

South China Sea: Contribution of 2nd Track Diplomacy/Workshop Process to Progressive Development of Regional Peace and Cooperation.

By:

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1. South China Sea Workshop Process: **Some Backgrounds:**
 - There were already armed conflicts between China and Vietnam before 1990
 - There were a number of bilateral, trilateral, and multilateral territorial disputes.
 - There was rush to seek resources, either living or non-living/minerals.
 - Some historical confrontation and conflicts between the countries in the area, including between China and Southeast Asia.
 - The interest of outside powers on South China Sea, particularly in terms of navigation and over flight.

2. **Indonesian Position;**
 - Indonesia borders on the South China Sea but not a participant in the multiple disputes over Spratly Islands group.
 - In the 1980's Indonesia was worried that the South China Sea may become new flash points of conflicts in the area that may affect peace and stability in Southeast Asia.
 - At that time ASEAN did not have any perspective on the South China Sea. In fact, there are a lot of disputes between the ASEAN countries themselves.
 - At that time ASEAN did not yet include Indochina (Cambodia, Laos, and Vietnam).

3. **Indonesian informal initiatives:**
 - In view of difficulties in taking formal initiative, I traveled across the other 5 ASEAN countries at that time to discuss what could be done. I found out that :
 - Practically everybody thought that we should do something.
 - There was apprehension that territorial disputes could pose major difficulties in developing cooperative efforts.
 - It would be better if the approach was informal, at least at the initial stage.

4. In attempting to manage the potential conflicts in the South China Sea, I developed 3 objectives:
 - To **device cooperative programs** in which everyone could participate, no matter how small or insignificant it may appear in the beginning.
 - **Promote confidence building** process.
 - **Encourage dialogue** between the parties to seek solutions to their problems.

5. There are important basis for cooperation under UNCLOS 1982, regarding "enclosed and semi-enclosed seas" like the South China Sea, particularly in Article 122 and 123.

6. Article 122 defines enclosed or semi-enclosed sea as "a gulf, basin or sea **surrounded by two or more States** and connected to another sea or the ocean by a narrow outlet **or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States**".

7. Furthermore, Article 123 stipulates that "States bordering an enclosed or semi-enclosed sea should co-operate with each other in the exercise of their rights and in the performance of their duties under this Convention. To this end they shall endeavour, directly or through an appropriate regional organization":
 - To coordinate the management, conservation, exploration, and exploration of the **living resources** of the sea;
 - To co-ordinate the implementation of their rights and duties with respect to the **protection and preservation of the marine environment**;
 - To co-ordinate their **scientific research policies** and undertake where appropriate **joint programs of scientific research in the area**;
 - To **invite**, as appropriate, **other interested States or international organizations to cooperate with them** in furtherance of the provisions of this article.

8. Seeking cooperative programs:

- a. The first meeting of the workshop in 1990 (in Bali) was attended only by the Six ASEAN Countries.
 - b. I devised six topics for discussion, on which each ASEAN country was requested to take the lead;
 - Territorial and sovereignty issues: Malaysia
 - Political and security issues: Singapore.
 - MSR and environmental protection: Indonesia.
 - Safety of navigation: -Philippines
 - Resources management : Thailand
 - Institutional mechanism for cooperation: Brunei Darussalam
9. In the subsequent meetings of the workshop, we were able to bring in China, Taiwan (Chinese Taipei), Vietnam, Laos, and Cambodia, particularly after the achievement of peace in Cambodia, and the entry of the Indochinese countries into ASEAN.
10. The workshop process has continued annually in Indonesia since 1990. In addition, the workshop process also worked through various Technical Working Groups (TWG's) and Group of Expert Meeting (GMS) and Study Groups (SG) in various places around the South China Sea Area, hosted by their respective countries.
11. There are five TWG's, namely on (1) Marine Scientific Research, (2) Resource Assessment, (3) Marine Environmental Protection, (4) Safety of Navigation, Shipping and Communication, and (5) on Legal Matters.
12. The cooperation on MSR is perhaps the most advance, particularly after the bio- diversity expedition around Anambas Islands in 2002 during which scientist from all participating authorities took part and they discovered a number of species previously unknown. Similar biodiversity expedition had also taken place around Palawan Islands, although the Philippines turned it into track one activity later on. We hope that similar expeditions could and would take place in other parts of the South China Sea, particularly in the Northeast, Northwest, and in the Central Part of the South China Sea.
13. Now we are actively preparing and developing cooperation on how to deal with sea level rise as the result of global climatic change. At the same time, I also hope that we will see in the days ahead the implementation of the various programs by the relevant authorities that we have discussed and agreed through the years in the various TWGs and SGs
14. During the 18th Workshop in Menado in November 2008, China and Chinese Taipei agreed for the first time to submit a joint proposal before the next meeting (November 2009) combining the Chinese concept on Education, Training Course and Exchange of Marine Science and Technology in the South China Sea, and the Chinese Taipei proposal on "Southeast Asia Network for Education (SEA – ONE)". The Joint proposal was submitted during the 19th Workshop (2009) in Makassar last year, thus becomes another milestone in building up peace and cooperation in the South China Sea.
15. **The 19th Workshop** approved the joint proposal, consisting of two parts, namely for 2010 to be carried out by Chinese Taipei, costing it by sum USD 115.000, and the second part to be carried out by China in 2011, costing it about USD 103.000. The Taipei program has been implemented in 2010 and the Chinese Taipei has reported on the implementation of the program at the 20th Workshop in Bandung (November 2010). The China program has been implemented this year and we are looking for China to report on this program at the next 21st workshop planned to takes place in Solo in November 2011.
- 16. Confidence building process:**
- a. After several meetings, discussion on **territorial and sovereignty issues** as well as on **political and security issues** have stalled, mainly because of the reluctant of the parties to go on. Yet, the discussions have brought better understanding of the problems involved.

- b. Discussion on **confidence building** had also brought some results:
 - No major expansion of military presence in the disputed area recently.
 - No major occupation of the reefs and the banks.
 - It appears that more contact and transparency have developed between the authorities concerned.
 - More **code of conducts** between the parties have developed, such as:
 - The China-Philippines code of conduct (1995)
 - Vietnam-Philippines code of conduct (1997)
 - ASEAN-China Declaration of conduct (2002)

17. **Encouragement of Dialogue** between the parties had also resulted in some developments, such as:
- China-Vietnam delimitation agreement in the Gulf of Tonkin/Beibu (2002)
 - Some joint development/cooperation, such as between Malaysia with Thailand, and Malaysia with Vietnam; and China and Vietnam in the Gulf of Tonkin on fisheries.
 - Indonesia-Vietnam agreement on Continental Shelf delimitation.
 - Indonesia-Singapore territorial sea delimitation in the Western part of Singapore Strait

18. The South China Sea Workshop process was supported by CIDA through the University of British Columbia in Vancouver for 10 years. Now the workshop process continues on its own, supported by all the participants. Certain participants who financially can not attend meetings, are supported by **Special Fund** which was established by voluntary contributions from the participants. China, Chinese Taipei, and Vietnam have been the major contributors to the Special Fund, and Indonesia has been constantly contributing to the local costs of organizing and implementing the workshop meetings.

19. **Some lessons for 2nd track diplomacy/informal process:**

- Some conditions are necessary for successful efforts:
 - Realization by the parties that the outbreak of conflicts will not settle the disputes and therefore will not be in their interests.
 - The existence of political will to seek and solve the problems peacefully.
 - Not galvanizing public opinions so much, or legislating the claims, because they may solidify positions rather than enabling compromise or solution to take place.
 - Need for transparencies in national policy and legislations.
- Some basic principles:
 - Use an all inclusive approach. It was not easy before to bring China and Chinese Taipei into the same room for the meeting on the South China Sea.
 - Start with less sensitive issues.
 - Involve senior government officials as much as possible, albeit in their private capacity.
 - The process should be flexible and do not necessarily being institutionalized through strict legal procedure and organization.
 - Do not magnify differences but emphasize similarities.
 - Follow step by step approach, perhaps begins with technical issues.
 - Lack of immediate results should not be cause for despair.
 - Keep the objective simple.
 - The roles of initiator or conveners are important.

20. **In conclusion**, after many years of managing potential conflicts in the SCS, now **the spirit of cooperation has emerged in the area**. Despite some incidents in 2011, there has been no major eruption of conflicts or armed conflicts since 1988. In fact, the friendly relations between China and the Southeast Asian Countries have developed considerably. I notice that after some incidents between the Philippines and China, and between Vietnam and China recently in the South China Sea, the leader of the 3 countries appear to have met efforts to calm-down the situation. I hope that this dialogue procedure would continue. It should be noted, however, that cooperation on technical and scientific matters are relatively easier to achieve, than solving political, territorial or jurisdictional issue. **Yet, the prospects for conflicts in the SCS continue to exist in the future if the countries concerned do not persist in managing them carefully. Therefore, the informal**

efforts to manage potential conflicts in the South China Sea should continue, while the formal efforts by the countries concerned to settle bilateral issues should also be encouraged.

21. Last year, we celebrated the 20th anniversary of the Workshop process. I am personally very grateful to all participants who have been able to work together cooperatively all these years for the benefit of all of us, thus created and developed a sense of “community” among all of us and have patiently developed the habit of cooperation rather than the habit of confrontation. I hope that this sense and spirit will further develop in the years ahead for the benefit of all of us
22. I am also happy to note that **more attention has been given to the informal initiative on the South China Sea issues by more research centers and academic groups in the area** such as in China, Vietnam, Malaysia, Singapore, Chinese Taipei, Philippines and others. In addition, **more informal and academic groups around the world have also paid attention to the Workshop informal efforts to develop cooperative program, confidence building process as well dialogue between the parties**, and try to emulate them for their own area. **Many encouraging statements have been made by various regional and international institutions and by academic and political leaders** regarding the workshop process. In fact, the Center for Ocean Law and Policy (COLP) at the University of Virginia sent me a letter a few years ago indicating that in their views **the South China Sea Workshop Process should be given a Nobel Peace Prize** for its efforts in Managing Potential Conflicts in the South China Sea. The Government of Indonesia had also recommended to the ASEAN Foundation some year ago that the Workshop Process should be given an **ASEAN Foundation Award**. Other governments and institutions have also offered some supports to the informal process.
23. Finally, it appears to me that the 2nd track diplomacy or informal process, either by academic groups such as this meeting or by officials meeting in their private capacities, could contribute significantly to managing potential conflicts, and thus contribute to the Progressive Development of Regional Peace and Cooperation.