

## **Indonesia in the South China Sea Dispute: Balancing the US and China, Workshop and Zero Draft**

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**Abstract:** This study seeks to answer the Indonesia's stance in the South China Sea (SCS) dispute. The South China Sea dispute, which four of Southeast Asian states involved is Indonesia's priority agenda to maintain stability of the Southeast Asia region. In the context of Indonesia's status as the largest country in Southeast Asia and has reputation in mediation process in the region, this paper will discuss Indonesia's stance in the dispute uses structural realism. Then, this study attempts to answer the Indonesia's strategy to mediate the conflict. This paper argues that Indonesia tends to promote the strategy of balancing between the two big countries, China and the US, in order to maintain stability in the region. This study also attempts to draw an Indonesian strategy in the SCS dispute through balancing the US and China through ASEAN, promotes informal workshops which held since 1990 and takes initiative to unify ASEAN by proposed the zero draft in 2012.

**Key words:** South China sea, Indonesia, balancing strategy, workshop, zero draft

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### **INTRODUCTION**

The South China Sea (SCS) dispute as one of the major international issues of today is interesting to be studied and explored further. The SCS dispute has become a point of tension in the Asia-Pacific since the 1970's although it had subsided a little while and then re-heated in 2007 until today. The rising tension in the South China Sea goes back to the confrontation because several incidents such as China and Vietnam conflicts in waters in May 2014. China's decision to deploy and to explore oil in the disputed area has provoked deadly riots in Vietnam.

Disputes in the South China Sea area influenced the stability and security of the region. High tension situations were caused by an increase of military activity among claimant countries, particularly by China. Instead, the dispute was originally a seizure of territory sovereignty among claimants-China, the Philippines, Vietnam, Taiwan, Malaysia and Brunei Darussalam that has evolved into an international dispute. Mean while, international community takes a big attentions toward the dispute because it is located in the traffic lanes of international trade. Then, the disputes in the South China Sea becomes concern not only from the claimant countries but also from the external maritime countries that considering the South China Sea as essential sea lanes. Scholars point out, at least, three factors that make the

South China Sea dispute invite the world's attention. First, the geographical factor. South China Sea region is a strategic shipping lane that is six times denser and busier than shipping in the Suez Canal and 17 times denser than the Panama Canal (Laksmana, 2011). The position of the South China Sea is very significant in international shipping. More than 40,000 thousand ship passes through the South China Sea every year, after passing through the Malacca Strait (Cipto, 2007). Second, the economic factor. In the islands of the Spratly and Paracel stored scarce natural resources such as oil and natural gas as well as fish. In detail, the conflict between China and Vietnam is based on the oil interest while the conflict between China and the Philippines is influenced by fish resources. According to Chinese estimation, SCS has the oil resources of approximately 105-213 billion barrels while according to the US Geological Survey, the oil resources of about 28 billion barrels (Weatherbee, 2005). In terms of fish resources, SCS supports 10 percent of the total fishing around the world so that it becomes a source of protein for 600 million people living in the vicinity (Gao, 2005).

The states around South China Sea, pointed out the reserch of Storney, has been putting the SCS dispute becomes priority in order to maintain stability and peace in the region. As Djalal (2001) argue that one of the states which has huge attention toward SCS is Indonesia

that can be seen by the statement of former Minister of Foreign Affairs, Ali Alatas. He warned states in Southeast Asian region to manage SCS disputes before the disputes since 1990s. He also mentioned that the future of the region stability depends on capabilities of region to manage SCS disputes. Therefore, Utomo (2004) noted that Indonesia contributed in the dispute resolution efforts through mechanism that can be accepted by all parties involved in the dispute. The mechanism is reflected in the implementation of the workshop held in Indonesia since 1990.

Based on the importance of South China Sea region, this paper attempts to explore the standing position of Indonesia. Indonesia's status as the largest country in the region, that will be affected indirectly while warfare happens in the SCS region, push Indonesia taking an active efforts to resolve the dispute in the region.

In relation to Indonesia experience taking an active role in dispute resolution, some examples are mediation of Indonesia and the OIC in 1996) became a mediator between the Philippine government and the the Moro National Liberation Front (MNLF) and mediator between Vietnam and Cambodia in Cambodian Conflict, in 1991. Therefore, in the SCS dispute cases, Indonesia's stance and strategy can be an interesting study for Indonesia's foreign policy scholars pointed in response of Indonesia toward conflict in the region.

Realizing the above debates, the Indonesia's stance in the SCS uses content analysis and interview. The text analysed includes policy documents and statements considered to be official versions. Then, to provide deeper information, this research conducted interview with relevant people, including three Indonesian senior diplomats who initiated and supervised foreign policy of Indonesia in the South China Sea. This research involves both primary and secondary data sources. Primary data includes interview transcripts, relevant indexes and indicators, laws and regulations, policy documents, proceeding of conferences and speeches. Then, the secondary data includes scholar's research publications. The use of triangulation is inevitable, considering the need to highlight the causal path from the independent to dependent variables.

## **MATERIALS AND METHODS**

**Balancing act foundation:** The perspective of structural realism considers that the state expands their power because of influenced by the structure of the international system. It is different with classical realism which considers that the desire of the state to strengthen power is caused by human nature. As Mearsheimer stated "the

keys to war and peace lie more in the structure of the international system than in the nature of individual states" (Mearsheimer, 1990). Shortly, the traditional realism rested on the assumption that human beings tend to be selfish, egocentric and act only from self interest, whereas structural realism focuses on the structure of international system of states.

On the concept of structural realism, this study refers to Lobel who said that the international system is not hierarchical but rather anarchic, where a distribution of power has an enormous influence therein. As Mearsheimer (1990) argued that the anarchic of international system does not provide the supreme power over states toward the others, so there is no guarantee that state will not launch an attack toward other countries. Then, it is understandable when every country trying to gain power, at least, to be able to protect themselves from possible attacks that can occur any time.

In the offensive realism thought as argued by Lobel security is something scarce. Mean while anarchic international system is supported by the uncertainty of the intentions of each country. Therefore, country must compete each others in order to obtain security, or it also can be interpreted as the ability to survive. Therefore, the most powerful country would be safe and can survive. Then, the uncertainty of the political system that anarchic encourages each country compete to implement aggressive policies such as the expansion policy.

Lobel argues that the aggressive policy will ultimately always pays off because the uncertainty of the intentions of other nation-states causes an attack that can happen at any time. Thus, the aggressive policy is one of the efforts to protect themselves from an attack of other countries. They assume that an aggressive stance is the worst possible form of preparation on interstate relations. In this perspective also, start from the assumption that the international system is anarchic, every country has the same mind toward one another, where there is a fear of dependency, vulnerability and fraud, so that the competition will be ongoing constantly.

In contrast, the thought of defensive realism assumes that security is plentiful. Defensive realists recognize that the international system provide an incentives for states to ensure their survival. Therefore, the action that should be done is to maximize the security, rather than gain power. The attempts to maximize security can only be obtained through a defensive policy, namely moderate behavior and controlled to maintain the balance of power. Then, competition in the acquisition of power by demonstrating their excellence will not productive because the situation can trigger a security dilemma which every country encourages efforts to offset each other.

Related to policies such as aggressive expansion and conquest of other countries, defensive realism assumes that it is rarely profitable. Defensive realism dived, at least, four reasons to explain. Firstly, it can become backfire because behavioral offset each other; second, modern nationalism made sacrifices to be much larger; third, the economy in the modern information age makes countries become difficult to attack each other; and the last, controlling public is “politically hostile” because it will take a large cost.

In brief, the thought of offensive realism is always seeking the maximization of gain strength while defensive realism seeks maximization of security acquisition. According to it, the structural realism gives an overview of how a country will act when it faced the emergence of foreign powers that potentially threaten.

Strategies to deal with greater threats usually prioritize maximizing strength through balancing which joined the weaker party and non-threatening used to counter or offset the major force that threatens. Usually, there are two main reasons that drive a country choose the implementation of this strategy: firstly, a potential hegemon should be prevented before it becomes too strong, so that the survival of the state can be maintained; and secondly, because by joining the weaker countries, it will increase the influence of the alliance, referring to the weaker countries need more assistance. Through these two reasons, we can see that the balancing strategy emphasizes the maintenance of its survival and increased influence over other countries, both of which are carried out for the purpose of increasing the power acquisition.

A strategy to counter the threat, by prioritizing maximization of security, referred to bandwagoning which is a strategy to favor the great forces that threaten or to be on the winning side. This step is based on two main motivations implementing this strategy. First, to obtain advantages gained by powerful states. Second, to avoid the potential threat of the powerful countries. Both of these motivations show that the acquisition of power is not the main purpose of this strategy, which without any force or supreme superiority, a country can still get security to support the preservation of the existing distribution of power.

According to Waltz (1987), through his writings in the “Alliances: Balancing and Bandwagoning”, there is some situations that affect both the above strategy chosen. The first is the trust factor. In the situation a country with a strong country has not trusted each other, to make bandwagoning would be very risky, so balancing would be more appropriate. The second is the capacity factor of a national of a country in the international order. When the power of the state can not affect the

distribution of power in the structure of the international system, then bandwagoning will be chosen. However, when a country has a significant potential to affect the distribution of powers, then the balancing will be applied. Third is the availability of the coalition. The situation where no other countries can be invited to form of coalition, the country will not be able to do a balancing strategy (Waltz, 1987).

The conceptual framework of defensive realism will be used as a tool of analysis to understand the strategy of the ASEAN member countries in the South China Sea dispute. Offensive realism and balancing are used to explain the state of ASEAN member that have a tendency to reject China’s actions in the South China Sea while defensive realism and bandwagoning are used to explain the ASEAN member countries are likely to let it happen and continue to build bilateral relations with China.

## RESULTS AND DISCUSSION

**China and the united states factors:** In the South China Sea dispute, the China aggressiveness and United States (US) involvement factors are considered as the important part of conflict resolutions. China is the most important claimant referred to its action and rising naval power. The South China Sea frequently called as China attempts to seek energy reserves. Meanwhile, US considers the South China Sea dispute as the important factor of stability of the region refers to the strategic location of South China Sea as international crossroad of South Asia and East Asia. Moreover, the Phillipines, one of US allies, involved in the South China Sea dipute.

Based on report from several research institutions such Ministry of Defense of Indonesia, China’s aggressiveness in the South China Sea dispute is an efforts to gain recognition both de jure and de facto. China, controversially, submitted a map to the United Nations (UN) in 2009 which includes a nine dotted line claims that breaking the waters territory of Vietnam, Malaysia, Brunei and the Philippines. Furthermore, to confirm the claims, China launched a passport, on May 15th 2012, which includes disputed islands. China’s action provoked an outcry from other claimants which forcing, indirectly, other countries to recognize China's claim when their immigration authorities stamped on the new passport.

Compared to all the claimant state, China shows the most dominant attitude and aggressive. Actually, the Chinese’s claims is based on the historical background of fishermen in the past during the Han Dynasty (206 BC-220 AD) who use the territory of the South China Sea. The manner of China based on this

historical aspects take a concern of UNCLOS members. If China succeeds to gain its claims over territory based on historical aspects, perhaps it will raise many states to claim their territory using the same method.

Another China's efforts to strengthen its claim is through built a new island on the reef in 2015. The China strategy raises protest from states around South China Sea area, mainly the Philippines. This strategy reaffirms that China has an aggressive stance in the South China Sea. In relation to China's aggressiveness in the dispute, there are two views of scholar. Firstly, referred to Greg Austin, Professorial Fellow at the University of New South Wales, Canberra. He reveals data on the aggressiveness of the claimant countries in the SCS. He revealed that in 1996, Vietnam occupies 24 features in the Spratly Islands. At that time, China occupies nine. In 2015, Vietnam occupies 48 features and China occupies eight. Thus, Austin called Vietnam is the most aggressive state in the occupation in the SCS. This opinion is in contrast to the general opinion that stated China as the most aggressive country.

Secondly, referred to Nguyen Hoang Thao assistant Professor of Law at the National University of Hanoi, Vietnam who refuses argument of Austin. Thao, first of all, invites observers to discuss the concept of aggression. The concept of "aggression" has been mentioned in Resolution 3314 of the UN General Assembly on 14 December 1972. In the resolution, aggression is defined as the use of armed force by a State against the sovereignty, territorial integrity or political independence of another state, or in any other way that violates the UN Charter.

Furthermore, Thao explained that reclamation is closely linked to the issue of sovereignty claims. Historical evidence proves that Vietnam has become the first country to have the administration over the Spratly and Paracel islands since at least the 17th century. China, on the contrary, only took an interest in Paracel in 1909 and then claimed the islands as the southern tip of the country in 1932. China is also, referred to Thao a country that last left from the Spratlys in 1988.

In his further explanation, Thao also denied the data revealed by Austin. Firstly, Austin statement quoted from the statement of Assistant Secretary of Defense, David Shear, on May 13, 2015. Shear really say that "Vietnam has 48 posts" but Austin reports it as a "feature" instead of "outposts" in the beginning part of his work. Secondly, it is important to look more closely at the nature of Vietnam in SCS behavior rather than just focus on the statistical data. For example, in 1995, in order to reduce tension and create favorable conditions for the settlement of disputes, Vietnam invited other claimant states to keep

the status quo. Vietnam, generally, tends to limit the 'outpost's in its features that only a few points of observation to ensure proper administration and security from foreign invasion. Thirdly, it is important to distinguish the Chinese activities from the other claims activities, especially knowing the consequences of Beijing's actions. In the SCS, the development in the region by Vietnam, the Philippines and Malaysia do before signing the DoC signed between China and ASEAN in 2002. These three countries have common reason that they aim to prevent erosion and improve the standard of living, began to open up to tourism, not using heavy weapons which are intended for the defense that threatens other countries and they do not change the nature of the feature.

In addition to facing the problem of aggressiveness of China, Indonesia also faces the situation of United States that willing to be involved more deeply in the South China Sea dispute. Actually, the US claimed that its presence in the SCS dispute is only an effort to maintain freedom of navigation in international waterways, maintain peace and reduce a possibility of war in the region and does not support any party in the dispute. However, the United States action remain triggered tension. The United States stance is followed by various military cooperation activities in the disputed area, for example, the visiting Secretary of State Hillary Clinton to the Philippines in 2011 followed by military cooperation between the two countries. Reinforcement of defense cooperation is done through the signing of the Manila Declaration which was held on the USS Fitzgerald, to commemorate 60 year of cooperation of the US Philippine. In addition to strengthening cooperation with the Philippines, the United States also established military cooperation with Vietnam. The military cooperation between the two countries starting from August 1, 2010 with the signing of the Statement of Intent on Military Medical Cooperation in Hanoi.

The US presence in the South China Sea, consequently, bring the dispute into complex. The deepening cooperation of US and its allies raises US confidence to involved in the dispute. For example, in October 2015, the United States sent warships into the waters of the Spratly archipelago. This step, of course, sparked protests of China.

**Balancing act through ASEAN:** The presence of the two superpowers is dragging the ASEAN member countries in the vortex of conflict. ASEAN's failure to agreeing on a joint communiqué at the 45th AMM, on 2012 in Cambodia, became an important event in which China is able to affect ASEAN unity. In the 45th AMM, Cambodia refuses the

issue of the SCS dispute discussed in ASEAN Meeting. According to Johnson (2012), he identifies the failure of ASEAN deadlock in 2012 due to Hu Jintao visitation to Cambodia before the ASEAN Summit. Hu Jintao wanted to ensure the SCS issue is not included in the negotiations. Furthermore, Cambodia which at the time was chairman of ASEAN, decided not to discuss the SCS dispute in the meeting. In fact, the Philippines, Vietnam and Thailand have developed a new COC to replace the DOC 2002. The COC draft from these three countries was requested by Cambodia to be discussed with China in advance so that the relationship of China-ASEAN is not concerned on.

The incident of “flirting” between Cambodia and China continues through sponsorship of China on the informal forum to discuss the SCS held by Cambodia. The informal forum, then is one of China’s strategy to counter informal forum held by Vietnam.

Responding the situation, Indonesia manages the conflict in the region through maintaining the balance between the US and China. Based on Indonesia’s stance, Indonesia on the SCS dispute is often called the “Midwife Country” in ASEAN (Odgaard 2003). It means, Indonesia’s position in the South China Sea is maintaining good relations with China and the United States but remain emphasize on peace and stability.

Referring to the country’s strategy in responding security revealed by Waltz, this research argues that Indonesia tends to apply a balancing policy between the US and China. The Indonesia strategy to balance China and US is through promoting ASEAN as the leader in the conflict resolution. Then, in the situation ASEAN has not take action, Indonesia initiates an attempts in conflict resolution. Indonesian strategy is not a new strategy in the management of conflicts in the region. In the Cambodia conflict, Indonesia took the initiative to invite the warring parties through Jakarta Informal Meeting (JIM). This step is carried by Indonesia after making various efforts within the framework of ASEAN.

Indonesia promotes unity of ASEAN in order to counter the aggressiveness and the presence of US in the dispute. For many times, Indonesia’s strategy using regional stability and freedom of navigation reasons are effective way to maintain unity of ASEAN. ASEAN, in the elites of foreign policy makers of Indonesia like Hasan Wirajuda, perceived as regional organization that can bring Indonesia plays bigger role in international politics (Hadi, 2012).

Closely related to different respond of ASEAN’s members toward the South China Sea such the Vietnam strategy to internationalize the dispute and the Philippines strategy to bring into Court of Justice, the Indonesia

respond it calmly. Based on the ASEAN members action, it can divided ASEAN’s members into several groups. The claimant states divided into two; active claimant-Vietnam and Philippines and passive claimant Malaysia and Brunei Darussalam. Further, Indonesia and Singapore are two active non-claimant which have an attempt to seek resolution in the South China Sea. It can be traced from various efforts such held Shangrila dialogue. Then, the other non-claimant states Cambodia, Myanmar, Laos and Thailand have a little attention toward the South China Sea issue.

In addressing such situations, Indonesia still promotes the unity of ASEAN as a regional organization. ASEAN unity is not defined by Indonesia as the similarity of voice and attitude in responding to the situation. In the case of the Philippines’ action that chooses using international law as a permanent settlement of the dispute, Indonesia is supporting this strategy because it promotes international norms and laws in force. However, Indonesia does not support the Philippines action which established alliances with the United States to confront China that emphasizing the uses of war to obtain permanent settlement.

Back to the discussion of the balancing of US-China conducted by Indonesia, actually is Indonesia’s interest as well. Indonesia and China, undoubtedly, have a good relations. When the US led by George W. Bush. Bush’s unilateral policies in terrorism issue makes Indonesia need the balance of power in the region (Hadi, 2012). Thus, although China looks very assertive in the South China Sea dispute, Indonesia also faces the possibility of US domination in the region through several actions such US military presence in the Darwin. Indonesia, historically, underpin its foreign policy under “*bebas aktif*” or free and independent principle. The presence of US in Darwin and US act to deepen relation to its alliances in the region were suspected by Indonesia as a new threat for stability in the region and weakening Indonesia’s influence in the region (Lloyd, 2009).

Then, Indonesia’s attitude referred to Article 33 of the UN Charter: “The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall first of all seek a solution by negotiation, inquiry, mediation conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their own choice”

In Indonesian perspectives, referring to the UN Charter, the strategy that should be pursued first in conflict resolution is negotiation (Djalal, 2001). Indonesia is always, considers the best way to resolve the dispute in the SCS is through negotiation. Therefore, Indonesia

seeks the establishment of communication between the parties in the dispute through facilitating the workshop 'Managing Potential Conflict in the South China Sea' since 1990 and active in the ARF Forum.

The Indonesia's way responding South China Sea issue called mediation. Mediation is a procedure for dispute or conflict resolution that is based on procedures which originally comes from the habit which later codified by the Hague Convention of July 29, 1899 and subsequently replaced by the Hague Convention of October 18, 1907. Mediation can be run by a variety of actors, ranging from individual actors, states, Non Government Organizations (NGOs), Government Organizations, to the International Organizations.

The success of Indonesia as a mediator in the Cambodian Conflict makes some scholars optimistic that Indonesia is able to resolve disputes such as the South China Sea dispute, that is currently a wedge for the ASEAN Security Community. The characteristic of two conflict is almost similar because conflict involving more than one country in the region, an intervention of the actors outside of ASEAN and ASEAN's member stance configurations (Djalal, 2001). Dewi Fortuna Anwar called the success of Indonesia as a mediator in the Cambodia conflict boost self-confidence of Indonesia to deal with conflict in the region. In fact, Anwar claimed the success of Indonesia to manage Cambodia conflict is the reason for Indonesia dare to take the role of mediator in the Spratlys by organizing the workshop.

**The workshop as informal initiative:** Indonesia has held a workshop on "Managing Potential Conflict in the South China Sea" for 25 years as Indonesia's second track diplomacy in East Asia. For more than two decades, Indonesia is still continuing a second track diplomacy to manage multiple claims dispute in South China Sea (SCS), which the first was held in 1990. The aim of the workshop was to defuse tensions between claimants by fostering functional cooperation and leaving aside the thorny issue of sovereignty.

Before Indonesia, the East-West center was held two workshops in Hawaii in the 1980s to discuss the possibilities of joint development in SCS. In the workshops, the papers presented were revealing numerous issues such geological and technical field while several papers addressed joint development from legal perspectives. These two workshops provided a pioneer work for joint development in SCS.

In fact, there are many formal and informal dialogues held to address SCS disputes. However, from a variety of existing informal dialogue, the dialogue held by Indonesia is the most significant dialogue towards the process of

cooperation. The dialogue in the form of a workshop, actually, made some cooperation projects to manage potential conflict such managing natural resources in the area of dispute (Shaohua, 2006). In addition, the workshop was held regularly in Indonesia and attended by all involved parties and member of ASEAN. The workshop resulted several Team Working Group (TWG) that implementing agreement during workshop.

The workshop was initiated by Indonesian diplomat, Hasyim Djalal and Canadian expert, Ian Townsend-Gault. The workshop was organized on the basis of attempting together to prevent conflict and creating platforms that could be accepted by all claimant so that it can solves territorial disputes and sovereignty through Confidence Building Measures (CBM) (Shaohua, 2006). In this workshop, Indonesia's role is provides assistance and facilities to encourage cooperation in the region without taking over an attempt to seek dispute resolution (Djalal, 2001).

Responding the rising tensions of SCS disputes, the workshop were designed informally which in purpose to provide a space for negotiations and cooperation among parties. The cooperation among parties required mutual trust among diplomat that can be build through infomal meeting. Then, to reduce the tensions, the committee invited experts and senior official for discussing issues related to the conflict. However, this situation does not mean forgetting the main situation (Townseed, 1998). By this strategy, Indonesia consistently held workshops related to the SCS.

Indonesia became a sponsor in the first workshop of the South China Sea on 22-24 January 1990 in Bali. The first workshop was followed by further workshops held in Bandung, Yogyakarta, Surabaya and Anyer. The workshop was appreciated by all participants by the presence of the six countries involved claimant in these workshops (Dunne *et al.*, 2007). The workshops organized by Indonesia is the only forum where China is willing to discuss the South China Sea dispute because it is informal, more academic in nature and does not interfere with state sovereignty (Townsend, 1998; Utomo, 2004).

Organizing the workshops of SCS is a part of contribution of Indonesia in the contemporary international relations. The implementation of the workshop, that has been lasted >25 year is an Indonesian contribution in creating informal regimes in the region. Informal regimes are emerging ideas that can foster perceptions, trust, confidence and even further influence the decision-making among the actors involved (Townsend, 1998). In addition, a workshop can also be seen as a functional breakthrough raises hopes of conflict resolution is maintained in the middle of opening the

possibility of settlement through the military. Some experts call the efforts of Indonesia in dispute as preventive diplomacy (Utomo, 2004). Indonesia is trying to divert the potential conflict into potential cooperation through trust building. The efforts made by Indonesia also get a positive response from the claimants, the non-claimants and interested parties as a breakthrough prevention of conflict escalation. The workshop held by Indonesia is noted the only international forum for Taiwan to voice its claims. So, the workshop can be seen as a political process in the region which can reduce the tension of disputes.

Actually, peaceful mediation has been done by the parties involved in the dispute. For example, China and Vietnam in April 1998 stated willing to negotiate with the Philippines and Malaysia to resolve Spratly Island dispute through discussion and consultation. The Philippines and Vietnam also had a meeting which resulted in several important agreements such the whole territory of the Philippines and Vietnam will not be used by a foreign country as a center of hostility against one another party; the two countries would not use military force to resolve their overlapping claims, including the Spratly Islands; and the Philippines and Vietnam will continue to promote friendship. Although, it has reached an agreement in general terms, the meeting did not elaborate in detail on maritime disputes in the Spratly Island. Therefore, the meeting just showed a faith to use peaceful lines to settle the disputes. The meeting has not alluded to issues of state's sovereignty.

With the absence of clarity over territorial sovereignty among claimants, it means disputants actually still trying to get the maximum claim territory. This situation raises the possibility of open war among claimants (Dunne *et al.*, 2007; Usman and Sukma, 1997). For example, the Philippine issued Presidential Decree No. 1596 in 1978 to claim on the Spratly Islands. Malaysia also claimed to include the three islands in the Spratly area, specifically in the southern part of their Maritime Territory. Then, China reacted it. China brought both Philippine's claim and Malaysia's claim into its U-shaped in Maritime Law which launched on 25th February 1992. The situation such in 1992 continues recently. In July 2011, China protested the Philippines' plans to explore oil and gas in the disputes area. Philippine had invited foreign investors for exploration in 15 locations. Both Philippine and China claimed area 3 and 4 in exploration area as theirs.

**Zero draft proposal:** After deadlock of ASEAN meeting in 2012, then, Indonesia proposed a draft settlement of the South China Sea dispute in ASEAN Foreign Ministers meeting in New York during UN General Assembly

meeting. Indonesia calls the draft as the Zero Draft. The Zero Draft is the first initiative from Indonesia for the ASEAN countries and China in order to back into negotiation. It is also Indonesia's proposal to reduce tensions and to maintain peace building process to resolve the disputes. Thus, the draft not intended to reinforce the claims of each party but contains details on how all parties behave and act with the aim of solving problems.

Indonesia's Zero Draft contains proposals on how to behave disputing parties. Thus, this draft includes a proposal to the ASEAN members and China. The Zero Draft consists of nine articles which generally consists of Article 1 which contains basic principles; Article 2 contains the CoC goals; Article 3 contains basic implementation of the CoC; Article 4 CoC contains the implementation region; Article 5 contains provisions about territorial claims in the South China Sea; Article 6 contains the implementation of the CoC; Article 7 CoC reporting and monitoring mechanisms; Article 8 dispute resolution mechanisms; and Article 9 contains provisions related to review of the final contents of the CoC every five years in accordance consensus.

Mark Valencia criticized the proposal of Indonesia in the Zero Draft. Valencia considers Indonesia's proposal is unrealistic and would be rejected by ASEAN. "A fundamental problem facing Indonesian officials is that China does not really believes Indonesia is neutral in this affair. In fact, Indonesia and China probably have overlapping jurisdictional claims in the South China Sea, depending on the meaning of China's historical "nine dashed line" which Indonesia has formally criticized at the United Nations"

In detail, Valencia assess "Zero Draft proposal" proposed by Indonesia. In his view there are still many weaknesses in the draft. First, regarding the specification. Who are the parties in this draft, are all the members of ASEAN and China or ASEAN as an organization. The second is a term, a commitment to use the area for "peaceful purposes" only. According to Valencia, the term is controversial. Third, the phrase "A commitment to specific confidence-building measures like dialogue, prior notification of military activities in waters claimed by others, voluntary exchange of information etc. A commitment to endeavor to Determine and agree roomates features and areas are in dispute and the which are Undisputed". In his opinion, this sentence is difficult to accept by the Philippines. Fourth, the clause "promoting" provisional arrangements of a practical nature "as Provided in the DOC and UNCLOS". According to him, this clause should be added words; words like "sharing or

joint development of resources in areas of over-lapping claims” Fifth, the phrase “the parties will not take any unilateral action in disputed areas that would jeopardize or hamper the reaching of a final agreement regarding the disputed area” has actually been addressed in UNCLOS. And the phrase “reaffirming the formal binding nature of the code” should be signed by the head of stat .

Responding to criticism toward the Zero Draft, senior diplomat Herry Sariipudin states that, actually, the Zero Draft of Indonesia is a strategy to explore the reaction of ASEAN members after the failure to reach a consensus in the 45th AMM. Although, now the Zero Draft is not used officially but the Zero Draft was “opening mind” of parties involved to take back negotiation as part of a resolution. From the perspective of Indonesia, the position of China in the South China Sea has been wedged. Several actions in the region such India-Japan cooperation in the PM Modi period and the US Philippines-Vietnam political and security ties forcing China to form a new strategy. With the wedged position, the rational choice for China is weaving a good relation to ASEAN as a regional organization, specifically engage with Indonesia. Zero Draft offering is a rational bid for both ASEAN and China.

Furthermore, Marty Natalegawa stated that the Zero Draft submitted by Indonesia is really just the initial draft. This draft aims to bring back the ASEAN and China to the negotiating table. Natalegawa stated that Zero Draft is to “encourage the establishment of a diplomatic communication that emphasizes diplomacy is chosen for dispute resolution”. He explained that Zero Draft was proposed to implement the principle of not retroactively. That is, a number of actions taken by the claimant states prior to the passage of this draft, no action can be taken. For example, Vietnam and the Philippines have been hold military exercises several times with the U.S. and the U.S. commitment to help the Philippines weaponry capabilities to offset China's military power. The attitude of these two countries will not be reported as an incident.

**South China sea dispute: failure of Indonesia as the mediator:** Although Indonesia has been running its role as a mediator in the region, scholars put the big question over Indonesia in the South China Sea dispute. ASEAN and Indonesia have submitted various proposals for the disputes settlement. However, the conflict has not been completed to date. In fact, the South China Sea dispute became a border dispute that has a cycle of conflict for decades without a permanent solution.

Indonesia seeks a disputes settlement in the South China Sea since the 1980s. Indonesia plays an active role

in resolving disputes in two ways; the path of the government and non-government lines. The Government of Indonesia has proposed the Declaration of Conduct (DoC) and encourage their Code of Conduct (CoC) signed by ASEAN and China in 2002. However, it turns out that the DoC has not been able to organize parties to not commit acts of provocation. Therefore, in 2012 Indonesia was then proposed draft called the Zero Draft.

There are several obstacles in carrying out the role of Indonesia in the South China Sea dispute, namely the principle of non-intervention, the principle of “ASEAN way” and the weakness of DOC 2002. The principle of non-intervention makes it difficult to mediate because Indonesia can not fully intervene in the domestic affairs of member states. ASEAN principle way also the norm that ASEAN member states put forward the completion of consensus in resolving the problems. while the DOC in 2002 which is an ASEAN-China has a low legalization.

In Indonesian diplomat perspectives, both China and ASEAN members have different views toward a strategy to resolve SCS dispute through negotiations. In ASEAN perspectives asEAN as regional organization desires to negotiate SCS as unity. In contrast to ASEAN, China willing in negotiation is all parties take negotiation which started by Zero Drafts. In China's perspectives, all ASEAN members and China should discuss it without consolidation of ASEAN. In the situation asEAN has a draft in negotiation, whilw China is in the weak position .

In ASEAN members perspective asEAN will be in weak position when ASEAN members enter into a negotiation without internal consolidation. Referred to ASEAN's experience in ARF and ASEAN plus China forum, China dominates the forum when multilateral negotiation held among ASEAN members and China. Therefore, ASEAN members such Philippines and Vietnam propose internal consolidation before they held negotiation with China.

## CONCLUSION

In resolving the South China Sea dispute, Indonesia promotes diplomacy and avoidance of the use of weapons. Indonesia executed strategies in the form of an informal workshop and initiatives to unify ASEAN opinion. The strategy still has not produced a permanent settlement over the dispute. Nevertheless, this fact does not mean that Indonesia failed to undertake a mediating role in the region. At least, for 25 years of Indonesia's workshop initiation, there is no open warfare in the South China Sea.



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