

Myanmar's preparation  
to resolve maritime conflicts in the region

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First of all, I would like to thank the organizers of the seminar, namely Thailand ISIS and CASS India for inviting me to present Myanmar's views on the SCS territorial dispute. At the outset I wish to say that these views are entirely my own and do not represent the views of Myanmar ISIS. I will speak in an open and frank manner since I was told that this presentation is purely an academic exercise.

Myanmar is soon to take over the Chairmanship of ASEAN for 2014, and out of the many issues the SCS undoubtedly will be one of the most difficult and contentious issues. I must say that Myanmar has been fortunate in the sense that after Cambodia's Chair, Brunei had handled the issues in a most deft manner that there has been a positive outcome at the April Summit of ASEAN Leaders held in Brunei Darussalam. Specifically, the statement issued at the end of the Summit states that “...we looked forward to continued engagement with China in implementation the DOC in a full and effective manner, including through mutually agreed joint cooperative activities and projects. Taking into account the importance of the 10<sup>th</sup> anniversary of the ASEAN-China Strategic Partnership in 2013; and the positive momentum following the 19<sup>th</sup> ASEAN-China Senior Officials' Consultations, we tasked our Ministers to continue to work actively with

*China on the way forward for the early conclusion of a Code of Conduct in the South China Sea (COC) on the basis of consensus.”*

Pursuant to this statement, the joint working group of ASEAN member states and China on implementing the DOC was held recently in Bangkok. At that meeting due to the coordinated efforts between the current ASEAN Chair Brunei and the current coordinator of ASEAN and China which is Thailand and the next Chair which will be Myanmar, both sides agreed to start discussions on the COC.

Although this is just an initial step towards the eventual conclusion of the COC it represents a forward movement which is very important for building trust and mutual confidence between ASEAN and China.

The outcome of the JWG first has to be submitted to the ASEAN-China SOM after which the SOM will further report to the ASEAN-China Ministers' Meeting in July. As such from now until the end of the Ministers' Meeting in July there could possibly be further development concerning the issues.

Myanmar hopes to build upon these developments and work hard for gaining momentum under its Chairmanship. But at the same time it must be careful that the pace of the discussions should be comfortable to all. One must not forget that even the drafting of the guidelines for the implementation of the DOC took over six years after ASEAN established the JWG in 2005 for this purpose. China's stance on the SCS issue is that *“the COC is a step-by-step process involving all parties to work together, expand common ground and remove obstacles and discuss and steadily promote the COC procedure while*

*implementing effectively the DOC in an all-round way*". China at the same time objects to third party intervention in the SCS.

If we look at the SCS issues it can be seen that it basically involves two main concerns for ASEAN claimant countries and China. First is the sovereignty issue and second of natural resources and freedom of navigation and overflight.

As far as Myanmar is concerned, the sovereignty issue must be settled between China and the claimant countries bilaterally. As for the exploration and exploitation of natural resources, both living and non-living, as well as the freedom of navigation and overflight issues it has to be worked out between ASEAN and China.

Myanmar's official position on the SCS is that as peace and stability are key to regional peace and security, it welcomes that the ASEAN-China process is moving forward and will maintain and bring forward the momentum under its Chairmanship in 2014.

As Myanmar enjoys close and cordial relations with China, all eyes are cast on Myanmar to see how we will handle and manage this delicate and sensitive issue. Many think that Myanmar will be put under pressure from China on this issue. But to be very frank, I think the situation in the SCS when Cambodia was chairing the ASEAN Summit and the current situation is quite different. Previously, in 2012, tensions arose between Vietnam and China as well as the Philippines. The situation was so serious that the naval vessels of the Philippines and China confronted each other at the Scarborough shoal for about two months. Today, although we can say that there is no such confrontation

there are still serious differences between the Philippines and China because of the former's insistence to bring the territorial dispute to the ICJ while China consistently rejects the Philippines action. Moreover, there have been incidents relating to fishing in the disputed area.

Against this background, what we need here is the strategic trust which the Prime Minister of Vietnam underlined in his keynote address given at the opening ceremony of the recently concluded Shangri-La Dialogue held in Singapore. Mutual trust and confidence between the two sides are of utmost important and represent a fundamental foundation for a resolution of the issue.

In this regard, the DOC, the guidelines for the implementation of the DOC as well as the eventual conclusion of the COC are all part of the CBMs that are needed between ASEAN and China.

We have at our disposal other forms of CBMs which include inter alia:

- Refrain from engaging in unilateral actions that provoke adverse reactions from party/ parties concerned
- No first use of force by parties concerned
- Establishment of hot line between military authorities of parties concerned.
- Naval visits
- The conduct of joint exercises relating to search and rescue at sea, disaster, relief, etc.
- Advance notifications of naval activities by claimant countries.

However, in the light of what Lt. General Qi Jiangu, Deputy Chief of the General Staff of the PLA said at the 12<sup>th</sup> Shangri-La Dialogue the situation is not reassuring to the ASEAN claimant states. Although, the General stated that China has no hegemonic ambitions, he however firmly declared that Chinese naval ships will continue to patrol waters where China has territorial claims. According to him the patrols are legitimate and his country's sovereignty over the areas could not be disputed.

Such patrols could further create tensions in the disputed area as claimant countries' naval vessels could also reciprocate patrols in the waters they claim.

As recent as last month, the Philippines protested "the provocation and illegal presence" of a Chinese naval vessel near Second Thomas shoal which currently is occupied by Philippino troops. On another occasion the deployment of Chinese naval ships close to within 80 kms of Malaysia's coast has also caused alarm and concern.

At present, the prospects for the resolution to the dispute seem distant. There is simply no political will on both sides to achieve progress.

Apart from the DOC or the proposed COC there exist other conflict management and prevention mechanism. The first is the Convention on the International Regulations for Preventing Collisions at Sea (COLREGS) of which ASEAN and China are parties.

Another useful CBMs is the INCSEA agreement which possibly ASEAN and China can look into. Russia and 12 other countries signed

between 1972 and 1994 agreements on INCSEA which are now considered to be successful maritime CBMs.

## Conclusion

The ASEAN-China COC process will undoubtedly take several years to be completed. It remains to be seen whether China's decision to start talks to move the COC process forward is genuine or not. China's decision is positive and on the right track, but if China goes about in circles, the ensuing discussions between ASEAN and China will make no real progress. It may be that China is deflecting criticism and pressure from some of the members of ASEAN to negotiate a COC. China may also hope to project its image that it is a cooperative and constructive partner of ASEAN. Another reason maybe is that if China pushes too hard on the claimant countries then there is a danger of sending them into the embrace of the US. Yet another possibility is that China while maintaining constructive engagement with ASEAN, it could focus its attention on the Diayou/ Senkaku islands dispute with Japan.

The COC negotiation process will continue beyond Myanmar's chairmanship of ASEAN. Myanmar would be happy if it could contribute even a small step, if that step brings forward movement in the drafting of a legally binding instrument in the form of the COC.

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