An Appraisal of the Joint Development Approach to the South China Sea Dispute

Prospects and Challenges

Guan Hui Lee

The issue of overlapping sovereign claims over land and maritime resources in the South China Sea has been a major source of conflict between China,[1] Vietnam, the Philippines, Malaysia, Brunei and Indonesia. This analysis examines aspects of the joint development approach as a conflict prevention tool in the South China Sea dispute. It first seeks to explain the underlying logic behind joint development and the reasons why the approach was able to come to fruition from 2005 to 2008, in the form of a Joint Marine Seismic Undertaking (JMSU) between the state-owned oil corporations of China, Vietnam and the Philippines. It then proceeds to explain why the joint development approach used from 2005 to 2008 is neither likely to be applied nor sufficient to resolve the dispute at present, given the recent development of affairs in the region by the parties involved. The analysis concludes with three conditions that are necessary for joint development to be a realistic conflict management strategy in the South China Sea.

[1] Throughout the paper, use of the term "China" pertains to both the People's Republic of China and the Republic of China (Taiwan).

THE PROBLEM

The dispute over sovereign rights in the South China Sea is a long-standing one. This chiefly concerns the sovereignty of the Paracels and the Spratly Islands, as well as the waters around them. The People's Republic of China and the Republic of China (Taiwan) share a common perspective in this dispute, but so far only Beijing has been actively dispatching navy patrol boats to the region. China bases its claims on historical grounds—specifically from maps dating back to 1947 during the Kuomintang period which contain an eleven-dash line maritime boundary that effectively includes almost all of the South China Sea. However, China has never established effective control over the full extent of their claim. To date, China only effectively controls the Paracels, which were forcibly taken over from Vietnam in 1974,[2] and parts of the Spratly Island group. However, the largest land feature in the Spratlys, Itu Aba, has always been administered by Taipei and not Beijing.[3] Despite this, in May 2009, Beijing formally submitted a map with a nine-dash line[4] to the UN Commission on the Limits of the Continental Shelf (CLCS), defining areas included in the 1947 maps as "historic

[2] Congressional Research Service (CRS), "Maritime Territorial Disputes in East Asia: Issues for Congress," CRS R42930, 23 January 2013.

[3] Ralf Emmers, "The Changing Power Distribution in the South China Sea: Implications for Conflict Management and Avoidance," *Political Science* 62, No. 118 (2010).

[4] Beijing revised the original eleven-dash line into a nine-dash line under Zhou Enlai after 1949. Claimed areas implied by both versions have remained essentially unchanged.

waters."[5] The nine-dash line not only includes all of the Paracels and the Spratlys, but also overlaps with Brunei's claim of Louisa Reef, and reaches as far south as the eastern waters of Natuna Island, to which Indonesia stakes a claim.[6]

Vietnam likewise lays claim to the Paracels and the Spratlys on both a historical basis and on current effective control (it controls 21 of the Spratly Islands). Malaysia, on the other hand, bases its claims on the natural prolongation of its continental shelves off Peninsula Malaysia and Borneo, which leads it to claim the southern islands in the Spratly archipelago.[7] In 2009, Vietnam and Malaysia submitted a joint claim to UN CLCS on areas of the South China Sea beyond their 200 nautical mile exclusive economic zones (EEZ). It was believed that this sparked China's response in the form of the nine-dash line. In June 2012, Vietnam's National Assembly passed a Maritime Law that lays down formal claims to the Paracels and the Spratlys.[8]

Lastly, the Philippines' claim is based on contiguity of the continental shelf, and a 1978 Presidential Decree that declared sovereignty over what was called the "Kalayaan Island Group" (KIG), which includes the east and northeast parts of the Spratlys.[9] The Philippines and China also compete over the sovereignty of Scarborough Shoal, a 150 square kilometers shoal that is situated to the northeast of the Spratlys. In terms of effective control, the Philippines currently occupies eight islands in the eastern Spratlys that were considered terra nullius.[10]

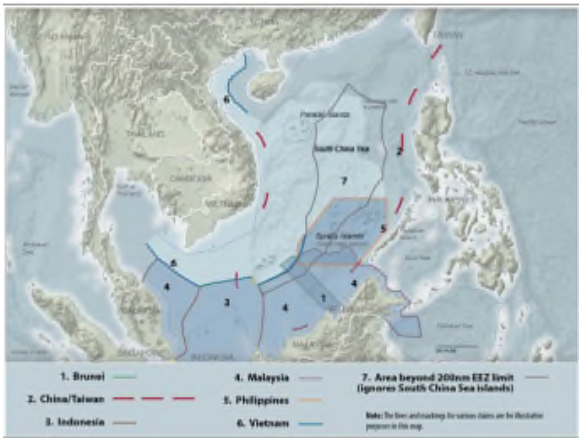

Fig. 1: Map of the South China Sea showing disputed claims by various countries, including PRC's/ROC's "nine-dash line" (Congressional Research Service (CRS), "Maritime Territorial Disputes in East Asia: Issues for Congress." CRS R42930, 23 January 2013)

There are several elements of this dispute that are relevant to conflict management approaches. First, the South China Sea dispute is a complex web of bilateral and multilateral disputes. Some islands, like the Spratly Island group, are contested by China, Taiwan, the Philippines, Malaysia and Vietnam to various extents, whereas other islands, like the Paracels, are

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[5] Sam Bateman, "Regime building in the South China Sea— Current Situation and Outlook," *Australian Journal of Maritime and Ocean Affairs* 3, No. 1 (2011), p. 29.

[6] Thao Nguyen Hong and Ramses Amer, "A New Legal Arrangement for the South China Sea?" *Ocean Development and International Law* No. 40 (2009).

[7] Thao Nguyen Hong and Ramses Amer, "A New Legal Arrangement for the South China Sea?" *Ocean Development and International Law* No. 40 (2009).

[8] Congressional Research Service (CRS), "Maritime Territorial Disputes in East Asia: Issues for Congress," CRS R42930, 23 January 2013.

[9] Leszek Buszynski, "The South China Sea Maritime Dispute: Legality, Power, and Conflict Prevention," *Asian Journal of Peacebuilding* 1, No. 1 (2013).

[10] Ibid, 6.

essentially just part of a bilateral dispute between China and Vietnam. This complicates conflict management because each friction point will then have to be dealt with individually, as not all countries have a stake (or an equal stake) in all of the disputed territories.

Second, a major point of contention lies in whether some of the islands in question are legally recognized as "islands," which are entitled to their own 200-mile EEZs, or whether they are merely "rocks," which are given only 12nm territorial sea.[11] According to UN Convention on the Law of the Sea (UNCLOS) Article 21, Paragraph 3, "rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf."[12] On this issue, China firmly believes that the islands in question are undeniably "islands" in the legal sense and hence generate their own EEZs, even though some of these islands are fully submerged at high tide and are incapable of sustaining economic life.

Third, because not all countries have defined the boundaries of their claims in an official legal manner, UNCLOS cannot be used to resolve the existing disputes. UNCLOS stipulates that "countries *with overlapping claims* must resolve their claims by good faith negotiations,"[13] but with claims from each party not having been defined precisely, UNCLOS cannot be properly applied to the South China Sea situation. Moreover, China made a statutory declaration on 25 August 2006 to the UN Secretary General that it would not accept any international court or arbitration in disputes over sea delimitation or territory.[14] This means that the option of international arbitration as a conflict resolution tool is essentially a non-starter.

Competition over energy resources has been identified as a key driving force behind the current dispute. A preliminary Chinese survey in 1989 estimated that the Spratlys held deposits of 25 billion cubic meters of natural gas and 105 billion barrels of oil.[15] The US and Russia reported much lower estimates in their own surveys (15.8 billion and 7.5 billion barrels of oil, respectively), but even those numbers serve to prove that the potential oil and gas resources under the South China Sea are extremely tempting to countries that border it. If resource exploitation is indeed a core underlying objective of the South China Sea claimants, one conflict management approach could be to reframe the issue from one of sovereignty to one of joint resource development and management. The next section examines the logic behind joint development in conflict management literature, and the brief use of this approach from 2005 to 2008 in the Spratlys by China, Vietnam and the Philippines, in the form of a tripartite agreement — Joint Marine Seismic Undertaking (JMSU).

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[11] Thao Nguyen Hong and Ramses Amer, "A New Legal Arrangement for the South China Sea?" *Ocean Development and International Law* No. 40 (2009), p. 340.
[12] Ralf Emmers, "The Prospects for Managing and Resolving Conflict in the South China Sea," *Harvard Asia Quarterly* XII (3&4) (Winter 2010), p. 16.
[13] Ibid, italics mine.

[14] David Scott, "Conflict Irresolution in the South China Sea," *Asian Survey* 52, No. 6 (Nov/Dec 2012), p. 1022.
[15] Craig Snyder, "The Implications of Hydrocarbon Development on the South China Sea," *International Journal* 52, No. 1 (Winter 1996/1997).

THE LOGIC OF JOINT DEVELOPMENT AND ITS APPLICATION IN THE SOUTH CHINA SEA

The theory and practice of conflict management is replete with notions of joint development. William Zartman makes an oblique reference to joint development when he notes that the key to successful preventive diplomacy is using the right tactics to change relevant stakes and attitudes.[16] According to him, preventive diplomacy should change the perception of stakes from zero-sum to positive sum, and the attitude of conflict parties from conflictual to accommodative. In the case of territorial disputes, Zartman asserts that preventive diplomacy should shift the nature of claims from territorial possession to "some lesser form of concern."[17] In the case of the South China Sea, viewing the conflict as a joint development puzzle instead of a zero-sum sovereignty contest addresses the issue of access to resources that sovereignty claims are presumed to entail. In addition, it also avoids stoking fear in non-claimant countries like Japan, India and the US, who would be concerned about freedom of navigation in the South China Sea if the dispute were to be framed as a sovereignty issue.

Zou Keyuan defines the characteristics of joint development with a definition given by the British Institute of International and Comparative Law:

> (a) is an arrangement between two countries;[18]
> (b) is usually concerned with an overlapping maritime area;
> (c) can be used as a provisional arrangement pending the settlement of the boundary delimitation disputes between the countries concerned;
> (d) is designed to jointly develop the mineral resources in the disputed area or a defined area shared by two countries.[19]

This is particularly useful to the South China Sea because joint development does not pay attention to boundary delimitation claims among disputants. Hence, countries that participate in joint development need not worry about the possibility of having their sovereignty claims weakened.[20]

Sam Bateman defines joint development as "a functional approach that exploits the common interests of claimant countries,"[21] and lists steps by which joint development can be achieved: identifying a particular function to cooperate in; defining the area of joint development; finding a formula to share costs and resources; establishing a management body. Craig Snyder further explains what these "common interests" may be. Commercial benefits and

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[16] William I. Zartman, *Preventive Negotiation: Avoiding Conflict Escalation* (Lanham: Rowman and Littlefield, 2001), p. 7.
[17] Ibid, p. 12.

[18] This is because there has yet been an ongoing, fully functional multilateral joint development arrangement that has been established in international law.
[19] Zou Keyuan, "Joint Development in the South China Sea: A New Approach," *The International Journal of Marine and Coastal Law* 21, No. 1 (2006), p. 90.
[20] Mark J. Valencia, "In Response to Robert Beckman," *RSIS Commentaries* 53 (2007).
[21] Sam Bateman, "Regime building in the South China Sea— Current Situation and Outlook," *Australian Journal of Maritime and Ocean Affairs* 3, No. 1 (2011), p. 30.

technology transfer, according to him, can be strong incentives for countries to engage in joint development. He asserts that if "the desire to develop hydrocarbon resources outweighs the desire to win a boundary dispute,"[22] a joint development agreement is an inherently feasible conflict resolution tool.

There have been instances where joint development was used in Southeast Asia to mitigate resource disputes. The Timor Gap Treaty in 1989 between Indonesia and Australia was an extensive case of joint development, where both countries established twelve separate joint development zones for each area of overlapping claims in the Timor Sea.[23] Malaysia and Thailand agreed in 1990 to a Joint Development area to manage natural gas reserves in disputed waters in the Gulf of Thailand.[24] In 1992, Vietnam and Malaysia signed a memorandum of understanding over oil exploration and production in the Gulf of Thailand.[25]

The 2005 JMSU was the first attempt at a multilateral joint development agreement in the South China Sea. Instead of a government-level memorandum of understanding, it was a commercial agreement between the state-owned oil corporations of China, Vietnam and the Philippines — CNOOC, PetroVietnam, and PNOC-EC, respectively.[26] JMSU dictated protocols with regard to seismic exploration of hydrocarbons in specific parts of the South China Sea, and stated that the three parties "jointly owned" data and information acquired through such seismic work.[27] However, after "the Philippines… ha[d] made breathtaking concessions in agreeing to the area of study, including parts of its own continental shelf not even claimed by China and Vietnam,"[28] Philippine legislators protested against the continuation of JMSU, claiming that JMSU did not conform to Philippine state laws on oil exploration within Philippine territory. The agreement was hence allowed to expire in July 2008.

Although no actual exploitation was conducted under JMSU, the seismic surveys conducted under JMSU would qualify as joint development. After JMSU expired in 2008, the Philippines under President Benigno Aquino suggested a similar proposal — Zone of Peace, Freedom, Friendship and Cooperation (ZoPFFC). Alluding to the concept of joint development, the ZoPFFC proposed by the Philippines would "segregate" disputed areas from non-disputed areas, and "establish a joint agency to manage seabed resources and fisheries" in the

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[22] Craig Snyder, "The Implications of Hydrocarbon Development on the South China Sea," *International Journal* 52, No. 1 (Winter 1996/1997), p. 152.
[23] Zou Keyuan, "Joint Development in the South China Sea: A New Approach," *The International Journal of Marine and Coastal Law* 21, No. 1 (2006), p. 96.
[24] David Scott, "Conflict Irresolution in the South China Sea," *Asian Survey* 52, No. 6 (Nov/Dec 2012), p. 1040.
[25] Craig Snyder, "The Implications of Hydrocarbon Development on the South China Sea," *International Journal* 52, No. 1 (Winter 1996/1997), p. 154.
[26] Thao Nguyen Hong and Ramses Amer, "A New Legal Arrangement for the South China Sea?" *Ocean Development and International Law* No. 40 (2009), p. 343.
[27] Christina E. Tecson, "Exploring Exploration: Fitting the Joint Marine Seismic Undertaking and Oil Exploration Laws into the Mold of Section 2, Article XII of the 1987 Constitution," *Ateneo Law Journal* 55, No. 149 (2010), p. 187.
[28] Barry Wain, "Manila's Bungle in the South China Sea," *Far Eastern Economic Review* 171 (January/February 2008), p. 45.

disputed areas.[29] However, this idea did not come to fruition because the boundaries claimed by each country have not all been precisely defined, and hence it is impossible to delineate 'disputed areas' from 'non-disputed areas.'[30] Moreover, China's stance was extremely critical of the Philippines' proposal, as the state-run media called it a "trick designed to encourage the United States to meddle in the South China Sea."[31]

THE LOW LIKELIHOOD OF JOINT DEVELOPMENT IN TODAY'S CONTEXT

Given the ostensible benefits of joint development in the South China Sea, why has there not been sustainable progress in that direction? This paper argues that the current political conditions in the South China Sea have not met the prerequisites of the joint development approach to become a sustainable solution for the region. Specifically, this paper will discuss three key reasons that present as obstacles to joint development: (1) the growing power asymmetry between the disputants; (2) the lack of an institutionalized mechanism to enforce and regulate joint development, in particular the inability of ASEAN to fill that capacity; (3) the association with identity politics and nationalism.

First, the growing power asymmetry in China's favor strengthens the notion of a security dilemma. From 2000 to 2011, China has increased its announced defense budget by an average of 11.8 percent annually.[32] The PLA Navy has also expanded a major base on Hainan Island for submarines and vessels, signaling its increasing military presence in the South China Sea. China's actions naturally alarmed its Southeast Asian neighbors, who have also started strengthening their military capabilities, thus raising the specter of a security dilemma. Vietnam, for example, announced in 2010 its purchase of six Russian Kilo-class submarines.[33]

As a result of the growing asymmetry in military forces, there is a prevailing perception among the Southeast Asian disputants that China is seeking to gain control over the disputed islands by force. Recent actions taken by the Chinese in the region have lent credence to this perception. For instance, Vietnam has alleged on several occasions that Chinese maritime surveillance vessels have severed the exploration cables of Vietnamese survey ships.[34] The 2012 Scarborough Shoal standoff between China and the Philippines further indicates the tendency for military presence in the region to escalate the conflict. The Chinese motivation behind these actions is presumably to strengthen its hand on legal grounds. Since "first discovery" is not a sufficient basis to

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[29] Ian Storey, "ASEAN and the South China Sea: Movement in Lieu of Progress," *China Brief* 12, No. 9 (27 April 2012).

[30] Congressional Research Service (CRS), "Maritime Territorial Disputes in East Asia: Issues for Congress," CRS R42930, 23 January 2013, p. 12.

[31] Ibid 28, p. 10.

[32] Congressional Research Service (CRS), "Maritime Territorial Disputes in East Asia: Issues for Congress," CRS R42930, 23 January 2013.

[33] Ralf Emmers, "The Changing Power Distribution in the South China Sea: Implications for Conflict Management and Avoidance," *Political Science* 62, No. 118 (2010).

[34] Leszek Buszynski, "The South China Sea Maritime Dispute: Legality, Power, and Conflict Prevention," *Asian Journal of Peacebuilding* 1, No. 1 (2013).

claim legal sovereignty, China has been attempting to establish 'administrative and physical' control over the disputed islands in order to demonstrate sovereignty. To illustrate a case in point, Indonesia lost an International Court arbitration against Malaysia over the Ligitan and Sipadan islands in 2002 because it failed to protest the construction of lighthouses by Malaysia since 1963.[35]

The absence of a security guarantee to the weaker parties of the South China Sea dispute is inimical to the joint development approach. The logic of joint development assumes adequate 'goodwill' between the disputants to negotiate and follow rules established by a certain joint development agreement. However, without a security guarantee, weaker parties are not sufficiently assured that the stronger parties are committed to a joint development approach, since it may be feasible for the stronger parties to achieve complete victory by exercising military force. In fact, China's actions post-JMSU have fed perceptions contrary to the spirit of joint development.

Second, there is a notable lack of a supranational authority to establish and enforce the terms of joint development. The Association of Southeast Asian Nations (ASEAN), a potential candidate in this regard, has been particularly unhelpful so far. Because ASEAN's operations rely on an informal style of diplomacy and consensus building, it is often considered too weak to institutionalize negotiations under a joint development framework, let alone enforce the terms of a possible joint development outcome.[36] Huge disagreements between ASEAN states have also impeded the viability of ASEAN to enter as an impartial actor in this dispute. Cambodia, in particular, adopts the Chinese stance on this issue, and rejects any "institutionalization" of the South China Sea dispute.[37] Opinion among ASEAN members on this issue has been so divisive that the 2012 ASEAN Foreign Ministers Meeting, chaired by Cambodia, failed to produce a joint communiqué because of major disagreements over a unified stance on the issue.

Because there is no suitable candidate to administer joint development agreements on the South China Sea issue, it is difficult to envision joint development on the issue going beyond the level achieved by JMSU. It is important to note here that JMSU succeeded in part because it was a commercial agreement, which entailed that it did not invoke the application of international law that regulates interstate behavior. Important details of joint development, such as the delimitation of the joint development area, taxation of revenues generated by joint development, and a dispute settlement mechanism, cannot be established without the institution of a governing body. Without a governing body, countries can jeopardize existing joint development agreements according to their individual state interests.

Third, the emphasis on a nationalistic element to the South China Sea dispute post-

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[35] Thao Nguyen Hong and Ramses Amer, "A New Legal Arrangement for the South China Sea?" *Ocean Development and International Law* No. 40 (2009).

[36] Ioana-Bianca Berna, "Managing Intra-Regional Conflicts in Southeast Asia: The Case of the South China Sea," *Journal of Defense Resource Management* 4, No. 2 (2014).

[37] Ian Storey, "ASEAN and the South China Sea: Movement in Lieu of Progress," *China Brief* 12, No. 9 (27 April 2012), p. 12.

JMSU has demonstrated that the conflict is still being viewed through the lens of national sovereignty. As mentioned earlier, the premise of joint development is to induce perceptual change in disputants, from viewing the conflict as a zero-sum sovereignty contest to a positive-sum resource allocation problem. However, the prominence of nationalistic sentiment on the issue in recent years has invited the participation of the general public in the various claimant countries, and effectively escalated the conflict. At present, the prospects of successful joint development are dim, because of the association of the sovereignty claims with national pride, which has increasingly solidified the framing of the problem as that of national sovereignty instead of resource allocation. To name a precedent, the joint development agreement between China and Japan on the Chunxiao/Shirakaba gas fields in 2008 has been jettisoned by nationalistic Chinese public opinion, which deemed the agreement as "betraying the national interests and forfeiting China's sovereignty."[38]

Aside from this, the professional autonomy of the PLA Navy allows it to frame its own operating goals within the broad policy parameters set by the Chinese leadership.[39] This means that there is a side incentive for the Chinese military to pursue the South China Sea dispute as a national sovereignty issue to an extent that may be outside the control of the Chinese leadership bureaucracy.

The idea of a joint development approach cannot move forward when national sovereignty is regarded by conflict parties as their utmost priority. In fact, the JMSU failed to be a sustainable solution because there is a strong tendency among claimants that joint development "should not be attempted in an area which a claimant believes to be its own, and should only be attempted in areas outside its claims."[40] A 'without prejudice' clause seems to be a precondition for joint development. Without the provision of such a clause, any attempt to cooperate will be seen as a 'sell-out' on a disputant's sovereignty claims.[41]

STEPS TO ENHANCE THE FEASIBILITY OF AN EVENTUAL JOINT DEVELOPMENT APPROACH

The first two obstacles outlined in the previous section point to the need of an institutionalized regime to act as a security guarantee for conflict parties to participate in joint development. For that to be a reality, claimant countries need to "freeze" their existing territorial claims and commit to the concept of joint development.[42] The purported rationale behind China's increased military assertiveness in the South China Sea is that it sees room for conflict escalation at

[38] Thao Nguyen Hong and Ramses Amer, "A New Legal Arrangement for the South China Sea?" *Ocean Development and International Law* No. 40 (2009), p. 344.
[39] Leszek Buszynski, "The South China Sea Maritime Dispute: Legality, Power, and Conflict Prevention," *Asian Journal of Peacebuilding* 1, No. 1 (2013).
[40] Zou Keyuan, "Joint Development in the South China Sea: A New Approach," *The International Journal of Marine and Coastal Law* 21, No. 1 (2006), p. 102.
[41] Mark J. Valencia, "In Response to Robert Beckman," *RSIS Commentaries* 53 (2007).
[42] Ralf Emmers, "The Changing Power Distribution in the South China Sea: Implications for Conflict Management and Avoidance," *Political Science* 62, No. 118 (2010), p. 131.

little cost to itself. However, one could also note that there are limits to such behavior, as China is aware of its dependence on regional and international economic order, and hence would not at present 'cross the Rubicon' by attempting to militarily force a resolution of this dispute in its favor. Judging from this fact, increased military balancing by the United States may force China to reevaluate its costs and benefits from its current actions and hence induce a more amenable position in China. However, there is also the danger of descending into a brinkmanship contest that results in further escalation of the conflict. Therefore, a delicate balance of military and diplomatic measures needs to be carried out on the part of the United States.

Zou suggests the establishment of a supranational "Spratly Management Authority" to regulate joint development in the Spratly Islands.[43] In particular, he points out that Rifleman Bank is an ideal place to begin joint development, as it falls outside the 200-mile EEZ of Vietnam, outside the continental shelf limits of Brunei and Malaysia, and outside of the Philippine claim of the "Kalayaan Island Group." This is, nevertheless, subject to China's and Vietnam's 'compromise', as Vietnam currently occupies Rifleman Bank, whereas China claims sovereignty over it. Mark Valencia et al. also proposes a regional organization that "grants permits for exploration and joint development, and would direct financial resources of claimants into a common fund to promote joint exploration efforts."[44]

These proposals seem far-fetched without the appropriate change in perceptions of stakes and attitudes. More support can be given to official or Track II workshops that discuss the establishment of functional frameworks on the South China Sea issue. For example, Indonesia has hosted informal Workshops on Managing Potential Conflicts in the South China Sea (SCSW) since the early 1990s.[45] The Council for Security Cooperation in the Asia Pacific (CSCAP) Study Group on Maritime Security has also been a informal multilateral platform where representatives from each country have highlighted issues indicative of their country's main concerns in the South China Sea dispute, including information sharing and law enforcement.[46] While ASEAN may not be the ideal regional organization to preside over this dispute, it can contribute to confidence building measures (CBMs) on an official level, such as in maritime security dialogues under the ASEAN Regional Forum or the ASEAN Defense Ministers' Meeting Plus (ADMM+).[47] Nguyen Dang Thang advocates that joint development can adopt a neo-functionalist approach, first taking place in a fisheries arrangement before proceeding to an oil and gas arrangement, with the latter considered as

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[43] *Ibid* 39, p. 96.

[44] Leszek Buszynski, "The South China Sea Maritime Dispute: Legality, Power, and Conflict Prevention," *Asian Journal of Peacebuilding* 1, No. 1 (2013), p. 55.

[45] Mikael Weissmann, "The South China Sea Conflict and Sino-ASEAN Relations: A Study in Conflict Prevention and Peace Building," *Asian Perspectives* 34, No. 3 (2010).

[46] Council for Security Cooperation in the Asia Pacific (CSCAP), "1st Meeting of the CSCAP Study Group on Maritime Security," *Australian Journal of Maritime and Ocean Affairs* 5, No. 2 (2013).

[47] Ioana-Bianca Berna, "Managing Intra-Regional Conflicts in Southeast Asia: The Case of the South China Sea," *Journal of Defense Resource Management* 4, No. 2 (2014).

a more sensitive area of cooperation.[48] In sum, these confidence building measures should be regarded as a first step towards a realistic conception of joint development in the South China Sea.

CONCLUSION

The concept of "joint development" is a tempting option for a potential resolution of the South China Sea sovereignty issues, given that it has been attempted previously in other regional disputes. However, in order for joint development to come to fruition, claimant countries have to temporarily "freeze" or suspend their zero-sum sovereignty claims and commit to a positive-sum resource allocation problem. Unfortunately, one has yet to see this happen in the context of the South China Sea, especially with China's growing naval power, and the continued lack of a supranational authority presiding over the issue. Various measures can contribute to this mindset change. ASEAN can be a vehicle for establishing CBMs on an official level, or even in the form of closed-door meetings, where disputants are deemed to be more honest about their priorities and interests. A neo-functionalist approach, for example, by starting with a fisheries arrangement before proceeding to an oil and gas arrangement, should also be considered in the hope of eventually leading to the settlement of core disputes.

[48] Thang Nguyen Dang, "Fisheries Cooperation in the South China Sea and the (Ir)relevance of the Sovereignty Question," *Asian Journal of International Law* 2 (2012).

GUAN HUI LEE is a first-year Master's student majoring in International Relations. He received his undergraduate

degree in IR from Peking University in 2013. His academic interests include U.S. foreign policy, political theory and U.S.-China foreign relations. His senior thesis compared aspects of Reaganite neoconservatism and the 2010 Tea Party conservative movement. He is currently interning at the National Committee on U.S.-China Relations, where he has the opportunity to interact with like-minded people in his field.