983).

Since the end of the Cold War, with the European experiences, CBMs have been increasingly applied to other regions with some modifications, including the Asia-Pacific region. The application of CBMs in the Asian context which relies only on specific actions and agreements to build trust among adversaries is not adequate. Aileen Baviera proposes that CBMs in the Asian context should be broadened to include the Confidence Building Process (CBP). Indeed, CBP might be considered as an expansion of the concept of CBMs. The CBP process encompasses the enactment of high-level dialogues, institutionalized cooperation in various fields, engagement of economic, socio-cultural and other relations to pave the way for political cooperation. In the Southeast Asia context,

it is combined with important informal structures and personal relationships. ASEAN for example, is the most successful multilateral cooperation mechanism produced by CBP in Southeast Asia (Baviera, 2001). The following table 3.1 shows various typologies of CBMs.

Table 3.1. Typologies of CBMs

CBMs	Unilateral	Bilateral	Multilateral
Military CBMs			
1. Communications		Hotlines, regular bilateral dialogue	Track two dialogues
2. Transparency	Defense white paper, arms registry, notification measures	Observance at military exercises, intelligence exchange	Common outline for defense publication
3. Consultation		Joint commission	ARF, ASEAN Senior Officials Meeting
4. Goodwill	Policy of non interference in internal affairs	Visits, cross-training, code of conduct	Code of conduct
5. Constraints	Rules of engagement, no first strike declaration, troop reduction	Non aggression agreement, troop reduction agreement	Disarmament and demilitarization agreements
Economic CBMs	Aids, investment	Preferential terms of trade, free trade area, joint development	Free trade area, joint development
Socio-cultural CBMs		Increase people to people links, joint activities	Joint activities
Political CBMs	Curbing propaganda	Contacts between political parties, parliaments, judiciary	Contacts among political parties, parliaments, judiciary

Source: Adopted from Baviera. (2001, p. 4).

It should be noted that CBMs have no direct link to conflict resolution, but they create an environment conducive to negotiate the conflict issues. Without the creation of confidence between and among adversaries, as well as common language and set of symbols, action towards conflict resolution is not sustainable (Steinberg, 2004). Therefore, it is essential to start with dialogue in less problematic matters. Such dialogues can assume many forms such as academic conferences, workshops and joint research projects, meetings between journalists, leading military to military meetings, political exchange, and discussions on threats perception as well as analysis of 'white paper'. After the dialogues, mainly through Track Two Diplomacy, CBMs can be elevated to the functional cooperation level in politically less sensitive areas (Steinberg, 2004).

3. 6. Conclusion

The practices of track Two Diplomacy increased in the end of the World War II and continued in the Post-Cold War period in line with the dynamic conflicts characteristic in that era. Track One Diplomacy as a spear-head of conflict settlement was unable to handle the various complex conflicts that emerged after the World War II such as the Israel-Palestine conflict and the India-Pakistan conflict. However, it needed the complementary support offered by Track Two Diplomacy whose main goal is to reduce tensions, open communication as well as create CBMs to pave the way for formal negotiation.

Notably, Track Two Diplomacy has developed a popular instrument, namely, Problem Solving Workshop which provides the conflicting parties a forum to communicate with each other in order to seek solutions of conflict. New

ideas and formulas of the solution generated from Track Two Diplomacy will influence both the policy maker (vertical influence) and the society (horizontal influence). However, Track Two Diplomacy has some limitations associated with the capability of participants, condition of domestic environment and regional context. These limitations should be taken into consideration for the third party or initiator of the Track Two Diplomacy to organize the meetings so it could obtain maximum outcomes.

Track Two Diplomacy is not an instrument for resolving the conflict, but merely serving an avenue to create the conducive atmosphere to hold further negotiation. Therefore, it is impossible to expect instant outcomes for conflict resolution. The main contribution of Track Two Diplomacy is the process of dialogue which allows parties develop a common understanding of the issues at hand.

CHAPTER FOUR

THE BACKGROUND OF THE SOUTH CHINA SEA CONFLICT

4. 1. Introduction

The South China Sea (SCS) has been a center of economic activity since ancient times. Kingdoms surrounding the sea used this water as their connector in terms of trade. The strategic position of the SCS attracted Western colonial powers to compete and broaden their influence in the region. As a matter in the modern era, competition for controlling the SCS has increased since the 1970s. Not surprisingly, six States have been trying to claim sovereignty and jurisdiction over all or parts of the SCS. On one hand, China, Taiwan and Vietnam claim sovereignty and jurisdiction over the entire of the SCS whilst on the other hand the Philippines, Malaysia and Brunei have claims over some parts of the SCS, particularly in the Spratly Islands. All the claimants have presented arguments in justification of their claims.

This chapter provides the background of the SCS conflict. The first section discusses briefly the history of the conflict since ancient times. The second section examines the current crisis in view of the strategic importance of the SCS as reflected by its strategic location, huge potential for the existence of oil and other mineral resources, as well as its abundant environmental and ecological resources. The third section describes the regulatory impact of the UNCLOS in the SCS. The

fourth section analyzes the arguments of each state's claims of sovereignty and jurisdiction in the SCS. The last section explains the impact of the conflict on the Southeast Asian regional stability.

4. 2. Brief History of the Conflict

Basically, the conflict of the SCS arose from the vagueness of sovereignty and jurisdiction of maritime demarcation. The vagueness was deeply rooted a long time ago. Although historical factors are not important in sustaining a legal resolution of the conflict, they will play a certain role (Valencia, 1997). The history of the conflict in the SCS area can be divided into five periods, namely, Pre-colonial, Colonial, the World War II, the Cold War and the Post-Cold War period.

4. 2. 1. Pre-colonial Period

Since ancient times, the SCS has been the main waterway that connects the kingdoms around the sea. China has claimed that since the Han Dynasty (206-220 AD), its ships sailed across the SCS (Valencia, 1997). Goods such as silk and porcelain from the north (China) were transported to the south through the SCS and then distributed to India, Persia and the Middle East. Similarly, commodities from the Middle East were also transported to China through the SCS. Ships from Southeast Asia kingdoms also used the SCS to transport their trade goods. Since the 7th century, Sriwijaya, the biggest maritime kingdom in Southeast Asia, located in Sumatera Island, used the SCS as the main waterway for trading activities.

It is well acknowledged that from the 12th to the 15th centuries Chinese ships dominated the SCS. Chinese ships' voyagers recorded their journeys into notes, maps and books. They also named the islands in the SCS, such as Tsungsha, Xisha and Nansha (Pratas, Paracel and the Spratly Islands). These historical records were used by China and Taiwan to sustain their claims of sovereignty over the islands in the contemporary era. Throughout this time and before Columbus found America, the great Chinese voyager Zheng He had already reached Africa. He voyaged several times through the SCS (Elleman, 2009).

After the 15th century under Yong Lo an Emperor from the Ming dynasty, China changed its orientation from maritime to continental. This provided an opportunity for the Vietnam kingdom to develop commercial power in the SCS. Consequently, the Nguyen Dynasty from Vietnam began to establish its naval and commercial power around the sea (Till, 2009). Coinciding with the Vietnamese domination, western powers came to Southeast Asia and East Asia, ostensibly for commercial purposes, but later changed course by pursuing colonial designs. The first western power to enter Southeast Asia was Portugal. The Portuguese took over two important commercial harbors, Melaka and Macao in 1511 and 1557 respectively. Then the Dutch came to Southeast Asia and established an important port in Batavia. The Spanish also landed in the Philippines and then gave these islands to the United States in the aftermath of Spanish-American War of 1898 (Tonnesson, 2002a). Since then, western ships have continued to dominate the waters of the SCS.

In the 18th century, two western naval powers, Britain and France, came frequently to the SCS region. Equipped with superior ships and better cannon guns, these two powers displayed their naval supremacy to the local powers. British constructed Singapore as a port, acquired Hong Kong and colonized the Malaya Peninsula and northern part of Borneo. On the other hand, France neutralized Vietnamese power and then colonized the whole of Indochina. After the Opium War between Britain and China in 1839-42 and 1856-60, western powers entered Mainland China and triggered the period of China's humiliation.

4. 2. 2. Colonial Period

The Western powers entry in the SCS not only brought firepower, silver, gold and opium, but also introduced the concept of sovereignty. They drew a crucial distinction between land and sea. Land was to be divided into territories with mapped and demarcated borders. The sea should be free for all, except for narrow line territorial waters along the coast. During this time, the western concept of sovereignty was unknown in the eastern kingdoms or the Orient. The Chinese concept of sovereignty, for example, was based on the tributary system in which the space border was less important (Suganuma, 2000).

By the 19th century, most territories around the SCS were British, French, Dutch and Spanish/American colonies. These colonies made the local kingdoms sign treaties, re-map and demarcate land and sea territorial borders under their sovereignty. For example, in 1887 China and France signed a treaty to divide the land border between China and France's Indochina and also to divide coastal islands in the gulf of Tonkin between China and Indochina (Trost, 1990).

The western powers were not much interested in the tiny islands and the features stretching in the SCS. These barren islands were invaluable for economic reasons and also a danger zone for navigation. Only the British took an interest in the islands and named one of them the Spratly Islands. The Spratly name was taken from Richard Spratly, a British captain who explored the islands in 1840 (Ming, 1990). In 1870 a group of merchants from northern Borneo, a British protectorate, asked the British ruler permission to exploit guano in Spratly and Amboyna Cay. Consequently, the two islands were claimed under British sovereignty in 1877. This was probably the first time a western-model of legal claim was enacted in the Spratly Islands. From 1877 until 1933 the islands were incorporated under British colonial territory (Tonnesson, 2002a).

Japan came to the SCS after defeating China in the 1894-5 war. Then, Japan annexed Formosa/Taiwan Island and started to spread its influence in countries around the SCS. Interestingly, Japanese merchant companies in Taiwan competed to exploit guano in the Paracel and Spratly Islands, but without making formal claims (Kao, 2011).

The presence of Japan in the Paracel and Spratly Islands pushed France to take an interest in the two groups of islands. In 1930 France declared its formal position in the Spratly Islands and occupied Itu Aba, the largest island. However, there was no adverse reaction from the British. Afterwards, in 1933 France formally announced its possession of the entire of Spratly Islands to the world. Japan protested against French occupation of an area where Japanese companies had for several years exploited guano and phosphate (Catley & Keliat, 1997).

4. 2. 3. The World War II Period

In 1939, the eve of World War II, Japan established a military presence in Paracel and Spratly Islands. Later, Japan made a formal claim to the two groups of islands as part of the Japanese empire. As a result, Japan made a move to establish a submarine base in Itu Aba. Granted that, during the World War II in 1942, Japan launched attack to the Philippines and most countries in Southeast Asia and occupied them, including the whole of the SCS (Catley & Keliat, 1997).

During World War II, on December 1, 1943, three great leaders: Roosevelt (America), Churchill (British) and Chiang Kai-shek (Republic of China/ROC) met in Cairo in order to stop Japanese occupation. They issued the Cairo Declaration indicating that Japan had stolen territories from China such as Manchuria, Formosa and Penghu Islands, and that these territories should be restored to the Republic of China (Suganuma, 2000). However, the declaration was silent on the islands in the SCS.

Meanwhile, Japan still insisted on establishing “The Great East Asia Co-prosperity Sphere”. Once again, the three powers issued the Potsdam Declaration on July 26, 1945, demanding Japanese surrender. After the Americans landed in Okinawa and dropped atomic bombs in Hiroshima and Nagasaki, Japan officially surrendered on August 15, 1945 and accepted the provisions of both the Cairo and Potsdam Declarations (“Cairo and Postdam Declaration”, n. d.).

World War II ended with America standing victoriously as the new dominant naval power in the SCS. However, America expressed little interest in occupying the Paracel and Spratly islands. The most active party was ROC under

Chiang Kai-shek. He sent a naval expedition to the Paracel and the Spratly Islands in 1945-6, and then established permanent presence on Woody Island, the biggest island in Paracel and Itu Aba Island (Hoyt, 1994). In 1947, ROC published a map with nine dotted U-shape lines highlighting its presence on the SCS as seen at figure 4.1.

Figure 4.1. Map of U-Shaped Lines of the South China Sea



Source: Tonnesson. (2000, p, 310)

The U-shaped lines were first drawn by Hu Jinjie, a Chinese cartographer, in December 1914. In 1947 Bai Meichu redrew the U-shaped map and became an official map of the ROC and claimed that the areas within the line were Chinese

historical waters. The U-Shaped lines figured out that the SCS was “Chinese-lake” (Hangyu, 2003).

The ROC government then ordered its Ministry of Internal Affairs to promulgate its authority over the Paracel and the Spratly Islands by providing a detailed description of the islands, demonstrate sovereignty over the islands, and ensure the public notice the ROC’s authority over the islands. To ensure the presence, the ROC’s Navy established stations on the islands (Ming & Dexia, 2003).

The U-shaped lines map became the standard map concerning the SCS both for Taiwan and China until recent times. Nonetheless, its legal status has never been clarified. This map remains unclear if it is meant as a claim only to all the islands within the line, or if it also should be seen as a claim to the sea and sea bed as Chinese historical waters (Elleman, 2009).

In October 1949 the Chinese Communist Party under Mao Zedong won the Civil War after defeating China’s nationalist government (ROC) led by Chiang Kai Shek and proclaimed the People’s Republic of China. The Chiang Kai Shek’s government fled to Taiwan Island (formerly Formosa) and consolidated its power from this island. Shortly afterwards, the ROC’s troops stationed in the Paracel and Spratly Islands were withdrawn to Taiwan Island (Tonnesson, 2002a). Since then, there have been two governments of China, the PRC in mainland and the ROC in Taiwan. The PRC has gained more international recognition since 1971 when it replaced the ROC’s position as the permanent member of the United

Nations Security Council and continues to lay claim of the ROC as a province of the PRC.

4. 2. 4. The Cold War Period

After the World War II, two states which have played important roles in the SCS conflict were born. First, the Republic of the Philippines obtained its independence from the United States in 1946. The Philippines' nationalist wing wanted to claim the Spratly islands as part of the new republic territory, but the United States refused to give its blessings. According to the Spanish-America Treaty of 1898, the western part of the Philippines did not include the Spratly Islands (Tonnesson, 2002c). Second, the Democratic Republic of Vietnam proclaimed its independence in September 1945 by Ho Chi Minh. Vietnam's proclamation was followed by the Vietnamese-French war which ended in 1954 with the defeat of France.

In the Geneva Agreement, signed in August 1954, Vietnam was divided into the Democratic Republic of Vietnam (North Vietnam) which was under socialist-communist influence in the north with Hanoi as its capital city and the Republic of South Vietnam (South Vietnam) under liberal-capitalist influence in the southern part of Vietnam with Saigon as its capital city. In the 1960s the two states of Vietnam jumped into war as a reflection of the ideological conflict during the Cold War. In 1975 North Vietnamese troops entered Saigon, (signaling the defeat of South Vietnam and its major ally the US) and in 1976 Vietnam was unified.

In 1973, two years before Saigon fell, South Vietnam had taken the Paracel and Spratly Islands under the administration of Southern Vietnam province. To bolster their move South Vietnam sent troops to occupy some islands in the two Islands. However, the North Vietnam regime supported China's claim over the SCS and did not oppose China's move to send troops to the Paracel in order to attack the South Vietnam government. Ironically, when North Vietnam successfully unified Vietnam into one state, Hanoi adopted South Vietnam's policy toward the SCS. Vietnam Premier Pham Van Dong explained this change of heart by indicating that Hanoi previously supported China's position in the interest of maintaining Sino – Vietnamese cooperation against the United States, but now the circumstances had changed (Roy, 1998). South Vietnam's troops, which occupied some islands in the Paracel and Spratly Islands, were replaced by North Vietnam's troops. The relations between Vietnam and China, of course, deteriorated. Furthermore, Vietnam leaned more on the Soviet Union as its security guarantor.

In 1951 at the San Francisco Peace Conference where the two Chinese governments were absent, Japan formally released its claim on Hainan Island, Taiwan Island, and all other islands in the SCS, but it did not mention to whom these islands were ceded (Severino, 2010). To make it clear, Taiwan made a treaty with Japan in 1952. The Taiwanese government managed to persuade Japan to accept renouncement that Taiwan, Peng-hu, Paracel and Spratly islands belonged to the Taiwan. Shortly afterwards, France and Japan exchanged letters to the effect of the Taiwan-Japan Treaty. According to Japan, the treaty had not entailed any change in relation to the San Francisco Treaty (Tonnesson, 2002c).

In 1947, the Philippines' marine activist, Thomas Cloma, conducted an expedition to survey the islands laid on the western part of Palawan Island. He found islands, cays and coral reefs for fishing grounds with a total area approximating 64,976 nautical miles and started to establish settlements (Catley & Keliat, 1997). This group of islands is laid on the south-western part of the Spratly Islands. In 1956 Cloma asserted that their discovery was *terra nullius*, a territory without an owner. Cloma named this area Kalayaan islands (Freedom land). Cloma's act and his claim over the islands in 1956 triggered massive protests. Taiwan sent a force to expel Cloma from the islands but Cloma had already left (Shicun, 2013). Soon Taiwan re-occupied Itu Aba Island and made a permanent occupation until now.

Since the Philippines promulgated Kalayaan as part of its territory in 1971 and reiterated it through a Presidential Decree no. 1596 in 1978, the scrambled occupation over the Spratly Islands began (Austin, 2003). The Philippines deployed its troops in Kalayaan and demanded that Taiwan withdrew from Itu Aba. The Philippines' move attracted protests from South Vietnam, China and Taiwan, which refused to withdraw its troops. In 1973, South Vietnam adopted an aggressive policy signaling its effective presence in the Spratly, by establishing military outposts on five islands. Then, ten features were incorporated into its administrative system as part of the Phuoc Tuy province (Buszynki, 2010).

Malaysia was the next actor to jump into the SCS conflict. In 1979 Malaysia published a new map indicating that twelve features laying on the southern part of the Spratly Islands and north of Malaysian Borneo belonged to

Malaysian territory as they are within Malaysia's continental shelf. The names of the features are Amboyna Cay, Commodore Reef and Swallow Reef (Chin, 2003).

In 1984 China incorporated the Spratly Islands into its administrative system. In 1987, China decided to act upon the recommendation from UNESCO of building two permanent oceanic observatory posts in the Spratly Islands in order to help international shipping. As a result the Peoples Liberation Army – Navy (PLA-N), the Chinese navy, embarked ships to survey the islands. In 1988 China began to build permanent observation posts in Fiery Cross Reef. The PLA-N also conducted military exercises in this area (Odgaard, 2002).

In response to the Chinese activities in the Spratly Islands, Vietnam expanded its presence in the area. Vietnam sent troops to the Spratly Islands in 1987 and 1988, occupied more islands and reefs and conducted military exercises with greater frequency. Thus, a friction between China and Vietnam was inevitable. Chinese movement also ignited military skirmishes with Vietnam in Fiery Cross Reef and Johnson Reef. In 1988 three Vietnamese ships were sunk and more than 70 Vietnamese soldiers were killed or drowned (Hoyt, 1994). Some of these military skirmishes enabled China to occupy seven islands in the Spratly islands. During these battles, the Soviet Union which had naval base in Cam Ranh Bay maintained a neutral position. However, Moscow advised both China and Vietnam to resolve their conflict peacefully. With this in mind, the Chinese Foreign Minister Qian Qichen said that Chinese activity in the Spratly was a scientific survey, entirely for peaceful purposes. The purpose according to Qichen

was to monitor the sea, and this action is also designed to meet the provision in a resolution passed by one of the organizations of the UN (Chanda, 1992).

4. 2. 5. The Post Cold War Period

The Post-Cold War Period was marked by the withdrawal of the Soviet Union from its military base in Vietnam. Several years later in 1989, the Soviet Union collapsed. In a related development, America also withdrew its troops from its military base in the Philippines. Consequently, there was a vacuum of super power in the SCS. As can be seen Vietnam and the Philippines lost their super power back-up. Undoubtedly, this provided China the opportunity to flex its muscle and occupy the SCS Islands.

Since 1990, China has rushed to occupy more islands in the Spratly Islands, including building a permanent structure in Fiery Cross Reef and other islands. Moreover, China intensified regular patrols and naval maneuvers there. Each year in the spring, for example, China's destroyers, frigates and submarines conduct exercises in contested waters in the conflicted area (Odgaard, 2002).

In February 1992 Beijing released a new law entitled the 'People's Republic of China on the Territorial Waters and Contiguous Areas'. This law reiterates China's claim over the SCS and asserts the right to use force to protect the islands and its surrounding waters. The law became a legal umbrella for the PLAN to take further actions in the SCS ("China testing the water", 1992).

Following the promulgation of the law, in May 1992 China granted an oil exploration concession to the United States-based Crestone Energy Corporation in

the Vanguard Bank, a zone which is also claimed by Vietnam. Randall Thompson, president of Crestone Energy Corporation, stated that Beijing had vowed to defend the American crew with full Chinese naval guard (Lee Lai To, 1999). Furthermore, by 1992 Vietnam occupied more features and positioned 1000 soldiers, sailors and construction workers on 21 islands and atolls. Vietnam's main garrison was in Sin Cowe Island, equipped with heavy artillery and anti-aircraft guns. Vietnamese officials subsequently said that they would increase the number of features under Vietnamese occupation (Valencia, 1997). In 1994 Vietnam granted an oil exploration concession to Mobil Corporation in an area of the Vanguard Bank which was also claimed by the PRC. Tension between the two claimants in the Spratly Islands was once again rising.

Malaysia also attempted to make its control over various Spratly Islands features more permanently, for instance, by starting to construct a tourist resort on Swallow Reef in 1991 and stationing military personnel on the features under its occupation. It was reported that RM70 million had been spent on this purpose. Malaysia's Defense Minister at that time Datuk Seri Najib Tun Razak said the construction was providing sovereign, strategic and economic benefits besides exercising Malaysia's sovereignty (Prescot, 2010, p. 16).

Disputes among the claimants were heightening along with the increasing number of cases among them, such as the detaining of fishermen. An instructive case occurred on March 25, 1995, when the Philippines navy detained four Chinese trawlers near Half Moon Shoal who were consequently charged with illegal fishing in the Philippines's water territory. In the same month, the

Malaysian navy detained a Chinese trawler because they entered Malaysian territory without permission. In July 1995, two Taiwan's fishing boats were inspected by a Chinese patrol in the Spratly Islands. Meanwhile, the Philippines navy detained 25 Malaysian fishermen off the coast of Palawan in February 1996. In May 1996, Vietnam detained two Philippines fishermen in Cornwallis South Reef, the reef which is claimed by Vietnam (Odgaard, 2002).

In March 1995, the Philippines discovered new military installations built by China in Mischief Reef located in the eastern part of the Spratly near Palawan Island. President Fidel Ramos protested against this move by China. The Chinese Foreign Ministry Spokesman responded by indicating that China had built structures on Mischief Reef, and not a military installation. It was further explained that the structures were developed to provide shelter for fishermen who fish around the Spratly Islands. However, the Philippines and western intelligence discovered that the structures on Mischief Reef are typical guard post and equipped with satellite dish. In view of these developments then President Fidel Ramos stated that the Philippines would defend its claim in the Spratly Islands and ordered its armed forces stationed in the Spratly to be strengthened (Marlay, 1997).

As can be seen by 1999 the claimants, excluding Brunei, occupied several features and garrisoned their troops in the Spratly Islands. China occupied nine features, Taiwan one, Vietnam more than twenty, the Philippines eight and Malaysia three features (Joyner, 1999).

It should be noted that the crucial factor in the SCS conflict is China's behavior which can be explained by two reasons. First, China is the strongest and most powerful state vis-a-vis all other claimants in terms of territorial size, demography, military capability, level of economic growth and position in the UN Security Council as a permanent member. Second, China's claim in the SCS covers the largest area that virtually encompasses the whole area. Thus, understanding China's policy in the conflict area is very important.

Since the declaration of the new Communist republic in 1949, China displays a policy in the SCS that never compromises its sovereignty claims. However, China has developed different approaches to implement its policy. China launched its low profile policy mainly through rhetorical declarations in the 1950s and 1960s. Starting from the 1970s to the mid of 1990s, China conducted an assertive strategy to establish its presence in the occupied islands as well as adding newly occupied islands. This strategy was complemented by a series of military exercises carried out in the contested area. Since the mid-1990s China has adopted a strategy of considerable restraint by practicing a balance of number approaches such as sovereignty, development, and security interests (Mingjiang, 2009). It can be seen that China developed markers or artificial features on some of the reefs, entered into fishery conflicts with Vietnam and the Philippines which caused diplomatic rows with both Hanoi and Manila. Furthermore, China has been consistent and adamant on its declaration that the SCS is an undisputable part of China's territory. At the same time, however, China engaged in multilateral negotiations with other claimants as well as with regional organizations such as ASEAN and ASEAN Regional Forum. China also offered a

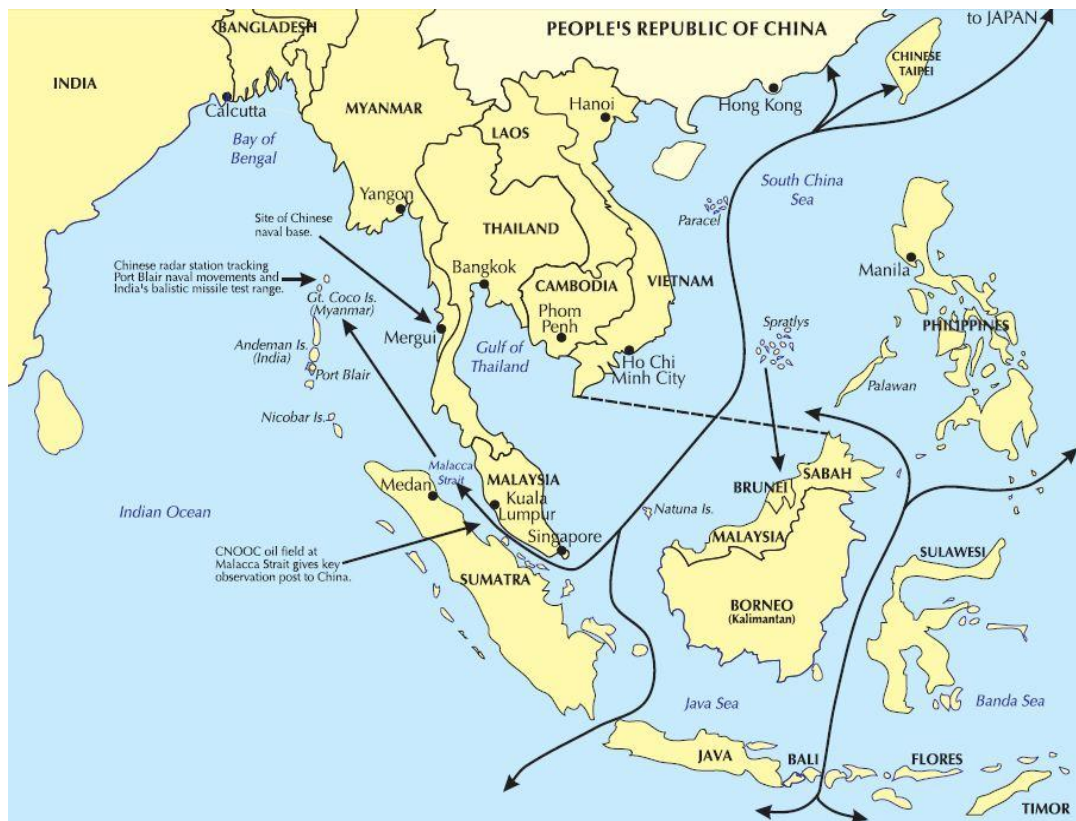
proposal aimed at shelving the conflict through peaceful means and joint development to the littoral states surrounding the SCS (Mingjiang, 2009).

4. 3. The Importance of the South China Sea

4. 3. 1. Geo-strategic location

The SCS is a major hub connecting Indian and Pacific Oceans. Since ancient times, the kingdoms around the SCS benefitted from the sea which enabled them to transport trade goods. The SCS is known as one of the busiest Sea-Lanes of Communication (SLOC) in the world.

Figure 4.2. Map of the Sea Lanes of the South China Sea



Source: Energy Daily (2011, July 23)

Oil and minerals, mostly from the Middle East, are transported northwards through the SCS and distributed to Japan, South Korea, Taiwan and China since

China became an oil importer in 1993. On the other hand, food and manufactured goods are taken southward through the SCS and distributed to the Southeast Asia, South Asia, Middle East and Africa. For instance, 40% of Japan's total exports and imports traversed this sea (Tonnesson, 2002b, p. 59). Therefore, economic and trade activities of many states depend on the SCS.

Laid on a strategic location for SLOCs, the SCS is valuable for military and security aspects. Military forces, which are based in the SCS, particularly on the Spratly Islands, can inspect the movement of both civil and military ships and planes around the sea. During the World War II, Japan used the Spratly Islands as its military base to attack the Philippines and states around Southeast Asia. Throughout the Cold War, the US used this region to support its military activities in applying the containment policy to defend Taiwan and South Vietnam. The Soviet Union also developed military facilities and launched military maneuvers in order to support Vietnam after 1975.

The SCS has nearby 1,800 to 3,000 meters deep, so it could be a strategic outpost for conventional and nuclear weapon-equipped submarines. By hiding under such deep sea, the submarines can launch an attack and difficult for adversaries to detect its location (Catley & Keliat, 1997, p. 70).

4. 3. 2. Environment and Ecology

The SCS has a unique and integrated ecosystem. It is known as one of the richest seas in the world in terms of marine flora and fauna. The sea has abundant fish, coral reefs, mangroves and sea grass. According to a Chinese study, the species in the SCS region vary: 1,027 fish, 91 shrimp in the northern part, approximately

205 fish and 96 shrimp species in the continental slope, and more than 520 fish species around the islands and reefs in the Southern part (Khemakorn, 2006, p. 18).

Fish and other sea animals such as shrimp and crab are sources of protein for humans. The main source of protein for approximately 500 million people who live in the coastal countries of Southeast Asia comes from The SCS (Dokker, 2001). The consumption per capita of fish per year in Southeast Asia countries in the 1990s was above the world average (Wang, 2001). The abundant commercial fishes such as scads, mackerels and tuna live deep down the SCS. Besides providing sources of food, the SCS also granted the people economic activities and source of employment. The Southeast Asia region produces over 8 million metric tons of marine fish annually or 10% of total world's catch and 23% of total catch in Asia. It also ranks as the fourth among the world's 19 fishing zone in terms of total annual marine production (Schofield, 2009, p. 17).

Laid on tropical region, the SCS is rich of diversity on coral reefs. About 30% of the world coral reefs are found in Southeast Asia (Rosenberg, 2009, p. 62). Coral reefs are similar to tropical rain forests in terms of the components. The reefs fix nitrogen and remove carbon in the sea. So, they are the best location for fish breeding and nursing. Coral reefs also display colorful features, providing marvelous scenery under the water. Therefore, coral reefs have been a magnet that is attracting and developing the marine tourism industry.

Mangrove forests with many types of species can be found easily in the coastal area of the Southeast Asia. Mangroves are important to support fishery

productivity as nursery ground for fish and prawns and to protect the coastal area from erosion and storms. The trees also have economic value as they can be used for building materials. Surrounding the SCS are 45 of the 51 mangrove species in the world (Rosenberg, 2009, p. 62).

Sea-grass is an important feature that sustains marine ecosystem. It is also a nursery ground for fish and other marine biotic. Sea-grass also binds sediment to the bottom of the sea to prevent erosion at the sea floor level. The SCS contains 20 of the 50 sea-grass species (Naes, 2002, p. 45).

4. 3. 3. The Potentials of Oil and Natural Gas

The SCS, especially the Spratly Islands' sea-bed, is believed to be rich in oil and gas. In May 1989, the China Geology Newspaper cited a survey report conducted by the Chinese Ministry of Geology and Mineral Resources that oil deposit in the SCS has amounted to about 130 billion barrels. This amount is comparable to 112 billion barrels for Iraq, which ranks as the second largest world oil reserves after Saudi Arabia. Chinese estimates show that SCS had more than 2,000 trillion cubic feet of natural gas reserves. Unsurprisingly, China has labeled the SCS as the "Second Persian Gulf" (Salameh, 1995, p. 134; Leifer, 1995b, p. 44).

However, the precise status of the natural resources present in the SCS is still unknown. In 1995, Russian's Research Institute of Geology for Foreign Countries forecasted that the Spratly area only contained between 6 to 7.5 billion barrels of oil, of which 70% could be gas (Snidal, 2000, p. 32). Another geological survey conducted in 1997 by TGS Nopec, a Norwegian firm, concluded that the Spratly area might contain large reserves of hydrocarbons

(Tonnesson, 2002b). To ascertain how large the deposits of hydrocarbons presenting the SCS there is need to drill the seabed or carry out explorations. Unfortunately, there are a number of obstacles that hinder the conduct of drilling. These obstacles are associated with the geological risk factor as well as the sovereignty conflict or question in the SCS.

Besides oil and gas, the SCS are also rich in guano and phosphate. The German Chambers Commerce reported in 2002 that the SCS is rich in tin, manganese, copper, cobalt and nickel (Lee Lai To, 1999). Another report indicates that the SCS contains 370,000 tons of phosphorous (Chin, 2003, p. 32).

4. 4. The UNCLOS Regulations

The conflict situation in the SCS arose from the overlapping jurisdiction of maritime demarcation and sovereignty over the islands among states bordering the sea. Most of the claimants asserted their claims by basing them on principles of international law, especially the UNCLOS. This sub-section discusses some arrangements of the UNCLOS related to the SCS.

Due to the increasing importance of the sea for economic activities, trade and resources exploration in the modern era, a comprehensive international law on sea is crucially required. The United Nations General Assembly in 1970 decided to formalize a new regulation supervising the usage of the sea since it deemed both the 1959 UNCLOS I and the 1960 UNCLOS II were archaic. Consequently, debate dealing with the formulation of the third law of the sea started in 1973 and ended in 1982 when the UNCLOS was released to be ratified by member states. The 1982 UNCLOS III went into effective since it was ratified by 60 member

states. Madagascar, the 60th state, ratified it on November 16, 1994. The date marked the coming of 1982 UNCLOS into force.

The UNCLOS provides a legal framework governing the rights and obligations of states related to the ocean space and its resources. The UNCLOS also asserted the states to find peaceful solution to disagreements regarding sovereignty over disputed territories. Notably, all claimant states involved in the SCS have ratified the UNCLOS except Taiwan because it is not a member of the United Nations.

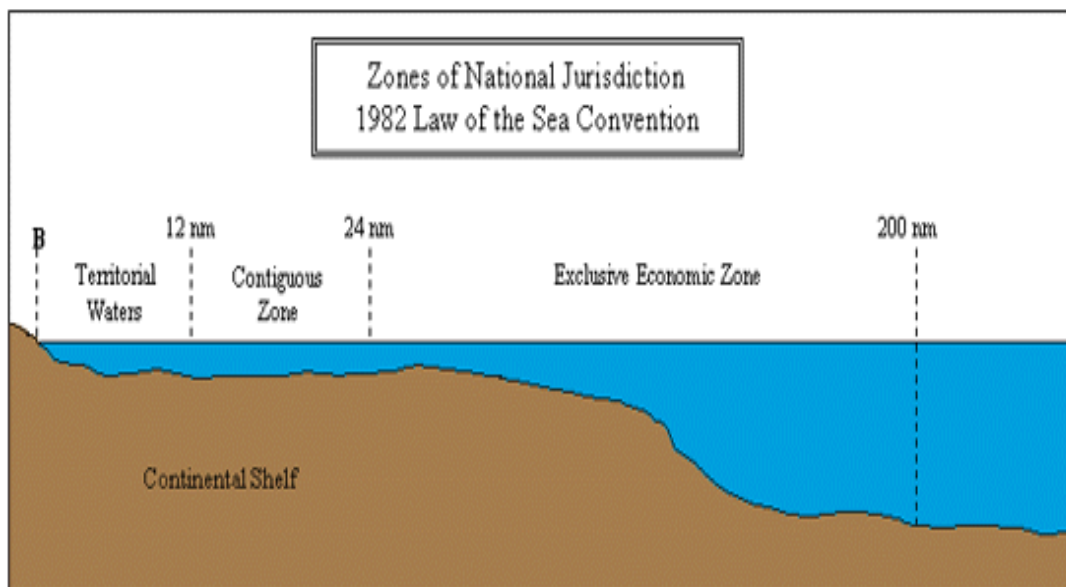
UNCLOS also regulates Territorial Sea, Contiguous Zone, and Exclusive Economic Zone (EEZ). Article 3 stipulates: “Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines” (United Nations, 1982, 27). On the Contiguous Zone, a zone that not extend beyond 24 nautical miles from the baselines as mentioned in article 33, a coastal state may necessarily control it to prevent infringement of its custom, fiscal, immigration and sanitary laws within its territory (United Nations, 1982).

Article 55 passed 75 deals under EEZ concept. According to article 55, the EEZ is “an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention” (United Nations, 1982, p. 43).

The rights and duties of coastal states on the EEZ are described in article 56 (1). They have sovereign rights for exploring and exploiting, conserving and

managing the natural resources of the waters superjacent to the seabed. It is also noted that coastal states are able to conduct marine scientific research, protect and preserve the marine environment (United Nations, 1982). Most importantly, article 57 notes that “the exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured” (United Nations, 1982, p. 47). Figure below shows waters space under the UNCLOS.

Figure 4. 3. Waters Space under the UNCLOS



Source: Chang. (2000)

The UNCLOS also describes the regime of islands. Article 121 defines an island “is a naturally formed area of land, surrounded by water, which is above water at high tide” (United Nations, 1982, p. 66). Furthermore, it also explains that “Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf” (United Nations, 1982, p. 66). Consequently, features in the SCS that cannot sustain human habitation are unable to generate EEZ or continental shelf.

According to the UNCLOS, the SCS is categorized as semi enclosed sea. Article 123 mentions that states bordering the closed or semi enclosed sea should cooperate with one another in the exercise of their rights and in the performance of their duties. The article also stipulates that the states bordering the enclosed or semi-enclosed sea shall endeavor, directly or through an appropriate regional organization to firstly, coordinate scientific research policies and undertake where appropriate joint program of scientific research in the area; secondly, coordinate the management, conservation, exploration and exploitation of the living resources of the sea; and thirdly, coordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment (United Nations, 1982). In other words, the UNCLOS demanded that the states surrounding the SCS should build cooperation in various fields in order to make peace in the region.

The UNCLOS also provides conflict settlement mechanisms in part XV. The conflict settlement was established on the principle that parties would be free to select by agreement any mechanism procedure they desired. Of course, such settlement of conflict should be conducted by peaceful manners (Nguyen, 2006).

The UNCLOS regulations have impacted the SCS conflict, especially on the application of waters space arrangements. The claimants compete to occupy more features so that they could broaden their sea territory as well the EEZ that is rich in natural resources.

4. 5. The Basis of the Claims

4. 5. 1. China's Claim

Compared to all the claimants, China has the most sufficient historical records, maps and cultural relics to sustain its claim on the area (Greenfield, 1992). According to its government, Chinese people discovered some islands in the SCS during the Han Dynasty more than 2000 years ago (“Jurisprudential”, 2000). They discovered the islands through their navigational experiences and then noted them into many books such as *Records of Rarities* by Yang Fu of the Eastern Han Dynasty, *Records of Rarities in Southern Boundary* by Wang Zhen of the Three Kingdoms Period and *A History of Phnom* by General Kang Tai of East Wu State. Chinese people did not only discover and name the islands, but also developed and carried out productive activities such as fishing, sheltering and planting on the islands (“International Recognition”, 2000; Shen, 2002).

Besides recordings contained in many books, official maps of the islands have been published since ancient times. A map published by Yuan Dynasty in the 12th century described that the Spratly islands were laid on its territory. During the Qing Dynasty, many versions of maps were published. All the maps indicated the islands in the SCS were laid under Chinese administrative authority (Shen, 2002). The maps published by foreign countries also showed that the Spratly islands, for instance, belong to China. This proved that foreign countries recognized the Spratly islands and its surrounding waters as Chinese's territory (“International Recognition”, 2000).

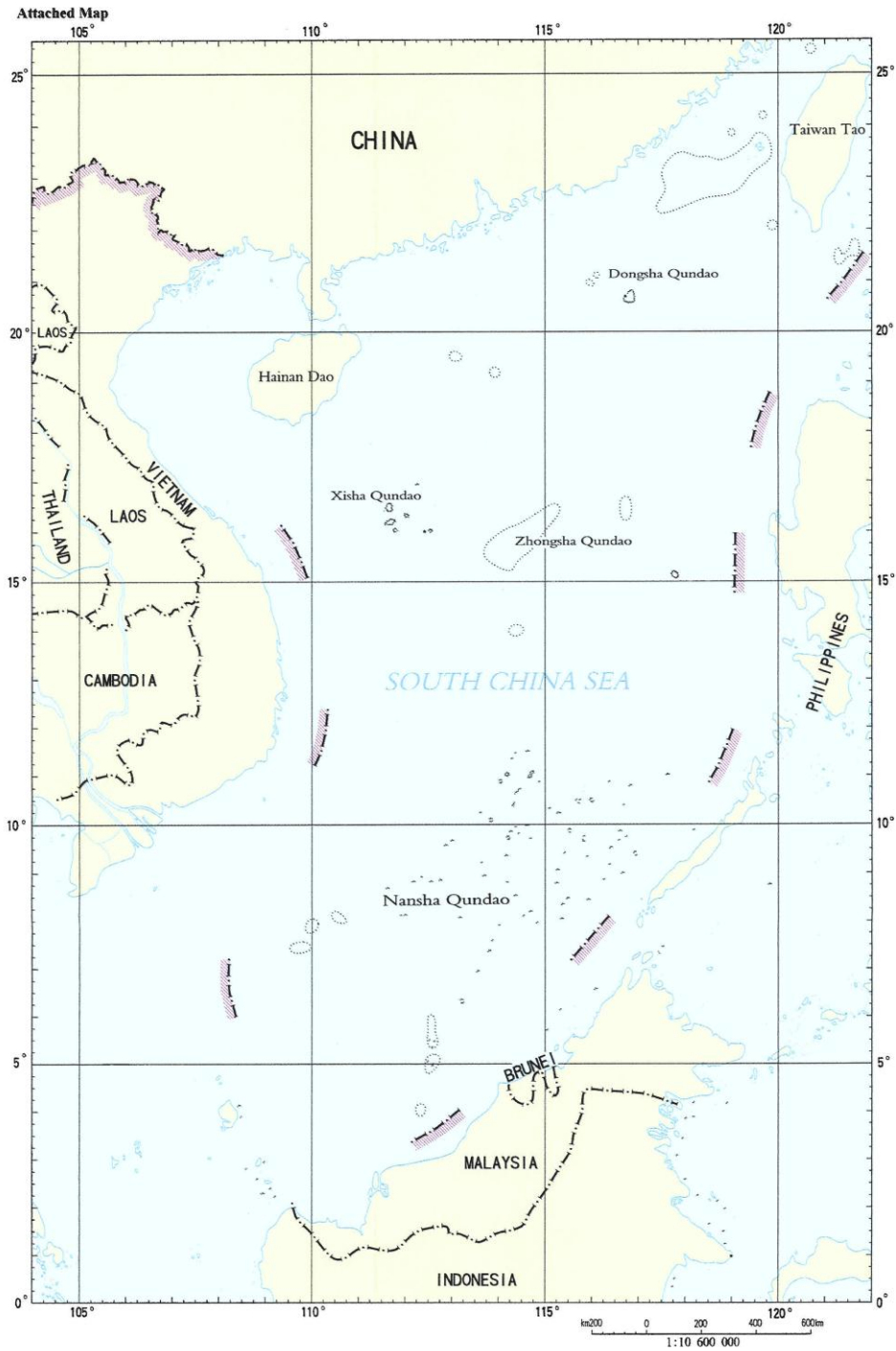
Taking control over the mainland, China published a Declaration on Chinese Territorial Sea on September 4, 1958. The Declaration stated explicitly that the islands in the SCS belong to China. Since then, China has launched a number of legal positions over the SCS such as publishing Law of the PRC on the Territorial Sea and the Contiguous Zone in 1992 (Shen, 2002).

Though China has many historical records, some scholars argued that China's claim is weak. China's authoritative exercises over the islands were only sporadic (Mito, 1998). It did not show a regular pattern of behavior in the islands until 1970s (Valencia, 1997). In addition, China's territorial claim under U-shaped lines as shown by Figure 4.4 below does not have legal argumentation according to the UNCLOS (Tonnesson, 2002a).

4. 5. 2. Taiwan's Claim

Taiwan's claim over the SCS is rooted from the same rationale as China's. It was based on discovery-history and utilization of the island but there is no adequate evidence indicating Taiwan exercising effective administration continuously (Furtado, 1999). Thus, the weakness of Taiwan's claim is the same as China's. In addition, Taiwan's position is weak in international law since Taiwan is not a signatory of the UNCLOS as it is not a member of the UN.

Figure 4. 4. Map of China's Claim in the South China Sea



Source: The Attachment of Note Verbale Permanent Mission of People's Republic of China to the United Nations. (2009, May 7)

4. 5. 3. Vietnam's Claim

Vietnam's claim almost over the entire part of the SCS was based on historical record, visits and administration. Documents during the reign of King Le Thanh Tong (1460-97) indicated that islands in the SCS, particularly the Spratly Islands, were considered to be Vietnam territory (Valencia, 1997). In 1844, France established a protectorate over Vietnam including the Spratly islands and asserted physical control over nine features of the Spratly Islands between 1933 and 1939 (Tonnesson, 2002c). As the French colonial era ended, Vietnam inherited the territory. Figure 4. 5 at page 115 shows Vietnam's territorial claim in the SCS.

Vietnam's claim also contains some weaknesses. First, Vietnamese historical records are poor evidence. Second, it is arguable that Vietnam is a continuation of the French protectorate. Third, official acknowledgement delivered by North Vietnamese Second Foreign Minister Un Va Khiew in 1956 and by Prime Minister Pham Van Dong in 1959 stated that the Spratly islands were under Chinese authority weakened Vietnam's argument based on history (Chin, 2003).

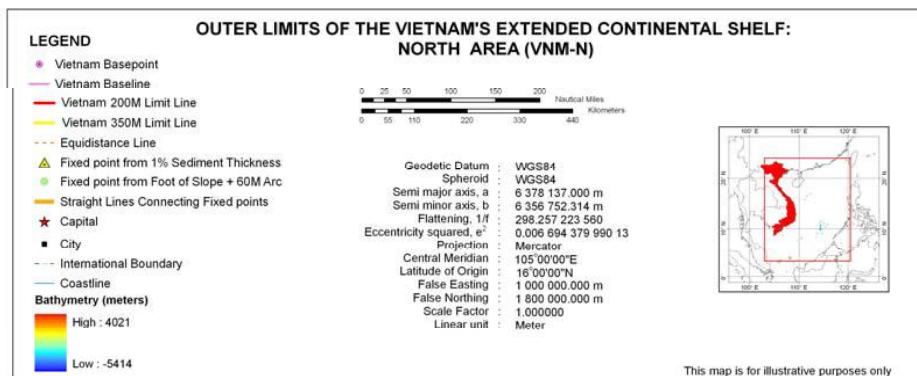
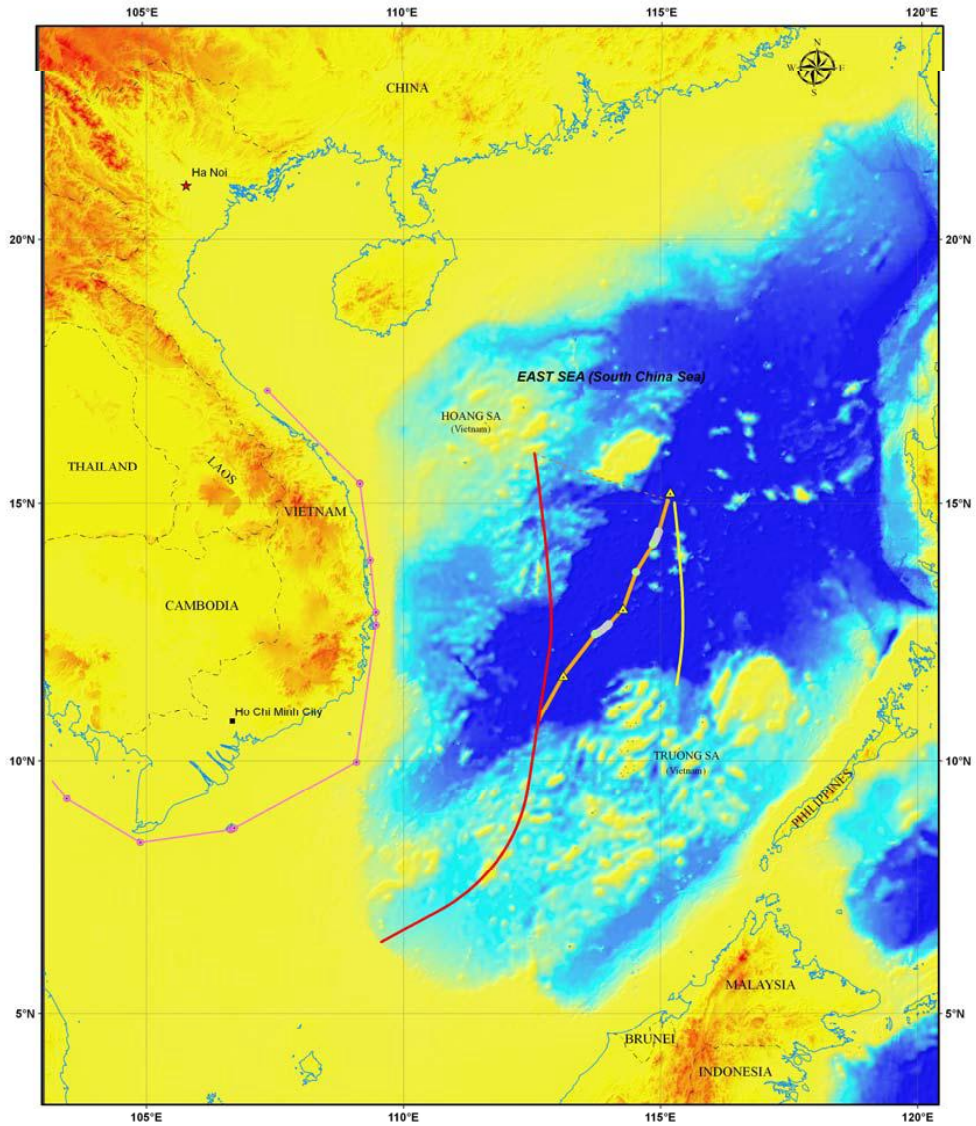
4. 5. 4. The Philippines's Claim

The Philippines claims to the eastern part of the Spratly islands were mainly based on arguments of discovery, security and geographical proximity (Yu, 2001). The discovery reason can be traced back to the Thomas Cloma's finding of *terra nullius*. The security reason was also traceable during the World War II when Japan used the islands to launch attack to the Philippines. The geographical proximity reason is based on the distance from Palawan Island to the eastern part

of the Spratly Islands. It is only 100 kilometers, the nearest distance compared to the other claimants. The Philippines also claims the eastern part of the Spratly islands because it is located within the Philippines's archipelago territory. The Philippines' claim is illustrated in Figure 4.6 at page 116.

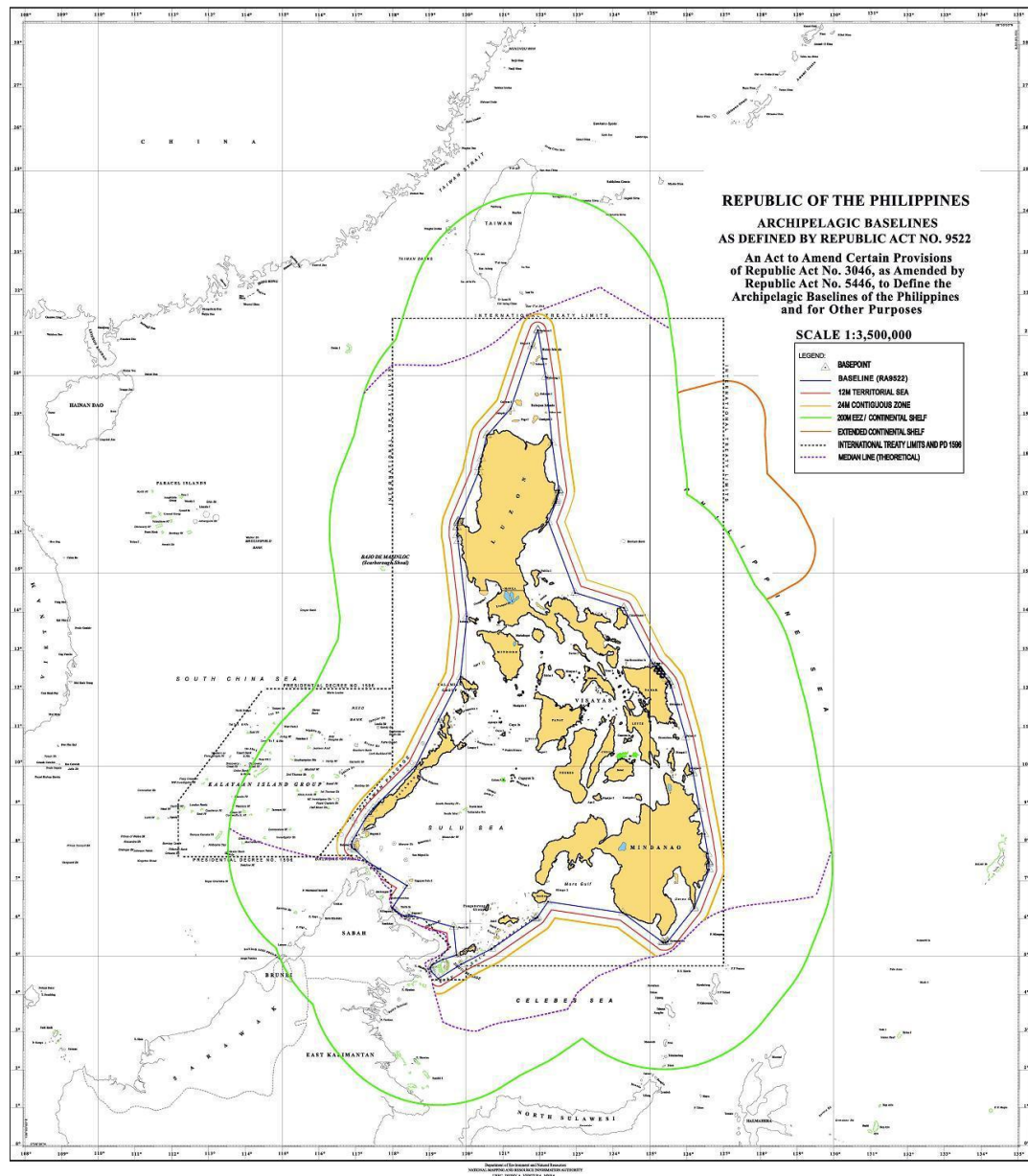
The Philippines' arguments also contain weaknesses. When Thomas Cloma discovered the islands called Kalayaan, Taiwan troops had already made a presence in Itu Aba Island, the largest island in the Spratly. Therefore, *terra nullius* principle was questionable. In addition, Cloma did not raise the Philippines' national flag as a symbol that the islands belonged to his country (Chin, 2003). The Security reason is also questionable since the developments of arms technology, and insecurity factors can possibly come from all places, even from distant places. Thus, the security rationale is invalid. In addition, the eastern part of the Spratly Islands is not connected to Palawan Island because the Palawan Trough separates the islands from the Philippines archipelago. This condition makes geographic proximity also questionable (Chin, 2003).

Figure 4. 5. Map of Vietnam's Claim in the South China Sea



Source: Socialist Republic of Vietnam. (2009, April)

Figure 4. 6. Map of the Philippines' Claim in the South China Sea



Source: Bautista. (2011, p. 40)

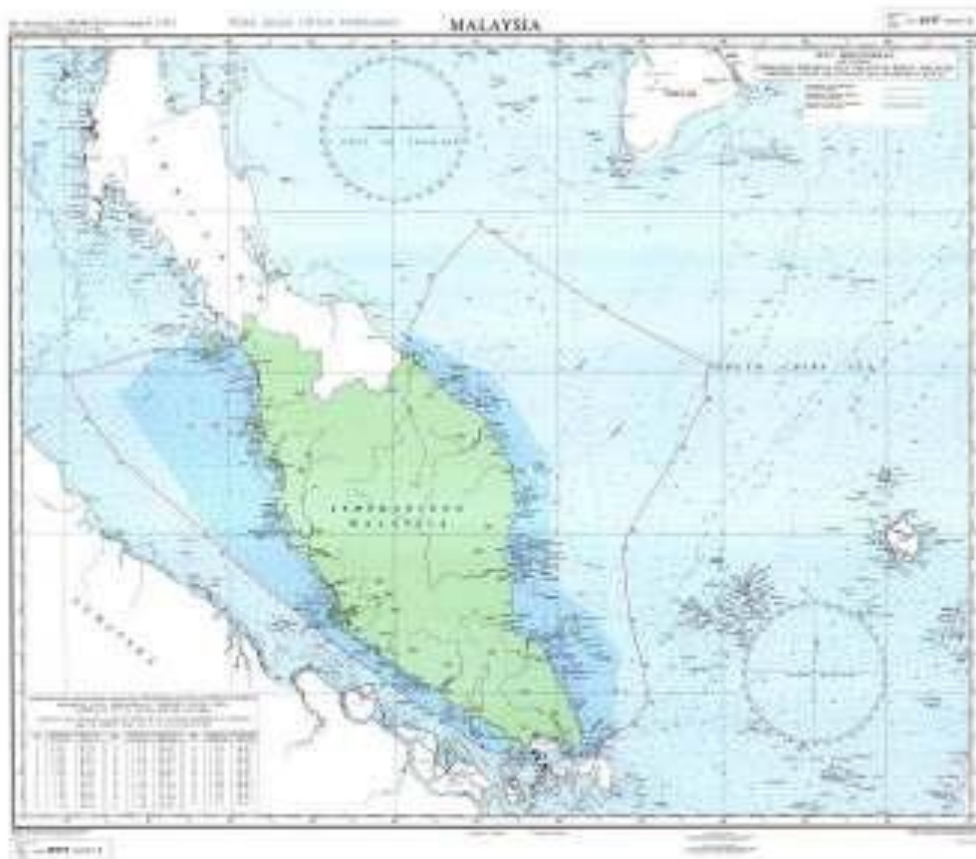
4. 5. 5. Malaysia's Claim

Malaysia is a new player in the Spratly Islands conflict. Malaysia got involved in the conflict in 1979 when its government released an official map encompassing

the southern part of the Spratly islands as part of the state's continent shelf and EEZ. The figures 4. 7 and 4. 8 below show the maps of West and East Malaysia.

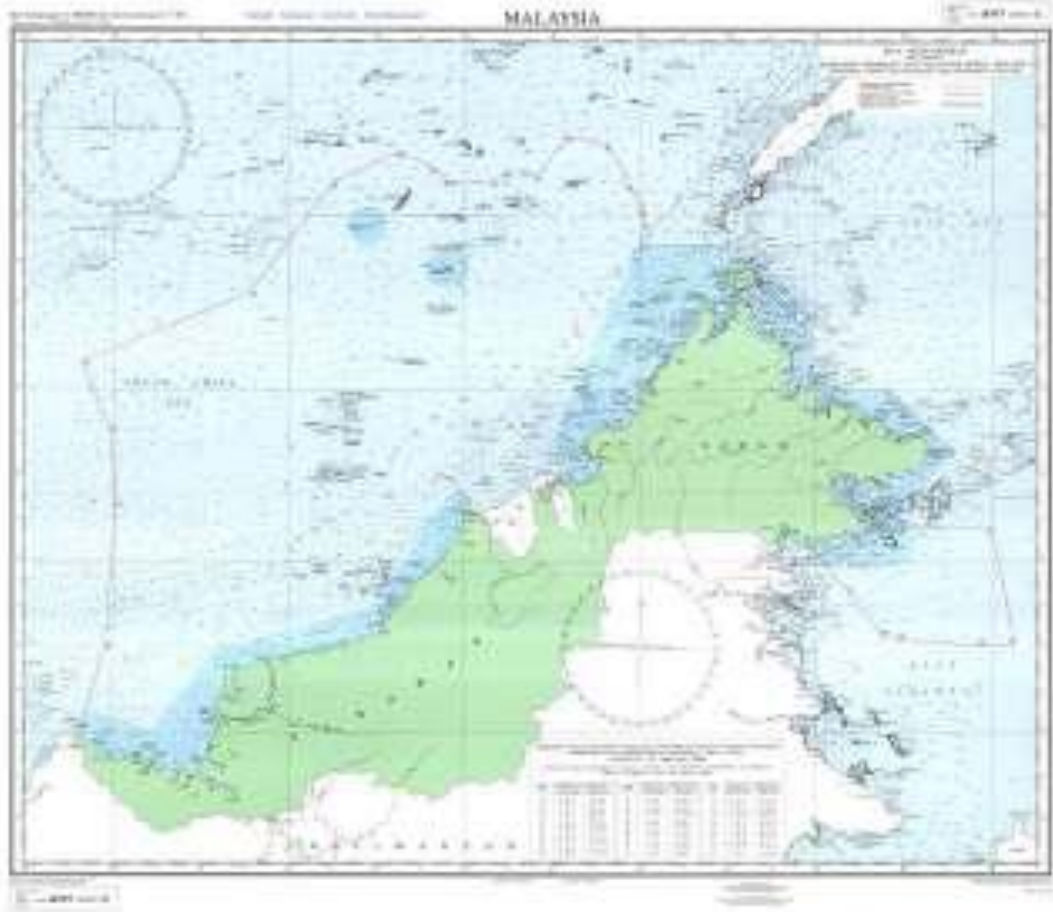
Malaysia's arguments seem acceptable according to international law principles. According to some scholars, UNCLOS still has loopholes that arouse multi interpretations. Several islands claimed by Malaysia under the principle of continental shelf are arguable because no provision of the UNCLOS grants sovereign rights to a coastal state over islands located on its continental shelf (Whiting, 2003; Chin, 2003). In essence, the Continental Shelf theory is outdated.

Figure 4. 7. West Malaysian Map



Source: Institut Tanah dan Ukur Negara. (2009, February 4)

Figure 4. 8. East Malaysian Map

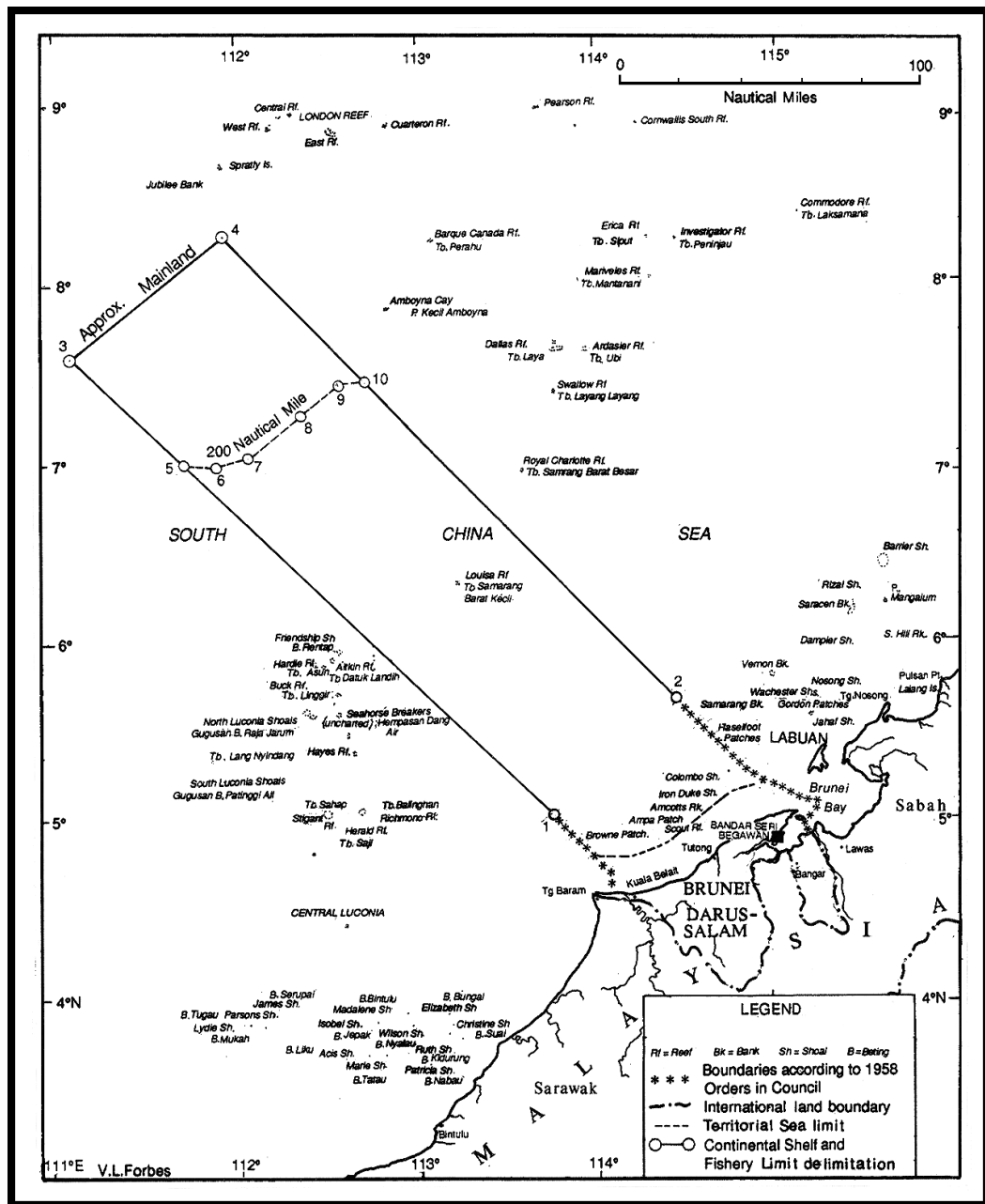


Source: Institut Tanah dan Ukur Negara. (2009, February 4)

4. 5. 6. Brunei's Claim

Brunei only claims two features, namely Rifleman Banks and Louisa Reef. These features are located in the southern part of the Spratly Islands. Brunei's claim is based on international law principles that the two features are located on an extension of its continental shelf and within its EEZ. Brunei published a map in 1988 extending its continental shelf to an area of 350 nm. (Chin, 2003). The map is shown at figure below.

Figure 4. 9. Map of Brunei's Claim in the South China Sea

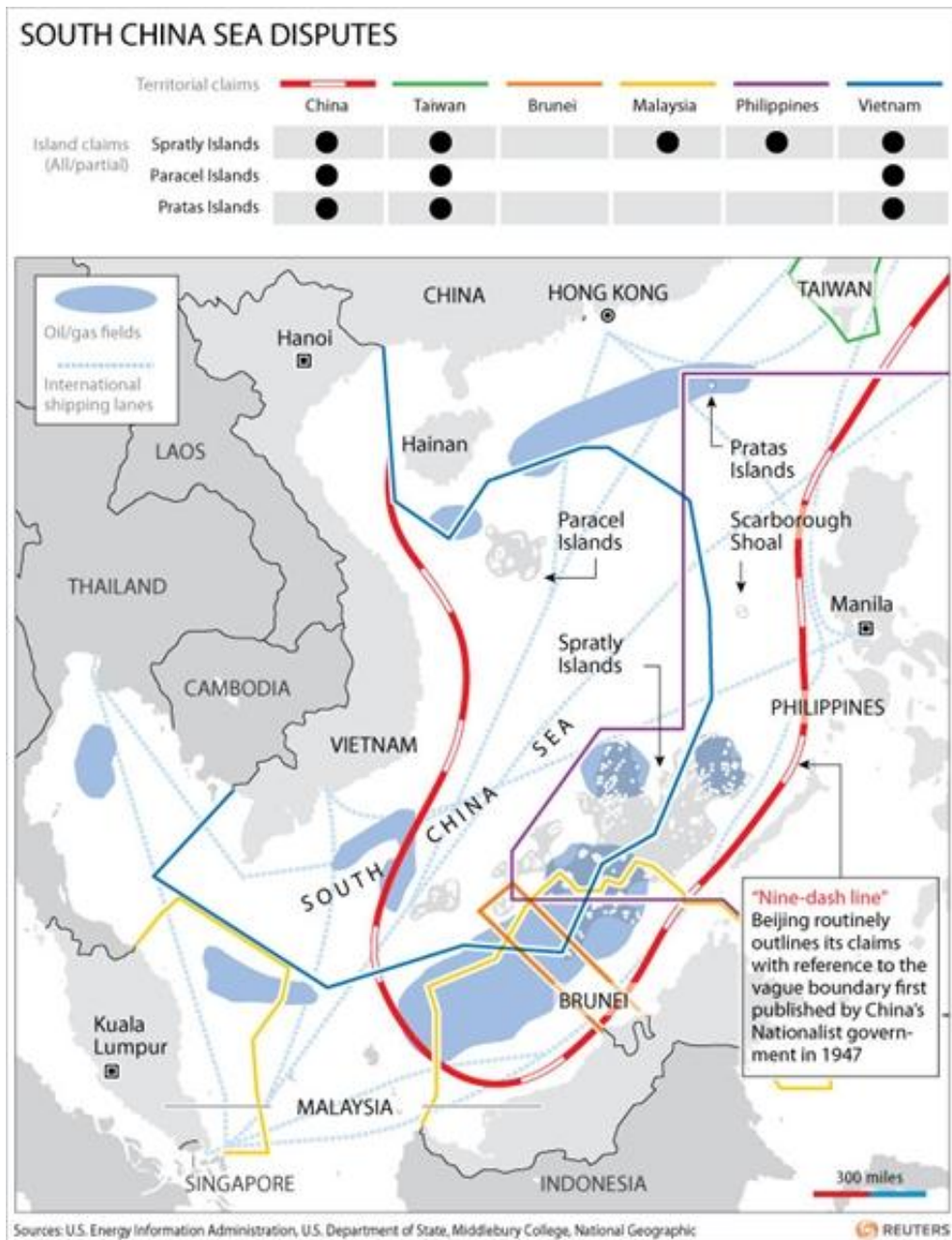


Source: Haller-Trost. (1994, p. 55)

The basic stance of Brunei's claim contains two serious weaknesses. First, the two features interrupted natural prolongation with Borneo Island by Palawan Trough. Second, the two features are rocks so they do not possess capacity to generate an EEZ or continental shelf under the UNCLOS (Chin, 2003).

The figures presented above show the complexity of jurisdictional claims in the SCS. Overlapping claim of the six claimants in the SCS is depicted in figure 4.10 below.

Figure 4.10. Illustrative Map of Overlapping Claim in the South China Sea



Source: NBC News. (2012, August 24)

4. 6. The Effect of the Conflict to the Southeast Asian Stability

In the decade of the 1990s, Southeast Asia region had rapid economic growth. The economic growth in Southeast Asian states before economic crisis in 1997 reached 7% (The ASEAN Secretariat, 2004, p. 32). Several Southeast Asian states such as Singapore, Malaysia, Thailand and Indonesia have been projected as the newly industrial countries in Asia. The levels of exports and imports indicated an increasing trade dynamics. Intra ASEAN exports in 1995 amounted to USD 70,178.9 million to USD 80,973.7 million in 1996 and in 1997 reached USD 85,351.8. These figures mirrored the intra-ASEAN imports regime. In 1995 it increased from USD 53.602 million to USD 64.211 million in 1996 and in the following year to USD 64.621 million. Intra-ASEAN trade had a share of 75% of ASEAN member countries total trade (The ASEAN Secretariat, 2004, pp. 56-58). Extra ASEAN trade to East Asia and America, especially Japan and the USA also showed an increase.

It is instructive to note that ASEAN's trade both intra and extra are mostly transported through the SCS. Therefore, the SCS constitutes the blood vein for ASEAN trade activities as well as for outside South East Asia member states such as South Korea, Japan and the US. Military clashes in the SCS will threaten the economic interests of all ASEAN states and the states in East Asia and the Pacific. It is likely that extra-regional powers may intervene to reduce military tensions.

The dynamic growth of economies in the Southeast Asia region requires an abundant supply of energy. Several Southeast Asian states like the Philippines, Vietnam, Brunei, Malaysia and Indonesia have oil and gas reserves in their

offshore. Off course, if there is a military clash in the SCS, it will disturb energy exploration activities. Consequently, this will threaten the economic life of these states.

The SCS connecting the Strait of Singapore and Strait of Malacca is one of the busiest waterways in the world. Up to 2,000 ships pass through these waterways a day (Chalk, 2002, p. 170). The geographical condition of the waterways is not favorable for large merchant ships and tankers. The Strait of Malacca is so narrow and shallow that the sailing ships must reduce its speed and follow the traffic separation system to ensure safe passage. Reducing its speed is an opportunity favorable for pirates to attack the ships. Pirates attacking Southeast Asia waters increased from 3 in 1989, to 60 in 1990, and reaching a high level of 160 in 1999. Most of them took place in the Strait of Malacca and Strait of Singapore (Chalk, 2002, p. 170). *This figure is about* half of the 285 attacks recorded by the International Maritime Bureau in 1999 with Indonesia and Malaysia among the worst-hit (“Modern pirates”, 2000). Initiatives by Malaysia, Singapore and Indonesia to strengthen anti-piracy patrols along the waterways have successfully reduced the pirates’ activities. The pirates then moved their operations to the SCS. Ironically, if the conflict in the SCS is unresolved, there may be difficulties in conducting maritime security management by coastal states, and thereby increase pirates’ activities.

4. 7. Conclusion

Since ancient times, the SCS has been the connecting way of kingdoms surrounding the sea in terms of trade activities. Although China’s vessels

dominated this sea, China did not promulgate the sea as its territory. Conflict in the SCS began when Western colonial powers entered Southeast Asia and introduced the concept of sovereignty. This concept highlighted the importance and merits of exact territory of lands and waters as basic elements of the state. The conflict intensified when a huge reserve of natural resources was discovered in the sea bed, especially oil and gas. The conflict among claimants escalated in both the Cold War and Post-Cold War periods. This escalation of the conflict has caused military and diplomatic rows that have threatened stability in this region.

The SCS is known as a strategic area. Not only does it contain rich oil and natural gas deposits, it has a significant wealth of fauna, constitutes one of the busiest waterways for the shipping lane. In addition, this strategic region also has essential meaning for military purposes. Unilateral control over the SCS by one state enables it to monitor the activities of both economic and non-economic nature of states around the sea easier.

The coming of UNCLOS into force generated increased tensions since the claimants occupied more features in the SCS. Littoral states have the advantage of broadening their territorial waters under Territorial Sea and EEZ arrangements although the UNCLOS also regulates the rights, duties and conflict settlement mechanisms.

Based on the economic and military advantages, the SCS has been claimed by six parties. China, Taiwan and Vietnam claim all of the SCS territory, while the Philippines, Brunei and Malaysia claim only certain parts of the Spratly

Islands. Each claimant has their own arguments, ranging from historical reasons to international law principles. However, their arguments contain weaknesses.

There is no doubt that in the long-running conflict in the SCS will have an impact on Southeast Asian states. The conflict threatens their economic interests and security and in turn it will disrupt the development programs and stability of littoral states surrounding the sea.

CHAPTER FIVE

INDONESIA'S INITIATIVE TO SUPPORT TRACK TWO DIPLOMACY AND THE ORGANIZATION OF THE WORKSHOP

5. 1. Introduction

This chapter discusses the reasons behind Indonesia support of Track Two Diplomacy to manage the conflict in the South China Sea (SCS). It should be noted that the Track Two Diplomacy was pursued through the experiment of Workshop on Managing Potential Conflict in the South China Sea. A deep examination of these reasons requires paying attention to the direction of Indonesia's foreign policy toward Southeast Asia region. Bearing in mind that foreign policy has strong links with national interest, an analysis of Indonesia's national interests is also provided.

This chapter consists of six sections. The first section analyzes the principles and dynamics of Indonesian foreign policy from the beginning of independence, during Sukarno's presidency especially in the post-1959 period, and under Suharto's presidency after 1967. Even though Sukarno was elected as president in 1945, he truly gained his presidential powers when he transformed the presidential system in 1959. The second and third section explores Indonesian foreign policy under the two presidents. The principles and dynamics of Indonesia's foreign policy as well as the direction of foreign policy under the two

presidents are significant referent points in understanding the driving force of Indonesia in managing the SCS conflict.

The fourth section discusses Indonesia's interest in the SCS which is a derivative of its national interests within the context of the 1990s. In those years Indonesia experienced a significant economic growth and thus, needed regional stability and security to maximize its utilization of energy sources and spur its own growth.

The fifth section examines the rationale behind Indonesia's adoption of the Track Two Diplomacy mechanism (through the workshop experiment) in managing the conflict. The final section explains the Workshop process including its organization, procedures and mechanism.

5. 2. Principles and Dynamics of Indonesian Foreign Policy

This section consists of two sub-sections. The first sub-section explores the principle of Indonesian foreign policy which can be traced as far back as Indonesian proclamation of independence until the formulation of Free and Active Principles of foreign policy. The second sub-section discusses the dynamic application of the principles during President Sukarno and Suharto period.

5. 2. 1. Principles of Indonesian Foreign Policy

When the independence of the Republic of Indonesia was proclaimed on August 17, 1945, its territory was similar to that of the former Netherlands Indies which was under Dutch colonialism. The 1945 Constitution was then applied as the state and nation assumed a new identity soon after the declaration. Under the 1945

Constitution, the state's ideology was nationalist and strongly anti-colonial as stipulated in the first paragraph of the preamble: "Whereas Independence is the virtual right of every nation, and therefore, colonialism must be eliminated from the face of the earth, because it is contradictory to humanity and justice" (Ministry of State Secretariat of the Republic of Indonesia, n. d. The 1945 Constitution, p. 1). Furthermore, in the fourth paragraph, it is stated the basic national interests of Indonesia: "in order to form a Government of the State of Indonesia which shall protect the entire Indonesian nation and the entire Indonesian native land, and in order to advance general welfare, to develop the intellectual life of the nation, and to partake in implementing world order based upon independence, eternal peace and social justice" (Ministry of State Secretariat of the Republic of Indonesia, n. d. The 1945 Constitution, p. 1). These paragraphs convey the ideas that Indonesia holds the obligation to help other nations under colonial rule and to support their pursuit of independence or national self-determination. The constitution also obliges the government to take an active role in achieving the world order as part of Indonesia's international responsibility.

In addition, the fourth paragraph of the preamble also mentions the state ideology of *Pancasila* (five basic principles) as follows: "Belief in The One and Only God, just and civilized Humanity, the Unity of Indonesia, and Democracy guided by the inner wisdom of Deliberations amongst Representatives, and by creating social Justice for the entire people of Indonesia" (Ministry of State Secretariat of the Republic of Indonesia, n. d. The 1945 Constitution, p. 1). Thus, three tenets, namely nationalism and anti-colonialism, basic national interests, and state ideology of *Pancasila*, are the foundations of Indonesian foreign policy.

Indonesian independence was proclaimed during a period where there was a vacuum of power. It was proclaimed when Japan had just been defeated by western allies in the World War II but the latter had not yet taken control over Indonesia. Unsurprisingly, the proclaimed independence was not recognized by the international community for several years. The former colonial power, the Dutch, then, attempted to re-colonize Indonesia during this period but encountered a bloody struggle which was waged by Indonesian people who had a strong anti-colonial sentiment as captured in the constitution's preamble. During the struggle, Indonesia used a combination of two strategies called *perjuangan* (struggle) and *diplomasi* (diplomacy). Basing on the revolutionary experience, the leaders believed that Indonesian independence could only be secured through physical efforts which required personal sacrifice known as *perjuangan*. *Diplomasi* referred to the conduct of a negotiation process with the Dutch, though this process mostly left unpleasant impression for Indonesia's leaders. Western powers were also not supportive and delayed the recognition of Indonesian independence (Sukma, 1995). Thus, the revolution left the Indonesian leaders with two distinct unforgettable lessons. Firstly, there was a basic distrust of major powers. Secondly, Indonesia learnt the lesson of self-help because during the revolution, Indonesia received little support from the outside world (Leong, 1998).

In the revolutionary period, the government of the newly born republic was shadowed by the competing ideologies of the Cold War which pitted Communism against Western Capitalism. The super-power ideological competition was also reflected in the ideological orientation among Indonesian leaders. Cleavage among the leaders was inevitable. When Mohammad Hatta, a

national democrat, took charge as prime minister, the leftist or communist groups demanded from him that Indonesia should lean towards the Soviet Union bloc. Prime Minister Hatta was not in favor of the demand, and instead sought to formulate a different framework principle of foreign policy for the new republic. Hatta laid down the basic elements of Indonesian foreign policy in his famous speech at the Central Indonesian National Committee on September 2, 1948. This speech defined the Indonesian principle of foreign policy called *Politik Luar Negeri Bebas Aktif* (Free and Active Foreign Policy) (Hatta, 1976).

Free and Active Foreign Policy as defined by Hatta comprised some significant premises. First, the state's ideology *Pancasila* should guide the conduct of Indonesian Foreign Policy. Second, foreign policy should be aimed at safeguarding the national interest as defined in the constitution. Third, the pursuit of national interest should be best served through an independent policy (Sukma, 1995).

Hatta's formulation targeted both internal and external audiences. To the internal audience, such a formulation eased the fears of the rival elites. To the external audience, the Free and Active Foreign Policy constituted an identification of Indonesia's position in the international community, representing a commitment not to take side of either bloc in the rivalry that had developed between America and Soviet Union (Sukma, 1995).

5. 2. 2. The Dynamics of Indonesian Foreign Policy

Indonesian foreign policy has been so dynamic since the proclamation of independence in 1945, yet it was still based on constant factors. The factors were the proclamation of independence itself, the Preamble of the 1945 Constitution and the Free and Active Foreign Policy principles. To a great extent there is continuity in Indonesian foreign policy (Djiwandono, 1985).

In the early implementation of the Free and Active Foreign Policy in the 1950s, Indonesia upheld a balanced distance between the two blocs. To preserve its national independence and to gain international recognition, Indonesia established diplomatic relations with the United States as well as with the Soviet Union. However, subsequent to 1950 when Indonesia applied the liberal democratic system, the implementation of the Free and Active Foreign Policy depended on the interpretation of each leader. The Sukiman cabinet, for example, which was strongly anti-Communist, signed the Mutual Security Act with the United States in 1952 in order to seek economic aid. This agreement was accused by some political leaders as violating the Free and Active Foreign Policy (Perwita, 2007). On the other hand, under Ali Sastroamijoyo cabinet, the Indonesia reputation in international politics increased when it organized the Asia Africa Conference in Bandung 1955. After the hosting of the conference, Indonesia leaned towards the communist bloc, especially to China (Djiwandono, 1985).

There are reasons to believe that the implementation of the principle of Free and Active Foreign Policy in certain contexts, particularly under both President Sukarno and President Suharto may be instructive. The two presidents

had different approaches executing the principles, even though both of them shared the view that the foreign policy terrain should not be dictated by the superpowers.

5. 3. Foreign Policy under Sukarno

Indonesia's foreign policy entered a new era when Sukarno gained 'real 'political power in 1959 and named this new political era as "Guided Democracy". Basically, prior to 1959 Sukarno's position as president was titular or ceremonial because the system of government was then parliamentary. Accordingly, the real political power was in the office of the prime minister. Through the president's decree of July 5, 1959, Sukarno transformed the political system from a parliamentary system into a presidential system. In this system, the president was accountable to the people and not to parliament. Furthermore, the president was both head of state and head of government. The orientation of Indonesian foreign policy followed the new system. According to Sukarno, the cause of Indonesia's vulnerability came from colonialism, imperialism and the capitalist world (Utarti, 2000, p.22).

Sukarno orchestrated dialectic relations between New Emerging Forces (NEFOS) and Old Emerging Forces (OLDEFOS). NEFOS, consisting of the third world and communist countries, was urged to unite and confront OLDEFOS, comprising the western imperialist countries. During the 'Guided Democracy', era, Indonesia obviously leant towards the communist bloc. Sukarno established the friendly axis linking Jakarta – Prom Penh – Hanoi – Pyongyang – Beijing and continued to support revolutionary struggles.

Furthermore, Sukarno implemented a series of radical policies aimed against anti-colonialism. First, he concentrated on winning absolute sovereignty of West Irian in 1962. Second, he opposed the formation of Malaysia which he perceived as an attempt by colonial powers to maintain their domination in Southeast Asia. Third, he withdrew from the United Nations and initiated the creation of the Conference of New Emerging Forces (CONEFO) to replace the United Nations system which was dominated by imperialist forces (Sukma, 1995; Perwita, 2007). The Sukarno administration was drastically unpopular after the unsuccessful coup movement that was suspected to have been engineered by Partai Komunis Indonesia/PKI (Indonesian Communist Party) in 1965.

5. 4. Foreign Policy under Suharto

In 1967, Indonesia entered a new era when Suharto took over Sukarno's position and labeled his administration the "New Order". During his term, which was backed up by military leaders, he took total alteration of the "Old Order", referring to Sukarno's era. He purified Indonesian constitution and *Pancasila* from communism influence and made it the sole source of law; boosted economic growth and established national stability. Then, Indonesia's foreign policy was adjusted to the new circumstances of domestic and international environment.

In Suharto's view, the source of threat for Indonesia and its vulnerability came from the domestic environment rather than international environment. Some of threats included poverty, backwardness, and communism (Utarti, 2000, p. 22). However, the international environment, especially the regional environment, whose close proximity could possibly offer direct threats to domestic security,

also required to be managed carefully. In the early period of his administration, Suharto took steps to consolidate his power. First, Suharto banned PKI and its entire sympathizing organizations. According to Suharto, PKI was backed up by China as the mastermind of the failed coup and one of the sources of domestic instability. Consequently, the relations between Jakarta and Beijing were frozen temporarily until 1990. Second, Suharto ended Indonesian confrontation with Malaysia and improved bilateral relations between the two neighboring countries. Third, he established principles of conduct for relations among states in Southeast Asia such as mutual respect for independence, sovereignty, equality, territorial integrity; non-interference in the internal affairs of one another; and settlement of disputes by peaceful means.

After establishing political order, he soon concentrated on economic issues and began to formulate a framework for economic development called *Rencana Pembangunan Lima Tahun/ REPELITA* (Five Year Development Plan). He welcomed development assistance from the West, Japan and other international donors. The first successful effort was the creation of a consortium of donors under the umbrella name of the International Governmental Group on Indonesia (IGGI) in Amsterdam in 1967. This group was the medium through which foreign aid was transmitted for Indonesia's economic recovery. From 1967 to 2000, the IGGI was given foreign aid amounting to USD 100.5 billion (Perwita, 2007, p. 15).

The Suharto government recognized that economic development needs political stability and a favorable mood in the international environment. Such

conditions were to be achieved through two national strategies or concepts known as Archipelagic Outlook or *Wawasan Nusantara* and National Resilience or *Ketahanan Nasional*. *Wawasan Nusantara* comprised two prongs, one internal and another one external. Internally the concept means that Indonesia embraces single political, economic, and socio-cultural entity as well as security. Externally it pronounced to the world that Indonesia regards all the islands within its jurisdiction and all the waters connecting them as indivisible (Anwar, 1992). *Ketahanan Nasional* means the way to provide comprehensive security by establishing separately and jointly the political, economic, and socio-cultural strengths which, apart from a basic military capability, constitute a nation's real capacity to resist any threat from inside or outside (Alatas, 2001a). Put another way, National Resilience is a political ideal that articulates the qualities of self-sufficiency and resourcefulness which strengthen the economic, social and political conditions of the state in the interest of pursuing development and stability (Leifer, 1995a).

In a short period, Indonesia was able to obtain economic and political stability. According to Emil Salim, a former member of the inner circle in Suharto's economic cabinet, it took only two years for Suharto to successfully reduce the inflation rate from 650% to 15% (*Kebijakan Suharto Meracik Ekonomi Orde Baru* [Suharto's Policy to Develop New Order Economy], 2008). During Suharto's administration, Indonesia was labeled as a Newly Industrializing Country (NIC), transitioning from an agriculture-based economy to an industrialized or urban economy (Yomo & Rock, 1998). It could be seen from

Indonesia's Gross Domestic Product (GDP) from 1965 to 1990 as shown in Table 5.1 below:

Table 5. 1. Indonesia's GDP by Sectors, 1965-1990

	1965	1970	1980	1990
Agriculture	55.0	47.5	24.3	19.4
Manufacture	8.5	10.9	13.4	19.4
Other industry	6.5	8.9	29.7	22.1
Services	30.0	32.7	32.1	39.1

Source: Yomo & Rock. (1998, p. 20).

Prior the economic crisis, it was also noted that the average of Indonesia's economic growth from 1987 to 1997 touched 7% (Indonesia: Economy, n. d.).

After two decades in power, Suharto started to concentrate on building and developing regional stability. Not surprisingly and owing to this posture, Suharto had a lower profile character on foreign policy in comparison with his predecessor, Sukarno. Deriving from the National Resilience concept, that a hostile regional environment can threaten the country's unity and independence, while conversely a peaceful and friendly neighborhood can facilitate Indonesia's national development, Indonesia decided to take part actively in the development of a peaceful and stable regional order (Anwar, 1992). In his speech, Suharto said: "Besides increasing foreign relations with friendly countries in general, activity of our current foreign policy is primarily directed to strengthen co-operation among neighboring countries around us, because this is our vital national interests" (Suharto, 1968).

After ending the confrontation with Malaysia and regaining its membership in the United Nations, Indonesia, together with non-communist states in Southeast Asia, established ASEAN in 1967. Soon afterwards, ASEAN became the cornerstone of Indonesia's foreign policy (Anwar, 1994). During the establishment of ASEAN, Indonesia has always been seen as the "leader" of ASEAN's member states. For that reason, Indonesia has been known as *primus inter pares* in ASEAN (Smith, 2000a, p. 21).

Adopting Javanese culture, Suharto applied the concentric circle strategy. According to Gordon Hein (1986), the first circle involves certain unchanging principles and the highest priority tasks and geographic areas, then proceeded gradually, to the next circle. Thus, the inner circle comprised the economic and political stability as well as national security, and it was followed by ASEAN and the Southeast Asia region, then the Asia-Pacific region. Finally, the outer circle was represented by the world/international community (Hassan, 1995).

After preserving national stability, Suharto expanded the National Resilience concept to Regional Resilience in the Southeast Asia region. This concept was adopted in the Declaration of ASEAN Concord signed in Bali in 1976. The declaration said that stability of each member state and of the ASEAN region is an essential contribution to international peace and security. Each member state is obliged to eliminate threats posed by subversion to its stability, so it can strengthen national and ASEAN resilience (Declaration of ASEAN Concord, 1976, article 1). However, Regional Resilience is not enough and should be complemented with certain behavioral traits and conduct of the member states

(Wuryandari, interview, February 24, 2012). With this in mind, Indonesia strongly pushed ASEAN members to sign the Treaty of Amity and Cooperation in 1976. This Treaty contained basic principles for guiding the conduct or behavior of members including: mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations; the right of every state to lead its national existence free from external interference, subversion or coercion; non-interference in the internal affairs of one another; settlement of differences or disputes by peaceful means; renunciation of the threat or use of force; and effective cooperation among themselves (Treaty of Amity and Cooperation, 1976, article 2).

By the 1980s, after consolidating his power, Suharto was convinced that he had fully managed economic and political issues as well. He then decided to be more assertive in issues concerning Indonesian foreign policy. Indications of the growing assertiveness can be seen from several major foreign policy initiatives undertaken by Indonesia. First, in 1985 Indonesia hosted the Commemoration of the 30th Anniversary of the Asia Africa Conference in Bandung. This event was beneficial for Indonesia as it demonstrated to Asian and African countries that Indonesia was willing to make a “come back” to the international stage after taking a “low profile” in global issues for almost two decades (Sukma, 1995, p. 313). To prove that Indonesia paid more attention to the global issues, Indonesia positioned itself to be the leading state of the Non-Align Movement (NAM) by seeking chairmanship in 1986. At the summit in Harare in 1987 and in Belgrade in 1989, Indonesia efforts to be chairmanship was fail. Radical socialist states, mostly from Africa, were not sympathetic of Indonesian anti-communism policy.

They also mobilized the former Portuguese colonies to reject Indonesian annexation on East Timor as a new province. In addition, Indonesia's position was weakened regarding the absence of its relation with China, the biggest of NAM member. Finally, Indonesia's leadership was accepted as NAM's chairman for 1992-1995 terms at the summit in Accra in 1991 after Indonesia normalized its relation with China (International Business Publication, 2008).

Second, to show that Indonesia could not be dictated by the West, Indonesia dissolved the IGGI after the chairman of IGGI had strongly criticized Indonesia's policy in the handling of the Dili tragedy in 1991. This tragedy took place in Dili, the capital of East Timor in November 1991 after hundreds of people had protested against the Indonesian government for coordinating the visit of a Portuguese parliament member. The demonstration was suppressed by military force and several people were killed (Suryadinata, 1998). The decision to dissolve the IGGI indicated that, even though economic development took the top priority of Indonesia's foreign policy, it did not mean, however, that any external parties could interfere in Indonesia's domestic matters (Perwita, 2007).

Third, Indonesia decided to restore diplomatic relations with China in August 1990. This demonstrated that Indonesia had developed self-confidence even up to normalizing relations with its erstwhile enemy. In Suharto's view, the normalization of its relations with China in the Post-Cold War era would be beneficial at bilateral and regional levels. For Indonesia, the normalization increased its prestige and position that will enable it to foster a pattern of

relationship in the Asia Pacific especially the process of building security arrangements (Perwita, 2007).

Fourth, Indonesia began to pay more attention to economic cooperation in Asia Pacific region. Indonesian reputation and economic role increased when Indonesia hosted a summit meeting of the Asia Pacific Economic Cooperation (APEC) leaders in November 1994.

Fifth, Indonesia started to launch active diplomacy in attempts aimed at mediating regional conflict. At the end of 1980s, Indonesia searched for a solution to end Cambodian conflict. Jakarta invited all disputant parties of the Cambodia conflict to the “Jakarta Informal Meeting” in 1988. The conflict ended when the “Paris Agreement” was signed in 1991. In much the same way, Indonesia also actively triggered an initiative to seek away of managing the conflict in the SCS. In this regard, starting in 1990, Indonesia fully supported the annual informal meetings dubbed the Workshop on Managing Potential Conflicts in the South China Sea. Then as now, a country with the biggest Moslem population, Indonesia supported the move to find a solution to the Moro conflict, a Moslem minority in southern Philippines in the mid of 1990s (Mauna, interview, March 2, 2012).

To summarize this section, Indonesia has been strongly consistent in performing its foreign policy which based on the constitution preamble as well as the principle of Free and Active Foreign Policy formulated by Prime Minister Hatta. Although the implementation of this principle depended on the top leader’s interpretation, foreign policies formulated under Sukarno and Suharto presidency shared a number of similarities. Both presidents were able to keep to a distant the

influence of super powers. Moreover, Suharto through his concentric circles concept, preserved peace and stability of Southeast Asia which was the top priority of Indonesian foreign policy.

5. 5. Indonesia's Interest in the South China Sea

There are many definitions of national interest in international studies literature, but most authors agree that national interest is essential for the existence and survival of the nation-state. National interest refers to some ideal set of purposes which nation-state should seek to realize domestically and in the conduct of its foreign relations. The ideal purposes consist of major and minor values (Holsti, 1977). Major values mean that a state should make ultimate sacrifice to achieve some objects. Therefore, major values transform into short-range objectives and take high priority to pursue. These values are related to survival of sovereignty and territorial integrity, economic welfare, preservation of its social-political institutions, ideology and culture, and national unity. After pursuing major values, minor values or middle-range objectives can be achieved such as international reputation and international prestige (Holsti, 1977; Pearson & Rochester, 1988).

The concept of national interest may help to explain the real reasons behind Indonesia's support for the initiative to manage the SCS conflict, particularly in the aftermath of the Chinese-Vietnamese military skirmish in the Spratly Islands in 1988. These reasons involve certain interests shaped by core and minor values. The core values included territorial integrity, economic, and ideological orientation as mandated in the Indonesian constitution. Minor values were related to Indonesia's international reputation as the biggest (and possibly

the most powerful) state in ASEAN, whose desire was to preserve the unity of the regional body.

5. 5. 1. Security and Territorial Integrity

Having 17,508 islands and stretching from 6°08' north latitude to 11°15' south latitude, and from 94°45' to 141°05' east longitude with a total land area of about 1,905,000 km² and a water area of about 7.9 million km² including its EEZ, Indonesia is the largest archipelagic and maritime state in the world (Official Indonesian Government website, n. d.; Asianinfo, n. d.). More than half of the maritime zones in Southeast Asia are within Indonesian jurisdiction as shown on the map 5. 1.

As can be seen Indonesia is located in a very strategic position. Its geopolitics is a pivot link between the continents of Asia and Australia and between the Pacific and Indian oceans. Besides its strategic geo-politic position, the waters of Indonesia are also important sea-lanes as shown on the map 5. 2 at page 143.

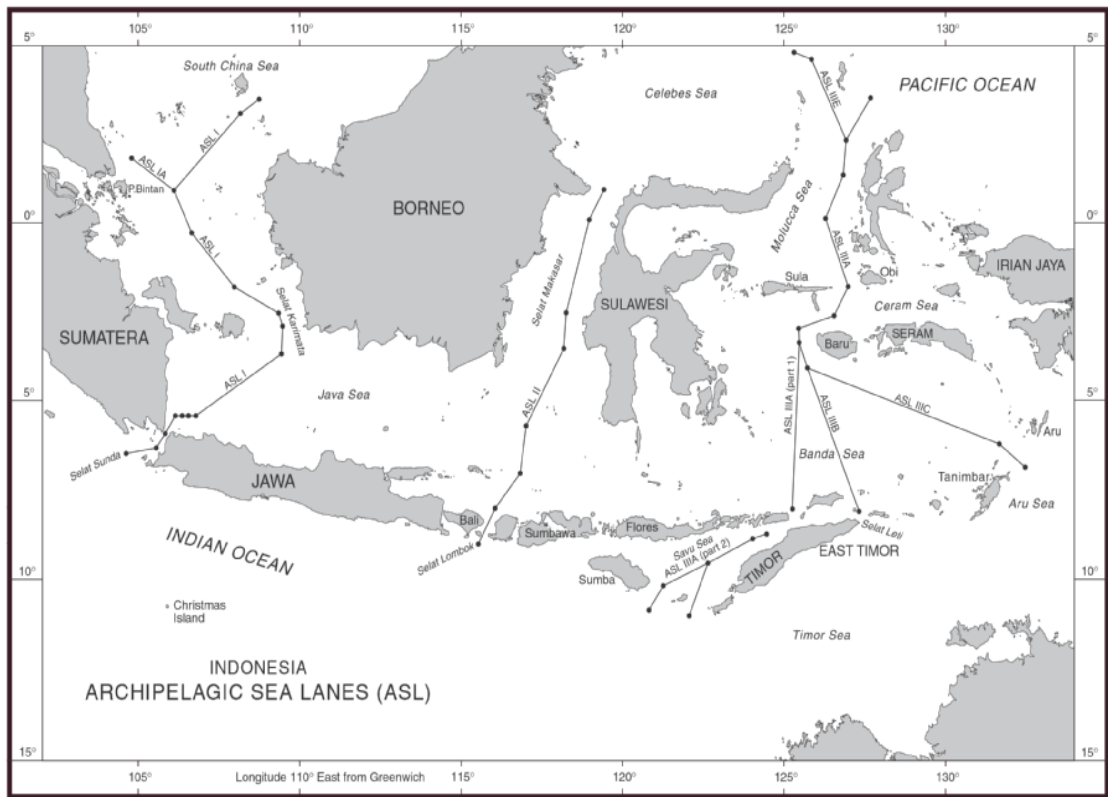
Based on such a strategic geopolitical position, the Indonesian leaders believe that the country was destined to play a major role in international affairs (Suryadinata, 1998). In addition to its strategic geopolitical position, Indonesian is highly vulnerable to external threats. Indonesian waters are potential highways of criminal activities such as smuggling, illegal entry and intrusion of terrorists, piracy and arms robberies, illegal traffic in drugs as well as human trafficking and illegal exploitation of natural resources. On illegal fishing for instance, Indonesia loses around USD 3 billion a year (Muhibat, n. d.).

Figure 5. 1. Map of Southeast Asia



Source: University of Texas Libraries, n. d.

Figure 5. 2. Map of Indonesia's Sea-lanes



Source: International Maritime Organization. (2003, July 3).

Soon after the achievement of independence on August 17, 1945, Indonesia became aware that its maritime boundaries and law of the sea were determined by the Netherlands Indies legislation which negatively affected the economic, political and security needs of the newly independent state (Fletcher, 1994). The experience as a colony for more than 300 years had made Indonesian leaders aware that its geographical structure, its population composition and national resources had made Indonesia a victim rather than a beneficiary of the law of the sea in the past (Djalal, 1995a). During the colonial era, under the act entitled *Territoriale Zee en Maritieme Kringen Ordonatie* of 1939 (hereafter *Ordonatie*), the territorial waters of Indonesia were measured generally at 3 miles

from the coast of each island. Consequently, Indonesia consisted of many units, separated from each other by the so-called high seas. The Netherlands Indies government used this condition as an avenue for conquest as well as to divide and rule the whole archipelago. Notably, in the past, both Sriwijaya and Majapahit kingdoms had used the waters between the islands as bridges for unity (Djalal, 1995b). The Indonesian water under Ordonatie is outlined in Figure 5.3 below.

Figure 5. 3. Illustrative Map of Indonesian Water under Ordonatie



Source: Buntoro. (2010, p. 31)

Since many islands or groups of islands are located more than three miles away from the coast of each island, the Ordonatie could not enclose the archipelago within a single jurisdiction. As a result, the major part of Sumatra, Java, Kalimantan, Sulawesi, Maluku and Papua which form the important islands of the Indonesia archipelago, were consequently separated by high seas. Such a condition was not ideal for the new republic that needed territorial unity. Therefore in 1957 Prime Minister Djuanda announced the Archipelagic Outlook

concept (later known as the Djuanda Declaration) in attempt to unite Indonesian land and waters. The Djuanda Declaration consisted two main points. First, it pointed out that all waters around, between, and connecting the islands or parts of islands belonged to the Indonesian archipelagos and subject to the absolute sovereignty of Indonesia. Second, the limit of the territorial seas was extended to 12 nautical miles measured from straight baselines connecting the outermost points of the islands of the Republic of Indonesia (Djalal, 1995b).

The Archipelagic Outlook concept was then accommodated by the 1982 UNCLOS. Article 46 of the UNCLOS indicates that archipelagic state means a state constituted wholly by one or more archipelagos and may include other islands. Then, article 47 (1) stipulates that an archipelagic state may draw straight archipelagic baselines joining the outermost points of the outermost islands (United Nations, 1982). Based on the concept, Indonesia has integrated its territory consisting of lands and waters as shown on the map below in Figure 5.4.

As indicated earlier Indonesia's security perception under Suharto's administration was dominated more by internal rather than external concerns. The New Order government believed that domestic stability was still the main target to achieve, and with that in mind, the primary security concern was related to the internal matters at hand. In this context, the primary sources of threats came from the state weaknesses such as fragile social cohesion, lack of economic development and the threat of separatism (Sukma & Prasetyono, 2003). However, in later years, the government also paid attention to external threats that had the

potential of impacting negatively on national stability, especially the instabilities in Southeast Asia and the conflict in the SCS.

Figure 5. 4. Map of Indonesia's Territory under UNCLOS



Source: Bakosurtanal. (2013)

During the Cold War, Southeast Asia was a theatre for superpower competition. There were a number of proxy wars in the region. The situation was made worse when both the Soviet Union and the United States decided to build military bases in Vietnam and Philippines respectively. This triggered more distrust and tensions in the region. Security instability in Southeast Asia increased when Vietnam invaded Cambodia in a mission designed to over-throw the infamous Khmer Rouge regime which was supported by China in the mid-1970s. China then penalized Vietnam with a military attack along the border of the two countries in 1979. In the SCS, China adopted a more assertive posture in Paracel and the Spratly Islands, where Vietnam had also staked its claims. In 1974 China occupied Paracel islands and military skirmishes with Vietnam were inevitable. In 1982, two canon boats of Vietnamese navy attacked Chinese fishermen who had

entered without permission the water claimed by Vietnam. One of the Chinese boats was burnt and 18 fishermen lost their lives. As a result, China lodged a diplomatic protest to Vietnam (*“Insiden Berdarah”* [“Bloody Incident”], 1982). Again, in 1988, the Chinese navy clashed with Vietnam near the Spratly islands. Several Vietnamese boats were sunk and 74 sailors were lost (*“Cina dan Vietnam”* [“China and Vietnam”], 1988; Hoyth, 1994; Odgaard, 2002).

Conflict in Indochina and China’s behavior in the SCS were potential sources of threat that would possibly affect Indonesia. In addition, in the 1980s communism still posed a residual threat to Indonesia. Unstable conditions in Indonesian territorial border aroused both traditional and non-traditional illegal activities including smuggling, piracy, and the flooding of refugees from Indochina. In response, Indonesia had to provide Galang Island in the Riau islands as a camp for refugees. Natuna Islands and its water space, the outer border of Indonesia in the Riau Islands Province (see Figure 5.5), are also threatened by the SCS conflict. As a result of this spillover of the conflict in Indochina and China’s assertive actions in the SCS, the Indonesian military in 1980 held the largest military exercise in Natuna Islands water bordering the SCS. Thirty five battalions were involved in the military exercise. General M. Yusuf, the chief Indonesia armed forces, raised fears of a potential war in the SCS (*“Ada Kemungkinan”* [“There is Possibility”], 1980). Since then, Indonesia had focused on developing Natuna Islands in military as well as in economic terms. Indonesia invested USD 1.5 billion and launched the transmigration program which moved people from high density areas to the low density area of Natuna Islands. Notably, Natuna has been projected as a future center of economic development (*“Indonesia*

TingkatkanPertahanan di Natuna” [“Indonesia Strengthens Defense in Natuna”], 1992; Jacob, 1996).

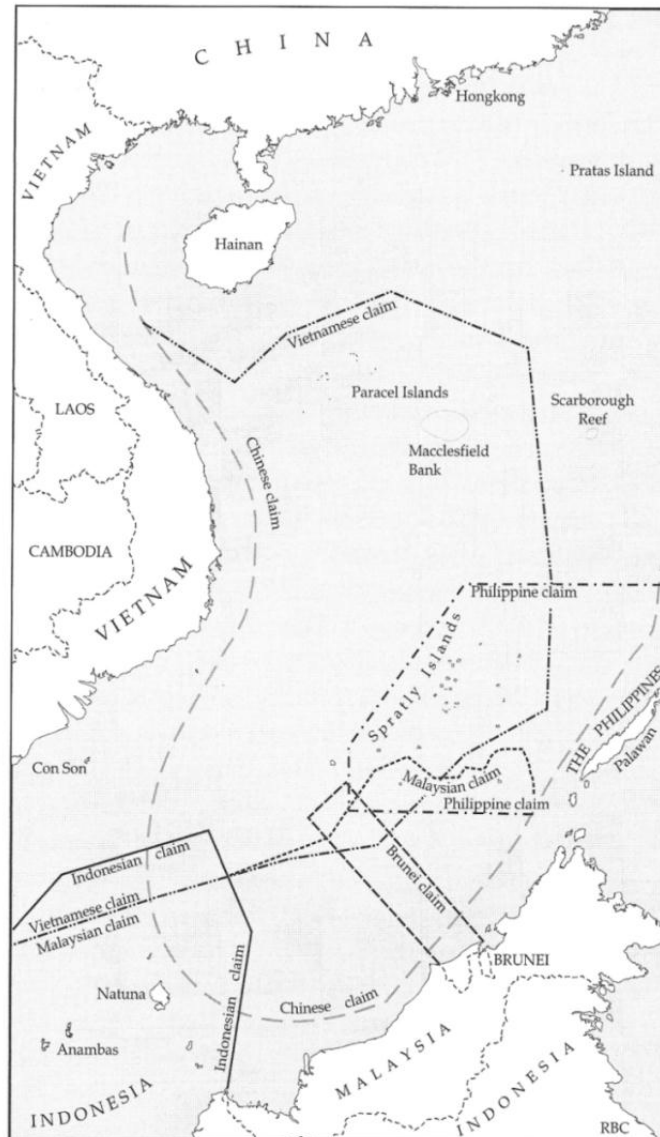
Figure 5. 5. Map of Natuna Islands and Its EEZ



Source: Bakosurtanal. (2013)

As noted earlier, the perception of Indonesia’s vulnerability was associated with territorial integrity. It is for that reason that Indonesia launched the Djuanda Declaration in 1957, by declaring the archipelagic concept which was accommodated in 1982 by the UNCLOS. When China promulgated the claim of the SCS as its territorial water based on the nine dots line in 1993, it intruded on Indonesia’s EEZ in the Natuna water, an area rich of fish and natural resources (McBeth, 1996). Besides, its sea bed is projected to have a promising quantity of oil and gas reserves. Figure 5.6 below shows the overlapping claim of China and Indonesia’s EEZ in the Natuna Islands.

Figure 5. 6. Illustrative Map of Overlapping Claim between China and Indonesia's EEZ



Territorial claims in the South China Sea.

Source: Rosenberg. (2010, p. 5)

Despite Indonesia conveying messages requesting China to clarify the delimitation of its territorial claims the latter has not given any answer or feedback. HasjimDjalal, an Indonesian senior diplomat, said: “China tells us they still adhere to the historic claims but does that mean it is claiming the islands over the sea bed or the water? They can never give us a straight answer” (quoted from

McBeth, 1995, p. 28). Ali Alatas, Indonesia's foreign minister confirmed that the PRC's map could not be taken seriously because it provided no coordinates or other explanatory marks. He said that "China could not make a real map just by indicating certain points. Therefore, it considered the latest claim as an illustrative map and unreal" (quoted from Johnson, 1997, p. 155). Since then, Indonesia intensified its air patrol over Natuna Islands and its surrounding water ("China Take to the Sea", 1995). General Feisal Tanjung, chief of armed forces, ordered the navy to take exercises regularly in the claimed area (Johnson, 1997). In June 1995, Chen Jia, China's foreign minister spokesperson confirmed that "On Natuna, there was no claim from PRC and there had never been a problem between PRC and Indonesia, and as such there was no need to debate the issue" (quoted from Johnson, 1997, p. 155).

5. 5. 2. Economic Interest

Indonesia's New Order focused on economic development through the Five Year Plan (*Repelita*) resulting in the country being categorized as a Newly Industrializing Country (NIC). Surely, economic development required energy supply and the energy demand was fulfilled from domestic petroleum industry. In 1991, due to the quota from Organization Petroleum Exporting Countries (OPEC), Indonesia exported its oil and gas at 1.445 million barrels per day. Indonesia's quota represented about 6 percent of total OPEC production. In the 1980s, about 80% of Indonesia's oil and gas production was exported to various countries, but the number declined in the 1990s because of increasing domestic consumption ("Petroleum", n. d.). Therefore, by 1982 oil and gas constituted 80% of the total exports but by 1992 the combined share had dropped to 32% in 1992 (Goldstein,

1993, April 22). However, before the financial crisis, oil and gas production contributed 6% to the Gross Domestic Product (“Economy of Indonesia”, n. d).

Natuna Island and its surrounding water is one of Indonesia’s gas fields. It has been estimated that the area hold 45 trillion cubic feet gas in reserves. This makes the Natuna gas field one of the largest in Southeast Asia, and contains about half of Indonesia’s reserves (Schwarz, 1992, August 6). Indonesia went on to sign an agreement with American Oil Co Exxon worth USD 35 billion to develop the gas field lying in the China’s overlapping claim area (Ressa, 1996, September 22). In short, oil and gas production has been the main revenue for Indonesia.

Besides oil and gas, Natuna Sea is one of Indonesian Fisheries Management Area which has potential catch of fish of about 621.500 ton/year. Due to lack of technology, the exploitation rate is about 33.1% from the maximum (Prayoga & Arthana, 2009, p. 9). Therefore, Natuna Sea is important for Indonesian food supply and as a means of subsistence for fishermen living surrounding the Islands.

Furthermore, for Indonesian to access imports from East Asia as well as enabling its exports to reach the region, the goods have to pass through the SCS. In 1990, for instance, from Java ports, Indonesia shipped various commodities to East Asia amounting to USD 5,540.7 million, and from Sumatra ports the figures amounted to USD 11,131.7 million. In the 1990s Indonesia’s revenue was heavily dependent on petroleum exports, petroleum products, and gas. In 1991, the products were exported at high rates of 25,367.2 billion tons to Japan, 3,215.3

billion tons to South Korea, 4,697.9 billion tons to United States and 2,033.6 billion tons to Taiwan. The total export to the four countries amounted to USD 4,990.5 million (Sukma, 1992, p. 401).

In the mid-2000s, East Asia region was still the largest export destination for Indonesian goods. The goods were valued at USD 46,156.5 million and contributed 40% of Indonesia's total export as depicted below in Table 5.2:

Table 5. 2. Indonesian Export Value by East Asia Country of Destination
(Including Oil, Oil Product & Natural Gas)
2006-2009

Country of destination	2006		2007		2008		2009	
	Value	Share (%)	Value	Share (%)	Value	Share (%)	Value	Share (%)
EAST ASIA	42,236.9	41.90	45,185.2	39.60	53,475.1	39.03	43,728.9	37.53
Japan	21,732.1	21.56	23,632.8	20.71	27,743.9	20.25	18,574.7	15.94
Hongkong	1,703.2	1.69	1,687.5	1.48	1,808.8	1.32	2,111.8	1.81
North Korea	13.4	0.01	0.4	0.00	7.0	0.01	8.0	0.01
South Korea	7,693.5	7.63	7,582.7	6.65	9,116.8	6.65	8,145.2	6.99
Taiwan	2,734.8	2.71	2,596.7	2.28	3,154.7	2.30	3,382.1	2.90
PRC	8,343.6	8.28	9,675.5	8.48	11,636.5	8.49	11,499.3	9.87
Other East Asia	16.2	0.02	9.6	0.01	7.5	0.01	7.7	0.01

Source: Ministry of Trade, the Republic of Indonesia. (2011, April).

In the same period, Indonesia imported commodities which amounted to USD 28,037.9 million average which constituted 30% of total imports as shown in Table 5. 3.

Table 5. 3: Indonesian Import Value by East Asia Country of Destination
(Including Oil, Oil Product & Natural Gas)
2006-2009

Country of destination	2006		2007		2008		2009	
	Value	Share (%)	Value	Share (%)	Value	Share (%)	Value	Share (%)
EAST ASIA	16,698.2	27.34	20,223.3	27.16	42,537.2	32.92	32,693.1	33.76
Japan	5,515.8	9.03	6,526.7	8.76	15,128.0	11.71	9,843.7	10.17
Hongkong	346.4	0.57	442.6	0.59	2,367.6	1.83	1,698.1	1.75
North Korea	0.5	0.00	2.7	0.00	8.0	0.01	7.6	0.01
South Korea	2,875.9	4.71	3,196.7	4.29	6,920.1	5.36	4,742.3	4.90
Taiwan	1,322.1	2.17	1,495.3	2.01	2,850.1	2.21	2,393.2	2.47
PRC	6,636.9	10.87	8,557.9	11.49	15,247.2	11.80	14,002.2	14.46
Other East Asia	0.7	0.00	1.5	0.00	16.3	0.01	5.8	0.01

Source: Ministry of Trade, the Republic of Indonesia. (2011, April).

Comparing the two tables, Indonesia enjoyed surplus value of trade to East Asia in the year 2006-2009.

Indonesia's export-import condition with East Asia countries indicated Indonesia's economic development depends on the SCS lanes. If war breaks out in the SCS, it will definitely disrupt Indonesia's economy.

5. 5. 3. Constitutional Mandate

As mentioned earlier, one of Indonesia's foreign policy principles is based on the first and the fourth paragraphs of its constitution. The first paragraph refers to a strong sense of nationalism and anti-colonialism that Indonesia is obliged to

support countries living under colonialism, whereas the fourth paragraph means Indonesia has to contribute and take active roles in maintaining world order.

As a manifestation of the first paragraph, Indonesia hosted the Asia Africa Conference in Bandung in 1955. This conference promoted cooperation among the third world countries in Asia and Africa continents and opposed colonialism as well as laying the foundation for the establishment of the non-alignment movement (US. Department of State Office of the Historian, n. d.).

As an implementation of the fourth paragraph of the constitution, Indonesia has taken an active interest of global and regional affairs. At the global level, for instance, Indonesia has endeavored to fulfill this constitutional directive through its active membership in the United Nations and its Specialized Agencies as well as in a number of inter-governmental and non-governmental organizations outside the United Nations. It is noted that since 1956 Indonesia is an active participant in the United Nations Peacekeeping Operations. Thirty two missions have so far been sent by Indonesia to various conflict zones in the world (Wikipedia, n. d.). At a regional level, Indonesia participates actively in various governmental and non-governmental organizations such as ASEAN, Non Aligned Movement, and Organization of the Islamic Conference, as well as the Group of 77 (Alatas, 2001b).

Establishing the world order entails obeying international law. In the case of the SCS, the appropriate law is the UNCLOS, which demands from states bordering enclosed or semi enclosed sea like the SCS to develop cooperation in many fields in order to build peace in the region. Consequently, Indonesia

supports any initiative that strives to develop a favorable atmosphere for managing the conflict.

5. 5. 4. ASEAN Unity

The end of the Cambodian conflict raised some hope that Southeast Asia would soon step into a peaceful condition. Yet, the hope could not be realized because the SCS conflict escalated and has threatened Southeast Asia's stability. Involving by sovereignty issues among the claimants, the SCS conflict is more complicated than the Cambodia conflict. Besides military skirmishes between Vietnam and China, diplomatic tension also escalated between Malaysia and the Philippines, the two ASEAN's original members. In 1988, for instance, Manila protested when 47 fishermen from the Philippines were detained by Kuala Lumpur because they had entered Malaysia's territory in the Spratly water, which was also been claimed by the Philippines. The Philippines' senate urged President Aquino to sever diplomatic ties with Malaysia if Kuala Lumpur failed to release the fishermen ("*Filipina dan Malaysia*" [The Philippines and Malaysia"], 1988). Of course, diplomatic tension between the two countries has threatened ASEAN unity.

ASEAN is important for Indonesian foreign policy considering for several factors. First, establishing ASEAN created Indonesia's international credibility to change its image from 'radical' foreign policy in the Old Order into good neighborhood policy in the New Order. Such image was essential in inviting international donors to invest in Indonesia. Second, since the establishment of ASEAN in 1967, there had been relatively stable and peaceful condition in intra-

ASEAN relations. Third, ASEAN could be acted as a buffer for Indonesian security (Anwar, 1994). Moreover, Anwar pointed out: “Cooperation in ASEAN led to the development of friendly relations amongst close neighboring countries. The existence of a ring of friendship around Indonesia meant that the danger zone had been moved further away from the country’s immediate vicinity” (Anwar, 1994, p. 297).

Based on the reasons above, ASEAN was a corner-stone of Indonesia’s foreign policy under Suharto. The unity of ASEAN was given high priority in its agenda. Peaceful and stable ASEAN is essential for Indonesia to preserve its development program. Considering Indonesia’s status as the biggest state in ASEAN, Indonesia has been looking for ways of managing the conflict and preventing it from escalating into a war.

5. 6. Reasons for Supporting Track Two Diplomacy

The end of the 1980s was marked by hope for peace and stability in the Southeast Asia region when the Cambodian conflict came to an end after the conclusion of the Paris Peace Agreement in 1991. Unfortunately in 1988, other conflicts erupted in the SCS between Vietnam and China that resulted in military skirmishes over the Johnson South Reef, a part of the Spratly Islands in the SCS. On March 14 1988, two Vietnamese freighters were attacked by three Chinese warships. Another Vietnamese freighter attempting to rescue the two freighters also came under attack. The three freighters were sunk and more than 70 Vietnamese sailors were killed. Chinese troops proceeded to land on Johnson South Reef and raised its national flag (Hoyt, 1994; Odgaard, 2002). Certainly,

this conflict threatened peace and stability and became a major flash-point in Southeast Asia. Given that six states are involved in the dispute, the conflict in the SCS is definitely more problematical than the Cambodian conflict.

In view of the negative impact of the SCS conflict both regionally and domestically, Indonesia decided to take an active role in search of ways to reduce tensions and avoid open conflict. This action was based on certain reasons. First, the SCS is important to Indonesia's national interests especially in terms of security, economic development, and territorial integration. Second, playing an international role in conflict settlements and peace-making processes is one of Indonesia's obligations as stipulated in its constitution. Foreign policy actions which are in line with its constitution strengthened the legitimacy of the governing regime. Third, Indonesia under Suharto prioritized the good neighborly policy, which sustains peace in Southeast Asia region as well as preserving ASEAN unity. It is noted that prior to 1990, there were three ASEAN members involved in the SCS conflict, namely, the Philippines, Malaysia and Brunei.

After military skirmishes between Vietnam and China, no party had presented itself to solve the conflict. Even ASEAN did not have any blue-print on how to solve the SCS conflict. Therefore, Indonesia as the biggest state in Southeast Asia tried to support the initiative of Ambassador Dr. Hasjim Djalal, a retired Indonesian diplomat who is a leading expert on ocean law and one of the influential participants in the Third United Nations Conference on the Law of the Sea since 1973, as well as being the head of the Centre for Southeast Asian Studies (NUS Centre of International Law, 2009). He proposed Track Two

Diplomacy to manage the conflict. As mentioned earlier in other chapters, Track Two Diplomacy is the best mechanism in managing and avoiding conflict which is threatening to get out of hand. There are some other reasons behind choosing this mechanism. First, the SCS conflict is a sensitive issue involving sovereignty and territorial jurisdiction. All the conflicting parties, therefore, are reluctant to start dialogue in a formal forum. Second, China is a dominant player in the SCS in terms of size, economic development, and military power. However, Indonesia (together with other Southeast Asia countries) has no adequate experience so far in conducting dialogue with China. Moreover, in 1989 Indonesia had suspended diplomatic relations with China. Third, Southeast Asian countries were suspicious of China's aggressive behavior in the SCS as well as its backing of insurgencies in this region in the 1960s (Intelligence Report, 1973). Bearing in mind of these dynamics, Track Two Diplomacy was considered the ideal strategy to break the ice and build trust and confidence in the region. The Taiwan factor is another dynamic that highlights the utility of Track Two Diplomacy, especially if one considers that Taiwan and China cannot sit in the same table in formal forum. China insists that Taiwan is a province of China under its dispensation of one country two systems. A close inspection of the issue shows that Track Two Diplomacy is the only way to bring together these two erstwhile enemies because of its informal dialogue template (Pramono, Interview, February 27, 2012). The foregoing reasons are behind Indonesia's supports of Track Two Diplomacy via the Workshop on Managing Potential Conflict in the South China Sea experiment proposed by Ambassador Dr. Hasjim Djalal.

5. 7. The Workshop Organization

5. 7. 1. The Workshop Procedure

In 1989, Dr. Hasjim Djalal, an Indonesian retired diplomat and the Head of the Center for Southeast Asian Studies in Jakarta, launched initiative to manage conflict in the SCS. He designed a concept paper in order to investigate the attitude of ASEAN's members on managing conflict in the SCS. With sponsor from The Ocean Institute of Canada, he travelled to the all ASEAN's capitals and met his colleagues, diplomats and law experts to discuss his concept. He said: "I have met various colleagues in ASEAN countries. I have privately and informally discussed this subject. I am encouraged by the various conversations that suggested that we must do something to try to manage the potential conflicts in the South China Sea, and if possible to change them into possible areas of cooperation" (Djalal, 1990, transcript of the opening remarks, Report of the First Workshop, p. 34). The Djalal's concept paper then was fully supported by Indonesian Foreign Minister Ali Alatas.

Djalal found that ASEAN members have different views on the SCS conflict. Singapore suggested that it was imperative to involve non ASEAN members, like China and Taiwan, in order to avoid the impression that ASEAN members were grouping against the two countries. Meanwhile, Thailand preferred conflict management approaches that were conducted in a low profile and informal manner so as to minimize misinterpretation by other countries that have an interest in the SCS. Malaysia and the Philippines tended to favor an approach that solves the conflict via the bilateral approach (Catley & Keliat, 1997).

After summarizing the discussion among his colleagues, Djalal presented the results of his round-trip in ASEAN capitals as follows: First, ASEAN members should take action to manage any potential conflict of the SCS and convert them into cooperation. Second, considering the difficulties and the sensitiveness of territorial issues, it would be better if the activity was informal, at least at the initial stage. Third, ASEAN members should coordinate their vision and positions first in a meeting before they invite non ASEAN members. Fourth, the meeting should be informal, attended by both government and non-governmental participants in their private capacities. In order to contribute directly to the policy making process of ASEAN members', the outcomes of the meeting should be policy-oriented (Djalal, 1990. Transcript of the opening remarks, Report of the First Workshop). In addition, decisions and recommendations should be reached by consensus as a custom adopted in ASEAN meetings.

By and large, the proposals for managing conflict namely the 'Workshop on Managing Potential Conflicts in the South China Sea' was adopted, and many parties offered measures to assist this activity. These sponsors included Japan, Canada and Nordic states e.g. Sweden and Norway. Canada was elected as a sponsor of the Workshop due to its unique background. Further, Djalal explained:

Berdasarkan berbagai pertimbangan, Kanada terpilih sebagai sponsor lokakarya. Alasannya antara lain pertama, Kanada adalah negara yang mempunyai garis pantai terpanjang nomer dua di dunia. Selain itu Kanada juga telah lama melakukan dialog antara ahli-ahli kelautan baik yang bersal dari pemerintah maupun non-pemerintah di kawasan Asia

Pasifik. Alasan kedua adalah Kanada mempunyai posisi netral dalam sengketa Laut China Selatan. Alasan ketiga, saya mempunyai banyak teman yang ahli dalam hukum laut ketika saya sebagai duta besar di Kanada. Salah satunya adalah Professor Ian Townsend-Gault dari Universitas of British Columbia. Negara-negara Skandinavia tidak dipilih karena faktor jarak sedangkan Jepang tidak dipilih karena faktor sejarah dan negara-negara disekeliling Laut China Selatan mempunyai kenangan buruk sewaktu Perang Dunia kedua (Due to some consideration, Canada was chosen as the donor of the workshop. The first reason was that Canada's coastlines are the second longest in the world. Besides, Canada has been conducting dialogue among sea-expert participants either governmental or non-governmental parties in Asia Pacific. The second is that Canada has neutral position in South China Sea dispute. The third is I have many colleagues experting in law of the sea when I represented Indonesian ambassador for Canada. One of them is Professor Ian Townsend-Gault from University of British Columbia. Due to far-reaching distance, the Nordic states were not selected. While Japan was also not chosen because of historical aspects and the countries around South China Sea have terrible memories with Japan during the World War II) (Djalal, interview, March 1, 2012).

Thus, the preparation for the workshop was finalized with the support of the Indonesian Ministry of Foreign Affairs. For ten years, the financial assistance of the workshop came from the Canadian International Development Agency (CIDA) through the SCS Informal Working Group of the University of British

Columbia. Pertamina, the Indonesian State Oil Company, together with the Director-General for Sea Communications, the Director-General of Fisheries, Pusat Studi Asia Tenggara (Centre for Southeast Asian Studies) chaired by Dr. Hasjim Djalal and local governments also gave additional support to the workshop process when it convened in various cities in Indonesia. The workshop was organized by the Research and Development Agency, Ministry of Foreign Affairs of Indonesia (Djalal, interview, March 1, 2012).

The workshop approach was created not to solve the conflict directly, but to seek a pathway to solve the conflict. After all, solving the conflict depends on the political will of all claimants. The workshop had three objectives. First, to exchange the views through dialogue so it could increase mutual understanding among participants. Second, to develop confidence building measures so the participants would be comfortable with one another. It was also important to provide a favorable atmosphere in the quest of seeking a solution to the claimants' territorial or jurisdictional dispute. Third, to manage potential conflicts by exploring areas in which every party could cooperate. The cooperation was based on the principles of the step-by-step approach, stressing on cost-effectiveness and starting from the least controversial issues (Djalal & Gault, 1999).

From the beginning, the informal dialogue was recognized as a long-term continuing process and lacked immediate concrete outcomes. In this process, patience was essentially required to change the habit of confrontation into the habit of cooperation. Prior to 1990, coastal states of the SCS had no experience in establishing cooperation but they only had confrontation experiences. Therefore,

it was not a matter how slow the process or how small the outcomes of the Workshop was (Djalal & Gault, 1999).

5. 7. 2. The Workshop Mechanism

The workshop was designed to operate in an informal manner so that participants attending in a personal capacity were able to express their views without restraint. Concerning the informal manner, Mr. Nugroho, Head of the Section for Politics and Security Cooperation, Directorate General of ASEAN Cooperation, Indonesia Ministry of Foreign Affairs explained:

Hanya dengan cara inilah mereka yang terlibat konflik ditambah dengan mereka yang tidak terlibat dalam konflik seperti Indonesia, Singapura, Thailand dan Kamboja dapat duduk bersama dalam satu meja dialog. Tempat duduk mereka diatur berdasarkan alphabet tanpa bendera negara. Cara informal ini dapat mempertemukan dua pemain kunci dalam sengketa Laut China Selatan yaitu China dan Taiwan yang tidak mungkin terjadi dalam pertemuan yang bersifat formal. Jika semua peserta, baik mereka yang terlibat maupun yang tidak terlibat sengketa, dapat duduk bersama, maka lokakarya ini akan menjadi sarana untuk membangun rasa kebersamaan sebagai landasan untuk menyelesaikan sengketa secara damai (Only an informal manner could push all claimants and other coastal states of the SCS such as Indonesia, Singapore, Cambodia and Thailand to sit-down on the same table. The sitting arrangement was based on the alphabetical order without the national flag. Such an informal forum would invite two major parties involved in the South China Sea, Taiwan

and China, to gather. This could not succeed in a formal forum. If all claimants together with coastal states of the SCS attended the workshop, this presented an opportunity to create a sense of togetherness and community which would serve as a foundation to solve the conflict peacefully (Nugroho, interview, February 27, 2012).

Claimants and coastal states attending the workshop were Brunei, Cambodia, China, Indonesia, Lao People Democratic Republic (Laos), Malaysia, the Philippines, Singapore, Thailand, Taiwan and Vietnam. It should be noted that Laos, as a landlocked country, participated in the workshop in consideration of a passage in UNCLOS which stipulated that landlocked states have right in the exploitation of an appropriate part of the surplus of the living resources of the Exclusive Economic Zones of coastal states of the same sub-region or region (UNCLOS, 1982, article 69:1). Since the workshop was informal the talks avoided formal nuances. For instance, the governments of the states participating in the workshops were called Supporting Regional Authorities (SRA). Granted that, persons from the SRA who attended the workshop were called participants, instead of delegation or representatives.

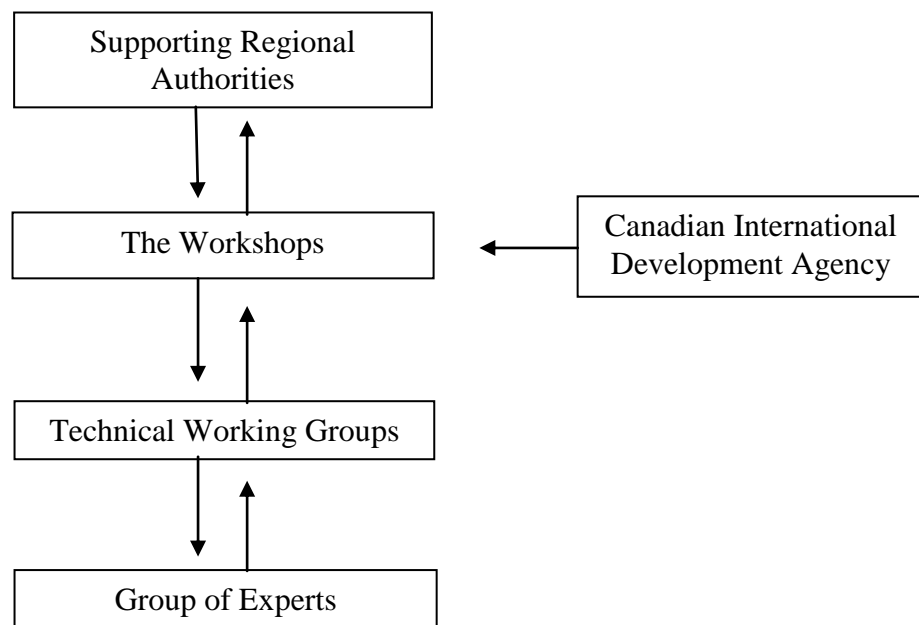
The persons who attended the workshop were categorized as: participants, observers, resource persons and organizing committee members. Participants were persons designated by the SRA to attend the meetings of the workshop in their personal capacity. The participants' occupations varied from officers in the ministry of foreign affairs, scientists/researchers, professors of universities to officers of state oil companies. Observers were persons invited by the SRA to

attend the workshop and were not designed as participants. These persons had the right to observe the progression of the workshop. Observers also included persons from some other specific professions such as journalists and NGO activists. Resource persons were chosen by the workshop to attend the meetings in order to provide their expertise on specific issues. And the last category was the organizing committee, which referred to persons in charge of organizing the workshop's meetings. These persons were mostly officers of the Indonesian Ministry of Foreign Affairs but acting in their personal capacity.

The workshop meetings were held annually in various cities in Indonesia (see table 6. 3). To implement induce cooperation, the workshop established the Technical Working Group (TWG), Group of Experts (GE) and Focal Points. The TWG was a group of technical experts in a particular marine/ocean discipline established by the workshop and mandated to define the areas of its cooperative activities and build up proposals. The TWG also provided policy direction for implementing project proposals. Group of Experts was a group established and mandated by the TWG to address the technical implementation of the project proposals for activities that encouraged cooperation. Focal Points were persons selected by SRA in order to interact with the workshop/TWG/GE for a specific function. The TWG and GE meetings were convened outside Indonesia. Since 1995, a rough hierarchy of meetings held under the workshop process has emerged, whereby each GE meeting reported to the TWG, and in turn the TWG reported to the annual workshop. The workshop mechanism has become a sort of plenary meeting for the whole process (Gault, 1998). Five Technical Working Groups were established during the workshop, namely, the Technical Working

Group on Marine Scientific Research (TWG MSR); the Technical Working Group on Marine Environment Protection (TWG MEP); the Technical Working Group on Resources Assessment and Ways of Development (TWG RAWD); the Technical Working Group on Safety of Navigation, Shipping and Communication (TWG SNSC); and the Technical Working Group on Legal Matters (TWG LM). The diagram of the workshop mechanism is illustrated below in Figure 5.7:

Figure 5.7. Diagram of the Workshop Mechanism



As mentioned earlier, the Supporting Regional Authorities (SRA) appointed participants who attended the workshop. Generally, the participants were high ranked bureaucratic officials who attended the workshop in their personal capacity. To formulate and implement project activities, the workshop established Technical Working Groups. If necessary, a Technical Working Group was able to form a Group of Experts to formulate project proposal. However, the proposal could only be approved by the Technical Working Group and then presented at

the workshop's annual plenary meeting to get recommendations and direction. Participants would then report the results of the workshop meetings regularly to their SRA in order to obtain considerations. As indicated earlier, the Canadian International Development Agency (CIDA) contributed funds for running the annual workshop.

The coordinator of the workshop was Ambassador Dr. Hasjim Djalal, chairman of Centre for Southeast Asia Studies in Jakarta. He coordinated the workshop in tandem with Professor Ian Townsend-Gault from the Center Asian Legal Studies, the University of British Columbia – Canada through which CIDA's budget was allocated to convene the workshop.

5. 8. Conclusion

The escalating conflict in the SCS threatens Indonesia's national interests in terms of security, territorial integrity and economic development. With a mandate derived from its constitution to secure its domestic political stability as well as its national interests, Indonesia under Suharto prioritized the drive to stabilize regional peace in Southeast Asia. Therefore, during his administration, Suharto supported any efforts aimed at resolving disputes in the region such as the Cambodian conflict and the conflict in the SCS.

Concerning the SCS conflict, Indonesia supported the Track Two Diplomatic channels symbolized by Workshop on Managing Potential Conflict in the South China Sea for a number of reasons. First, the littoral states surrounding the SCS lack the experience of engaging in formal dialogue over the obtaining territorial dispute. Even, among them, there is still a lingering distrust of China's

behavior and intention in the disputed area. Second, it is virtually impossible to invite all claimants at the same table for formal dialogue due to the Taiwan situation.

With financial sponsorship from Canada, Indonesia supported Dr. Hasjim Djalal's formula to conduct the workshop experiment. The workshop was designed in an informal manner to enable all participants from littoral states surrounding the SCS to attend in their personal capacity as well as to express their views freely. The objectives of the workshop included the following: to increase mutual understanding through an exchange of views and constructive dialogue, to develop confidence building measures among the participants, and to manage the conflict by exploring areas for possible cooperation. In a nutshell, the workshop was conducted not merely as an academic exercise but as a source for policy guidance and formulation.

CHAPTER SIX

THE CHRONOLOGY OF THE WORKSHOP AND THE OPERATIONALIZATION OF CONSTRUCTIVE IDEAS

6. 1. Introduction

Constructivism theory emphasizes the role of shared ideas in constructing realities. This theory which gained popularity in the Post-Cold War complements the traditional theories of International Relations such as Realism and Liberalism in examining new phenomena of the changing world.

To understand the realities of international relations, Constructivism theory proffers three basic concepts, namely socialization, identity, and norms. These concepts will be examined in the context of the workshop mechanism. In addition, Constructivism also emphasizes the interaction process of sharing knowledge among the actors. With this in mind, the first section of this chapter highlights the process of the serial workshop in a chronological order from the first to the twelfth meeting. The second section discusses the workshop as a social learning process for the participants as they exchange ideas on certain issues. The third section explains how the workshops created the sense of community and togetherness as steps towards building a common identity. Finally, the fourth section explores norms building in conducting behavior.

6. 2. The Workshops Process, 1990-2002

6. 2. 1. The First Workshop 1990

The First Workshop was convened in Bali on January 22 – 24, 1990. It was attended exclusively by participants from ASEAN members. They were invited to examine the South China Sea (SCS) dispute from a Southeast Asia regional perspective. Furthermore, the First Workshop was intended to build the same perception as well as to lay down a common platform before inviting non-ASEAN members.

At the beginning, Ali Alatas, the Indonesian Minister of Foreign Affairs, explained the reasons and the goals of the workshop. He indicated that after the Cambodia conflict, the SCS might be the next acute source of conflict in the region. In view of that, he supported the idea of promoting cooperation among the coastal states of the SCS. He welcomed the aims of the workshop and expressed the hope that it may be made formal in the future and evolved into a wider forum encompassing all the claimant states and even other major powers outside the region. He also expressed the hope that the workshop would produce positive results that may be useful to governments as policy inputs (Alatas, 1990, transcript of the opening speech of the First Workshop).

There were six issues discussed in the workshop to identify possible areas for establishing cooperation. These issues were: (1) Environment, Ecology and Scientific Research; (2) Shipping, Navigation and Communication; (3) Resources Management; (4) Political and Security Issues; (5) Territorial and Jurisdictional Issues; and (6) Institutional Mechanism for Cooperation. Each participant of the

Supporting Regional Authorities (six ASEAN members) presented a paper on one issue and this was complemented by some papers presented by resource persons who were invited to the workshop. The content of these discussions will be briefly discussed in the next section.

Although the First Workshop did not produce any statements, it made some observations and recommendations reached by consensus as follows. First, two issues, that is, 'Territorial and Jurisdictional Issue' and 'Political and Security Issue', were complex and sensitive and took time to settle. However, cooperative arrangements through both bilateral and multilateral means of the coastal states were conducted without waiting for the settlement of the two issues. The areas which were identified as possible avenues for cooperation were: protection of the marine environment, marine scientific research, navigational safety, and marine resources management. Second, informal contacts and discussions were significant until formal dialogue was possible. Third, the participants agreed that maritime disputes in the SCS should be settled by peaceful means and all parties were not suggested to apply military force as the final resort. Fourth, it was also approved that the participants of the workshop dialogue should be broadened to include all claimants of the SCS and extra-regional parties which had interests in the region (Report of the First Workshop, 1990).

The First Workshop displayed positive progress by developing basic principles concerning the SCS dispute among ASEAN members. The basic principles enhanced the dialogue formula of resolving the dispute by peaceful means as well as establishing cooperation without waiting for the formal solution

of the dispute. It was also established that informal talks were an important avenue for creating a conducive atmosphere that produces mutual understanding. In a way, the First Workshop laid down the groundwork for the coming activities.

6. 2. 2. The Second Workshop 1991

It was not easy to make China join the workshop process since China believed that its sovereignty in the SCS was indisputable and as such this issue could not be discussed regionally or internationally (Dr. HasjimDjalal, interview, 2012, March 1). In addition, China would solve the dispute directly and bilaterally without the inclusion of Taiwan. It needed a special effort from Indonesia as the host of the workshop process to invite China. During his visit to Vietnam and China in January 1991, Ali Alatas invited both states to attend the Second Workshop. Vietnam confirmed its participation but China refused to participate if the agenda of the workshop included sovereignty issue. Alatas assured China that the workshop was an informal meeting that avoided sensitive matters (Vatiokis, 1991). Basing on the assurances from Alatas, China agreed to attend the next workshop.

The workshop was held in Bandung on July 15 –July 18, 1991. Bandung, the capital city of West Java Province, was chosen in order to remind the participants that the city hosted the Asia-Africa Conference in 1955 and produced *Dasa Sila Bandung* (the Bandung Ten Basic Principles) some of which, according to Alatas, are still relevant today especially those dealing with the SCS issue. The principles included: respect for the territorial integrity and sovereignty of all nations; the absence of intervention or interference in the internal affairs of

another state; refraining from acts or threats of aggression or the use of force; settlement of all international disputes by peaceful means; and promotion of mutual interests and cooperation. Alatas also stressed that the meeting was not meant to be a forum of negotiation focusing on overlapping sovereignty and jurisdictional claims of the SCS but rather a forum geared at finding ways of transforming potential sources of conflict into constructive forms of cooperation for mutual benefit (Alatas, 1991, transcript of the opening speech of the Second Workshop).

The agenda that was discussed was similar to that of the First Workshop although it was more detailed, and included an additional issue of 'Claims of the Spratly and Paracel Islands Issue'. Concerning this issue, participants were invited to express their government position on the Spratly and Paracel disputes without the benefit of detailed discussion to avoid the endless debate.

In this meeting, the participants were broadened and included six ASEAN members, China, Taiwan, Laos and Vietnam. In essence, all states surrounding the SCS attended the meeting. Some ideas pertaining to the establishment of a secretariat to conduct daily administrative activities of the workshop as well as to formalize the meeting were also raised. However, some participants resisted these suggestions and subsequently the ideas to establish a secretariat and formalize the workshop process were no longer discussed (Report of the Second Workshop, 1991).

At the end of the workshop, participants issued a joint statement which contained the following items: the promotion of cooperation without prejudice to

territorial and jurisdictional claims; the relevant areas of cooperation such as on the safe of navigation and communication, the coordination of search and rescue efforts, combating piracy and armed robbery, protecting and preserving marine environment, conducting marine scientific research; considering the establishment of joint development for mutual benefit in areas where territorial conflict exist; resolving any territorial and jurisdictional dispute by peaceful means; avoiding using force and encouraging the exercise self-restraint (Detail of the joint statement, see appendix 1). The joint statement indicated the rapprochement among participants, the obtaining basic principles, and the common platform to manage the dispute. In a way, the workshop created a tradition of talking and taking decision by consensus instead of adopting the use of force in settling disputes. It also reflected the essence of the ASEAN-TAC and ASEAN Way as the guiding mechanisms for behavior of ASEAN members as they engage littoral states of the SCS to find the ways in settling the dispute.

6. 2. 3. The Third Workshop 1992

Prior to the workshop, there were three incidents that caused tensions to escalate in the SCS. The first was on February 25, 1992, when the National People's Congress – China's parliament, passed the Law of People's Republic of China on Its Territorial Waters and Contiguous Areas. In this piece of legislation, China reaffirmed its position that the SCS was under China's territorial sovereignty and as such she explicitly reserved the right to use military force in the region ("China testing the water", 1992). Unsurprisingly, ASEAN members were worried about this new law which would impact negatively on the promising dialogue process

conducted under the workshop process. Rightly so, Indonesia felt that Beijing wanted to sabotage Jakarta's initiative on managing the conflict in the SCS (Hamzah, 1992). To ease these suspicions among ASEAN members, Fu Ying from China's Foreign Ministry Office explained that the discussion on the new law had started in 1958 and took 30 years to gain approval. She affirmed China was still committed to participate in negotiation forums aimed at solving the dispute in the SCS. She assured that though differences remain, China was prepared to put aside the dispute and start dialogue on establishing joint cooperation ("Cooling off a flashpoint", 1992). Second, Vietnam protested to China when the Chinese National Offshore Oil Company in May 1992 offered a concession to the United States Crestone Energy Corporation to explore oil and gas in the Spratly Islands' area, an area which was also claimed by Vietnam. Third, Malaysia accorded the Terumbu Layang Layang Island in the contested water in the SCS as a tourist destination.

Against a background of escalating tensions, the workshop was convened in Yogyakarta from June 28 to July 2, 1992. At the meeting Ali Alatas expressed his anxiety concerning the situation in the SCS. He urged all claimants to exercise extra self-restraint. In this regard he said: "To this plea for self-restraint, I should like to add my fervent hope that the situation shall not be complicated any further and that the region be spared from yet another violent and debilitating conflict" (Alatas, 1992, transcript of the opening speech, Report of Third Workshop, p. 76). According to Alatas, the situation of the SCS became more complicated, thus, through constructive dialogue it was possible to transform the mutually destructive confrontation into a mutually beneficial cooperation. He reminded the

participants to exercise self-restraint by pointing out that: “Finally, may I share this thought with you: we are all committed to and ardently work for peace. But commitment and effort, to be productive, must also be coupled with self-restraint and the will to pursue the path of peaceful conflict resolution” (Alatas, 1992, transcript of the opening speech, Report of the Third Workshop, p. 77).

Notably, the agenda of the Third Workshop was the same as the previous one, but the discussions on the issues were more detailed and technical. The workshop concluded several points: First, participants agreed that they would recommend to their respective governments the renunciation of using force to solve territorial and jurisdictional disputes. Second, dispute settlement should be carried out by enhancing dialogue and negotiation. Third, cooperation in the dispute areas should be established without prejudice to the territorial and jurisdictional claims (Report of the Third Workshop, 1992).

Considering the background of the participants, who were mostly diplomats and legal experts, it was clear that they were incapable of producing concrete proposals on substantive cooperation. On the other hand, the high tensions in the SCS required urgent de-escalation through establishing cooperation in the region. Consequently, the workshop agreed to set-up two technical working groups (hereafter TWGs) (Gault, 1998). The TWG consisted of experts who were in charge of preparing and organizing joint activities after gaining approval from their governments. The issue areas of their task included resource assessment, ways of development, and marine scientific research. Thus, it was recommended that the two groups, namely, the Technical Working Group

on Resource Assessment and Ways of Development (TWG RAWD) and the Technical Working Group on Marine Scientific Research (TWG MSR) would be established as soon as practicable. The workshop also recommended the undertaking of activities in marine scientific research by supporting a meeting of scientists and conducting a research expedition in the SCS region. These activities would be prepared by TWG MSR (Report of the Third Workshop, 1992).

6. 2. 4. The Fourth Workshop 1993

The Fourth Workshop was held in Surabaya on August 23-25, 1993. Unlike the previous workshop, the Surabaya meeting departed from the topic-by-topic agenda. Starting from the Fourth Workshop, the sessions were devoted to examining proposals for cooperation that had already been prepared by the TWGs.

The Surabaya meeting discussed the results and gave recommendations on the two TWGs' work, the TWG RAWD and the TWG MSR. It recommended that the TWG MSR should continue the meeting to finalize its three proposals, namely, Database Information Exchange Networking Project; Sea Level tide Monitoring Project, and Biodiversity Project (Report of the Fourth Workshop, 1993).

The Workshop also agreed to establish the Technical Working Group on Legal Matters (TWG LM). The TWG LM was assigned to study the legal implication of various recommended programs and to analyze various models of joint development as well as several cooperative efforts in maritime regions of the

world in order to see what could be assessed and learned from them to be applied in the SCS.

Considering that the environmental condition in the SCS and the safety of navigation were getting worse, the participants agreed to establish a Technical Working Group on Marine Environment Protection (TWG MEP) and Technical Working Group on Safety of Navigation, Shipping and Communication (TWG SNSC). The meeting also noted that any concrete cooperation should be based on the cost effectiveness, step-by-step principles, and should start from the least controversial issues.

Concerning the implementation of cooperation, Dr. Djalal indicated that cooperation in this region could be well-implemented if the participants were widely involved both in the workshop process and in executing various projects. Therefore, in the next workshop, more participants would be invited. He classified the additional participants into three categories. The first category was regional participants. These participants included non-claimant states but located around the SCS. At the time of the Fourth Workshop, only Cambodia was not involved. The second category was non-regional participants that had interests in the SCS such as Australia, Japan, the US, and the EU. Most of them had interests in the safety on navigation and security of sea-lanes. These parties also had unique capabilities and assets, especially human resources or experts, scientific information, technology and funds to support the realization of the projects. The third category was international organization, for example, the Food and Agriculture Organization (FAO), Western Pacific Fisheries Consultative

Committee (WPFCC), and the International Maritime Organization (IMO). Additional participants, according to Dr. Djalal, were in line with article 123 of UNCLOS pertaining to the SCS as a semi-closed sea. This article stipulated that states bordering a semi-closed sea should invite appropriate other interested states or international organizations to build cooperation in managing the resources and environment (Report of the Fourth Workshop, 1993).

Nonetheless, participants from China questioned the plan of inviting non-regional participants by arguing that the conflict in the region should be settled bilaterally without third party intervention. According to participants from China, intra-regional cooperation could settle the dispute whereas inviting the extra-regional parties in the workshop's process would complicate the on-going process. The participants agreed to invite extra-regional parties only in implementing the concrete proposal produced by the workshop but not in intervening in the dialogue process of the workshop. Another participant added that the extra-regional parties should not dictate the workshop process, since their role was limited to providing technical and financial assistance on specific programs. Dr. Djalal reiterated this position by indicating that the involvement of extra-regional parties was limited only to technical and financial support. However, he reminded the participants that it was difficult to obtain assistance from extra-regional parties if they did not access adequate information by not inviting them to the workshop process (Report of the Fourth Workshop, 1993). No consensus was reached on this issue. The participants only agreed to invite Cambodia as a new participant while extra-regional parties would be invited selectively if necessary. This decision indicated the growing openness of the

workshop process which was becoming more inclusive in developing the projects and awareness on the need to cooperate with extra-regional parties.

The Fourth Workshop began with a discussion on confidence building measures. Dr. Djalal outlined several items of the measures, as follows:

- a. Non-expansion on existing military presence;
- b. No new occupation of islands and reef which so far unoccupied;
- c. Transparency in military presence, military activities and other activities;
- d. Exchange of visit to each other's facilities either directly, or through the Working Group mechanism;
- e. Organized visits by participants of the Working Group to the occupied islands, in order to increase transparency;
- f. Freedom of navigation, passage and over flight through the waterways in the SCS;
- g. Freedom of scientific research in the waterways in the SCS.
- h. Cooperation of all the involved parties in resource exploration and exploitation of the waterways and their seabed resources;
- i. Preservation of the areas within 12 nautical miles of each islands and reef especially in the Spratly Islands as a marine park;
- j. Claimant participants should begin informal dialogue to discuss the conflicting territorial claims in the multiple claiming areas with a view to seek ways and means that could be recommended to arrive at a solution to the dispute. (Report of the Fourth Workshop, 1993, p. 32).

In principle, the participants accepted the items even though some preferred others to be added and omitted. Due to the proliferation of satellite technology, transparency of military presence was unnecessary. On the other hand, the adoption of international conventions such as UNCLOS and ASEAN-TAC were required as well as the necessity to adopt bilateral approaches in attempting to make progress in resolving the claim.

6. 2. 5. The Fifth Workshop 1994

The Fifth Workshop was convened in Bukittinggi, West Sumatra, from October 26 to October 28, 1994. The discussion focused on technical matters especially the examination of a proposal namely 'Proposed Collaborative Research Project on Biological Diversity in the South China Sea' produced by the TWG MSR. The proposal was accepted by the workshop and approval was given to seek funding for its implementation.

The main obstacles of the discussion were how to find the funding agencies and who would be in charge to refine the proposal so that it met the criteria of the agencies. It was agreed that Dr. Djalal would submit the proposal for potential funding and establish a small group of experts to finalize the proposal. If necessary, the group of experts (GE) would set-up a meeting to review the proposal before it was sent to the funding agency (Report of the Fifth Workshop, 1994).

The workshop also discussed the TWG SNSC which was not yet convened due to political obstacles. Dr. Kuen-Chen Fu from Taiwan proposed to the participants to host the meeting in order to mitigate China's block. China refused

Taiwan's offer to host the meeting. For that reason Taiwan is the only participant of the workshop process that has never had the chance to host any forms of meeting (Song, 2005). To create a sense of community, Dr. Djalal reminded the participants that the workshop process would set up several meetings, both inside and outside Indonesia. Therefore, he urged the participants who had not hosted such meetings yet to convene the first TWG SNSC meeting. The workshop decided to bypass the Beijing and Taipei schism over the issue because it was considered to be their domestic affairs. If there were no participants interested in hosting it, Indonesia would be hosting the meeting (Report of the Fifth Workshop, 1994).

To date, the workshop process has been able to produce a concrete proposal activity on the bio-diversity project. The implementation of the activity, of course, would require a degree of formalization. However, the workshop shared the same idea that it was still premature to formalize or institutionalize the process. The session reached a consensus that Dr. Djalal should coordinate the running of the workshop by adding some assistants.

Again, the issue on building confidence building measures was discussed at the workshop. The main focus of this matter was on the 'non-expansion of existing military presence' and concentrated on the dispute over Spratly Islands. A participant expressed the view that the issue was a fundamental principle in the process of building confidence and promoting peace. This idea was supported by the majority of the participants. However, participants from China found difficulty in supporting this principle and were reluctant to discuss it. As a result, there was

no consensus in the issue of confidence building measure (Report of the Fifth Workshop, 1994).

6. 2. 6. The Sixth Workshop 1995

Prior to the Sixth Workshop, there was the Mischief Reef incident. The incident broke-out in February 1995 and triggered escalating tension in the SCS. Mischief Reef located in the Spratly Islands is a tiny rock outcrop lying 135 miles west of Palawan within the Philippine's EEZ (Storey, April 1999). China took action to occupy and build structures consisting of four platforms, equipped with satellite communication equipment. China insisted that the structures were storm-shelters for fishermen; however, Manila suspected that the structures could be used for other purposes (Ching, 1999). China's actions signaled the first move against an ASEAN member. Manila tried to seek international support to solve the problem especially from the UN and the US. All ASEAN members decided to make a collective stand to cope with China's action. They strongly urged for the resolution of the SCS dispute through formal dialogue. Malaysian Foreign Minister Abdullah Badawi, for instance, said it was time to start formal talks to resolve the Spratly dispute ("Malaysia desak" [Malaysia urge], 1995). In a related development, Ali Alatas, the Indonesian Foreign Minister made a call for the formalization of the Workshops process. Such a move, according to Alatas, meant that the authorities, and states involved in the workshop mechanism, would legalize and allocate budgetary support for approved project proposals emanating from the workshops process, as well as ensuring the implementation of these proposals without changing the informal process ("Ali Alatas: Sudah waktunya" [Ali Alatas: Its time], 1995).

Against this backdrop, the Sixth Workshop was convened in Balikpapan on 9-13 October 1995. Without mentioning the Mischief Reef incident, Alatas reminded the workshop that recent developments in the SCS indicated the rising tensions and controversies over the conflicting territorial and jurisdictional claims. As such, he urged the participants to pay more attention to the recent developments of the SCS. Alatas felt that if the chronic dispute deteriorated into open conflict, it would disturb peace, stability and economic development in the region. It might also mess up the free sea-lanes of ships and provoke external parties to interfere in this region. The workshop, according to Alatas, already had yielded substantial achievements. It had proposed particular forms of cooperation and concrete projects in which all parties could participate. A project on biodiversity had been approved and was ready to be implemented. Similarly, two projects on Database, Exchange and Networking as well as Sea Level and Tide Monitoring were waiting to be approved (Alatas, 1995, transcript of the opening speech of the Sixth Workshop).

Though dialogue was a positive sign, it needed to be translated into concrete actions. Alatas stressed that the implementation of the approved projects were the most important. He said:

Dialogue, however, would be more effective and convincing if coupled with cooperative action. I therefore suggest that the time has come to begin implementation of the cooperative projects that have been identified and formulated by the Working Groups and approved by the Workshops process. I should also hope that we can now engage the appropriate

authorities and agencies in our respective countries more directly in implementing these projects (Alatas, 1995, Transcript of the opening speech, Report of the Sixth Workshop, p. 59).

Participants from China agreed with Ali Alatas' assessment that the workshop had produced important results in an attempt to stabilize the situation in the SCS. These participants also indicated that China agreed with the principle of conflict settlement through peaceful means. In addition, China highlighted that the Spratly issue was very sensitive so it was better not to debate it in the workshop forum. China demanded that the workshop should only concentrate on scientific and practical cooperation. Beyond that area, China would not get involved in the dialogue (Report of the Sixth Workshop, 1995).

The Philippines supported China's view that the workshop forum was not the forum to discuss the claims of sovereignty over the islands in the SCS. However, it was felt that the informal dialogue format of the workshop should be maintained because it contributed positive solutions and gave more space as well as flexibility in resolving the dispute bilaterally or multilaterally. The Philippines suggested that the workshop should be open to the possibility of government collaboration especially in the implementation of proposed cooperation activities (Report of the Sixth Workshop, 1995).

Participants from Thailand remarked that the key word of the workshop was 'implementation'. Implementation of the workshop's results seemed difficult to realize without support from governments and/or other formal agencies. Given that, the best thing to do was to persuade the respective governments to support

and implement recommendations made by the workshops (Report of the Sixth Workshop, 1995).

Dr. Hasjim Djalal responded positively to the various ideas and suggestions that came from the participants. He indicated that the discussions were useful as a source of inspiration for coming up with solutions to problems bedeviling the SCS. Dr. Djalal gave assurances that the implementation of the workshop's recommendations would not link around sensitive areas such as territorial and jurisdiction claims. In line with Thailand's view, the success of the workshop depended on the effective implementation of the recommended projects. Therefore, he urged the participants to make every effort to support all proposals recommended by the workshop and persuaded their respective governments to take concrete action in supporting the workshop's recommendations. The workshop was also informed about the status of the project on biodiversity which was regarded as one of the most advanced in preparation terms. It is therefore not surprising that several parties to the workshop gave indications to support its implementation. Australia, for example, expressed willingness to provide experts and a sum of AUD 25,000; the United States agreed to facilitate data transfer from its satellite for the bio-diversity scientific research project; Japan and UNDP also promised to support the implementation of the project (Report of the Sixth Workshop, 1995, p. 72).

The meeting reviewed the reports of three TWGs namely TWG MSR, TWG LM and TWG SNSC. On TWG MSR, participants approved the project on biodiversity which would commence in the following year after finalizing the

funding arrangements with donors as well as getting authorization from respective governments and other agencies. The participants also finalized two other projects namely 'Proposal for Regional Cooperation in the field of Marine Scientific Data and Information Network of the South China Sea', and 'Proposal of the Study of Tides and Sea-level Change and Their Impact on Coastal Environment of the South China Sea'.

Participants from Thailand informed the workshop on the outcome of the TWG LM meeting which was held in Phuket, from 2 to 6 July, 1995. The meeting agreed to exchange information and documents on legal matters. The workshop gave its input and feedback and made several points earmarked for the next TWG LM meeting. The workshop also scrutinized several points including the kinds of legal information and documents that were exchangeable; provisional arrangement for cooperation without regarding the jurisdictional and sovereignty claims; and the common need to compile and to harmonize environmental protection laws. Once again, participants from Chinaware uncomfortable and warned the workshop that the harmonization of laws should not touch sensitive issues considering that China had undisputable sovereignty over Spratly islands (Report of the Sixth Workshop, 1995).

The TWG SNSC reported on its previous meeting on the possibilities for cooperation on the following topics: improvement of weather information and networking and radio beacon system as well as education and training for mariners; SAR networking; combating piracy, eliciting drug trafficking and handling of refugees at sea. The workshop stated that all proposed cooperation

activities were desirable and possible to realize in line with UNCLOS and International Maritime Organization's (IMO) conventions (Report of the Sixth Workshop, 1995).

One difficulty pertaining to the implementation of the proposed projects was the uncertain mechanism for cooperation. Various ideas came up in the discussion. Several alternatives to establishing a mechanism for cooperation were proposed. The first alternative was to choose a national mechanism to become the executing agency though there was no scheme on how the national executing agency would coordinate other agencies when the workshop was an informal forum. The second alternative was to establish a regional mechanism, but there challenges relating to the development of the mechanism and structure. The third alternative was to set up a secretariat. The idea to establish a secretariat was already discussed in the previous workshop but it was not concluded. Some participants were reluctant to institutionalize the mechanism and there was uncertainty concerning who should provide funds for the secretariat (Report of the Sixth Workshop, 1995).

After consuming time in discussing alternative mechanisms of cooperation, the participants agreed to maintain and support the present structure by providing facilities for the Centre for South East Asia Studies chaired by Dr. Hasjim Djalal. Be that as it may, it was important that Dr. Djalal recognize the contact persons of the funding agencies and negotiate the supporting fund for implementing the proposed projects. Concerning the mechanism for cooperation, the workshop agreed to continue with the recent arrangement and requested Dr.

Djalal to be the coordinator and contact person for both the workshop participants and the external agencies (Report of the Sixth Workshop, 1995).

The discussion then shifted to CBMs topic. Dr. Djalal explained that the measures on confidence building had been discussed in the previous workshop, except the measure on non-existence of military exercises in the dispute area. Interestingly, participants from China supported the exchange of ideas on the subject to develop mutual understanding. However, CBMs was a kind of sensitive issue and it was felt that the proper forum to discuss the issue was a formal forum attended by authorized government personnel. This idea was also supported by the Philippines participants' who stated that the issue of CBMs should be discussed in a formal forum like the ARF. On the other hand, participants from Indonesia suggested that the implementation of the agreed projects would promote CBMs. At the end of the session, there was no conclusion on this topic (Report of the Sixth Workshop, 1995).

Participants of the Sixth Workshop recognized that the results of the workshop were useless if there were not implemented. After all, the implementation of the proposed projects required approval and legalization from the participants' governments. Therefore, the workshop urged the participants to demand their governments to give the necessary approval and legalization/ authorization required to implement the proposed projects produced by the workshop.

6. 2. 7. The Seventh Workshop 1996

On 13-17 December 1996, the Seventh Workshop was convened in Batam. The aim of this meeting was to review various reports of TWGs and CBMs. The TWG SNSC reported that it would organize 'Training and Education of Mariners' and would conduct 'Exchange of Hydrographic Data and Information'. The workshop then recommended that the TWG should convene a meeting of GE on 'Education and Training of Mariners and Seafarers' before organizing the training and to conduct a survey of training institutions, obtaining location and number of schools, course content and standard of curriculum prior to the meeting of the GE. The workshop also agreed to convene a meeting of GE on 'Hydrographic and Mapping' to facilitate the exchange of hydrographic and mapping data (Report of the Seventh Workshop, 1996).

The TWG MSR reported that it finalized three proposals for approval from the workshop. They were 'Proposal Collaborative Research Project on Biological Diversity in the South China Sea' (Biodiversity Project); 'Proposal for Regional Cooperation in the field of Marine Scientific Data and Information Network in the South China Sea'; and 'Proposal of the Study of Tides Sea Level Change and their Impact on Coastal Environment in the South China Sea'. Participants from China indicated that their government was carefully reviewing the three proposals since the Sixth Workshop, and that the review process was still ongoing. Upon reaching a decision, the government of China would contact the participants' governments. In the meantime, the government of China conducted several bilateral consultations with several countries regarding the issues raised in the meeting. Dr. Djalal pointed out that progress would be hard to achieve if the authorities did not give positive support. He questioned the Chinese position as articulated by its

participants, and wondered if China was eager to implement the proposal with the participants' governments bilaterally or that China was not prepared to work through the multilateral arrangement. He added that though the workshop never excluded bilateral efforts, the aim of the workshop was creating a multilateral forum. Given that explanation, approvals from governments were crucial in implementing the proposed project multilaterally (Report of the Seventh Workshop, 1996).

According to Mr. Setiawan, an observer of the workshop, it took time for the participants to have their governments approve and legalize proposed projects. It depended on the degree of bureaucratization and communication of each government. China's government was categorized as government which was highly bureaucratic and needed a long time to adopt the outcome of the workshop (Setiawan, interview, February 29, 2012).

The Philippines' participants highlighted the ecological dimension of the SCS dispute which was bigger than the area included in bilateral projects. Since the ecosystem and the environment were inter-connected, there was a sense of realization and urgency about involving all parties in multilateral arena to create a better result. In other words, a bilateral arrangement was fruitful, but multilateral efforts would be more effective and beneficial (Report of the Seventh Workshop, 1996).

After reviewing the TWG results, the workshop moved to discuss CBMs. Though this issue had been discussed in the previous meetings, no concrete concept or approach had been approved. Among the participants, CBMs have

been interpreted in many ways. First, they believed the workshop itself was a CBM. Second, the agreement for cooperation on some specific projects was also perceived to be a CBM. Third, since UNCLOS contains several provisions that could build trust, coastal states of the SCS were urged to ratify the UNCLOS. Following the ratification, an effort to synchronize the interpretation of the UNCLOS was urgently needed. In other words, ratifying UNCLOS was also in a way a type of a CBM. Fourth, the Code of Conduct (CoC) that could decrease the tensions among littoral states was considered to be one of the CBMs. In an attempt to avoid debate concerning the interpretation of CBMs, Dr. Hasjim Jalal invited the participants to discuss the CoC as one of the forms of CBMs (Report of the Seventh Workshop, 1996).

China's participants were reluctant to discuss CBMs. According to them, the workshop was not the right place to discuss CBMs. The discussion of CBMs should be carried out by high-level officials. To put it differently, CBMs issues would be properly conducted in a formal meeting or forum. Meanwhile, Vietnam's participants suggested that it was better to discuss the CoC by inviting lawyers and synchronizing it with the IMO's convention (Report of the Seventh Workshop, 1996). Again, there was no consensus on CBMs issues.

6. 2. 8. The Eighth Workshop 1997

On 2-6 December 1997, the Eighth Workshop was held in Pacet-Puncak West Java. The Pacet meeting continued to review the project proposals submitted by several reports of the TWGs. Up to 1997, three project proposals produced by the TWG MSR had been approved and ready to be carried out. Other project-

proposals were being considered for approval, such as: training program on ecosystem monitoring; training program for mariners; exchange of hydrographic data project; project for cooperation in SAR operation; project of a contingency plan to fight marine pollution; and project for cooperation in law enforcement against piracy and illicit drug trafficking. Beside the achievements in setting up various project proposals for cooperation activities, Dr. Djalal, acknowledged that the workshop had not achieved significant results in five key issues, namely: the territorial and sovereignty issues; the development of the confidence building measures; the implementation of concrete programs for cooperation; the issue of funding; and the issue of formalization of the workshop process (Report of the Eight Workshop, 1997).

It was reported that the approved project on biodiversity needed a budget of as much as USD 3,6 million. Dr. Djalal pointed out that Brunei has donated USD 10,000; Indonesia USD 20,000 and Australia contributed AUD 25,000. These funds were supposed to finance the approved project and would be finalized at the experts meeting on biodiversity which was to be held in Bangkok, Thailand. Unfortunately, the Experts Meeting was delayed due to technical reasons. Consequently, Australia withdrew its fund since the workshop had failed to implement the program in a given time. To avoid a limited budget and to implement the project on schedule, Dr. Djalal requested the participants to urge their respective governments to fulfil their commitment and willingness to support the implementation of the workshop's approved projects (Report of the Eight Workshop, 1997, p. 23).

6. 2. 9. The Ninth Workshop 1998

The Ninth Workshop took place in Ancol – Jakarta on December 1-3, 1998. This meeting focused on the continuing discussion on the implementation of agreed projects, on reviewing project-proposals submitted by the TWGs, and on discussing the CBMs. Two important issues on CBMs that had been discussed in the previous workshop were re-discussed in the hope that consensus may be reached. The two issues were non-expansion of the existing military presence on the dispute areas; and the need for more transparency and more contacts between military commanders and administrative authorities in the dispute area. Similar to the previous workshop, there was no consensus on these issues (Report of the Ninth Workshop, 1998).

Again, Dr. Djalal reminded the workshop that it had produced some approved projects that could not be implemented due to financial constraints and lack of approval from the participants' governments. He stressed that the workshop had since moved to the stage of project implementation. Therefore, he appealed to all participants to present to their respective governments the report of various meetings, especially on agreed projects in order to get approval and contributions in the form of personnel, facilities or finance (Report of the Ninth Workshop, 1998).

6. 2. 10. The Tenth Workshop 1999

The Tenth Workshop was convened in Bogor on December 5-8, 1999. Alwi Shihab, the new foreign minister of Indonesia, appreciated the presence of all participants who had weathered the Asian economic and financial crisis, and

remained steadfast and paying attention to and attending the workshop to seek a way of managing the conflict situation in the SCS. Indonesia as the worst country hit by the economic and political crisis still demonstrated its commitment to promote regional stability, peace and cooperation in the SCS (Report of the Tenth Workshop, 1999). He assured the workshop that though Indonesia was facing severe domestic problems, it was still committed to continue its initiative to promote peace in the region. He assured the workshop that Indonesia will maintain its stance and commitment in seeking peace, stability and cooperation in the region as well as to prevent the occurrence of conflict (“Indonesia to help maintain peace”, 1999).

The meeting highlighted the progress of the works of TWGs and GEMs. On the progress of TWG SNSC, the participants suggested that the TWG should prioritize activities that promote cooperation in dealing with illegal acts especially arm robbery and piracy as well as in the implementation and preparation of Search and Rescue operations. After discussing the progress of TWG SNSC, the Study Group on Zone of Cooperation in the SCS reported that it had examined regional and international practices on maritime cooperation and had acquired the capability and possible application of such experiences to the SCS. It chose two models of cooperation applicable to the SCS. The first was Fisheries Cooperation between China and Japan in the East China Sea and the second was the Joint Development in the Timor Gap between Indonesia and Australia. The workshop suggested that the Study Group should invite experts from Japan or other countries to share their experiences and best practices before adopting the two models. On TWG LM, the workshop encouraged participants to continue with the

discussion and exchange of views concerning the CoC on the SCS. On environmental issues, the Group of Experts on Environmental Legislation reported that the Group had updated the following activities, that is, 'Compilation of Legislation and Institution Dealing with Marine Affairs in the South China Sea' and 'Public Education and Awareness on Environmental Issues' for all level of decision makers, educational institutions and the grassroots. Since public education on the environment was in the domain governments' responsibilities, the workshop refused to accept or consider this activity (Report of the Tenth Workshop, 1999).

In reviewing the progress of the TWG MSR that produced three project-proposals, the workshop prioritized the focus on the Biodiversity Project. Dr. Djalal agreed to spend a small budget of seed money or capital from several participants to cover the first activity stage of the Biodiversity Project, collecting and analyzing data. This activity involved an expedition in water around the Anambas Islands in Indonesian territory. According to Dr. Peter Ng from Singapore, coordinator of the expedition, the Anambas water is the most pristine in the SCS that assists in highlighting the impact of degradation. In addition, the expedition took place in Indonesian territory to avoid the sensitiveness of territorial claims in other parts of the SCS. Indonesia would lend its research vessel to the expedition (Report of the Tenth Workshop, 1999).

6. 2. 11. The Eleventh Workshop 2001

The Eleventh Workshop was held in Cengkareng-Banten on March 26-29, 2001. This meeting focused on reviewing the work of TWGs and GEMs. The TWG

RAWD submitted 3 project proposals and a draft concept for joint development. The topics of these proposals were a study on geological basin; a study on hard minerals; and a study on living resources which were prepared by Indonesia, Vietnam, and Thailand respectively. Considering that these topics touched political sensitive issues, China did not give any recommendation. As a result, the proposals could not be pursued. Regarding the concept of joint development, the workshop noted that the concept was unclear and as such needed to be redefined. It was also noted that the objects of the joint development which ranged from environment, oil and gas and so forth needed to be specified (Report of the Eleventh Workshop, 2001). The Workshop also put some finishing touches on the 'Project Proposal for Regional Training Program for Ecosystem Monitoring and Assessment in the South China Sea' formulated by TWG MEP and 'Project Proposal for Establishment of Geo-science Database in the SCS' prepared by the TWG SNSC.

On the Biodiversity Project, the participants reached consensus at the first stage of the project activity in which the project would be conducted in an undisputed area as soon as possible. The projected area was Anambas water in the Indonesian territory, adjoining to the SCS. Dr. Peter Ng from Singapore was selected as the coordinator of the expedition. Indonesia, through the Center for Oceanology Research of the Indonesian Institute of Science, would lend its research vessel and its equipment for the activity.

Just before the workshop meeting was closed, Mr. Robert Adamson from Canada informed the meeting that the financial support from CIDA to the

workshop process had been terminated. Regarding the termination of CIDA's fund, Djalal explained:

Berdasarkan pandangan pemerintah Kanada, lokakarya yang didanai oleh CIDA selama ini telah berjalan lancar dan memberikan kontribusi positif terutama dalam membangun saling pengertian diantara para peserta sehingga mampu menjaga stabilitas kawasan Laut China Selatan. Oleh karena itu, bantuan dana sudah tidak diperlukan lagi dan Pemerintah Kanada akan mengalokasikan dananya untuk proyek-proyek lain yang lebih membutuhkan” (According to Canadian government, the workshop funded by CIDA has so far been successful in giving so much positive contribution to the mutual trust-building efforts among the participants that the stability of South China Sea is maintained. Therefore, financial donor is no more highly demanded, and Canadian government may allocate it for other projects which is more demanding fund donor) (Djalal, interview, March 1, 2012)

In terms of duration, the workshop project was the longest project to receive CIDA's financial support. It amounted to some CAD 5 million over a period of 11 years (Report of the Eleventh Workshop, 2001, p. 7). Nonetheless, in view of the latest development on donor funding, participants agreed that the workshop process should continue.

6. 2. 12. The Twelfth Workshop 2002

The Twelfth Workshop was conducted in Jakarta from September 30 to October 4, 2002. Prior to the workshop, a special meeting was held in Jakarta on August

6, 2001. The meeting discussed the continuation of the workshop following CIDA's decision to terminate its financial support. The meeting agreed to continue the workshop activities in an informal manner with a focus on confidence building and cooperation activities as well as avoiding controversial and sensitive political issues. Indonesia remained the host of the workshop. With regard to the funding, the workshop agreed to approach voluntary donors while at the same time establishing Special Funds to be administered by PusatStudi Asia Tenggara (Center for Southeast Asia Studies) which was chaired by Dr. Hasjim Djalal (Report of the Twelfth Workshop, 2002).

6. 3. Socialization of Ideas

One of the workshop objectives is to develop a conducive atmosphere for dialogue where the participants can exchange ideas, and build trust and mutual understanding. All the participants' views on certain issues would be accommodated in a discussion forum that seeks to find the best ways of tackling the conflict in the SCS. The first three workshop meetings focused on the participants' views on six issues, namely, Environment, Ecological and Scientific Research; Shipping, Navigation and Communication; Resources Management; Political and Security Issues; Territorial and Jurisdictional Issues; and Institutional Mechanism for cooperation. These six issues are discussed briefly below.

6. 3. 1. Environment, Ecology and Scientific Research Issues

The SCS is well-known as the world's richest marine biodiversity. The sea has a unique ecosystem and is home to thousands of species and organisms, ranging from coral reefs, mangroves, sea-grass beds, fish and plants (Ng & Tan, 2000).

Three major near-shore habitat types in the world, that is, coral reefs, mangroves, and sea-grasses, mostly are found in this sea (Morton & Blackmore, 2001). However, the marine's environment is threatened by the population density and economic development of the littoral states. The coastal states surrounding the SCS in the decade of 1980-90 drove this economic development thrust. The progress of their economic development was indicated in the increasing Gross Domestic Product (GDP) rates. China had the highest rate of GDP in the decade with more than 10% as shown in Table 6.1.

Table 6.1: Growth of domestic product in littoral states surrounds the SCS
(average annual percentage change)

Country	Population 1996 (millions)	Gross Domestic Product (\$millions)	1980-90	1990-96
Cambodia	10	3,125	-	6.5
Indonesia	197	225,828	6.1	7.7
Laos	5	1,857	3.7	6.7
Malaysia	21	99,213	5.2	8.7
Myanmar	46	-	0.6	6.8
Philippines	72	83,840	1.0	2.9
Singapore	3	94,063	6.6	8.7
Thailand	60	185,048	7.6	8.3
Vietnam	75	23,340	4.6	8.5
China	1,215	815,412	10.2	12.3
Taiwan	21.9	362,000	-	-

Source: Rosenberg (1999, p. 122).

On the other hand, the economic growth was accompanied by environmental damage such as de-forestation. Unsurprisingly, the total forest areas in the littoral states decreased. As can be seen Table 6. 2 depicts the forest cover and changes in Southeast Asian countries between 1980 and 1995:

Table 6. 2. Forest cover and change in Southeast Asian Countries, 1980-1995
(Area in 000 hectares)

Country	Total Forest				
	Area (000 hectares)			Ave. Annual	%
	1980	1990	1995	change 80-90	90-95
Cambodia	13,484	10,649	9,830	-2.4	-1.6
Indonesia	124,476	115,213	109,791	-0.8	-1.0
Laos	14,470	13,177	12,435	-0.9	-1.2
Malaysia	21,564	17,472	15,471	-2.1	-2.4
Myanmar	32,901	29,088	27,151	-1.2	-1.4
Philippines	11,194	8,078	6,766	-3.3	-3.5
Singapore	4	4	4	0	0
Thailand	18,123	13,277	11,630	-3.1	-2.6
Vietnam	10,663	9,793	9,117	-.9	-1.4

Source: Rosenberg. (1999, p. 126).

Reducing the scope of forests caused sedimentation in the SCS, and coupled with pollution and destructive approaches towards fishing, the marine environment was damaged. It was estimated that the mangrove forest loss rates in each country surrounding the SCS ranged from around 0.5 to 3.5% of the total area per annum (McManus, 2000). Furthermore, it was established that 82% of the coral reefs surveyed in the South China Sea displayed evidence of degradation (McManus, 2000).

The 1990-92 workshops explored the environmental issue in order to get ideas from the participants and formulate concrete cooperative activities. Dr. AprilaniSugiarto (1991), a participant from Indonesia, indicated that the SCS had a unique marine ecology. High intensity of rainfall, warm and humid tropical climate have allowed coral reefs and the mangrove ecosystem to flourish along the coastlines. This caused the distribution of water in the Southeast Asia to be one of the most complex structures on the world. Numerous islands, either large or small, and coral reefs divided the waters into different seas connected by many

channels, passages and straits. On the other hand, population pressures together with high economic activities have caused large-scale destruction and degradation of the coastal and marine environment. Unfortunately, littoral states had insufficient knowledge and limited experience of joint marine research. This situation, according to Sugiarto (1991), was not in line with the UNCLOS, which stipulated that coastal states were obligated to preserve and protect the marine environment and to cooperate directly or through international organizations. Then, he suggested five possible areas for cooperation: conducting baseline studies for developing both renewable and non-renewable resources; doing oceanographic studies to monitor the impact of global climate change; monitoring marines and coastal pollution and its impact on the productivity of the SCS; studying coastal ecosystems including mangrove, coral reefs, sea weeds, soft bottom, estuaries and deltas; and establishing reserves, protected areas and marine parks in the SCS (Sugiarto, 1991).

Degradation of marine ecology in the SCS was not only caused by human activities but also by natural disasters. Wu Yilin, a participant from China, observed that maritime disasters occurred frequently in the region. The disasters differed from other types such as typhoon, tsunami, algae bloom and climate change that caused the rising of sea level. These could be obstacles to both exploration and utilization of resources and threatening social-economic development efforts. Yilin also implored the workshop to pay attention to natural phenomena which affected the SCS. He suggested to states surrounding the SCS to focus on ways of mitigating losses and causalities from maritime disasters such as establishing regional cooperation in the monitoring network of meteorology

and oceanography and in activities that provide environmental data and information (Yilin, 1992).

Considering that marine environment protection needed a lot of budget, participants from Vietnam advised that activities of cooperation should start with collaboration researches. It was indicated that these activities were relatively simple and inexpensive, and required little time to conduct. The areas of research could be: compilation of marine biological species; typhoon surge prediction; tide current; and predicting program for oil slick spreading in the case of an accident (Ninh, 1992).

By exchanging views on the Environment, Ecology and Scientific Research issues, the workshop made a number of conclusions. First, the SCS faced a variety of disasters related to natural phenomenon occurring within the maritime region. Second, the increasing social-economic activities surrounding the SCS created greater pressure on maritime environment. Third, cooperation in the area of marine scientific research was important. Fourth, it was suggested that a joint SCS expedition should be carried out as soon as possible. A special task force would be selected to make detailed preparations (Report of the Third Workshop, 1992).

6. 3. 2. Shipping, Navigation and Communication Issues

The SCS is one of the world's busiest international sea lanes, reflecting the economic development of the region. Supertankers and cargo ships from the Middle East to Northeast Asia and vice-versa and intra-regional shipping from Southeast to Northeast Asia as well as from the Pacific to the Indian Ocean pass

through the SCS. It has been suggested that more than 41,000 ships pass through the SCS every year, more than double the number that pass through the Suez Canal, and nearly triple the total for the Panama Canal (Guoxing, 2001, p. 2).

Granted the busy sea lanes as well as the fact that several parts of the water were shallow, and the ever-present high risk of typhoon attack, the SCS is vulnerable to ship accidents. The most serious danger is tankers accident which can spill oil in huge amount at sea. An accident of this nature does not only cause destruction to marine habitat but also damage the surrounding coastal area.

Against this background, issues on shipping, navigation and communication were discussed at the workshop to search common points that can be developed into areas or actions for cooperation. Dr. Jorge R. Coquia (1990) from Philippines urged the participants to anticipate entering UNCLOS into force. After all, under this law, littoral states could extend their maritime jurisdiction. Undoubtedly, the extension of jurisdiction affects navigation, shipping and communications. Since the regime of navigation depended on the legal status of the waterways, it was imperative that the littoral states redefine their maritime boundaries. In the case of conflict in delimiting the boundaries, littoral states should settle by negotiation and other peaceful means. In order to promote the safety of navigation, protection of navigational aids and facilities including submarine cables and pipelines, littoral states should cooperate to establish sea-lanes traffic separation, publicize any danger places, location of artificial islands, installations or other obstacles to navigation (Coquia, 1990).

Besides establishing sea-lanes traffics, Dr. Edgar Gold (1990), resource person from Canada, pointed out that cooperation in anticipating ship accident, combating non-traditional crime at sea as well as arranging military exercise must be taken into consideration. Therefore, littoral states could establish cooperation on the field of maritime Search and Rescue (SAR), elimination of piracy, treatment refugees at sea, and prevention of drug trafficking. Considering that the SCS was an arena for military activities conducted by some regional and non-regional powers, littoral states should negotiate with those powers to ensure that military activities will not disturb the safety of commercial navigation.

A participant from the Philippines examined the idea that international law, especially the UNCLOS, provided norms governing navigation, shipping and communications in the identified parts of the sea and guaranteed that all states enjoy the freedom of navigation and over flight and of the laying of submarines cable and pipeline. Given that context, it was important for littoral states to ratify the UNCLOS and other international maritime regulations such as International Maritime Organization (IMO). The participant also suggested that due to the cost of navigation, shipping and communications requiring high technical information, cooperation among coastal states around the SCS was essentially crucial. Such cooperation was also important in attempts to establish common norms and standard operating procedures for shipping, air traffic and communications (Fernandez, 1991).

The workshop also discussed capacity building of human resources. Considering that the operation of shipping, navigation and communication needed

hi-tech tools and regulations, education and training for seafarers required upgrading. It was possible to set-up joint training program in order to establish uniformity in the levels of knowledge and expertise (Frenandez, 1991).

Participants from China highlighted the importance of safety on shipping through setting-up radio aids navigation and conducting hydrographic survey. It was suggested that a network of radio beacon stations should be established at various points in the SCS to complement the existing network. Concerning hydrographic survey, there was a need to conduct a comprehensive survey since the existing survey had not been accurate relating to the topography, geology, tides and ocean currents. Through the survey, it could be possible to map parts that dangerous zones in order to minimize ship accidents (Jiayu, 1992).

After exploring and examining various ideas, the workshop highlighted three points of recommendations. First, the workshop should explore ways for upgrading the training of regional seafarers; second, China should prepare a proposal for further hydrographic survey; third, the workshop should consider implementing joint SAR exercises to anticipate accidents in the SCS (Report of the Third Workshop, 1992).

6. 3. 3. Resources Management Issues

The SCS has been well-known for its richness in both living and non-living resources. Fish and fishery products in littoral states, traditionally have been a primary source of protein. The fishery industry has played a major role in securing the sources of food and income for the countries in the region. In mid-1990, for instance, the SCS provided 25% of protein need for 500 million people and

ranked fourth among the world's 19 fishing zones in term of total annual marine production with a catch of over 8 million metric ton of marine fish. It represented about 10% of the total world catch and 23% of the total catch in Asia (Nguyen, 2006, pp. 12-13). On the other hand, fishing resources in this sea was decreasing alarmingly. Although fishery production by countries bordering the SCS has been increasing, it should be noted that the population in the littoral states also increased rapidly at the same time as indicated by a participant from Thailand. In the near future, the widening gap between supply and demand for fishery was inevitable. In addition, there is the frequent competition in resource exploitation between the local fishery and foreign fishing fleet, both legal and illegal. Ineffective arrangement for fishing rights and inadequate infrastructure for joint cooperation in fisheries were some of the obstacles found during the workshop process. It was suggested that one way to overcome these problems was encouraging the cooperation of coastal states bordering the SCS in developing marine fishery resources (Hongkul, 1990).

Non-living resource in the SCS such as huge deposits of minerals, oil and gas are promising sources of revenue for e littoral states. Due to the lack of expertise and technology, non-living resource was still under exploitation. However, in the near future, if the explorations of non-living as well as living resources are not managed well, it could possibly trigger a new conflict in the region.

In order to establish cooperative activities that mitigate conflict on resources exploitation, it was suggested that the littoral states should adopt and

ratify UNCLOS. Participants from Thailand indicated that the adoption of UNCLOS was essential as the basis for cooperation on resources management. In terms of living resources, the UNCLOS provided detailed rules and guidelines. However, the rules and guidelines of the UNCLOS should be translated properly when dealing with the situation of the SCS. Generally speaking, during the workshop process the application of the UNCLOS in the SCS was still limited. Only Indonesia and the Philippines had ratified UNCLOS. Therefore, it was recommended that all states surrounding the SCS should ratify this Convention. Because the ratification of UNCLOS required time and depended on national legislative processes of each country, it was better for littoral states to start cooperating on resources management as soon as possible (Kittichaisaree, 1992).

Unlike on living resources, UNCLOS did not provide detail guidelines on non-living resource management. The absence of such mechanisms meant that states within the region would continue to compete to exploit non-living resource unilaterally, a situation that could exacerbate conflict as stated by participants from the Philippines. For this reason, non-living resources management, particularly on hydrocarbon, should be an objective for cooperation. Hydrocarbon assessments in the SCS have been carried out by outside parties or by single regional states in collaboration with outside parties. With this in mind, joint assessments together with joint development projects involving coastal states of the SCS, especially in the multiple claim area, would be priority (Gamboa, 1992).

Participants of the workshop concluded some points in the above issues as follows: First, an affirmation that UNCLOS provided a basis for cooperative

activities which are in line with the principles of the Bandung's joint statement; second, joint development could resolve or minimize suspicion over resource exploitation in the multiple claims area; and the third, cooperation in assessing living and non-living resources was critical and should be realized (Report of the Third Workshop, 1992).

6. 3. 4. Political and Security Issues

The Post-Cold War era has created uncertain conditions. The diminishing presence of the super powers in the SCS has left a vacuum of power, giving greater opportunity for China to play a big and aggressive role. China has tried to fill this void by expanding its interests in the region. This development has compelled littoral states in the SCS such as Malaysia, Philippines and Vietnam to consolidate their presence in the area, particularly in places where their claims lay. It has been a political ritual that if any state passed a new law or made a move to strengthen its military installation, other claimants would respond accordingly by challenge it.

The SCS dispute which involved six claimants with sovereignty and jurisdictional claims was the most difficult problem to solve in a short time, especially in the Spratly Islands. Lee Lai To (1991), a participant from Singapore observed that it was too late if cooperation was established after settling the dispute. For him, the important thing was starting with cooperation while at the same time shelving the dispute and avoiding conflagration.

A participant from China made a confirmation concerning the SCS dispute when he pointed out that the position of his government on the SCS was clear.

Xisha and Nansha, Chinese given names for Paracel and the Spratly islands, and the adjacent waters were within Chinese indisputable sovereignty. He also added that his government had declared that China did not seek hegemony or primacy. Hence, China did not want to create spheres of influence for itself at any time or in any place. He also stressed that China would settle the dispute in the SCS by peaceful means and welcomed the other claimants to cooperate with China through joint development, starting from issues of 'low politics' and avoiding sensitive issues while adopting self-restraint (Ying-fang, 1991).

In response to the new situation in the SCS, especially after China passed the new law on the territorial waters and contiguous area in 1992, the participants called for the exercise of self-restraint as a vital element in the efforts aimed at solving the dispute. It was emphasized that claimants should refrain from committing unilateral acts for the purpose of consolidating their territorial or jurisdictional claims because this could make the situation more complicated. On the other hand, the changing international and regional atmosphere has also brought to the fore new opportunities for littoral states to approach their differences in a constructive manner. In fact there has been an increasing interest by foreign investors to invest the resource-rich SCS. Therefore, the claimants' inability to manage potential conflicts might scare away potential investment flows in the area (Report of the Third Workshop, 1992).

On political and security issues, the workshop recommended several points. First, bilateral boundary disputes should be settled by the claimant states' by peaceful means as soon as possible. Second, all claimants should refrain from

any actions which may exacerbate the existing condition. Third, the claimants should avoid creating conditions which may attract the attention of non-regional states and powers. Fourth, despite the existence of various territorial and jurisdictional disputes, the possibility for cooperation among the claimants in the Spratly area should be encouraged (Report of the Third Workshop, 1992).

6. 3. 5. Territorial and Jurisdictional Issues

Territorial and jurisdictional issues are the primary problems in the SCS dispute. These issues have negatively impacted not only the claimants, but also the environment, resources management, and safety for shipping and navigation. The search for a peaceful settlement of the dispute, according to Dr. B. A. Hamzah (1990), a participant from Malaysia, is that the claimants' interests should be accommodated by the accepted and practiced rules to maintain maritime order. Thus, the rule system that must be accepted by all claimants was the UNCLOS. In that case, states surrounding the SCS should ratify UNCLOS.

To avoid military confrontation, it is also necessary to create transparency in military activities and to establish dispute management mechanisms. ASEAN has developed a dispute settlement mechanism through the Treaty of Amity and Cooperation (TAC). Therefore, non ASEAN members could accede to the Treaty. In addition, the Antarctic Treaty could be applied as a model with some modifications in the region to promote cooperation (Hamzah, 1990). This treaty was signed in 1959 by seven states – United Kingdom, France, Norway, Australia, New Zealand, Chile and Argentina - who claimed certain portions of the territory. The treaty was designed to ban military activities and nuclear weapon

experiments as well as to promote cooperation in scientific research (Joyner, 1998).

The following year at the Second Workshop, considering that the Spratly status was the most sensitive issue in the SCS, Hamzah (1991) suggested that littoral states should establish a consultative forum on maritime matters called Maritime Consultative Council for the SCS (MARICONSULT). This council's objectives included exchanging views, enhancing mutual contact and increasing mutual understanding, sharing information on research finding and making transparent of military activity in the sea. MARICONSULT would be a non-governmental organization comprising government officials and non-officials with interests in maritime affairs. The interaction between these two components would be useful to kick start the process of building confidence measures on the SCS issue. This suggestion from a participant from Malaysia was challenged by participants from China, who reminded the workshop that territorial and jurisdictional issues of the SCS were very complex and sensitive. Taking cue from this observation, the Chinese participant suggested that for the sake of progress and avoiding controversy the meeting had to refrain from discussing issues of territory and jurisdiction. Instead, the participants from China proposed joint development and cooperation as possible strategies for resolving the territorial and jurisdictional disputes in the SCS (Weihong, 1991).

Consequently, discussion on territorial and jurisdictional issues was stalled. As can be seen the prospects for solving the territorial disputes in the SCS were not good since the claimants were not prepared to give up their claims and

reluctant to relinquish their hold on disputed areas which they currently occupied. In other words, the claimants strengthened their legitimacy over their claims in the SCS.

6. 3. 6. Institutional Mechanism for Cooperation

Cooperation is a necessity in modern international community. It is believed that cooperation is a strategy for building peace and prosperity. Most conventions or treaties in international law require their member states to co-operate with each other in many fields. Recently, multilateral and regional institutions and mechanisms are well established to manage certain issues. However, such institutions and mechanisms are laid out formally which may present challenges when applied to sensitive issues such as sovereignty and nationalism. In that case, an informal forum maybe instructive as an interim solution which is risk-free for governments to kick-start the process of establishing cooperation (Gault, 1990).

The main goal of the workshop process is managing conflict by establishing cooperation in many fields among littoral states of the SCS. However, the mechanism for cooperation is difficult to realize due to the complexity of the problem and inadequate experience of cooperation among the littoral states. Before finalizing the mechanism of cooperation, participants discussed the scope of cooperation first. Two scopes were identified. The first was premised on activities related to the use of ocean space such as environmental protection, marine research, over flight as well as navigation. The second was based on activities related to the resources including exploration and exploitation of living and non-living resources. It was agreed that both claimant and non-

claimant states could participate in activities related to the use of ocean space. However, the activities related to the resources were deemed to be within the exclusive rights of claimant states (Report of the Third Workshop, 1992).

Participant from Brunei explored several existing institutional mechanisms that could be applied to promote cooperation in the SCS. The UNCLOS, especially article 123 remained the ideal type for building cooperation in the following areas: management, conservation, exploration and exploitation of the living resources; protection and preservation of the marine environment; scientific research; and cooperation with other interested states or international organizations. Besides the UNCLOS, ASEAN also could contribute to the cooperation effort and dispute settlement. ASEAN could expand the dialogue process by including both regional and extra regional states (Kamaludin, 1992). However, the two institutions had limitations. Although UNCLOS contained the mechanism framework for cooperation, it lacked a dispute settlement mechanism. Moreover, it has not entered into force yet. In addition, only limited states in the SCS ratified UNCLOS. On the other hand, ASEAN through the Treaty of Amity and Cooperation (TAC) has a code of conduct to control the behavior of its members. However, not all claimants are signatories of the treaty.

In the end, participants of the workshop concluded that the informal format was the most appropriate forum to encourage a step-by-step approach to regional cooperation. Participants also recognized that the UNCLOS provided a good framework for an institutional mechanism of cooperation and hence, urged

the littoral states to ratify it. The workshop also suggested that littoral states should accede to the ASEAN-TAC (Report of the Third Workshop, 1992).

Based on the exchange of ideas on various issues mentioned above, a number of conclusions can be deduced as follows: First, participants need to cooperate in activities on marine scientific research, environmental protection, assessment and exchange data on hydrograph, geology as well as living and non-living resources. Second, cooperation activities should not touch sensitive issues and should be conducted through a step by step approach that begins with easy matters or issues of low politics. Third, participants agreed to adopt marine and dispute settlement regulations provided by UNCLOS and ASEAN-TAC. Fourth, participants agree to avoid discussion on politics and jurisdictional and territorial claim topics.

6. 4. Identity Creation

Common identity can be formed through intense interactions among actors, feeling common experiences, which may take a long time even decades or centuries. Arguably, it is too early to discuss common identity among states or peoples surrounding the SCS. However, the workshop process is one of the efforts aimed at building a sense of community as a first step to form common identity.

Then, Djalal explained:

Selama ini lokakarya telah berusaha untuk membangun rasa kebersamaan di kalangan peserta yang diharapkan pada jangka panjang akan muncul suatu identitas bersama. Strategi yang dilakukan oleh lokakarya adalah membagi tanggung jawab dalam penyelenggaraan pertemuan-pertemuan

kepada para peserta. Hal ini tampak pada penyelenggaraan pertemuan Technical Working Groups yang dilaksanakan di negara-negara peserta dan pada umumnya dilaksanakan diluar Indonesia” (The workshop has been trying to build the feeling of togetherness among the participants, which in the long term may result in mutual identity. The strategy undertaken by the workshop is that each participant is given responsibility to arrange the meetings of the workshop. The implementation is shown by the conduct of Technical Working Groups which were held in the participants’ states, which were generally outside Indonesia) (Djalal, interview, March 1, 2012)

Serial meetings were convened inside and outside Indonesia from 1990 to 2002. Workshop meetings were held in Indonesia and numerous meetings under the workshop’s framework such as the Technical Working Groups meetings were mostly held outside Indonesia. The participants were expected to host at least one meeting. Table 6. 3. presents a list of the workshop meetings and table 6. 4. shows a list of meetings under the workshop’s framework.

Table 6. 3. List of the Workshop Meetings

Meeting	Dates	Venue
First Workshop	January 22-24, 1990	Bali
Second Workshop	July 15-18, 1991	Bandung
Third Workshop	June 25-July 2, 1992	Yogyakarta
Fourth Workshop	August 23-25, 1993	Surabaya
Fifth Workshop	October 26-28, 1994	Bukittinggi
Sixth Workshop	October 9-13, 1995	Balikpapan
Seventh Workshop	December 13-17, 1996	Batam
Eighth Workshop	December 2-6, 1997	Puncak
Ninth Workshop	December 1-3, 1998	Jakarta

Tenth Workshop	December 5-7, 1999	Bogor
Eleventh Workshop	March 27-29, 2001	Cengkareng, Jakarta
Twelfth Workshop	October 1-3, 2002	Jakarta

Source: Compiled by the author

Table 6.4. List of Meetings under the Workshop's Framework

Meeting	Dates	Venue
TWG-MSR-1	May 30- June 3, 1993	Manila, the Philippines
TWG-MSR-2	August 24, 1993	Surabaya, Indonesia
TWG-RAWD-1	July 5-6, 1993	Jakarta, Indonesia
1994 TWG-MSR-3	April 24-29, 1994	Singapore
TWG-MEP-1	October 6-8, 1994	Hangzhou, China
TWG-MSR-4	June 27-30, 1995	Hanoi, Vietnam
TWG-SNSC-1	October 3-6, 1995	Jakarta, Indonesia
TWG-LM-1	July 2-6, 1995	Phuket, Thailand
TWG-MSR-5	July 14-17, 1996	Cebu, the Philippines
TWG-SNSC-2	October 29-November 1, 1996	Bandar Seri Begawan, Brunei
TWG-MEP-2	October 14-15, 1997	Hainan, China
TWG-LM-2	May 13-17, 1997	Chiang Mai, Thailand
GEM-MEP-1	June 8-11, 1997	Phnom Penh, Cambodia
GEM-ETM-1	May 7-10, 1997	Singapore
GEM-HDI-1	June 12-15, 1997	Kuching, Malaysia
TWG-SNSC-3	October 21-22, 1998	Singapore
TWG-LM-3	October 12-16, 1998	Pattaya, Thailand
GEM-HDI-2	October 20, 1998	Singapore
TWG-MSR-6	November 25-28, 1998	Manila, the Philippines
GEM-MEP-2	November 25-28, 1998	Manila, the Philippines
GEM-NHM-1	November 30, 1998	Jakarta, Indonesia
SG-ZOC-1	June 15-18, 1998	Vientiane, Laos
SG-ZOC-2	June 27-july 1, 1999	Tabanan, Bali, Indonesia
EM-EL-1	September 21-23, 1999	Shanghai, China
TWG-LM-4	September 27-28, 1999	KohSamui, Thailand
GEM-SRIAS-1	June 21-25, 1999	Kota Kinabalu, Malaysia
GEM-HDI-3	November 5-8, 2000	Legian, Bali, Indonesia
SG-ZOC-3	October 31-November 4, 2000	Cha Am, Thailand
GEM-EL-2	October 31-November 4, 2000	Cha Am, Thailand
TWG-LM-5	October 31-November 4, 2000	Cha Am, Thailand

Source: Compiled by the author

Only Taiwan was unable to host any meetings due to political reasons. China always refused to join any meeting that would be convened in Taiwan. This was understandable considering the history between the two. Another effort taken by

the workshop process to create sense of community was to assign each participant to set-up at least one project proposal. Tabel 6. 5. Depicts the sharing of responsibility in preparing the activities.

Table 6. 5. Sharing Responsibility for Preparing Activity

Name of Activity	Participant in Charge
Fishery Stock Assessment	Thailand
Non-hydrocarbons and Non-living Resources Assessment	Vietnam
Hydrocarbon Assessment	Indonesia
Education and Training for Marines	Singapore
Unlawful Activities at Sea and SAR	Malaysia
Hydrographic Data and Information	Taiwan
Contingency Plans for Pollution Control	China
Data Base, Information Exchange and Networking	China
Sea-Level and Tide Monitoring	Indonesia
Biodiversity Studies	Vietnam

Source: Compile by the author

It was hoped that sharing responsibility in the long-run could develop a sense of togetherness or sense of community, a nascent step to build regional identity (Weissmann, 2010). This behavior was reflected when the workshop process faced a financial threat when CIDA terminated its financial support in 2001. In spite of this setback, the participants decided to continue with the workshop process through self-funding. Put another way, all participants felt that the workshop was useful platforms for exchanging ideas without any constraints of officialdom as well as experiencing working together. China, for instance, obtained benefit from its participation in the workshop since it lacked experience of engaging in multilateral forums (Xiao, 2009).

6. 5. Norms Building

Besides socialization and identity, another important element was establishing norms or principles that shape the conduct or behavior of states in international affairs. The workshop process applied a procedure in decision making that stressed consultation and consensus-building. Before decisions were made, certain matters were discussed by involving all participants. All views coming from participants were accommodated and discussed and decisions were adopted by consensus. The highest forum to make decisions was the workshop, the annual meeting that was convened in Indonesia. Therefore, the decisions taken in lower levels such as at the TWG meetings were to be approved in the Workshop meetings. Such a procedure of taking decisions by consultation and consensus is now known as the ASEAN Way.

Concerning the principles of conduct and behavior, the workshop participants agreed to adopt two aspects outlined in the Bandung Statement at the Second Workshop in 1991. The first aspect is related to dispute management, stating that disputes should be settled by peaceful means through dialogue and negotiations; avoid using force; and the exercise of self-restraint among parties involved in the dispute. The second aspect is concerned with how to promote cooperation in various areas as a step towards building confidence measures.

The first aspect of the Bandung Statement was extracted from the ASEAN-TAC article 2 and the second aspect was adopted from UNCLOS article 123 concerning the arrangements of cooperation among states bordering enclosed or semi-enclosed seas. Djalal said:

Pernyataan Bandung adalah prestasi nyata dari lokakarya yang memberi dasar untuk terjadinya dialog dan kerjasama lebih lanjut guna mengelola konflik. Patut dicatat pula bahwa Pernyataan Bandung merupakan usaha Indonesia untuk memperkenalkan norma-norma yang terkandung dalam ASEAN Way, ASEAN-TAC dan UNCLOS kepada negara-negara bukan anggota ASEAN. (Bandung Statement is a significant achievement resulted from the workshop, which lays a pathway for dialogue and further cooperation on conflict management. Moreover, Bandung Statement is Indonesian effort in introducing the norms within the ASEAN Way, ASEAN-TAC and UNCLOS to the countries outside ASEAN) (Djalal, interview, March 1, 2012).

It is therefore scarcely surprising that the workshop participants were implored to persuade their governments to accede to ASEAN-TAC and UNCLOS. In fact, three participants joined ASEAN and automatically acceded to the ASEAN-TAC. Vietnam became a member of ASEAN in 1995, Laos and Myanmar in 1997, and Cambodia in 1999. China acceded to the ASEAN-TAC in 2003.

Concerning UNCLOS, all states which participated in the workshop signed and most of them ratified the convention. Table 6. 6. shows the list of states which signed and ratified UNCLOS.

Table 6. 6 : List of States Surrounding the South China Sea Signed and/or Ratified the U.N. Convention on the Law of the Sea

Participant	Signature	Ratification
Brunei Darussalam	December 5, 1984	November 5, 1996
Cambodia	July 1, 1983	-
China	December 10, 1982	June 7, 1996
Indonesia	December 10, 1982	February 3, 1986

Laos	December 10, 1982	June 5, 1998
Malaysia	December 10, 1982	October 14, 1996
Myanmar	December 10, 1982	May 21, 1996
Philippines	December 10, 1982	May 8, 1984
Singapore	December 10, 1982	November 17, 1994
Thailand	December 10, 1982	-
Viet Nam	December 10, 1982	Jul 25, 1994

Source: Law of the Sea Briefing Book. (n. d., pp. 9-12).

It can be said that the workshops process contributed to the internationalization of ASEAN-TAC and UNCLOS through the ratifications of the treaties that it triggered. Only Taiwan did not sign both the ASEAN-TAC and UNCLOS since it was not a member of ASEAN and the UN. However, Taiwan agreed in principle to the content of the two documents.

The workshop process also contribution to norms building, especially in ASEAN. For instance, ASEAN started to pay attention to the SCS dispute in 1992 when China passed the Law of the People's Republic of China on the Territorial Waters and Contiguous Areas. The law reiterated China's claim over the SCS and the right to use force to protect its claim. ASEAN members were worried about the intentions of China and took necessary actions in response to the new law. The 25th ASEAN Ministerial Meeting (AMM), an annual meeting of ASEAN foreign ministers, in Manila July 1992, gave priority to the SCS dispute and promulgated a common stance. They signed the Declaration on the SCS which is also called the Manila Declaration on July 22, 1992. The Manila Declaration contains three aspects. The first aspect emphasizes how to resolve sovereign and jurisdictional issues by peaceful means as well as how to apply self-restraint to prevent the situation from worsening. The second aspect concerns how to promote cooperation in various issues and the third is an invitation to all parties concerned

to apply ASEAN-TAC as the basis for conducting behavior over the SCS (see appendix 2).

The essence of the Declaration is similar to the Bandung Statement. At the AMM, the Philippine foreign minister took an active role to urge his counterparts to declare support to a document explicitly highlighting the ASEAN's stance on the SCS dispute (Severino, 2010). Djalal explained the similarity between Bandung Statement and Manila Declaration:

Pada waktu itu, Pernyataan Bandung adalah satu-satunya dokumen yang mengandung prinsip-prinsip penyelesaian perselisihan secara damai serta rekomendasi untuk melakukan kerjasama di Laut China Selatan. Dokumen ini telah disetujui oleh para peserta lokakarya yang berasal dari negara-negara anggota ASEAN ditambah Vietnam, Taiwan dan China. Kandungan dari Pernyataan Bandung ini kemudian diadaptasi kedalam Deklarasi Manila. Perlu juga dikemukakan bahwa beberapa peserta lokakarya juga turut berperan aktif sebagai anggota delegasi negaranya di dalam forum ASEAN. (At that time, Bandung Statement was the sole document containing the principles of conflict resolution in peaceful way and was a recommendation to conduct cooperation within the South China Sea. The document has been agreed by the workshop participants, which are ASEAN members plus Vietnam, Taiwan and China. The content of the Statement was then adapted into Manila Declaration. It was also noted that some of the participants played active roles as their countries' delegates in ASEAN forum) (Djalal, interview, March 1, 2012).

Though Vietnam was yet an ASEAN member, the country welcomed and fully supported the Manila Declaration. China's Foreign Minister Qian Qichen who attended the AMM as a guest only appreciated some of the Declaration principles, especially the principles for cooperation (Tasker, 1992). There was no strong opposition from non ASEAN members concerning the Manila Declaration.

Meanwhile, in line with the spirit of friendship developed by the workshop, in 1995, the Philippines and China as well as the Philippines and Vietnam signed a bilateral Code of Conduct (CoC) to reduce tensions in the SCS. The content of the two CoCs were adopted from the Bandung Statement (Song, 2000). The CoC is a set of principles, rules, norms, values or standards of behavior that guide the decision making or procedures for conducting friendship relations. Any kind of disobedience over the conduct would be sanctioned by the enforcement authorities. It can be unilateral, bilateral or multilateral (Kittichaisaree, 1998; 'Code of Conduct', n. d.).

Besides the Manila Declaration, the workshop also contributed to the making of a multilateral CoC. In line with the importance of the CoC on the SCS as a part of CBMs which was discussed at the workshop in 1993, ASEAN started to discuss the issue in 1996. At the 29th AMM in Jakarta, the idea of CoC was officially endorsed in order to provide the foundation for long-term peace and stability in the region as well as to promote understanding among the parties concerned (Thuy, 2010). Subsequently, at the Sixth ASEAN Summit in Hanoi in 1998 and at the ASEAN – China Senior Officials Meeting in Kumming in 1999, the idea of a regional CoC was raised again. Since then, ASEAN and China

developed a consolidated draft of a CoC. However, debate concerning the content of the code was inevitable. For instance, the code should explicitly mention features like The Paracel and the Spratly Islands instead of only mentioning the SCS in general. Vietnam wanted to include the Paracel Islands to the code but China refused the idea. Another controversy was the characteristic of the code whether it was legally binding or legally non-binding. To avoid deadlock, it was agreed that the CoC was a non-binding political document entitled ‘Declaration on the Conduct of Parties in the SCS’ (DoC) which was signed by ASEAN and China in Phnom Penh on November 4, 2002 (Severino, 2010).

The DoC was a milestone for the relation between ASEAN and China because it was the first time for China to sign a multilateral agreement with its counterparts in Southeast Asia. It was also the first political document related to the SCS accomplished by ASEAN and China (Thao, 2009). It indicated that China has changed its policy over the dispute from strictly adhering to the bilateral approach to accommodating the multilateral approach. It also indicated a success of cooperation between ASEAN and China.

It should be noted that the DoC was only a political document so it was not legally binding. Consequently, it did not possess the capacity to resolve the competing claims of territorial sovereignty issues in the SCS. However, the DoC showed the commitment of the parties concerned to maintain peace and stability which were requisites for regional development. The DoC was also the first step in the drive towards the establishment of a legally-binding CoC (Bautista, 2007).

The DoC is composed of three main aspects namely basic norms in governing state to state relations as well as dispute settlement; CBMs; and cooperation activities. On the basic norms it stipulates an affirmation in using international law, UNCLOS and ASEAN-TAC as the foundation of states relations as well as resolving the dispute by peaceful means through consultations and negotiations. On CBMs, the document demands that the parties concerned should exercise self-restraint in conducting activities that could escalate the dispute. On cooperation activities, the DoC underlines five fields of cooperation, namely, marine environmental protection; scientific research; safety of navigation and communication at sea; search and rescue operation; and combating transnational crime at sea (Detail of the DoC see appendix 3).

Even though the DoC gives more detailed description than the Manila Declaration, the essence of the DoC is the same as the Bandung Statement. Pramono, a participant from Indonesia said: *“Tambahan pula isu-isu penting yang terkandung dalam DoC sudah pernah didiskusikan di dalam lokakarya. Oleh karena itu boleh dikatakan bahwa DoC adalah langkah maju dari Pernyataan Bandung”* (Moreover, some of the essential issues in the DoC have been discussed in the workshop. Thus, DoC is a forward step of the Bandung Statement) (Pramono, interview, February 27, 2012). Nonetheless, the two ASEAN documents show signs of a strong connection with the Bandung Statement being a product of the workshop process.

It should be noted that some workshop participants also acted as the delegations of their governments in the formal forums, particularly in ASEAN

meetings. In addition, the Directorate General of ASEAN Cooperation – Indonesian Ministry of Foreign Affairs, regularly coordinated and informed the progress of the workshop process to the Indonesian diplomats who dealt with ASEAN affairs. This was done to ascertain how the outcomes of the workshop process influenced in the ASEAN forum (Nugroho, interview, February 22, 2012).

6. 6. Conclusion

Constructivism Theory which emphasizes ideas in constructing realities is underpinned by three basic concepts, that is, socialization, identity and norms. Socialization in the context of the workshop process entails social learning achieved when participants express and exchange their views to get a common understanding. The participants agreed to manage the dispute through building cooperation and avoiding sensitive issues. They also adopted dispute settlement regulations such as UNCLOS and ASEAN-TAC.

Even though to build identity needs longer times, the serial workshops have tried to build a sense of community by sharing responsibility in convening meetings and preparing project proposals. The sense of community can be demonstrated by the resolve of the participants to continue the workshop process through self-funding after CIDA terminated its fund support.

It is noted the workshops were also successful in building norms, from informal to formal norms. The Bandung Statement as an informal agreement produced by the workshop process triggered the development of formal norms as reflected in the Manila Declaration and the ASEAN DoC. In addition, the

workshop process urged the participants' government to accede to the ASEAN TAC and ratify UNCLOS. Unsurprisingly, most of the participants' governments acceded and ratified the two documents.

CHAPTER SEVEN

OUTCOME OF THE WORKSHOP IN TERMS OF FUNCTIONAL COOPERATION

7. 1. Introduction

Functionalism Theory emphasizes on functional cooperation across the states' borders. It is argued that cooperation in certain fields will spill over to the other fields as well as into other regions. Thus, the webs of functional cooperation in the long run are able to maintain peace.

In line with Functional Theory, the main idea of convening the Workshop on Managing Potential Conflict in the South China Sea was to transform the conflicting situation into some form of cooperation. Due to lack of cooperation experience among the states surrounding the South China Sea (SCS), the workshop process established various Technical Working Groups (TWGs) to arrange as well as to implement particular themes of functional cooperation approved in the workshops. Five TWGs were established namely Technical Working Group on Marine Scientific Research (TWG-MSR), Technical Working Group on Resource Assessment and Ways of Development (TWG-RAWD), Technical Working Group on Marine Environment Protection (TWG-MP),

Technical Working Group on Safety of Navigation, Shipping and Communication (TWG-SNSC), and Technical Working Group on Legal Matters (TWG-LM).

This chapter contains six sections. Five sections elaborate the themes of functional cooperation from the arrangement to the implementation of the cooperation projects and the last section discusses the status of the cooperation projects.

7. 2. Marine Scientific Research

Following the Third Workshop convened in Yogyakarta on June 29 – July 2, 1992, the First Working Group Meeting on Marine Scientific Research (TWG-MSR) was held in Manila on May 30 – June 3, 1993. The agenda was to explore some ideas on identifying possible focal issues which required the cooperation of participants. A wide range of research topics were discussed including: fishery; biodiversity; non-conventional energy; meteorology; environmental issues; marine sedimentation and circulation; training, networking and information; and mechanism for cooperation/joint research (Statement of the First Meeting of TWG-MSR, 1993). Subsequently, in the second meeting in August 1993, the Group focused on seven topics including: Sea level/tide monitoring; database information, exchange and networking; oceanography; biodiversity studies; environment/pollution monitoring; marine disaster prevention and mitigation; and air/sea interaction studies. However, considering the cost, the physical and human resources availability and compatibility with the existing institutions factors, the meeting agreed to choose three topics for scientific research collaboration, that is, database information, exchange and networking; sea-level tide monitoring; and

biodiversity studies. The meeting also recommended a further meeting of a group of experts (comprising of two or three experts from each country) to finalize the three proposals. China was requested to prepare the proposal on database information, exchange and networking; Indonesia on sea-level tide monitoring and Vietnam on biodiversity (Statement of the Second Meeting of TWG-MSR, 1993).

At the Third Meeting on 24-29 April 1994 held in Singapore, the Group reviewed the draft of the three proposals. On biodiversity, entitled Research Project Proposal on Biological Diversity in the South China Sea, the Group reviewed the need to fill the void of gaps of information and field of research. The Group also identified the habitats of ecologically and economically important species which were critical for protection, conservation and replenishment. The project had two phases which required three years of implementation. The first phase was to assess the existing scientific works. It was expected to proceed within an eight-month period. The second phase was conducted to fill the knowledge gaps that would become clear after the completion of the first phase. Emphasizing on filling the void of knowledge, the second phase involved field work or scientific expedition to acquire supplementary data (Statement of the Third Meeting of TWG-MSR, 1994).

Concerning the Database, Information Exchange and Networking proposal, the Group was committed to develop a comprehensive database which may be beneficial to future cooperation projects. It also noted the need to develop

local capability and capacity in managing and disseminating marine data and information (Statement of the Third Meeting of TWG-MSR, 1994).

On Sea Level and Monitoring of Tide proposal, the participants agreed to promote a common understanding that the SCS was a unique environment. They also consented to create solid knowledge of the tidal regime of the SCS and to examine the characteristic of sea level variation as well as to standardize the method of measurement (Statement of the Third Meeting of TWG-MSR, 1994).

At the Fifth Workshop in 1994, the Research Project Proposal on Biological Diversity in the South China Sea which was drafted at the Third Meeting of TWG-MSR was approved. Meanwhile, Dr. Djalal was tasked to mobilize and seek the supporting funds. The workshop also recommended for the establishment of a group of experts on biodiversity to assist in the re-drafting of any changes proposed by potential donors. Concerning the proposal of the Database, Information Exchange and Networking and of Sea Level and Tide Monitoring, the workshop demanded the Working Group finalize it in the next meeting (Report of the Fifth Workshop, 1994).

Then, at the Sixth Workshop, the two proposals entitled Proposal for Regional Cooperation in the Field of Marine Science Data and Information Network of the South China Sea and Proposal of Study of Tides and Sea Level Change and Their Impact on Coastal Environment in the South China Sea as Affected by Potential Climate Change were approved and recommended to be forwarded to their respective authorities for consideration as well as getting support in the implementation phase (Report of the Sixth Workshop, 1995).

After obtaining the mandate to seek funding for the agreed projects, Dr. Djalal sent proposals to numerous donors. The United Nations Development Program (UNDP) through its agency the Global Environment Facility (GEF) expressed interest in supporting the biodiversity project. At the TWG-MSR's fifth meeting in Cebu – Philippines in 1996, the representative from UNDP-GEF office gave details about the procedure for applying financial support from GEF. The meeting concluded by establishing a specific Group of Experts tasked with drafting proposals which met the UNDP-GEF requirements (Statement of the Fifth Meeting of TWG-MSR, 1996). Soon, the Group of Expert held a meeting to adjust biodiversity proposals in line with the UNDP-GEF format and planned to submit the revised proposals at the Seventh Workshop in December 1996.

One requirement asked by UNDP-GEF was the official endorsement from states in the SCS region in order to get confirmation concerning the sustainability of the project. Ali Alatas, Indonesian Foreign Minister, then communicated with his colleagues of foreign ministers soliciting their support for the project in terms of financial support, expertise, and facilities. Some foreign ministers from countries around the SCS responded positively with the exception of China. Yet, without formal letters from all the authoritative countries, the project was difficult to implement (Report of the Eight Workshop, 1997).

Another donor, the United Nation Environment Program (UNEP) through its agency East Asian Sea Regional Coordination Unit (EAS/RCU) was also interested in the biodiversity proposal. This agency was interested in funding some components of the biodiversity project. In June 1998, Dr. Djalal, being the

representative of the workshop, was invited by UNEP to discuss the possibility of funding the biodiversity project by embedding it into the Strategic Action Program (SAP) for the SCS under UNEP's framework (Report of the Ninth Workshop, 1998).

At the Ninth Workshop, Dr. John Pernetta, the representative from UNEP, designated as the resource person of the workshop, explained the UNEP's program before the participants. However, the participant from China questioned the presentation from the UNEP considering that the UNEP was a representative program of an international organization and was therefore not part of the SCS parties. This participant reminded the workshop that the SCS problem should not be internationalized (Report of the Ninth Workshop, 1998). Since then, cooperation between the workshop and international organizations such as UNDP and UNEP in conducting biodiversity project has never materialized.

Until now, three project proposals have been approved through the TWG-MSR. The implementation of the projects depended on adequate funding and endorsement from the SRA. Due to financial and political obstacles, Dr. Djalal proposed an alternative joint-activity for collecting and analyzing data on biodiversity. These data could be base-lined for the three approved projects. Dr. Peter Ng, a marine expert from Singapore, suggested that marine experts from the entire SCS region be involved and that the research site be located in pristine area.

The idea of this activity came from National University of Singapore when the university convened the workshop on Biodiversity Assessment and Inventories of Key Organisms in the SCS on May 3-10 1997. The Biodiversity

workshop concluded that the biodiversity condition in the SCS was critical. The baseline data in many areas of the SCS remained poor as well. Therefore, a multinational expedition consisting marine experts was required to explore pristine water in the region. It was decided to prioritize four alternatives of sampling area: water of the Mekong Delta in Vietnam, Gulf of Thailand in Thailand, water of Palawan Islands in the Philippines, and water surrounding Anambas and Natuna Islands in Indonesia (Ng, P. K. L, et al, 2004).

Dr. Djalal suggested at the Tenth Workshop that the best pristine area for collecting data was water around Anambas and Natuna Islands. The area was completely within Indonesia's territory and as such removed bottlenecks associated with territorial and jurisdictional conflicts. In addition, the area had not encountered or experienced marine exploration for at least a century. Dr. Peter Ng was designated as the coordinator of the research expedition (Report of the Tenth Workshop, 1999).

The Anambas biodiversity research expedition required a budgetary support amounting to almost USD 128,000, which was submitted to the Government of Singapore by Dr. Peter Ng, covering a three week period, namely a two weeks expedition followed by one week of post-expedition to consolidate the study. In addition, Brunei contributed USD 10,000; Indonesia USD 20,000; Vietnam USD 5,000. Indonesia also lent to the research team its research vessel Baruna Jaya VIII to that purpose (Report of the Eleventh Workshop, 2001, p. 16).

The Anambas Expedition, the first cooperation activity under the workshop, which was conducted on 11 to 22 March 2002, had two objectives:

1. To promote the spirit of cooperation and understanding among the participants of the program, hoping that this spirit would spread to the community of marine scientists around the SCS
2. To establish scientific collection of the biological specimens as the basis for further studies of biodiversity and other relevant researches in the region. (Ng, 2004, p. 3).

The Expedition successfully collected approximately 300 kilogram of biological specimen consisting of about 1000 species of various marine organisms from 60 sites including fish, crabs, shrimps, squids, octopus, and worms (Ng, 2004, p. 6; Report of the Twelfth Workshop, 2002). At the preliminary study, the team discovered eleven new species that had never been identified before (Sivasothi, 2003, p. 1). All things considered the Anambas Expedition contributed to new knowledge of the marine life as well as has enhancing cooperation among marine scientists in the region. The final result of the Anambas Expedition was later published by the National University of Singapore in its special edition of the Raffles Bulletin of Zoology Journal in 2004. In addition, the Anambas Expedition contributed to the creation of a network of scientists from littoral states, and in a way played a part in sustaining peace in the SCS (Pramono, personal communication, February 27, 2012).

At the Twelfth Workshop, participants from the Philippines expressed their intention to continue with the expedition into the Palawan Island water. The participant was asked to prepare a proposal entitled 'Exercise Palawan' which would be submitted at the next workshop. Besides discussing the report of the

Anambas Expedition, the workshop reviewed project proposals approved in the previous years. Due to budgetary constraints, especially after CIDA terminated its financial support, Dr. Djalal indicated that the workshop could not implement all the approved projects simultaneously. Therefore, he suggested that the participants should consider selecting one of the approved projects based on criteria of prioritization and economic rationale. The participants agreed that the Proposal of the Study of Tides and Sea Level Change and Their Impact on Coastal Environment in the South China Sea as Affected by Potential Climate Change was an economically important project and therefore would be considered for further deliberation (Report of the Twelfth Workshop, 2002).

On the Expedition of Palawan, the workshop approved the proposal from the Philippines at the 13th Workshop in September 2003 and recommended its implementation. In the implementation of the activity, the Philippines upgraded the Expedition of Palawan from a Track Two Project to a Track One Project. The title of the project was changed to Exercise Luzon Sea (ELS). In addition, the scope was broadened from merely Palawan water to the entire eastern part of the SCS under the Philippines' EEZ. The ELS was held in March 2004. The reason to upgrade the project, according to Ambassador Alberto Encomienda (2012) was the promulgation of the Declaration on the Conduct of Parties in the South China Sea in 2002, and was also in accordance with the UNCLOS on enclosed and semi-enclosed sea provision which stipulated that states surrounding this sea should take joint cooperation activities.

Even though not all states surrounding the SCS participated in the ELS, for instance, Taiwan, still there was an indication of the spillover of Marine Scientific Research cooperation to other needy areas. In that case, it extended from one region to other regions and from informal cooperation to a formal one.

Prior to the ELS, under the spirit of the workshop, the Philippines and Vietnam in 1994 signed bilateral cooperation on marine scientific expedition in the SCS, coincidence with the UNCLOS going into force. The activity entitled Joint Oceanographic Marine Scientific Research Expedition (JOMSRE) was designed for a long-term period, from 1996 to 2007 and concentrated its research in the southern part of the SCS. The research activity was divided into four phases. The first phase, JOMSRE I, was held on April 18 – May 9, 1996; JOMSRE II on May 27 – June 2, 2000; JOMSRE III on April 6-19, 2005; and JOMSRE IV on April 7-21, 2007 (Encomienda, 2012). The JOMSRE was one form of the effort to formalize the results of the workshop as well as a response of the two states on the UNCLOS which was going into force (Hoesslin, 2005). This implied that the workshop process had a positive effect in encouraging formal bilateral cooperation.

7. 3. Resource Assessment and Ways of Development

Resources issues both on living and non-living ones have been identified as a potential sector for cooperation since the First Workshop was held in Bali 1990. The creation of the Technical Working Group of Resource Assessment and Ways of Development (TWG-RAWD) was approved at the Third Workshop in Yogyakarta 1992 together with the TWG-MSR. One year later, the first meeting

of the TWG-RAWD was convened in Jakarta on July 5-6 1993. The agenda of the meeting was concerned with the living resources particularly fishery, and non-living resources, consisting of non-hydrocarbons, hydrocarbons and non-minerals.

On the living resources, the Working Group agreed to cooperate on fisheries stock assessment activities. The objective was to have an estimate over the abundance and the distribution of fisheries in the whole area of the SCS. Possible methods which might be employed in conducting fisheries stock assessment were as follows: regional remote sensing data analysis and interpretation; fishery research surveys; and using acoustic techniques (Statement of the First Meeting of the TWG-RAWD, 1993).

On the non-living resources such as non-hydrocarbon materials, the Working Group agreed to recommend to the respective governments to engage in cooperation in studying sea-bed resources by utilizing the availability of existing possession data and information. The study would start with the exchanging and analysis of available geological and geophysical data in respective countries accompanied by the detailed assessments of the potential mineral resources that may be found in the SCS. On the non-living resources such as hydrocarbons, the Working Group agreed to recommend to the respective governments to undertake a joint preliminary study of a suitable sedimentary basin in the SCS. On the non-living resources such as non-minerals, the Working Group recommended that the investigation of the feasibility of setting up marine reserve or Marine Park in an area be defined within the multiple claims area. In addition to the topic of non-living resources, the participants needed to define the area that could be subjected

to joint efforts in the multiple claims area (Statement of the First Meeting of the TWG-RAWD, 1993).

At the meeting, it was also agreed to appoint Thailand as the coordinator of fishery stock assessment activities; Vietnam as the coordinator of non-hydrocarbon non-living resources activities; and Indonesia as the coordinator of hydrocarbon activities.

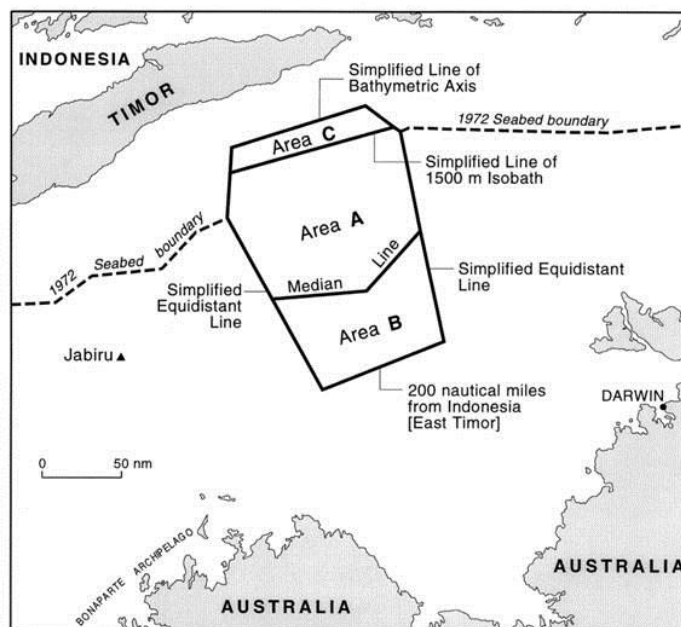
Unlike the TWG-MSR, activities of the TWG-RAWD were non-existent for a couple of years after the first meeting was convened, due to limited budgetary support. There were also numerous meetings which needed to be covered. After the Third Workshop, three other TWGs were established and funds were needed to set up the meetings. The budgetary allocation was able to cover two meetings maximum in a year (Report of the Seventh Workshop, 1996). In addition, the TWG-RAWD was unable to make substantial progress because resources issues were critically sensitive to discuss (Report of the Eight Workshop, 1997). However, these topics were discussed in the Eight Workshop and it was recommended to establish a Study Group on Zones of Cooperation and a Group of Experts on Non-living Resources Non-hydrocarbon Mineral Resources (GEM-NHM).

At the meeting of Study Group on Zones of Cooperation which was held in Vientiane on June 15-18, 1998, the Group reviewed many approaches on maritime cooperation including various models of joint developments such as the Indonesia-Australia Timor Gap Treaty, the China-Japan Fisheries Agreement in the East Asia Sea, and the Argentina-United Kingdom Agreement in the South

West Atlantic. The Group concluded that Timor Gap Treaty was the most comprehensive joint development agreement that could be applied in the SCS (Statement of the Meeting of Study Group on Zone of Cooperation, 1998).

Timor Gap Treaty was signed on December 11, 1989, between Indonesia and Australia. The Treaty, resolved seventeen-year dispute, arranged cooperation for joint exploration and exploitation of natural resources in the Timor Gap. It covers an area of about 60,000 square kilometers and divides the Timor Gap into three areas namely area A, B and C. Indonesia controls area C which is lying close to the Indonesia's territory. Area B which is located near Australia is managed by Australia, meanwhile Area A lies between area C and B is exploited jointly by the two states (Mito, 1998). Map of the Timor Gap can be seen below.

Figure 7. 1. Map of Timor Gap



Source: Parliament of Australia. (1999).

In the same year, GEM-NHM held a meeting in Jakarta on November 30, 1998. The main agenda of the meeting was to review three proposals prepared by Indonesia. The proposals entitled: Compilation of Geo-science Data of the SCS; Establishment of a Geo-science Database for the South China Sea; and Marine Geological Resources Assessment in the South China Sea were submitted to the Ninth Workshop. The workshop then approved in principal the three proposals (Report of the Ninth Workshop, 1998).

At the Eleventh Workshop, the participants examined the result of the Study Group on Zone of Cooperation. Though the concept of cooperation zone and joint development were ideal and were needed since the First Workshop, participants were unable to define certain zones in the SCS where joint development would take place. The Study Group also encountered difficulties in identifying aspects of fisheries, minerals, gas, or oil that could be subjects for cooperation activities. Another problem concerned who should participate in the joint development. In that case, the concepts of cooperation zone together with the models of joint developments needed to be specified in the future (Report of the Eleventh Workshop, 2001). Similarly, the proposals on geo-science and geological resources submitted by GEM-NHM failed to get approval since Chinese participants were reluctant to implement the activities. It was noted that the proposals touching sensitive matters including jurisdiction and resources' issues were difficult to reach consensus to get approval.

7. 4. Marine Environment Protection

In accordance with the agreement to establish Technical Working Group on Marine Environment Protection (TWG-MEP) adopted in the Fourth Workshop, the first TWG-MEP meeting was conducted in Hangzhou on October 6-8 1994. At the meeting, the participants expressed their common interest in protecting the marine environment and their willingness to develop cooperation in the entire area of the SCS.

Three agendas seriously took into account the following: information and communication on the impacts of environment threats, climate change and pollution control; ocean observation by establishing regional monitoring system; and protection on habitats and ecosystem by developing training program to facilitate the transfer of expertise from the region as well as from outside. It was also recommended that a group of experts should be set up to analyze the existing activities in research, monitoring, assessment for prevention and to control marine pollution and make relevant recommendations (Statement of the First Meeting of TWG-MEP, 1994).

Then, at the first GEM-MEP convened in Phnom Penh on June 8-11, 1997, the participants formulated a proposal entitled Regional Training Program for Ecosystem Monitoring and Assessment in the South China Sea (Statement of the First GEM-MEP, 1997). At the second Meeting of the TWG-MEP held in Haikou-Hainan on October 14-15, 1997, the participants approved in principle the proposal and recommended to discuss it at the second GEM-MEP (Statement of the Second Meeting of TWG-MEP, 1997). The objective of the project was to

exchange and analyze information on the ecosystem in the SCS by conducting symposia, in which regional experts would gather to assess the existing knowledge of ecosystem monitoring and developing training modules to build capacity of marine officers (Report of the Eight Workshop, 1997).

Considering that pollution eradication needs an integrated environmental legislative regime, it was suggested a Group of Experts on Environment Legislation should be established under the Technical Working Group on Legal Matters. The meeting also agreed to recommend to the upcoming workshop that the authorities surrounding the SCS should ratify or accede to the Convention of International Maritime Organization (IMO) or other relevant conventions dealing with oil pollution (Report of the Eight Workshop, 1997).

At the second GEM-MEP, the proposal was once again re-formulated, and it was more closely-oriented with ecological management than merely as a research project. The proposal also clarified the technical content of the proposed activities. This could fulfill the conditions of the format required by the funding agency. At the Eleventh Workshop, this proposal was adopted and was ready to be implemented (Report of the Eleventh Workshop, 2001). However, due to the limited budgetary support, the implementation was postponed.

7. 5. Safety of Navigation, Shipping and Communication

The idea of establishing the Technical Working Group on Safety of Navigation, Shipping and Communication (TWG-SNSC) emerged at the Third Workshop in Yogyakarta in 1992. Two years later, at the Fifth Workshop in Bukittinggi in 1994, it was agreed that Indonesia would host the meeting.

The first meeting, which ran from October 3 to October 6, 1995, discussed four items on the agenda, that is: Exchange information and data on safety of navigation, shipping and communication; education and training programs for mariners; development of contingency plans and Search and Rescue (SAR) network; cooperation on hydrographic and oceanographic surveys as well as cooperation to combat piracy, drug trafficking and problems of refugees at sea. The meeting also expressed that UNCLOS and IMO Convention provide useful frameworks for cooperation. With this in mind, the meeting recommended the participants' government should accede to the conventions and other relevant international agreements (Statement of the First Meeting of the TWG-SNSC, 1995).

After exhausting the items of the agenda, the meeting shifted the focus to four other topics and assigned Singapore, Malaysia, Taiwan and China to assume responsibility of each topic. Singapore was to be in charge of education and training for marines topic; Malaysia on unlawful activities at sea and SAR; Taiwan on exchange of information and hydrographic data; and China on contingency plans for pollution control (Statement of the First Meeting of the TWG-SNSC, 1995).

The four topics were discussed at the second meeting of TWG-SNSC held at Bandar Seri Begawan from October 29 to November 1, 1996. The discussion on the topic of education and training of marines coordinated by Singapore consented that the participants should conduct a survey within their own countries to obtain information on training such as the number of schools and the location,

the standard, and the course content. The information could be employed as a basis to standardize the curricula of marine education by a group of experts. On the topic of hydrographic data, the participants expressed their need to exchange information on hydrographic data among authorities in the SCS region. To fulfill their need, it was recommended to set-up a group of experts to formulate effective cooperation in exchanging data and information on hydrographic fields in order to promote the safety of navigation in the SCS. On the discussion on the topic on contingency plans for pollution, the participants acknowledged the need to exchange technology, know-how, expertise and information for preparing and avoiding oil pollution in the sea. Due to the increasing ship accidents and piracy, the discussion on the topic of unlawful activities at sea and SAR addressed regional regulations on SAR and unlawful activities at sea as well as on combating piracy (Statement of the Second Meeting of TWG-SNSC, 1996).

In the following years, three groups of expert were established to discuss and to prepare proposals on three topics. The three groups were Group of Expert on Education and Training of Mariners (GE-ETM), Group of Expert on Hydrographic Data and Information (GE-HDI) and Group of Expert on Search and Rescue and Illegal Acts at Sea (GE-SAR). Up to 2002, only GE-HDI had submitted a draft proposal entitled ‘Understanding on the Exchange of Hydrographic Data and Information in the SCS’. Unfortunately, due to budgetary challenges, the draft was set aside (Report of the Twelfth Workshop, 2002).

7. 6. Legal Matters

The initiation to establish the TWG-LM emerged in the Fifth Workshop in Bukittinggi in 1994. While avoiding discussion on sensitive territorial and sovereignty claims, the TWG had two tasks. First, to discuss the implications of UNCLOS and relevant regional and global agreements, which impact on the cooperative efforts in the SCS. Second, to examine legal issues arising from the project proposals in order to promote and implement cooperation with a vision to produce concrete, practical and policy oriented towards the proposed activities (Report of the Fifth Workshop, 1994).

Through serial meetings, the TWG discussed the implication of the entry into force of the UNCLOS in the SCS as well as examined legal aspects of cooperation on marine scientific research, on marine environment protection, on resource assessment and on ensuring the safety of navigation. It was noted that the TWG also developed and drafted a Code of Conduct (CoC) as a confidence building measure.

The TWG affirmed that various provisions of the UNCLOS provide the appropriate basis and framework for developing cooperation in various fields in the SCS. Besides UNCLOS, the TWG also discovered various international legal regimes as well as regional conventions in line with cooperative efforts conducted by the workshop.

Concerning legal aspects on the proposed projects of various TWGs, the TWG-LM, in principle, indicated no serious legal obstacles in continuing with the proposed projects. However, it needed the harmonization of laws, regulations and

arrangements in the SCS by littoral states. Therefore, the TWG requested the resource persons to compile laws, regulations or other legislation products regarding the SCS and distributed it to the participants. It was noted that the TWG encouraged several meetings to be arranged among ocean law experts from littoral states to exchange views and avoiding misinterpretation.

Relating to the CoC in the SCS which is an essential element of confidence building, the TWG drafted and developed its own version. This version would complement the CoC started to be discussed in the formal forum. At the Ninth Workshop in 1998, the TWG presented the draft of CoC entitled *Clauses from Statements, Declarations or Agreements that May be Relevant in Defining Principles Applicable to a Possible Code of Conduct in the South China Sea*. The participants of the workshop demanded to comment on the content of the document. The document was extracted from various legal arrangements such as Treaty of Amity and Cooperation in the Southeast Asia, the workshop's joint statements, ASEAN – China joint statements, the bilateral CoC between the Philippines and China as well as between Vietnam and the Philippines. The document contained some topics: preamble, dispute – international law, dispute – peaceful settlement, dispute – friendly relations, self-restraint, the non-use of force, non-intervention, CBMs and cooperation in various fields (Report of Ninth Workshop, 1998).

Even though the clauses of the draft were taken from the existing bilateral or multilateral legal documents in the region and in the world, China's participants refused to support the CoC in the SCS. In China's opinion, the

principles in the United Nations and other international organizations were still relevant on conflict resolution. For that reason, there was no need to draft the CoC (Song, 2000). In addition, according to the China's participants, a CoC was a product of formal dialogue, not an informal one like the workshop process.

7.7. Status of Cooperation Projects

By 2002, there were various thematic cooperation project proposals produced by the workshops through its TWGs. The proposals consisted several cooperation projects, concepts or documents. The status of the proposals was in various stages (approved and implemented, approved but yet implemented, unable to obtain consensus, or needed to revise and delayed) as indicated in Table 7.1 below:

Table 7.1. List of Thematic Projects Produced by the Workshop 1990-2002

No	TWG	Name of project	Status	Note
1	Marine Scientific Research	Research Project Proposal on Biological Diversity in the SCS	Approved	Implemented in 2002 with the name Anambas Expedition
2	Marine Scientific Research	Proposal for Regional Cooperation in the Field of Marine Science Data and Information Network of the SCS	Approved	Proposal needed finalize in 2003
3	Marine Scientific Research	Proposal of Study of Tides and Sea Level Change and Their Impact on Coastal Environment in the SCS as Affected by Potential Climate Change	Approved	Delayed in realization due to the limited budget
4	Resource Assessment and Ways of Development	Compilation of Geo-science Data of the SCS	Unable to obtain consensus	The matter touched sensitive issues
5	Resource Assessment and Ways of Development	Establishment of a Geo-science Database for the SCS	Unable to obtain consensus	The matter touched sensitive issues
6	Resource Assessment and Ways of	Marine Geological Resources Assessment in the SCS	Unable to obtain consensus	The matter touched sensitive

7	Development Resource Assessment and Ways of Development	Concept Zone of Cooperation and Joint Development	Need revise	issues Vague in terms of territorial boundaries and scope of activities
8	Marine Environment Protection	Regional Training Program for Ecosystem Monitoring and Assessment in the SCS	approved	Delayed in realization due to the limited budget
9	Safety of Navigation, Shipping and Communication	Understanding on the Exchange of Hydrographic Data and Information in the SCS	Delayed	Limited budget
10	Legal Matters	Clauses from Statements, Declarations or Agreements that May be Relevant in Defining Principles Applicable to a Possible Code of Conduct in the SCS	Unable to obtain consensus	Code of conduct should be discussed in the Track One

Sources: Compiled by the author

Only one proposal was approved and implemented, namely, Research Project Proposal on Biological Diversity in the South China Sea through Anambas Expedition conducted in 2002. Three proposals were approved but delayed in due to limited budgets and/or lack of finalization; three proposals and one document of CoC were unable to obtain consensus; one project was put aside due to budgetary constraints, and one concept paper on Zone of Cooperation and Joint Development needed revision or review.

7. 8. Conclusion

It is problematical to build cooperation in the SCS since littoral states surrounding this sea lack a strong tradition of dialogue. In actual fact, the region has a strong historical experience of internecine conflicts and suspicions. With this in mind, it may take many years to develop the ideas of functional cooperation in this region. Considering the lack of experience and competencies of the workshop participants

in the area of cooperation projects, it was decided to set up five Technical Working Groups to develop project proposals as well as implementing them after gaining approval from the workshop meetings. As mentioned earlier, various project proposals have been submitted by the TWGs to the workshops forum, but only one project on biodiversity has been approved and implemented in 2002.

There are several reasons why only one project was implemented. First, participants of the workshop lacked the necessary support from their authorities (political will). This is reflected through the limited budget allocations which were provided by the participants' authorities for the implementation of the projects, resulting in many of them to suffer a still birth. Second, China was a thorn in the flesh and it was the only inflexible authority that refused projects which touched on sensitive issues. China's refusal affected the decision-making process, which was based on the difficult principle of consensus. Third, CIDA's termination of its financial support to the workshop in 2001 affected operations. The termination, surely, hurt the workshop process in terms of budgetary support. Fourth, most coastal states surrounding the SCS were in a recovery mode after being hit by an economic crisis forcing them to direct resources which were more needed in the domestic arena. However, the most important aspect of the workshop is the process, not solely the output in terms of the number of projects which were successful executed. Through the workshop process, participants were able to exchange ideas and build a strong international network.

It should be noted that the cooperation in Marine Scientific Research is the most advanced one due to the spillover effect. Starting from Anambas, the

cooperation project was broadened in terms of territorial scope in Palawan and the eastern part of the SCS. It was upgraded into formal cooperation through the ELS project as well. Undoubtedly, the Marine Scientific Research cooperation developed by the Workshop process contributed immensely to the effort aimed at encouraging bilateral and multilateral formal cooperation. The Philippines and Vietnam, for example, carried out joint research cooperation in the southern part of the SCS entitled JOMSRE starting in 1996.

CHAPTER EIGHT

CONCLUSION

8. 1. Introduction

This study investigates Track Two Diplomacy as a suitable mechanism to manage conflict in the South China Sea through the Indonesian-led ‘Workshop on Managing Potential Conflict in the South China Sea’ meetings which were held between 1990 and 2002. The study also scrutinizes the impact of the workshop experiment in building stable peace in Southeast Asia.

The first section of this chapter evaluates the workshop process by comparing its objectives and outcomes as well as its strengths and limitations. The second section discusses the significance of the workshop in preserving peace. The third section examines the significance of the workshop as an experiment of Track Two Diplomacy. The fourth section analyzes the contribution of the workshops process in theory building, namely, Constructivism and Functionalism Theories. The Fifth section explains the importance of the workshop process as a model for other conflict cases, especially the conflict in the East China Sea. The sixth section examines the contribution of Track Two Diplomacy to Track One Diplomacy. The last section discusses the agenda for further research.

8. 2. Evaluation of the Workshop Process

In evaluating the workshop process from 1990 to 2002 to ascertain whether it succeeded or not, there is need to compare the objectives and the outcomes of the workshop. There are three objectives of the workshop process. The first objective is to exchange ideas through dialogue in order to enhance mutual understanding among participants. Secondly, the workshop process seeks to develop Confidence Building Measures (CBMs) among the participants. The third objective is to manage potential conflicts by exploring possible areas of cooperation in which every party can participate.

Track Two Diplomacy is applied as an instrument that enhances dialogue among the conflicting parties. Furthermore, it enables participants to enjoy certain privileges in conflict resolution that cannot be conducted through Track One Diplomacy. Deciding to tackle the complicated and sensitive issues of the SCS conflict, the workshop process started with an invitation to participants from ASEAN members at the first meeting. After getting support from the participants at the first meeting, the workshop engaged all the claimants by inviting them to the subsequent meetings. Starting from the Second Workshop, all claimants and non-claimants surrounding the SCS attended the subsequent multilateral informal meetings.

The exchange of ideas on various issues marked the constructive dialogues as well as avoiding sensitive matters such as sovereignty and jurisdiction claims. Premised on the dialogue approach that deepened mutual understanding and consensus building in the decision making, the workshop produced

recommendations, statements, principles on conflict management, and proposals for cooperation activities.

During the workshop dialogue process, participants also exchanged their views on various items of CBMs. Unfortunately, the discussion on concrete items of CBMs was not concluded since some participants felt that it was proper to carry out the task via Track One Diplomacy, especially military issues. These issues included the non-expansion on existing military presence and transparency in military activities in the SCS. However, since the whole process of the workshop was aimed at reducing tensions and enhancing mutual trust, the workshop was also a kind of CBM. The participants felt comfortable with one another and, were able to develop a personal network. When CIDA terminated its financial support, the whole Workshop process was under threat of dissolution. Nevertheless, participants banded together and agreed to continue the workshop through self-funding.

Besides exchanging ideas through dialogue, the workshop produced various proposals on functional cooperation activities in which all parties would participate. These activities were designed on the principle of the step-by-step approach, that focused on cost-effectiveness and implementing the least controversial issues. Under those circumstances, four proposals were approved by the workshop but only one focusing on marine scientific research was carried out through the Anambas Expedition.

Generally speaking, the workshop succeeded in fulfilling its objectives. However, the most important objective was on how Track Two Diplomacy could

lead to the employment of Track One Diplomacy. From the beginning, the workshop was not projected to transform into Track One Diplomacy, but to manage the conflict by preventing it from escalating. In fact, starting from 1990 the situation of the SCS was relatively stable and was marked by an absence of military skirmishes or other actions in which the use of forces occurred. Notably, the workshop only provided some outcomes that could be adopted into formal negotiations. First, the content of the principles on managing conflict as represented in the Bandung Statement was adopted in ASEAN documents, namely, the ASEAN Declaration on the South China Sea in 1992 and the Declaration on the Conduct of Parties in the South China Sea in 2002. Second, the workshops recommended that the participants' governments ratify UNCLOS and other international regulations as well as acceding to ASEAN TAC. By 2002, all the states surrounding the SCS had acceded to ASEAN TAC and mostly ratified UNCLOS, with the only exception being Taiwan. Third, cooperation activities on marine scientific research have enlarged and transformed into formal cooperation. Fourth, conducive atmosphere developed by the workshop encouraged the participants' governments to undertake bilateral negotiations. In 1995, the Philippines and China as well as the Philippines and Vietnam signed Codes of Conduct concerning their bilateral relations in the SCS. Hence, the workshop process was useful and effective as mechanism of managing conflict in the SCS.

Besides successful stories mentioned above, a number of limitations of the workshop approach were identified. The workshop participants were mostly bureaucrats who attended the workshop in private capacity, as such none came from the business sector. Yet, in reality, the SCS is potential to be developed into

joint cooperation in terms of economic and business fields for mutual benefit since this area is rich on living and non-living resources. Another drawback that was beyond the capacity of the workshop was the lack of ‘political will’ from the participants’ governments. Many proposed projects recommended by the workshop failed to obtain recommendation from the participants’ governments. For instance, projects on marine scientific research, despite getting support of fund and experts from international donors, China’s Government refused the support fearing that international organizations may interfere in the SCS conflict and thus internationalizing the dispute. The Asian Financial crisis of 1997-1998 and the termination by CIDA of its financial support were also the limitation of the workshop process. As a result, the workshop could not implement some of the approved projects due to the budget constraints.

8. 3. The Significance of the Workshop in Preserving Peace

The conflict in the SCS is categorized as a complicated conflict characterized by the presence of sensitive issues such as sovereignty and territorial jurisdictional disputes among its claimants. Military skirmishes among adversaries frequently broke-out before 1990. In order to preserve their claims, the conflicting parties were reluctant to enter formal negotiation. The workshop as a kind of Track Two Diplomacy channel was able to break some deadlock by enabling participants to engage in informal dialogue to manage the SCS conflict and seek ways of obtaining peace in the region.

During the workshop process starting from 1990 to 2002, the SCS region was relatively stable and was characterized by reduced tensions and the absence

of military conflagrations, although the root of the conflict remained unresolved. The workshop also developed a conducive atmosphere to hold dialogue especially on non-sensitive issues as well as initiating processes geared at encouraging cooperation activities. It should be noted that the workshop contributed to the creation of norms stressing on solving conflicts by peaceful means (based on regional regulations and international law). In a nutshell, the workshop process was successful in stabilizing the SCS from 1990 to 2002.

8. 4. The Significance of the Workshop as an Experiment of Track Two Diplomacy

In essence, the main objective of the Track Two Diplomacy is to prepare conflict settlement when it cannot be performed through the Track One Diplomacy due to the sensitiveness of the issues at hand. In Track Two Diplomacy, tensions and suspicions are reduced by building mutual trust and transparency among the disputants in informal manners.

Resolving the SCS conflict is not easy as it involves various sensitive issues on politics, sovereignty and jurisdictional claims. Considering that it takes time to settle the conflict, interim solutions were adopted to manage conflict by preventing it from escalating. One approach that was proposed by the workshop was promoting confidence building measures through Track Two Diplomacy.

TrackTwo Diplomacy was chosen considering that Track One Diplomacy was difficult to undertake for political reasons as well as the presence of sensitive issues. Six issues were discussed in the workshop, namely environment, ecology and scientific research; shipping, navigation and communication; resources

management; political and security issues; territorial and jurisdictional issues; and institutional mechanisms for cooperation. In the process of discussion, sensitive issues related to the political and territorial jurisdiction were skipped from the agenda.

Besides discussing the issues, the workshop also designed cooperative projects on certain fields. Five Technical Working Groups were established to prepare cooperative project proposals namely TWG on Marine Scientific Research; TWG on Resources Assessment and Way of Development; TWG on Marine Environment Protection; TWG on Safety of Navigation, Shipping and Communication; and TWG on Legal Matters. With the formation of the TWGs, a structure on the workshop process emerged. The workshop meetings which were held in Indonesia annually acted as a plenary meeting while technical groups as an ad-hoc committee held their meetings mostly outside Indonesia. All project proposals produced by the TWGs could only be approved by consensus in the workshop meetings.

Notably, between 1990 and 2002, there were ten proposed projects but only four projects were approved. All the approved projects related to non-sensitive issues, including marine scientific research and marine environment protection. Of the four projects, only one project on biodiversity research was implemented through the Anambas Expedition.

Measuring the achievements of the workshop does not depend on the quantity of the approved or implemented projects, but on how the workshop took effort in creating a conducive atmosphere to hold constructive dialogue. The

workshop was instrumental in fostering dialogue and cooperation at the formal level, especially in ASEAN forums. It can be noted that the workshop has been successful in inviting all claimants in the SCS to sit on the same table, a feat that cannot be realized through formal forums because of political tensions between China and Taiwan.

On reflection, the lesson learnt was that the workshop succeeded in developing a conducive atmosphere that encouraged dialogue and fostered the initiative for cooperation activities based on several factors. First, the workshop invited the participants not only from the claimant countries but also from non-claimants located near the SCS. It is a reflection that all littoral states around the SCS have responsibility to preserve peace in this region by developing dialogue and cooperation as stipulated in the UNCLOS. Second, the workshop was stressing on policy orientation. The participants mostly were persons positioning themselves as official bureaucracy staffs but attending in private capacity. Therefore, the dialogue process did not represent merely a scientific discourse but focused on policy implementation. Third, in order to avoid the ‘talk-shop’ tag, the workshop developed not only dialogue but also conducted cooperative projects via TWGs which responsible for the projects from planning to implementation. Fourth, in order to make sense of the community, various responsibilities were assigned to the participants. At least one participant country took the responsibility for preparing one cooperation project through the TWGs. Fifth, interactive communications among participants in the workshop process enabled them to create a personal network. This network is important to avoid mistrust and miscalculation and in the long-run can create common understanding. And last but

not least, the sixth factor is related to the strategy of influencing policy makers. As mentioned earlier, the workshop participants were government officials operating in a private capacity. They also acted as representative delegates of their government in other formal forums. With this in mind, it was believed that there is a possibility that they spread new ideas obtained from the workshop to other formal forums. In addition, the workshop also invited observers from various professions such as journalists, NGO activists, academicians, and research analysts. They were in charge of diffusing the outcomes of the workshop to their society at home.

8. 5. The Significance of the Workshop in Theory Building

As mentioned earlier, this study is guided by Constructivism and Functional Theories. Based on its findings, this study shows that the two theories are relevant to the SCS conflict context.

8. 5. 1. Constructivism Theory

Constructivism Theory which gained its popularity in the Post-Cold War provides new ways of understanding the world of international relations which is changing rapidly and unpredictably. For constructivists, there is need to understand the world as coming into being constructed through the process of interaction between agents and their environment. They believe in two things: first the structures of human association are determined by shared ideas; and second, identities and interests of actors are constructed by these shares ideas. Thus, Constructivism Theory emphasizes the role of ideas rather than material aspects. This theory has three basic concepts: socialization, identity and norms.

Socialization is a process of social interaction that guide actors to acquire ways of thinking and behaving appropriately. In the context of this study, the workshop is a vehicle of socialization among participants. The socialization process was directed to develop dialogue and the sharing of ideas so that each party could understand the needs and interests of others. Dialogue and sharing of ideas in the workshop meetings produced common agreements and some of them evolved into cooperative activities.

Identity is the result of a long-term process of socialization. Through socialization and interactive processes, actors get closer to each other and form a common identity. Through a long process of dialogue beginning in 1990, the sense of community as the initial stage of common identity emerged. This can be seen when CIDA terminated its financial support for the workshop, forcing participants to decide to continue with the workshop process via self-funding . By this decision the workshop participants demonstrated that their destiny was in their own hands and they did not depend on other institutions outside the region.

Norms are the standard behavior for actors so that their behavior conform with social customs. In the context of international relations, norms are needed by states to guide their behavior as well as conforming it with international community agreements and practices. To make conformity with international norms, states can localize international norms by adopting them into domestic norms. On the other hand, local actors can maintain its local norms through norm subsidiarity effort so its local norms are accepted as international norms.

Through serial meetings, the workshop has been able to generate recommendations as a form of guidance for the behavior of the participants' governments as stipulated in the Bandung Statement. This statement localized international norms: the UN Charter and ASEAN-TAC pertaining peaceful conflict settlement and the UNCLOS concerning cooperation of states in the closed or semi-enclosed sea. In connection with norm subsidiarity, the workshop introduced participants, particularly to the non-members of ASEAN to the ASEAN Way norm. The ASEAN Way is a norm of decision making, where decisions are taken through negotiation, consultation and consensus. Furthermore, the Bandung Statement and other outcomes of the workshop then were transformed into formal multilateral forums such as ASEAN. It should be noted, the ASEAN-TAC and UNCLOS were ratified by most states which participated informally at the workshop.

8. 5. 2. Functionalism Theory

Functionalism Theory was developed in Europe after the World War II in order to establish peaceful atmosphere. It was argued that peace can be created if there are cross-border functional cooperations in various fields related to human basic needs issues. These functional cooperations will spillover to the other fields and in the long term it is hoped that this would develop partnership and mutual understanding among states.

To promote confidence building, the workshop established various functional cooperation activities in non-sensitive issues. Some proposals of cooperative projects were approved but up to 2002, only one project on marine

scientific research, the expedition of Anambas was implemented due budgetary constraints and lack of governmental support. However, the phenomenon of spillover as articulated by Functionalism Theory may have happened on the Expedition of Anambas when it enlarged into Palawan water, hence the name of Expedition of Palawan. Furthermore, the Expedition of Palawan was upgraded into formal cooperation and transformed into the Luzon Sea Exercise. The spirit of the workshop in promoting functional cooperation encouraged a formal agreement between Vietnam and the Philippines on a project entitled Joint Oceanographic Marine Scientific Research Expedition (JOMSRE).

In the context of conflict in the SCS, it is not easy to carry out functional cooperation vis-à-vis sensitive issues. Under those circumstances, even if formal or informal functional cooperation is present it would be prudent to avoid political and security issues. The least sensitive issue in the SCS dispute is marine scientific research, and it is for this reason that it was used as an entry point to conduct functional cooperation among claimants to the SCS.

8. 6. The Significance of the Workshop to be Applied to the other Conflict Areas

Even though the workshop process was not able to resolve the conflict in the SCS, it however managed the conflict by reducing tensions and suspicions among the claimants. Consequently, the conflict was prevented from escalating. Since 1990, the SCS has been relatively stable and no new military conflagration has occurred. Parallel with the workshop process was Track One Diplomacy which took place

between ASEAN and China during meetings on the Code of Conduct in the SCS which have occurred since 1999.

The experiences of the workshop process which started to explore the conflicting parties' needs and interests in order to build mutual trust and move to establish cooperation activities are possible to be applied in other areas of conflicts such as conflict of Diaoyu/Senkaku Islands in the East China Sea between China and Japan. This conflict is similar to the SCS conflict in terms of its strategic location, historical issues, legal aspect, and natural resources.

The Diaoyu Islands in Chinese or Senkaku Islands in Japanese view are a group of islets located in the East China Sea. These islands are approximately 6.3 km² laid in midway between the Taiwan Island and the Japanese Ryukyu Islands, 120 nautical miles northeast of Taiwan, 200 nautical miles southwest of Okinawa and 230 nautical miles east of mainland China (Pan, p. 71). These islands are barren and none are inhabited.

Before 1875, based on the Japanese point a view, these islands were *terra nullius*, meaning that no nation exercised sovereignty over the territory (Osti, 2013). However, China has argued that the islands belonged to China since the fourteenth century. Ming Dynasty for instance, documented and included the islands into its official map (Harry, 2013).

In 1895, the Japanese government through a Cabinet Decision incorporated these islands into its territory and built markers showing the islands under the Japanese control. The decision was adopted a few weeks before the end of the first Sino-Japanese War and the signing of the Treaty of Shimonoseki. This

treaty mentioned that China was defeated by Japan and acknowledged that Japan control over Taiwan and all of its contiguous islands including Diaoyu/Senkaku Islands (Metraux, 2013).

After the World War II, Japan returned all territory formerly belonging to China except Diaoyu/Senkaku Islands by insisting that China had never owned the islands. Then, Diaoyu/Senkaku Islands were administered by the US as a part of Okinawa from 1945 to 1972. When the US returned Okinawa to Japan, the Diaoyu/Senkaku Islands also returned to the Japanese authority.

Tension between China and Japan has escalated since the 1970s over this issue. Three factors were behind the escalation of the conflict. First, based on a geological survey from the United Nations Economic Commission for Asia and the Far East in 1969, the sea-bed between Taiwan and Japan where the Diaoyu/Senkaku Islands are located hold what would amount to be one the largest hydrocarbon deposits in the world (Osti, 2013). Given that both China and Japan need oil supply to run their industrial program, the conflict over this islet would definitely intensify. Second, the United Nations released UNCLOS to be ratified by its members in 1982. The UNCLOS provided states to extent their maritime space up to 12 nautical miles of territorial sea and 200 nautical miles of EEZ. Therefore, sovereignty over Diaoyu/Senkaku Islands enables China or Japan to expand its maritime territory. Third, the raising wave of nationalism in the domestic political arena of both China and Japan has triggered skirmishes between the two countries (Metraux, 2013).

In view of the foregoing, the experiment of the workshop in the SCS may be relevant to the Diaoyu/Senkaku Islands conflict. Through Track Two Diplomacy, both China and Japan can be encouraged to build trust and start to engage in functional cooperation by shelving the sensitive issues. However, the most important thing is the availability of the third party which is neutral and trusted by the conflicting parties to take the initiative of inviting them on the table for informal meetings before going to Track One Diplomacy.

8. 7. The Contribution of Track Two Diplomacy to the Track One Diplomacy

The objective of conducting Track Two Diplomacy is creating a conducive atmosphere, reducing tensions, and enhancing confidence building as well as seeking alternative solutions between or among conflicting parties to prepare eventual conflict settlement through the route of Track One Diplomacy. In the final analysis, it would be meaningless if the outcomes of Track Two Diplomacy cannot transform into Track One Diplomacy. There are two strategies commonly carried out by initiators of Track Two Diplomacy to contribute to Track One Diplomacy. These strategies are vertical and horizontal orientations. Vertical orientation means the outcomes of Track Two Diplomacy influence the policy-making. This can be realized if the participants are part of the decision-makers inner circle even though they are attending in private capacity. On the other hand, horizontal orientation emphasizes the impact of outcomes of Track Two Diplomacy on civil society. This strategy is associated with participants who shape public opinion such as journalists, academicians, NGO activists, think-tank and socio-religious leaders. They are able to diffuse ideas obtaining from

Track Two Diplomacy to their society. By changing the opinion of the civil society, these actors may influence the decision-making process. The effectiveness of Track Two Diplomacy in contributing Track One Diplomacy, it should combine the two strategies.

8. 8. Agenda for Further Research

This research examines the workshop process in a certain period from 1990 to 2002 (even though the workshops continued with self-funding until 2010). Therefore, it is important to continue with this research by covering the period 2003 to 2010 to discover additional dynamics related to the workshops process.

The workshop is one instrument of Track Two Diplomacy which was used to manage conflict in the SCS region. Meanwhile, there are some institutions of Track Two Diplomacy which are also concerned with security issues including the SCS conflict. These institutions are the ASEAN Institute of Strategic and International Studies (ASEAN-ISIS), the Council for Security Cooperation in the Asia Pacific (CSCAP) and the Workshop of the South China Sea: Cooperation for Regional Security and Development conducted by Vietnam.

The ASEAN - ISIS which was established in 1988 is a non-government association of security studies in Southeast Asia and it is registered by ASEAN. The purpose of this institute is to provide policy studies on security to ASEAN. Similar to ASEAN-ISIS, CSCAP has a much broader spectrum. It was established in 1993 in anticipation of the uncertainty of security issues after the Cold War through the study of security policy in Asia Pacific. CSCAP is a network of non-government institutes of security studies in the Asia Pacific

region. Meanwhile, there is a ‘new kid on the block’, namely, the Workshop of the South China Sea: Cooperation for Regional Security and Development. The workshop is organized by the Diplomatic Academy of Vietnam in cooperation with the Vietnam Lawyer's Association. It has convened annual meetings since 2008. Therefore, to obtain comprehensive knowledge on Track Two Diplomacy concerning the SCS conflict with different perspectives, the activities of the three institutions must be investigated.

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