ASEAN Resistance to Sovereignty Violation

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The South China Sea Dispute

The South China Sea dispute (1992 to present) is a long-standing and ongoing maritime sovereignty dispute involving China, Taiwan and the ASEAN states of Brunei, Malaysia, the Philippines, and Vietnam. Tensions over the region’s waters have fluctuated since the Cold War period, with instances of conflict linked to a variety of factors, including surging economic growth and corresponding military modernization in China, enhanced competition for maritime resources, China’s status as a rising power, increased great power rivalry with the US, and the consolidation of power under China’s current President Xi Jinping. With increased tensions linked to ‘renewed Chinese assertiveness’, the South China Sea is ‘on the way to becoming the most contested body of water in the world’.

At the forefront of this struggle for autonomy in the South China Sea sit the ASEAN states of the Philippines and Vietnam. As Southeast Asia’s ‘frontline states’ in the South China Sea dispute, these states have had their maritime sovereignty violated by China, which has increasingly pushed its own sovereignty claims over the region’s rocks, islands and reefs. China took control of the Paracel Islands, also claimed by Vietnam, by force in 1974, establishing a presence on Fiery Cross Reef in 1987. China went on to occupy Mischief Reef in 1995, actions which resulted in military confrontation with the Philippines due to conflicting sovereignty claims over the same territory. Since this period, there have been numerous maritime clashes between Chinese, Vietnamese and Filipino armed forces, of varying levels of intensity. The purpose of this chapter is to assess the ability of the Philippines and Vietnam to resist sovereignty violation from an increasingly assertive China over three separate time periods: 1992–2012, 2012–2016, and 2016 to present.

In the first of these time periods, evidence will show how the US, as the only external power with ‘the wherewithal to seriously counter
China’, was insufficiently concerned with events in the South China Sea to cooperate with either the Philippines or Vietnam in their bid to resist sovereignty violations from China. At the same time, ASEAN failed to reach a consensus on what its own role in the South China Sea dispute should be. Significantly, without a credible security commitment from an external power such as the US, ASEAN was unable to provide an effective response to the dispute. Despite the Philippines and Vietnam having the most compelling interests at stake in the dispute, and therefore increasingly taking on the role of joint vanguard state, both continued to have their sovereignty violated at this time.

A sea change was in evidence from 2012. From this period to 2016, the US increasingly recognized its own vital interests at stake in preventing Chinese expansion and militarization in the South China Sea. Characterized by a foreign policy ‘pivot’, the Obama Administration recognized the Philippines and Vietnam as the region’s frontline states, and increased economic, military, and political cooperation to each accordingly. Despite this, the period can at best be characterized as one of partial interest convergence. Increasing interest convergence between the ASEAN vanguard states and the US did not reach the levels required to prevent the Philippines and Vietnam from having their sovereignty violated by China. This was compounded by relatively weak ASEAN support of vanguard state policy, with the Association still fragmented over how to deal with repeated Chinese transgressions.

From 2016 onwards, shifting US and Philippines’ interests heralded a change in each state’s China and South China Sea policy, thus exposing the fragility of interest convergence. This has left Vietnam largely isolated, seeking to resist violations to its sovereignty while unsure of US security commitments and the support from ASEAN and its fellow vanguard state. The argument made here is that if Vietnam and the Philippines, in their role as vanguard states, hope to resist sovereignty violations from China, they need to focus on re-engaging the US and developing greater ASEAN cohesion. Failure to do so will result in these states increasingly ceding maritime sovereignty to China.

The chapter will begin by discussing the background to the maritime dispute, including detail of the various regional state interests and the sovereignty claims of each party. It will then provide evidence of ASEAN vanguard state-external power interest divergence between 1992 and 2012. During this period, Chinese land reclamation and militarization of a number of contested islands in the South China Sea sparked conflict with both the Philippines and Vietnam, which gradually emerged as the ASEAN vanguard states. Analysis of the
period from 2012 to 2016 will show the way in which increasing interest convergence between the US, the Philippines and Vietnam led to increased cooperation regarding the South China Sea dispute. This partial interest convergence was supported by the Obama Administration’s ‘Asia pivot’ policy, and arbitration legal proceedings undertaken by the Philippines. Subsequent analysis of the period 2016 to present will highlight the impact of changing administrations in the Philippines and the US, which contributed to a change in interests towards China and the South China Sea. Evidence will show that this interest divergence has contributed to the ASEAN vanguard states continuing to have their maritime sovereignty violated. The chapter will conclude with a theoretical discussion of the South China Sea dispute since 1992, a summary of the chapter’s findings, and consideration of the contrasting theoretical arguments, and their applicability to this case.

**Background to the maritime dispute**

China historically considers all territory in the South China Sea to be under its control, despite competing claims with a number of Southeast Asian states. A law was passed to this effect in 1992, in which China asserted its claims to the South China Sea, as well as reserving the right to use force to enforce these claims.\(^8\) The disputed islands themselves are little more than rocky outcrops in the South China Sea, and are of relatively little land value. This is a view supported by the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which has confirmed that many of the disputed features in the Spratly Islands should be classified as rocks.\(^9\) Contested sovereignty claims are driven by hydrocarbons and minerals beneath the seabed, in addition to the strategic geographic position of the various islands that straddle vital sea-lanes and trade routes.\(^10\) China bases its claim to sovereignty on a map produced in 1949 ‘indicating nine undefined, discontinued and dashed line’.\(^11\) China claims sovereignty over all features within this ‘nine-dash line’, despite questions over the legality of China’s claim and the exact location of the line’s coordinates.\(^12\) Both China and Vietnam claim sovereignty over the Paracel Islands, which China occupied by force in 1974. The Spratly Islands are also subject to a number of conflicting sovereignty claims, with various islands, rocks and reefs occupied by China, Malaysia, the Philippines, Taiwan and Vietnam.\(^13\)

China has calculated that the South China Sea has the potential to yield 130 billion barrels of oil, which if true would place the region
second behind Saudi Arabia in terms of oil reserves.\textsuperscript{14} China is in need of this energy, with ‘Chinese oil reserves account[ing] for only 1.1 percent of the world total, while it consumes over 10 percent of world oil production’.\textsuperscript{15} It is also estimated that the South China Sea provides approximately 10 percent of the global catch, which is a significant source of protein for the region’s population.\textsuperscript{16} The dispute has also increasingly ‘become an issue of dissension between the US and China’, with the former seeking to maintain a foothold in the region, while the latter increasingly seeks to exert its influence over the region.\textsuperscript{17} There has been a notable reduction in the size of the US Navy since the 1980s, and a dramatic growth in the size of the Chinese Navy.\textsuperscript{18} For Kaplan, Chinese expansionism ‘is a declaration that it never again intends to let foreigners take advantage of it, as they did in the previous two centuries’.\textsuperscript{19}

In pursuit of this goal, the period from 2013 has seen accelerated Chinese construction and militarization in the South China Sea. This has included increased land reclamation in the Spratly Islands, the installation of various weapon systems and defence fortifications on all seven of its artificial islands built in the South China Sea, the deployment of surface–to–air missile launchers to Woody Island in the Paracels,\textsuperscript{20} and the installation of structures intended to house missile systems on Fiery Cross Reef, Mischief Reef and Subi Reef, all of which have ‘military–grade airfields’.\textsuperscript{21} China’s actions raise a number of important questions regarding future peace and stability in the region, China’s regional and international ambitions as a rising power, the continued role of the US as a Pacific power, and the degree to which competition between the two could impact the states of Southeast Asia. For Hayton, the South China Sea is symbolic in that it is ‘the first place where Chinese ambition has come face to face with American strategic resolve’.\textsuperscript{22} What remains to be seen is the degree to which these states will seek to pursue these interests, and the extent to which regional ASEAN States will hinder or support this.

**ASEAN’S failure to secure interest convergence (1992–2012)**

Despite sovereignty disputes over territory in the South China Sea existing since at least the 1970s, the dispute became more pronounced when Beijing passed the Territorial Waters Law, in February 1992. Adopted at the 24th meeting of the Standing Committee of the
National People’s Congress, the law states China’s right to exercise sovereignty over its territorial sea, incorporating offshore islands such as Taiwan, Diaoyu Island, Penghu Islands, Dongsha Islands, Xisha Islands, Nansha (Spratly) Islands and other islands that belong to China.\textsuperscript{23} The legislation was indicative of China’s shift towards a new military strategy towards the end of the Cold War. From 1992, conflict over territorial seas and islands was designated of special importance, and the People’s Liberation Army Navy (PLAN) were tasked with enhancing offshore defence, and ‘over the long term, building a survivable, sea-based nuclear retaliatory force’.\textsuperscript{24}

\textit{China’s creeping assertiveness (1995–1999)}

China’s ability to project force was evident in February 1995, when nine vessels were sent to take control of Panganiban atoll, also known as Mischief Reef, territory long claimed by the Philippines. Critically, this was the first time China had moved to occupy maritime territory claimed by an ASEAN country, having previously targeted territory claimed by Vietnam, which did not become an ASEAN member until 1995. While the Philippines lodged a ‘strong diplomatic protest’ with Beijing, its position was a weak one, and not supported by an ally with the military power to intimidate China.\textsuperscript{25} A US state department spokesperson responded to the incident by confirming that the US ‘takes no position on the merits of the competing claims in the South China Sea’.\textsuperscript{26} Michael Leifer accurately summarized the challenge for the Philippines, noting that regional states believed the US had ‘lost the will to uphold the regional balance of power’, and that ASEAN’s own ‘inability … to adopt a common position over the South China Sea’ could encourage China’s ‘creeping assertiveness’.\textsuperscript{27}

In the aftermath of the Mischief Reef incident, representatives from the Philippines and China met in Manila on 9–10 August 1995 to engage in consultations on the South China Sea. A joint statement was subsequently released, detailing a code of conduct designed to ‘build confidence and trust between the two parties’.\textsuperscript{28} Despite the Philippines’ hope that this would prevent any further Chinese unilateral action in the region, the 1997 sighting of Chinese warships near Philippine-occupied islands in the Spratlys, in addition to the discovery of further structures on a nearby reef, thwarted these hopes. More Chinese structures were erected in January 1999, this time constructed in concrete, including construction of what appeared to be a helicopter landing-pad.\textsuperscript{29}
The US response to Chinese gains in the South China Sea was largely one of disinterest. In a 1991 interview held in Malaysia, US Pacific Commander-in-Chief Admiral Charles Larson made a number of comments regarding the Spratly Islands dispute, including the fact that ‘there was no interest for the US to intervene’, that it was ‘a regional issue’, and that it was up to ASEAN and countries in the region to ‘resolve the issue through political channels’. With the US preoccupied with securing its interests in the Middle East and North Africa, the Philippines’ military chief General Angelo Reyes ‘publicly stated that the Philippines could not rely on the US for its defence’. Nor were the Philippines able to elicit help from its regional neighbours, with ASEAN providing minimal tangible support following the dispute. The Philippines Foreign Affairs Under-Secretary Lauro Baja Jr confirmed that ‘on Mischief Reef, we were left alone. The other countries said that while they sympathize and understand our situation, the issue is only a Philippine-China problem’. Baja explicitly highlighted ASEAN reluctance to become involved in the dispute, stating that ‘even some of our ASEAN friends are either mute, timid or cannot go beyond espousal of general principle of peaceful settlement of disputes and polite words of understanding given in the corridors or meeting rooms’.

Despite Chinese actions, it was Malaysia’s belief that China was ‘fundamentally benign’, feelings echoed by Singapore, which did ‘not see China’s actions as truly threatening’. Left without the support of traditional allies, compounded by the 1991 termination of US basing rights in Filipino territory, the Ramos Administration focused on developing its own defensive capabilities. This included modernization of the Armed Forces of the Philippines (AFP). This took the form of a proposal for a $2 billion upgrade of the AFP, with a focus on improved military hardware for external defence, and weapons system upgrades for the Navy and Air Force. The modernization programme particularly focused on the Philippines’ Navy (PN), ‘designed so that the PN would get most of the program funds to develop its capability for inshore and offshore patrol, surface warfare, detection, and maritime surveillance’.

ASEAN calls for a code of conduct (1992–1999)

ASEAN’s first declaration on the potential for conflict in the South China Sea and ways in which this might be ameliorated came in July 1992, in the aftermath of Beijing’s passing of the Territorial Waters
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Law. At the 25th ASEAN Foreign Ministers meeting, an ‘ASEAN Declaration on the South China Sea’ was adopted, in which the Foreign Ministers called for a code of international conduct over the South China Sea. By July 1996, Ministers became more explicit in their call for a code of conduct, with calls for a plan of action reiterated in the 1998 Ha Noi [sic] plan of action. Concrete steps were made in March 1999, when the Philippines and Vietnam were assigned the task of designing a draft document. However, trying to obtain ASEAN or Chinese consensus was to prove difficult. Following recommendations made by ASEAN officials in May, the Philippines submitted a ‘draft Regional Code of Conduct’ for consideration of the ‘ASEAN Senior Officials Meeting [SOM] Working Group on ZOPFAN and SEANWFZ [Southeast Asian Nuclear Weapon Free Zone]’. ASEAN officials finally agreed on a draft code in November 1999, which was then sent to China for consideration.

China agreed to explore the possibility of a joint code of conduct in May 1999. This was in stark contrast to China’s traditional preference for settling regional sovereignty disputes bilaterally. China’s shifting stance can be attributed to the realization ‘that if it continued to stand outside the forum, it risked either being isolated or being a laggard that had no other choice but to accept the previously settled formalities and principles’. Fears of intervention by external interested parties, most notably the US and Japan, helped drive Chinese decision-making, as did the hope that a code of conduct could serve China’s own interests, and avoid the risk of being dictated to by other countries in the region.

A protracted period of negotiations followed, with parties disagreeing on the code of conduct’s scope, in addition to whether the code should be legally binding or not, something that China steadfastly resisted. To overcome this impasse, Malaysia proposed a non-binding ‘Declaration on the Conduct of Parties in the South China Sea’. This approach was subsequently seized upon by China, which insisted upon the adoption of a non-binding code of conduct. At a stalemate, ‘the other ASEAN members had to give in, accepting a political declaration as a stepping-stone towards a formal code of conduct’.

The Foreign Ministers of ASEAN and the People’s Republic of China adopted the ‘Declaration of the Conduct of Parties in the South China Sea’ at the 8th ASEAN Summit in Phnom Penh on 4 November 2002. The Code of Conduct declared the parties’ respect for the freedom of navigation in the South China Sea, and their desire to exercise restraint and resolve territorial disputes without resorting to the threat or use of force. Despite these provisions, the
2002 DOC has been subject to misinterpretation and abuse. Most notable is the self-restraint provision, which ‘suggests that the parties are to refrain from new occupations’.\textsuperscript{47} However, ‘the parties seem to have interpreted the self-restraint clause to imply that they can continue enhancing their presence on features they already occupy’.\textsuperscript{48} Therefore, actions taken to build structures on occupied islands are consistent within the code of conduct declaration. A further major flaw of the 2002 DOC is that it lacks any enforcement mechanisms for non-compliance, in addition to any dispute-settlement mechanisms ‘to deal with differences which may arise over the interpretation or application of the provisions in the declaration’.\textsuperscript{49}

Despite concerns regarding the applicability of the DOC, the immediate period following its signing saw a general reduction of regional tensions, with China seeking to ‘burnish its credentials’ with ASEAN ‘by launching a “charm offensive”’.\textsuperscript{50} This period saw China enhance multilateral initiatives, including cooperation in the 2005 East Asia Summit (EAS), enhance economic cooperation and Southeast Asian foreign aid, and increase ASEAN–China dialogue. As evidence of this period’s reduction in tensions, Chinese exports to and imports from ASEAN countries grew by 450 percent and 625 percent respectively between 1997 and 2006, with a framework agreement for an ASEAN–China Free Trade Area signed in 2002.\textsuperscript{51} In the South China Sea, China, the Philippines and Vietnam signed a Joint Marine Seismic Undertaking (JMSU) in 2004–05, an agreement that sought to undertake joint seismic studies for oil and gas exploration.\textsuperscript{52} Unfortunately, strained relations with Vietnam and increased US activity in the South China Sea meant that this period of calm was not to last.

\textit{Tensions in the Sino-Vietnamese relationship}

Vietnam and China’s fraught relations were evident during an 18–20 January meeting in 2007. Held between the Chinese and Vietnamese Vice Foreign Ministers, the latter reported being ‘extremely disappointed with Chinese preparation for and conduct of the negotiations’, which resulted in the Chinese walking out of the session.\textsuperscript{53} A number of multinational energy companies subsequently became embroiled in the two countries’ territorial dispute. In a telegram sent from the US Embassy in Hanoi, China was charged with coercing a number of energy companies, including Chevron and British Petroleum (BP), to pull out of offshore gas concessions in
disputed waters.\textsuperscript{54} According to one Chevron executive, Xiu Dong Jia, China’s Political Counselor in Washington summoned Chevron’s executive to the Chinese Embassy in Washington DC. There, he warned them that China, had ‘indisputable rights over the area, including Nansha Island’, and that further activity by them would be a ‘grave violation of China’s sovereignty’.\textsuperscript{55} Vietnam, unhappy with Chevron’s decision to accede to Chinese demands, ‘urged the company to proceed and promised the Vietnamese Navy for protection’.\textsuperscript{56}

Increased tensions between China and Vietnam over disputed territory in the South China Sea fanned the flames of anti-China nationalism in Vietnam. Over two weekends in December 2007, students in Ho Chi Minh City and Hanoi met in front of China’s consulate to demonstrate against China’s decision to set up administrative control over the Paracel and Spratly Islands.\textsuperscript{57} In the past, the Vietnamese government had been quick to quash such protests in order to maintain good relations with China. In this case, however, ‘political elites in Vietnam, especially nationalist pragmatists, increasingly saw the benefits of popular patriotism to show tenacity against China’s creeping expansions and attract international attention’.\textsuperscript{58}

\textit{The Obama Administration’s China policy (2008–2012)}

A change in US policy towards China was evident following the election of President Barack Obama in 2008. Although this did not immediately translate into any explicit move towards interest convergence with interested South China Sea parties, it did highlight US growing interests in the region, and the beginning of a policy designed to pushback against China’s expansionism. From 2008 onwards, the US recognized the important interests it had at stake in maintaining a strong presence in the Pacific, with ‘renewed US interest in the territorial disputes … driven by its own goals of re-engagement and sustaining its primacy in the long term’.\textsuperscript{59}

Tensions between the two powers escalated in 2009, when it was reported that the US ocean surveillance ship \textit{Impeccable} was harassed by Chinese naval ships in March, with China claiming the US’ vessel was in China’s exclusive economic zone. The US responded to the incident by stating that they would ‘continue to operate in those international waters and we expect the Chinese to observe international laws around them’.\textsuperscript{60} Events came to a head in early 2010, after it was reported that Chinese officials had referred to the South China Sea as a ‘core
interest’ in a private meeting with senior US officials in Beijing in March 2010.\(^{61}\) If true, the maritime sovereignty dispute would have been elevated to the same importance as Taiwan and Tibet, and would imply that ‘Beijing would be willing to use force or the threat of force to defend its sovereignty’.\(^ {62}\) The report was followed by confusion as to whether officials did in fact delegate South China Sea ‘a core interest’, with Chinese leaders neither explicitly endorsing nor denying the comment.\(^ {63}\)

The statement was lent credence by Hillary Clinton, who stated that Dai Bingguo, a Chinese senior foreign policy official, made the statement to her in a meeting in May 2010. According to Clinton, ‘I immediately responded and said, “We don’t agree with that”’.\(^ {64}\) The US added fuel to the fire in July 2010 comments made by Secretary of State Clinton at a meeting of the ASEAN Regional Forum in Vietnam. Apparently ‘encouraged by some ASEAN members who had grown uneasy over Chinese intentions in the South China Sea’, Clinton gave perhaps the strongest statement to date on the US position on the South China Sea.\(^ {65}\) Stating that the region ‘was pivotal to US national interests’, the comments represented a ‘radical policy shift’ for the US, due to its ‘direct regional involvement’ in the dispute.\(^ {66}\) The comments elicited an immediate response from China’s Foreign Minister Yang Jiechi, whose accused ‘the US of orchestrating an anti-China plot and threatened economic punishment for Southeast Asian nations that sought to stand up to Beijing’.\(^ {67}\) He is reported to have stated that ‘China is a big country and other countries are small countries, and that is just a fact’.\(^ {68}\)

**A downturn in regional relations: a hamstrung ASEAN**

China’s volatile response was not lost on the ASEAN member states present. Singapore’s Foreign Minister George Yeo stated that ‘there was quite an interesting and sharp exchange between the Americans and Chinese’.\(^ {69}\) The exchange caused some concern within ASEAN over a heavy-handed US involvement in the dispute, with fears of an exacerbation of tensions. As one ASEAN state official confirmed, ‘China is a geographic fact that ASEAN has to live with, whereas the US is both far away and fickle’.\(^ {70}\) The tense exchange also elicited a strong domestic response in China. The *People’s Daily* website posted an online survey asking its readers whether the South China Sea should indeed be designated a ‘core interest’.\(^ {71}\) By January 2011, 97 percent of approximately 4,300 respondents had responded in the affirmative.\(^ {72}\)
The period from 2008 to 2012 saw a downturn in stability in the South China Sea. This began with a lapse in the Joint Marine Seismic Undertaking between China, the Philippines and Vietnam, as tensions in the region’s waters escalated. Relations between the Philippines and China deteriorated in April 2012, when a Filipino warship became engaged in a standoff with Chinese surveillance ships in the disputed Scarborough Shoal. The Philippines’ naval ship remained on the spot for two days before withdrawing, in the hope that this would diffuse tensions. However, China failed to reciprocate, and instead deployed a well-equipped and heavily armed patrol vessel. Despite filing a diplomatic protest with the Chinese Embassy, the standoff did not ease until two months later, when vessels withdrew due to the arrival of typhoon season, in what was described as a ‘carefully choreographed withdrawal’. The Chinese position was that its maritime vessels were ‘in the area fulfilling the duties of safeguarding Chinese maritime rights and interests’, and that Scarborough Shoal was ‘an integral part of the Chinese territory’.

The 2012 maritime incident triggered an anti-Chinese backlash in the Philippines, where Filipinos staged ‘anti-Chinese bullying’ demonstrations. Similar, small-scale, rallies broke out in China, which also sought to punish the Philippines by imposing travel restrictions and non-tariff barriers against its agricultural produce. For De Castro, the incident reflected China’s ‘fervent nationalism, growing naval prowess and unilateral moves … directed against a militarily weak Philippines’. Nor did the dispute occur out of the blue. In reality, China had been increasing its naval activities in the region’s waters since as early as 2010. Filipino fisherman reported a number of incidents of Chinese harassment, in addition to evidence of Chinese construction, in 2011. In one instance, members of the Armed Forces of the Philippines observed Chinese naval ships unloading building materials and erecting posts in the Army Douglas Bank. The Philippines protested to the Chinese Embassy in Manila, to which China responded that the Philippines must stop ‘harming China’s sovereignty and maritime rights and interests’. What the 2012 incident at Scarborough Shoal did do, was make ‘it obvious to the Filipinos – if it wasn’t obvious by then – that they needed a substantial military alliance with the US’. In addition to securing external security commitments from the US, both the Philippines and Vietnam also sought cooperation from ASEAN. However, ASEAN remained hamstrung over how best to respond to China. This was evident at the 45th ASEAN Ministerial Meeting in July 2012, held in the aftermath of the Scarborough shoal standoff.
The Philippines and Vietnam requested that the Joint Communiqué include references to their maritime disputes with China. However, Cambodia’s foreign minister Hor Nam Hong, as ASEAN chair, blocked any mention of the dispute, claiming that these were bilateral issues and should therefore not be included.\textsuperscript{83} Unable to reach an agreement, the Association failed to release a Joint Communiqué for the first time in its 45-year history. This was evidence of China’s ability to exploit its close relationship with Cambodia to keep the South China Sea from featuring prominently at ASEAN meetings.\textsuperscript{84}

**Summary: 1992–2012**

Notwithstanding a brief reduction in tensions following the signing of the 2002 DOC, during which time China’s unprecedented economic growth allowed it to consolidate power regionally, the period under analysis witnessed increased friction between China and the ASEAN frontline states and, from 2008 onwards, the US. Without a strong regional balance of power, China’s creeping expansionism, evidenced by incidents in Mischief Reef and Scarborough Shoal, was largely able to go unchecked. Notable during this period is the lack of interest convergence between the US, Philippines and Vietnam. Evidence presented here suggests that this, coupled with ASEAN’s inability to elicit a common response to the crisis, caused the latter states to have their sovereignty in the South China Sea increasingly violated.

**ASEAN-US partial interest convergence (2012–2016)**

From 2012, the US began to take on a greater balancing role vis-à-vis China in Southeast Asia. As this analysis will show, this was actively encouraged by the Philippines and Vietnam, which sought US security commitments in an effort to prevent further sovereignty violation by an expansionist China. According to Professor Carlyle Thayer, Vietnam saw ‘the US presence as a hedge against China’s rising military power’.\textsuperscript{85} The Vietnamese viewed themselves as having a role in facilitating this, with a desire to allow a US military presence at Cam Ranh Bay to counter the growing Chinese threat.\textsuperscript{86} While the Vietnamese would have ‘like[d] ASEAN to be stronger, in order to be a counterweight to China, they are realistic’.\textsuperscript{87} Similarly, following China’s actions in Mischief Reef in 1995, the Philippines, confronted
by China’s ‘power-politics approach’, implemented ‘a delicate balancing act’. This began by seeking enhanced military ties with the US, hoping that the ‘presence of the US would deter any Chinese tendency toward regional hegemony’. 

The US ‘pivot’ (2011)

By late 2011, there was a pronounced shift in US policy towards the Asia-Pacific. In an address to the Australian Parliament on 17 November 2011, President Barack Obama formally outlined his Asia Pacific foreign policy strategy. This reflected a ‘broader shift’ away from a focus on the Middle East, to what President Obama referred to as ‘the vast potential of the Asia Pacific region’. President Obama highlighted five core underlying principles, which would shape the US’ strategic shift towards Asia. These were an emphasis on the US’ commitment to security in the region, re-engagement with regional organizations, continued efforts to build a cooperative relationship with China, the advancements of US-Asia shared prosperity through free trade and the Trans-Pacific Partnership (TPP), and a support for fundamental rights of every human being.

This ‘strategic rebalance’ was given further shape by defence secretary Leon Panetta in June 2012 during the Shangri-La Dialogue in Singapore. There, Panetta referenced deepening cooperation with a number of Southeast Asian states. This included multilateral military exercises with Thailand, further military engagement with the Philippines, including work to improve the Philippines maritime presence, the implementation of forward deployment of the Littoral Combat Ships to Singapore, and the advancement of bilateral defence cooperation with Vietnam.

The US Asia-Pacific rebalance was met with some apprehension in Asia, despite the benefits that a more engaged US could bring to the region. Although traditional allies, such as Japan, welcomed the move, some states in Southeast Asia feared an increase in security competition with China that could destabilize the region. Indonesia’s foreign minister warned of the dangers of a ‘vicious cycle of tensions and mistrust’, a feeling echoed by Malaysia and Singapore, with the latter’s foreign minister stressing that ASEAN wanted to avoid getting ‘caught between the competing interests’ of major powers. These feelings were undoubtedly compounded by regional state fears of American decline, with concerns that the pivot could prove to be an ‘empty promise’. The pivot was greeted more warmly by those states in conflict with China in the South China Sea. These states
immediately benefited from the US’ new posture. In 2012, the US tripled its military funding to the Philippines from $15 million to $30 million,\(^{94}\) and began a $41 million cleanup of Agent Orange in Vietnam, the first such cleanup operation conducted by the US.\(^{95}\)

The Philippines takes a firm stance

Following the Obama Administration’s articulation of its new Asia pivot strategy, and responding to the 2012 Scarborough Shoal standoff, ‘hardliners’ in Manila began to push the Benigno Aquino III Administration to take a more assertive stance towards China, particularly with regard to Chinese expansion into Philippines’ maritime territory.\(^{96}\) It did so through the use of three counter-measures: international diplomatic pressure, the initiation of legal proceedings against China, and support of the Obama Administration’s ‘Pivot to Asia’ foreign policy strategy, whereby President Aquino, ‘sought to fortify defense relations with America in order to deter further Chinese assertiveness’.\(^{97}\) The Aquino government also sought to improve its own military capabilities, including a ‘border protection programme’ centred around enhanced air force, naval and coastguard surveillance, patrol and deterrence capabilities.\(^{98}\) The Philippines’ stance on the South China Sea dispute was formally expressed in January 2013, when the government confirmed that it would bring China before the Permanent Court of Arbitration (PCA) under Article 287 and V II of the 1982 UNCLOS to ‘clearly establish the sovereign rights and jurisdiction of the Philippines over its maritime entitlements in the West Philippine Sea’.\(^{99}\)

The Philippines requested that the arbitration tribunal address four key points. First, that the ‘Tribunal resolve a dispute between the Parties concerning the source of maritime rights and entitlements in the South China Sea’, thereby directly seeking to challenge China’s ‘nine-dash line’ claim.\(^{100}\) Second, that the Tribunal address entitlements to maritime zones and certain maritime features claimed by both parties, including submerged banks and low-tide elevations. Third, that the Tribunal address the ‘lawfulness of China’s actions in the South China Sea’, with a specific focus on Chinese interference in Philippines’ fishing, navigation and exploration rights, in addition to its failure to protect the marine environment.\(^{101}\) Finally, that the Tribunal find ‘that China has aggravated and extended the disputes between the Parties’, through its maritime construction and land-reclamation efforts.\(^{102}\) In light of the fact that the UNCLOS does not address land-based sovereignty claims, the Tribunal confirmed that it would
not ‘make any ruling as to which State enjoys sovereignty over any land territory in the South China Sea’, including the Spratly Islands and Scarborough Shoal.\textsuperscript{103} Nor does it propose to delimit maritime boundaries between the two parties, something that China excluded from the dispute settlement process in 2006.

*State responses to the PCA*

China reacted angrily to the Philippines arbitration case. On 20 February 2013, China’s Foreign Ministry Spokesperson Hong Lei stated that China ‘would continue to ‘unswervingly safeguard national sovereignty and interests’.\textsuperscript{104} On 7 December 2014, China’s Ministry of Foreign Affairs released a ‘Position Paper’, not formally submitted to the Tribunal, which elaborated on the reasons why China believed the Arbitration Court lacked jurisdiction with respect to the case. These positions were that the subject matter of territorial sovereignty over maritime features was beyond the scope of the Convention, that the Philippines had breached its obligation under international law to settle relevant disputes through bilateral negotiations, and that, even assuming the subject matter were concerned with the application of the Convention, it would constitute maritime delimitation between the two countries, which China had excluded from compulsory arbitration in 2006.\textsuperscript{105} China made it clear that the release of the position paper ‘shall not be regarded as China’s acceptance of or its participation in the arbitration’.\textsuperscript{106}

In support of the Philippines case, and evidence of growing interest convergence between the two ASEAN states, Vietnam independently joined the arbitration case in December 2014, albeit not as a co-plaintiff. Vietnam’s Ministry of Foreign Affairs Le Hai Binh confirmed that ‘to protect its legal rights and interests in the East Sea which may be affected in the South China Sea arbitration case, Viet Nam [sic] has … requested the Tribunal to pay attention to the legal rights and interests of Viet Nam’.\textsuperscript{107} Detailing these interests, he confirmed that Vietnam ‘has full historical evidence and legal foundation to reaffirm its sovereignty over the Hoang Sa and Truong Sa archipelagos’, and that Vietnam fully rejected ‘China’s claiming of ‘historic rights’ to the waters, sea-bed and subsoil within the “dotted line” unilaterally stated by China’.\textsuperscript{108} China’s Foreign Ministry Spokesperson spoke out against Vietnam’s involvement in the arbitration case, stating that the ‘Chinese side urges the Vietnamese side to earnestly respect China’s territorial sovereignty and maritime rights and interests’.\textsuperscript{109}
The US, whilst not becoming directly involved in the arbitration, made its support for the Philippines and Vietnam clear. President Obama publicly stated his support for the Philippines’ decision to start arbitration proceedings in April 2014, remarking at a Joint Press Conference in Manila that he and President Aquino had ‘reaffirmed the importance of resolving territorial disputes in the region peacefully … in that spirit, I told him that the US supports his decision to pursue international arbitration concerning territorial disputes in the South China Sea’.  

In April 2015, President Obama stated that ‘where we [the US] get concerned with China is where it is not necessarily abiding by international norms and rules and is using its sheer size and muscle to force countries into subordinate positions’. He concluded that, ‘just because the Philippines or Vietnam are not as large as China doesn’t mean that they can just be elbowed aside’.

ASEAN state responses to the Philippines’ decision to begin arbitration proceedings against China were generally unfavourable. This is evidence that, despite increasing interest convergence between the Philippines, Vietnam and the US, a cohesive ASEAN policy remained elusive. As Tang Siew Mun highlights, Manila’s decision ‘was seen in 2013 by ASEAN as a wrong tactical step that undermined its efforts towards engaging China multilaterally in striving for a binding Code of Conduct’. In addition to this, there was a ‘sense of disappointment within ASEAN circles that Manila neglected to undertake prior consultation with the grouping’. In comments to media following the Philippines’ initiation of arbitration against China, Singapore’s Minister for Foreign Affairs stated that ‘what the Philippines has done is a national decision’, and that ‘Singapore first knew about this action from media reports’. The Minister stated Singapore’s position, which was that it is ‘not a claimant state and that by their very nature, the specific territorial disputes in the South China Sea could only be settled by the parties directly concerned’.

**Vietnam and US adopt an aggressive China policy**

The need for a coordinated response to the South China Sea dispute took on a degree of urgency in May 2014, when tensions between China and Vietnam threatened to descend into open armed conflict. A clash between Vietnamese and Chinese shipping vessels broke out, following China’s deployment of an oilrig in disputed waters 130 nautical miles off the Vietnamese coast. China, accusing Vietnam of ramming its ships, reciprocated and fired water cannons on its
crew.\textsuperscript{117} The clash damaged a number of vessels on both sides, with at least six Vietnamese casualties reported.\textsuperscript{118} It was followed by anti-Chinese riots held in Vietnam, which resulted in at least four deaths and over 100 people injured.\textsuperscript{119} Amid the violence, China was forced to evacuate several thousand Chinese workers from the country.\textsuperscript{120} Further clashes in the waters around the oilrig continued into late May, when a Chinese vessel rammed and sank a Vietnamese boat. In the aftermath, China’s vice foreign minister stated that ‘being the lifeline for China, the South China Sea is far more important to China than to other countries’.\textsuperscript{121}

Statements made by Ashton Carter during an annual security policy forum held in Singapore in May 2015 suggested the adoption of a more aggressive US posture. Carter characterized the Chinese islands as ‘massive outposts’ and warned against ‘militarization’ of the China Sea: the ‘bluntest warnings yet to Beijing’.\textsuperscript{122} The US conducted Freedom of Navigation (FON) operations in the South China Sea in October 2015, January 2016 and May 2016, something which China expressed ‘strong dissatisfaction and opposition’ to.\textsuperscript{123} In the wake of the October 2015 USS Lassen operation, the Philippines stated that it had ‘no issue as to this US naval ship traversing under international law’.\textsuperscript{124} These sentiments were echoed by a Vietnamese spokesperson, Malaysia’s Defense Minister Hishammuddin Hussein, and Singapore’s Minister of Foreign Affairs.\textsuperscript{125} At the Shangri-La conference in May 2015, US Secretary of Defence Ashton Carter confirmed that it ‘would not be deterred’ from exercising its right to freedom of navigation in the South China Sea.\textsuperscript{126} Undeterred, China continued its militarization policy in the South China Sea. Satellite photos emerged in December 2016 of new anti-aircraft guns and missile defence systems on a number of contested islands. This is in addition to numerous Chinese naval ships operating in the region’s waters. Reports in September 2016 also hinted at continued dredging and land reclamation around Scarborough Shoal, a move denied by Chinese officials.\textsuperscript{127}

\textit{Increased vanguard-US interest convergence}

By late 2015, there was increasing evidence of interest convergence between the US and the Philippines. An Enhanced Defense Cooperation Agreement (EDCA) was signed between the two countries in April 2014 to ‘allow for the enhanced rotational presence of US forces at agreed locations in the Philippines’.\textsuperscript{128} The Philippines
Supreme Court upheld the agreement in January 2016, at which point it went into the implementation phase, with the Philippines offering the US eight bases to build equipment facilities, some based on the island of Luzon. The EDCA is significant in that it ‘conveyed a strong diplomatic signal to Beijing that it would have to take account of American military presence in the Philippines if it was to use force against Manila’. The implementation of the EDCA came one year after more than 100 Navy ships docked in Subic Bay in a regional show of force and US-Philippines cooperation.

President Obama and President Aquino held a bilateral meeting on 18 November 2015 in Sofitel, to discuss enhanced defence alliance between the two states. In a speech made after the meeting, Obama iterated US desire to ‘reaffirm … unwavering commitment to the security and defence of the Philippines’, and confirmed commitment ‘to ensuring maritime security in the region’. In a bid to enhance the Philippines defence, Obama outlined US plans to increase ‘maritime security assistance to the Philippines to record levels, including two new vessels’. When asked if he was comfortable with an enhanced US presence in the South China Sea, President Aquino responded: ‘I think everybody would welcome a balance of power anywhere in the world’.

The Philippines announced in 2015 that it would spend a record $552 billion on defence spending to ‘purchase frigates, surveillance planes, and radar equipment to improve surveillance and detection’, in disputed areas of the South China Sea, in addition to stepped-up joint patrols with the US.

Similar growing interest convergence was evident between the US and Vietnam. President Truong Tan Seng travelled to the White House in July 2013 for a bilateral meeting with President Obama, where the two discussed enhanced political, economic and military-to-military cooperation. On the South China Sea, Truong stated his appreciation for ‘US support for our stance in this matter, as well as the stance of ASEAN’. Following the visit, the two countries implemented a Comprehensive Partnership, signed in July 2013. This framework for bilateral relations included a commitment of $32.5 million in maritime capacity building assistance for Southeast Asia, with $18 million to enhance Vietnamese coastal patrols. The Vietnamese president ‘welcomed the US’ enhanced cooperation in the Asia-Pacific, which contributes to the peace, stability, and prosperity of the region’. In 2015 the two countries implemented a Joint Vision Statement, which stated both sides ‘commit[ment] to maximizing shared interests’, in addition to recognition of the need to uphold international law and maritime security in the South China Sea. President Obama
reciprocated Vietnam’s visit in May 2016, with a trip to Hanoi to meet with Vietnam’s President Quang. It was announced during this trip that the US would ‘completely lift the ban on lethal weapon sales to Vietnam … clear proof that both countries have completely normalized relations’. Obama confirmed that ‘this change will ensure that Vietnam has access to the equipment it needs to defend itself and removes a lingering vestige of the Cold War’. This was a significant step, demonstrating a deeper phase of defence cooperation between the two states that would help Vietnam face the perceived Chinese threat. The President of Vietnam’s Centre for Strategic Studies confirmed the move to be ‘of great importance to Vietnam’, continuing that ‘China should think twice over anything they can do to Vietnam or the South China Sea … they should get the message’.

Evidence has also been apparent of increasing interest convergence between the Philippines and Vietnam, as ASEAN’s joint vanguard states. On September 2015, Vietnamese Ambassador to the Philippines Truong Trieu Duong stated that Vietnam and the US would ‘deepen … cooperation in order to solve all the issues concerning the South China Sea in a most peaceful way in accordance with international law’. During an Asia-Pacific Economic Cooperation summit, held on 17 November in Manila, the two countries elevated their relationship through the signing of a strategic partnership. As President Truong stated, ‘President [Aquino] and I shared our concerns over the recent developments in the East Sea or the South China Sea, affecting trust, peace, security and stability in the region. We also reaffirmed the importance of ensuring the stability, maritime security, safety and freedom of navigation and of flight in the South China Sea’. Aquino echoed Truong sentiments, stating that ‘in terms of defence relations, we [the Philippines] welcome the active engagement and cooperation between our respective defense and military establishments’.

While ASEAN remained fragmented over how to respond to sovereignty violations in the South China Sea, thus falling short of the cohesion and mobilization needed to support vanguard state interests, this did not stop the US from attempting to garner a deeper level of cooperation with the Association. In February 2016, President Obama invited all ASEAN leaders to an ASEAN Summit at Sunnylands resort in California, the first Summit to be held in the US. In a joint statement released following the summit, the leaders called for a ‘shared commitment to peaceful resolution of disputes’, in addition to ‘ensuring maritime security and safety … as well as non-militarization and self-restraint in the conduct of activities’. President Obama confirmed that ‘we discussed the need for tangible
steps in the South China Sea to lower tensions including a halt to further reclamation, new construction and militarization of disputed areas … when ASEAN speaks with a clear and unified voice, it can help advance security, opportunity and human dignity’.  

Summary: 2012–2016

Momentum towards enhanced interest convergence grew from 2012 onwards, with increased instances of cooperation and military coordination between the Philippines, the US, and Vietnam. Evidence of enhanced cooperation between the Philippines and Vietnam also confirms the two states’ burgeoning role as joint ASEAN vanguard states. Missing from the equation was a robust ASEAN response, with the Philippines and Vietnam unable to mobilize the Association in support of their own interests. Instead, China was able to use its influence among certain ASEAN states to frustrate efforts to coordinate a joint policy. The period can therefore be best understood as one of partial interest convergence. ASEAN states might have more openly supported the Philippines and Vietnamese position, if this were backed by a powerful US regional presence. However, US re-engagement was tempered by Obama Administration concerns ‘of triggering an all-out confrontation with China’.  

ASEAN concerns are exemplified by March 2016 comments made by Singapore’s Prime Minister Lee Hsien Loong, who stated that there ‘must be no doubt in anybody’s mind that America is a Pacific power, that you have an interest in the region’. Lee concluded that the US ‘do have serious interests at stake. And you have to speak with one coherent voice’.

The arrival of Trump and Duterte – interest divergence (2016 to present)

The advent of a newly elected leader in the Philippines in May 2016 transpired to derail this burgeoning interest convergence. In the aftermath of his electoral victory, President Rodrigo Duterte announced that he would be ‘chartering [sic] a [new] course [for the Philippines] on its own and will not be dependent on the US’.  

Duterte made it clear that he would ‘open alliances with China’ and Russia, and would ‘open up the Philippines for them to do business, alliances of trade and commerce’. This shift towards improved relations with China in exchange for economic support was clearly at
the expense of the Philippines’ territorial claims in the South China Sea. As rumours of human rights abuses committed during Duterte’s war on drugs began to circulate to the international community,\textsuperscript{154} the relationship between the Philippine President and his American counterpart began to deteriorate.

These strained relations served as backdrop to the Permanent Court of Arbitration ruling, which was announced on 12 July 2016. A press release issued on that day provided a brief overview of the Tribunal’s decision. This confirmed that China’s claim to historic rights to resources in the South China Sea, was ‘incompatible with the exclusive economic zones provided for in the convention’, and that ‘there was no evidence that China had historically exercised exclusive control over the \textit{waters} [italics in text] or their resources’.\textsuperscript{155} As such, ‘there was no legal basis’ for China to claim historic rights within the nine-dash line.\textsuperscript{156} The Tribunal also found that none of the features claimed by China are capable of generating an entitlement to extended maritime zones, and that certain sea areas form part of the exclusive economic zone of the Philippines, ‘because those areas are not overlapped by any possible entitlement of China’.\textsuperscript{157} The Tribunal could therefore confirm that ‘China had violated the Philippines’ sovereign rights in its exclusive economic zone’, by interfering with Filipino fishing and exploration, and through its construction of artificial islands.\textsuperscript{158}

\textit{An ASEAN divided}

President Duterte’s response to this landmark ruling in support of the Philippines position was noticeably muted. This was significant evidence of his shifting stance towards China. Duterte stated in December 2016 that he would ‘set aside the arbitral ruling. I will not impose anything on China’.\textsuperscript{159} This was echoed by the Philippines’ Foreign Secretary Perfecto Yasay Jr, who stated that he wanted ‘to make sure that there will be no further actions that will heighten the tensions between the two countries, particularly in the Scarborough Shoal’.\textsuperscript{160} Yasay concluded that ‘we cannot stop China at this point in time … we will continue to pursue peaceful means’ to the dispute.\textsuperscript{161} This approach was welcomed by China, which had dismissed the PCA ruling as a ‘null and void decision’, and ‘nothing more than a piece of paper’.\textsuperscript{162} For Cruz De Castro, ‘the Philippines government’s cautious reaction to the PCA awards was due to the Duterte administration’s fear that flaunting its legal victory against China might force the latter to react adversely against Filipino fishermen’ in the South China Sea.\textsuperscript{163}
In the wake of the PCA ruling, Duterte stepped up his denigration of the US, while simultaneously dropping attempts to push the South China Sea as an agenda item at ASEAN meetings. In advance of an August 2017 ASEAN Summit to be held in Laos, Duterte confirmed that he would not push for a multilateral response to the dispute, stating ‘I will only bring the issue when we are face to face … because if you quarrel with them now and you claim sovereignty, make noise here and there, they might not just even want to talk’. This clear nod towards China’s preference to manage the dispute bilaterally rather than multilaterally has damaged ASEAN confidence in the Philippines, with Duterte’s efforts to woo China having ‘eroded the Philippines’ influence in the ASEAN on the South China Sea issue’. The Laos Summit concluded without the adoption of a joint statement on the South China Sea dispute. An official statement issued at the close of the Summit made brief reference to the maritime tensions, but omitted referring to China by name, and failed to explicitly mention the July, South China Sea Arbitration ruling.

Disagreements between the ten ASEAN states were also evident at the previous Foreign Ministers Meeting, held in the immediate wake of the Permanent Court of Arbitration ruling. Both the Philippines and Vietnam requested that the Joint Communiqué mention the PCA ruling. However, any mention of the ruling was blocked by Cambodia, which claimed the dispute should be dealt with on a bilateral basis. An extended deadlock ensued, during which it was feared ministers would be unable to agree a joint statement. A watered-down statement was eventually released, devoid of any mention of China’s maritime activities, or the PCA ruling. This was widely viewed as a diplomatic coup for China. In the aftermath of the July meeting, Cambodia’s Council of Ministers spokesman Phay Siphan asked, ‘why are those individuals, which tend to support the US, pushing Cambodia to support this or that? … They have a trend of supporting the US, which is against China, but they accuse Cambodia because Cambodia is a close friend to China’. It is perhaps notable that in the immediate aftermath of the PCA ruling, and in advance of the ASEAN foreign ministers summit, Cambodia’s Prime Minister Hun Sen met with the Chinese Prime Minister ‘to discuss a strengthening of cooperation’ between the two ‘on issues in the region and internationally which both parties are paying attention to’. It was subsequently announced that the government was to receive $600 million of Chinese grant aid, to be used for ‘electoral processes, health, education, clean water and wells’.
Responding to a perceived lack of US commitment, President Duterte declared in September 2016 that upcoming war games to be held between the two countries would be the last, and that he would instead establish new alliances for trade with Russia and China.\textsuperscript{174} On 3 October 2016, Philippines President Rodrigo Duterte blasted the US during a speech in Manila, telling President Barack Obama that he could ‘go to hell’ for refusing to sell the Philippines weapons, which he confirmed he could readily receive from Russia or China.\textsuperscript{175} Duterte claimed that he would ‘break up with America’, and realign his country’s foreign policy.\textsuperscript{176} In this same month, during a visit to China, President Duterte succeeded in securing $24 billion in Chinese trade and investment commitments.\textsuperscript{177} China also offered the Philippines’ military a $500 million loan, with China’s Foreign Minister hailing a ‘golden period of fast development’ between the two.\textsuperscript{178}

This shift in the Philippines’ China policy coincided with a presidential election in the US in late 2016. The election of Donald Trump as US President only served to enhance uncertainty in Southeast Asia over the US’ role in the region, with concerns over whether America would ‘move towards a parochial and even isolationist foreign policy’, for which ‘both sides of the Pacific would have to pay dearly’.\textsuperscript{179} Seeking to allay regional fears, US Secretary of Defence Jim Mattis criticized China’s action in the South China Sea at the Shangri-La Dialogue in Singapore in June 2017, stating ‘artificial island construction and indisputable militarization of facilities on features in international waters undermine regional stability’.\textsuperscript{180} Focusing his attention on China, Mattis stated that Chinese actions differed from other claimant states due to the ‘nature of its militarization … its disregard for international law, its contempt for other nations’ interests, and its efforts to dismiss non-adversarial resolution of issues’.\textsuperscript{181} China responded to say ‘it was resolutely opposed’ to the comments, and urged ‘concerned parties to stop issuing irresponsible remarks’.\textsuperscript{182} The comments came one month before the US sailed a warship less than 12 miles from an island in the Paracels in a freedom of navigation demonstration, something China called ‘a serious political and military provocation’.\textsuperscript{183}

The Duterte Administration’s hope that engagement with China would ameliorate tensions in the South China Sea has largely proved to be unfounded. Despite the brokering of a ‘status quo’ between the two states, with China purportedly agreeing to halt further expansion in the South China Sea, reports from November 2017 suggest that
China has continued to develop facilities in the Paracel Islands, in addition to a military buildup in the Spratly Islands. At the ASEAN Summit held in Manila in November 2017, Duterte confirmed that ‘the South China Sea is better left untouched, nobody can afford to go to war’. In the same month, the Philippines ordered its officials to halt construction of a shelter for Filipino fishermen on a sandbar in disputed waters, following a Chinese complaint that the construction constituted the occupation of a new feature. In the words of one former Filipino marine captain, ‘this is part of Duterte’s strategy of silence, inaction and subservience to China’s actions in the South China Sea’.

Vietnam struggles as sole vanguard state

Meanwhile, Vietnam has been left to face China without its co-vanguard backing, with limited success. In June 2017, China demanded that Vietnam halt drilling by a subsidiary Spanish energy company, Repsol, off the southern Vietnamese coast. Pushing back against Chinese demands, Vietnam’s Foreign Ministry spokeswoman Le Thi Thu Hang stated that ‘Vietnam’s petroleum-related activities take place in the sea entirely under the sovereignty and jurisdiction of Vietnam established in accordance with international law’. This position was not sustainable, however, with China reportedly threatening to attack Vietnamese bases in the Spratlys if it did not halt the drilling. China’s harsh rhetoric paid off, with Vietnam forced to suspend the drilling project. Crucially, the US failed to respond to China’s actions vis-à-vis Vietnam. Indeed, according to Hayton, the reason Vietnam capitulated to China was the realization that ‘the Trump administration could not be relied upon to come to Hanoi’s assistance in the event of a confrontation with China’. This was indicative of a general feeling across Southeast Asia, that ‘the US is not prepared to put skin in the game’, and that the US ‘either does not understand or sufficiently care about the interests of its friends and potential partners in Southeast Asia to protect them against China’. This has ‘left the region drifting in the direction of Beijing’.

Relations with China soured further after Vietnam made an unsuccessful attempt to include a note on the need for a legally binding maritime code of conduct into the ASEAN Foreign Ministers joint communiqué in August 2017. The move infuriated China, which responded by cancelling a planned bilateral meeting. Chinese media accused Vietnam of attempting to ‘sow seeds of discord’, and of being
a ‘thief crying stop thief’.” Recognizing its weak position compared to China, Vietnam has continued to seek external power support from the US, despite uncertainty regarding US commitment following the election of Donald Trump. In an August 2017 meeting between Secretary of Defense Jim Mattis and the Vietnamese Minister of National Defense Ngo Xuan Lich, it was confirmed that the US and Vietnam would deepen defence cooperation, including the expansion of maritime cooperation, and work towards arranging a visit from a US aircraft carrier in 2018, the first such visit since 1975.

Chinese threats have not been solely directed towards Vietnam. In May 2017, prior to Vietnam’s clash with China, Philippines President Rodrigo Duterte referenced a discussion he had with China’s Xi Jinping over oil exploration in disputed waters. According to Duterte, he informed Xi that ‘we intend to drill oil there, if it’s yours, well, that’s your view, but my view is, I can drill the oil’. Xi reportedly responded: ‘we’re friends, we don’t want to quarrel with you, we want to maintain the presence of warm relationship [sic], but if you force the issue, we’ll go to war’. In a damage limitation exercise, the Philippines Foreign Secretary Alan Peter Cayetano released his own interpretation of the meeting, stating ‘I will not contradict the president’s words. I’m just telling you … my interpretation in that meeting is that, there was no bullying, no pushing around. It wasn’t a threat … it was more the threat of conflict will always be there if we do not dialogue’.

The future of interest convergence?

With the Philippines’ sovereignty in the South China Sea still being violated, despite improved relations with China, Duterte has been forced to reconsider his attitude towards the US. In October 2017, the Philippines’ military chief described the US as the Philippines’ ‘number one ally’, and announced a return to regular war games. Duterte is reported to have stated that his dispute with the Obama administration was ‘water under the bridge’, and that the Filipino leader wanted to pursue a closer relationship. Although the Philippines’ military chief also stated that the Philippines would pursue closer defence ties with China, the move remains indicative of what could be a more permanent change in the Philippines’ position.

So far, this has been complicated by a lack of clarity over US intentions towards China and the Southeast Asian region under the Trump Administration. President Trump has oscillated between a
combative stance with China over what he believes to be an unfair trade deficit between the two countries, to a conciliatory approach in the hope that China can pressure North Korea to halt its nuclear weapons programme. In what was undoubtedly an attempt to reassure regional allies, President Trump embarked on a 12-day tour of Asia in November 2017, to include stops at the Philippines and Vietnam. In Manila, Trump hailed his ‘great relationship’ with Duterte. In Vietnam, Trump made reference to the South China Sea dispute, stating that ‘if I can help mediate or arbitrate, please let me know’. This statement came after comments made at an APEC Summit in Vietnam, where Trump referred to China’s ‘territorial expansion’. However, Trump’s decision to skip the East Asia Summit on the final day of the tour will have left other regional allies unsure of US commitment. As Thayer notes, the decision was an ‘act of political vandalism’. Thayer continued: ‘the US claims the US is a resident power, China claims it is an outside power. Trump’s actions will speak louder than his words’.

The Trump Administration articulated a ‘free and open Indo-Pacific’ strategy in early 2018. US Secretary of State Mike Pompeo fleshed out this strategy in an Indo-Pacific Business Forum in July 2018. In doing so, he paid particular attention to defining the strategy’s terms, where ‘free’ was defined as the ability of all regional states ‘to be able to protect their sovereignty from coercion by other countries’, in addition to ‘good governance’ and the maintenance of citizen ‘fundamental rights and liberties’. An ‘open’ strategy was defined as the ability of all states to ‘enjoy open access to seas and airways’, including the ‘peaceful resolution of territorial and maritime disputes’, in addition to ‘fair and reciprocal trade, open investment … and improved connectivity to drive regional ties’. Although the strategy does not name China directly, its focus on maritime security and the protection of state sovereignty leaves little doubt that the policy seeks to directly challenge China’s regional dominance and maritime expansion.

While this strategy to counterbalance Chinese power may come as some consolation to the states of Southeast Asia, other aspects of Trump’s regional policy may prove more unsettling. The strategy’s emphasis on bilateral free trade deals reflects President Trump’s rejection of multilateral coalitions. Under his ‘America First’ policy agenda, he withdrew the US from the TPP trade deal in January 2017, claiming the deal would benefit large corporations at the expense of American workers. This decision came as a blow to the regional states of Southeast Asia, raising questions over US continued commitment to the region. In comments made in April 2018, Singaporean Ambassador Tommy Koh stated that Trump’s trade policies were ‘a concern for
the whole of Asia’, confirming that ‘all of us have benefited from free trade and all of us oppose protectionism so we’re very concerned by the policies of the current administration in Washington’.  

President Trump’s ensuing trade war with China, fuelled by accusations of currency manipulation and unfair trading practices, has only served to exacerbate these concerns. Asian states’ reliance on regional supply chains make them particularly vulnerable to a full-scale trade war. Singapore’s Prime Minister Lee Hsien Loong confirmed that any trade war would have a ‘big, negative impact’ on his country, with growth rates potentially halved. Donald Trump’s subsequent decision to skip the 18-nation ASEAN Summit and APEC East Asia Summit in November 2018 only serves to undermine his strategy for the region. In the words of Oh Ei Sun, senior advisor at the Asian Strategy and Leadership Institute in Kuala Lumpur, Donald Trump’s absence ‘would doubtlessly solidify the impression that America has essentially abandoned its traditional presence in the Asia Pacific, not to mention the non-starter Indo-Pacific’. China will be seeking to capitalize on this absence, with Xi Jinping planning to hold his own summit at APEC with a number of Pacific leaders. President Trump’s trade war has confirmed the view held by many within China that the US seeks to limit its growth and expansion. This was confirmed in the People’s Daily, which reported that the ‘US’ intention to disrupt China’s development process has been thoroughly exposed’.  

For Kaplan, Donald Trump’s trade policies have hindered, rather than helped US security strategy in the South China Sea. He argues that we should not ‘believe for a moment that the US can use trade as a lever against China in the South China Sea, where Beijing has a well-grounded, long-term grand strategy, as opposed to Trump’s zigzagging whims’. The contents of the ‘Indo-Pacific’ strategy suggest that the Trump Administration has finally realized the vital interests at stake in preventing China from securing a fait accompli in the region’s waters. In reality, however, the protectionist and inconsistent nature of the Trump Administration’s policies and actions risk alienating regional allies. As noted by Gupta, ‘without an altogether more wholehearted embrace of the Asia’s ASEAN-centred security multilateralism as well as deeper integration within the Asia-Pacific’s emerging community-style economic order, the US will find itself relegated to the sidelines’. One unintended result would see Southeast Asian states forced to ‘conclude separate understandings with China’, in lieu of a strong commitment from the US.  

Meanwhile, ASEAN’s struggle to coordinate a policy on the South China Sea has revived talks of the need for a legally binding code of
conduct. As Storey notes, ‘more than a decade after it was signed, the DOC has yet to be even partially implemented and most of the claimants have violated the spirit of the agreement through unilateral and provocative actions’. It is for these reasons that ASEAN member states, in conjunction with interested external parties, have pushed for the creation of a legally binding declaration. In August 2017, foreign ministers from Australia, Japan and the US called on ASEAN and China to establish rules that are ‘legally binding, meaningful, effective and consistent with international law’, while they also ‘voiced their strong opposition to coercive unilateral actions that could alter the status quo and increase tensions’. Singapore’s foreign minister Vivian Balakrishnan echoed these sentiments, stating ‘surely when we move into the COC [Code of Conduct], it has got to have some additional or significant legal effect’.

Reports from mid-2017 suggest some progress on a framework for talks on a binding code of conduct. In August 2017, it was announced that ‘the regional bloc was ready to begin “substantive” negotiations on a code of conduct’. However, concerns remain amongst certain ASEAN claimants over the long-term interests China might be trying to secure through a more binding code. It was reported that ASEAN ministers had debated over how to respond to China, ‘with Vietnam said to be strongly resisting an agreement on the framework for a code of conduct as pushed by Beijing’. Although the move to a more binding code could enhance stability, it is important to note that the parties have to date only agreed on a framework to begin negotiations, and there is no clarity on whether this would be a legally binding code, something which China still resists.

**Summary: 2016–present**

Since 2016, Southeast Asia has been in flux. Changing administrations in the Philippines and the US have contributed towards a changing China and South China Sea policy, with the Duterte administration preferring a policy of engagement with China, and the Trump administration seeking to cooperate with China on matters on the Korean peninsula. As a consequence, sovereignty disputes in the South China Sea have taken a backseat, something that has allowed China to continue its provocative actions in the region. Crucially, this lack of strong interest convergence between the US and the Philippines has caused the latter to continue to have its maritime sovereignty violated. Vietnam has had little success in resisting China on its own,
and has received minimal backing from other members of ASEAN, which has remained divided. Evidence therefore suggests a lack of intra-ASEAN and external power interest convergence from the 2016 period onwards.

While it might be tempting to abandon vanguard state theory in this instance, events towards the end of 2017 suggest its continued utility. As China has continued to pursue its own interests in the region, at the expense of US and Filipino domestic policies, President Trump and Duterte have perhaps began to recognize the significance of the South China Sea as a domain where they too have vital interests to secure. With ASEAN making small, albeit limited, steps towards further negotiations on a DOC, and the Philippines, Vietnam and the US engaging in further cooperation, the vanguard states of Southeast Asia may well yet be able to resist violations to their sovereignty from an assertive China. What is clear, is that without this intra-ASEAN and external power interest convergence, the Philippines and Vietnam will continue to have their sovereignty violated.

**Theoretical assessment of the South China Sea dispute: interest convergence theory**

The South China Sea case is an example of ASEAN vanguard state-external power partial interest convergence. The Philippines and Vietnam, as the ASEAN states with the most compelling interest at stake in the South China Sea dispute, have increasingly had their sovereignty violated by an expansionist China since 1992. This has undoubtedly constituted a regional threat. The states have struggled to generate interest convergence, either with a powerful external actor with the capability to help prevent this sovereignty violation, or from regional neighbouring states. As this analysis has shown, it was not until 2012 that the US recognized the vital interests it had at stake in the South China Sea dispute, and was willing to act upon them to support the ASEAN vanguard states. ASEAN’s preference for dialogue and confidence-building measures, and its inability to prevent China from using the Association to serve its own best interests, has left it fragmented and unable to mobilize support for its member states under threat.

From 2012 onwards, the ASEAN vanguard states actively sought great power security commitments from an increasingly engaged US. As Cruz De Castro confirms, ‘confronted by China’s preponderant economic and military power, the Philippines and Vietnam have
no other recourse but to pursue a regional balance of power where
the US remains a resident Pacific power and a major 21st century
strategic player". By engaging in such balancing behaviour, these
small powers have hoped to ‘win asymmetric conflicts’, and ‘affect the
regional power equilibrium as they engage other powers outside of the
system’. As momentum grew throughout 2015 and 2016, it seemed
that the region was on the brink of a shift in power dynamics. Clearly,
there existed symmetry of interests at this time. The US recognized
in the Philippines and Vietnam like-minded states, hoping to curtail
Chinese assertiveness in the South China Sea. If this ASEAN vanguard
state-external power interest convergence had been able to continue,
it is feasible that steps might have been taken to prevent any further
ASEAN state sovereignty violation. As it stands, the growing interest
convergence evident at this time was partial at best. Low levels of
ASEAN support for the Philippines and Vietnam compounded this. As
noted by Beeson, ‘competing geo-political imperatives’228 have caused
divisions amongst ASEAN, which as a result has left it struggling
to maintain ‘a sense of unity or collective purpose’,229 with ‘an
effective, coherent, consistent and collective response to the challenge
of China … likely to prove beyond ASEAN’s abilities’.230 This has
left the Philippines ‘especially exercised about ASEAN’s inability to
demonstrate solidarity in the face of a looming external threat from a
much more powerful state’.

A change of administrations in the Philippines and the US from 2016
onwards has served to derail this partial interest convergence. This
period has seen a decrease in interest convergence, as these states have
sought to secure varying regional interests. According to Heydarian,
because President Duterte, ‘is constitutionally the Philippines’ chief
diplomatic architect’, his election ‘represented nothing less than a
volte-face for Philippines foreign policy’.232 The analysis presented
here, while acknowledging the impact that domestic politics can play
in such instances, shows that, whereas Duterte and Trump may well
have initially sought to push their own nationalist agenda, systemic
constraints imposed by the international system have increasingly
prevented them from doing so. China, as a rising power, has continued
to occupy and militarize territory also claimed by the Philippines. It
has done so at the expense of US and Filipino preoccupation with
domestic politics. Until the US and the Philippines recognize this
fact, the argument presented here is that maritime sovereignty will
continue to be violated.

For the purpose of this chapter, the Philippines and Vietnam are
the ASEAN vanguard states, and the US the external power. This
is not to say that there are not other interested parties to the South China Sea sovereignty dispute. The question might be raised as to why Malaysia and Brunei are not classed as vanguard states, in light of their own conflicting sovereignty claims with China. However, Malaysia and Brunei have pursued a different approach to territorial disputes with China. For Storey, ‘Malaysia and Brunei’s relatively relaxed positions over the South China Sea is partly due to cordial political ties and partly because of the luxury of distance from China compared to Vietnam and the Philippines’. As such, they can not be classed as vanguard states in this instance.

It is also true that external states such as Japan, India and Australia have their own interests in the region, and have lent economic and military support to the vanguard states accordingly. Despite a downturn in relations with the US, the Philippines ‘continued its comprehensive engagement’ with Japan, including a Philippine-Japan security partnership, maritime security cooperation, and the provision to the Philippines of Japanese military equipment and training. Japan has also sought to internationalize the dispute, particularly at multilateral forums, to enhance cooperation and capacity building with affected ASEAN states, and to coordinate policy with external powers such as the US, Australia and India. Vietnam has strengthened its defence relationship with India, including joint oil exploration, and the two elevated their relationship to that of a comprehensive strategic partnership in 2016. Undoubtedly, these regional states have an important role to play in the ASEAN vanguard state strategy to balance China in the South China Sea. However, these external states do not have the necessary power to balance China alone. Any effective counterbalance strategy requires the US, as the dominant power in the international system. As a Pacific power, the US has compelling interests at stake in preventing China from achieving regional dominance. However, until the US recognizes this, interest convergence and ASEAN resistance to sovereignty violation will remain elusive.

**Contrasting theoretical arguments**

All constructivist authors concede that the South China Sea dispute has tested ASEAN’s norms. For Ba, the South China Sea dispute ‘would in fact become the defining issue of ASEAN–China relations in the 1990s’. Similarly, Haacke argues that China, in seeking to enforce its territorial claims, has appeared to challenge ASEAN’s norms on
the non-use of force and restraint. Acharya admits that the South China Sea dispute ‘posed a serious test of ASEAN’s unity and its norms concerning the peaceful settlement of disputes’. However, all authors still contend that ASEAN has upheld its norms and maintained its autonomy. For Haacke, China has ‘incrementally allowed discussions on the Spratlys to deepen’, and ASEAN has ‘succeeded in allaying the remaining fears of the Chinese about the purpose of ASEAN’s multilateral venture[s]’. For Ba, ASEAN rejected traditional alliances and security arrangements when confronted by China’s challenge to ASEAN on the South China Sea dispute. Success has accompanied ASEAN’s focus on socializing China through an enhanced security dialogue based on existing ASEAN frameworks, notably the ASEAN Regional Forum. Indeed, Acharya states that since the mid-1990s, China began ‘to take a more supportive role in multilateralism and the ARF’. Specifically, ‘ASEAN was able to secure an agreement from Beijing to conduct Sino–ASEAN multilateral consultations on security issues’. In this view, ‘China has come to acknowledge the usefulness of the ARF as the only multilateral venue available to it where it can discuss and share its security concerns and approach with Asia–Pacific countries’. Accordingly, ASEAN can also ‘claim some success in dealing with China on the Spratlys issue’.

The foregoing claims are difficult to reconcile with the actual record of Sino–ASEAN interaction on the South China Sea issue. ASEAN’s multilateral diplomacy at the ARF and related ASEAN fora has consistently failed to make substantive headway on the dispute. Instead of ASEAN’s norms socializing China, or enhancing regional unity, China has succeeded in dividing the ASEAN states and advancing its position in the South China Sea. Significantly, in 2012, the ASEAN states were unable to reach an agreement on the South China Sea, and failed to issue a joint communiqué for the first time in ASEAN’s history. More importantly, ASEAN’s maritime sovereignty continues to be violated by China. To counter this, regional states have increasingly sought external power security guarantees, most notably from the US. This leads us to examine other perspectives to explain ASEAN’s record on regional autonomy.

Realist scholars take a very different view of ASEAN’s regional autonomy. According to Leifer, the ASEAN aphorism of ‘regional solutions for regional problems’ is more ‘a slogan serving a particular interest than an operational policy accepted and applied on a regional basis in any common interest’. In this view, the underlying behaviour of ASEAN actually conforms to the realist power-politics model. According to Jones, Khoo and Smith, the ‘actual resolution of the
South China Sea dispute remained stalemated in the ARF’s preferred strategy of managing problems rather than solving them. This stalemate ‘serves China’s rather than ASEAN’s long-term strategic interest’. Rather than pursuing cooperative security through the ARF, there has been a ‘classic recourse to hedging by weaker ASEAN states in an area of growing great power rivalry’. The dispute therefore demonstrates ‘how more powerful actors can manipulate ASEAN’s pliable norms to advance grand strategic interests’.

For Leifer, a major problem is that in addition to a ‘lack of political will’ to resolve the dispute, there is an ‘absence of any regional machinery for addressing the complex contention’ in the South China Sea. Leifer argues that the South China Sea issue ‘is symptomatic of the problem of regional order in a strategically-fused East and South East Asia, which lacks a security architecture’. Ultimately, Leifer doubts ASEAN’s capability to effectively deal with the South China Sea dispute. Instead, ‘the role of the US remains critical’. In this view, ‘regional security would seem to require that such countervailing power, if it cannot be generated locally on a cooperative basis, should be available from an acceptable external source for which there is only one candidate’.

Realist scholars offer a strong counter-argument to the constructivist view. ASEAN regional institutions have demonstrably been incapable of resolving the South China Sea dispute. Instead, China has succeeded in dividing the ASEAN states, and utilizing the existing institutional incoherence for its strategic advantage. These analysts’ emphasis on the role of an external actor, the US, is indeed a necessary one. China’s gains in the South China Sea have been predicated on an insufficiently robust US response. However, while the role of external powers remains a critical factor in the story, the fact is that regional states possess a greater capacity to secure their own interests than has been acknowledged by the realists cited previously. In theoretical terms, ASEAN states have greater autonomy, and hence state power, than they currently allow for. As this analysis shows, particularly in the post-2013 period, the Philippines and Vietnam actively sought, and partially secured, security commitments from the US, and a variety of external powers including Japan and India. This aspect of regional dynamics requires further theorizing.

Jones advances a perspective where regional autonomy is highly circumscribed, but in ways that depart from the realist understanding. For Jones, external ‘intervention and the non-interference principle can be explained as the outcome of struggles between and within ASEAN’s most powerful social forces’. However, this perspective
appears unable to adequately account for the empirical record of Sino–ASEAN South China Sea interactions. In two important respects, the South China Sea dispute represents a challenge to the view that sovereignty is contingent upon the role of ASEAN domestic forces. First, the dispute involves key external powers, most notably China and the US. The interaction of these states with regional powers is integral to any analysis of the conflict. Second, it is not clear what impact, if any, ASEAN domestic groups have had on the conflict, with Jones’ work omitting any discussion of the dispute. This raises questions about the relevance of the critical theory approach to an analysis of this central issue in ASEAN’s post-Cold War international relations.

Notes
1 Content from this chapter originally co-authored with Nicholas Khoo, and published in Journal of Asian Security and International Affairs, Vol. 3 No. 2. Copyright 2016 © SAGE Publications India Private Limited, New Delhi. All rights reserved. Reproduced with the permission of the copyright holders and the publishers, SAGE Publications India Pvt. Ltd, New Delhi.
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