SOUTH CHINA SEA: INDONESIAN ROLE OVER THE CONTESTED ISLANDS (2009 – 2012)

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PANEL OF EXAMINERS
APPROVAL SHEET

The Panel of Examiners declare that the thesis entitled “South China Sea: Indonesian Role over the Contested Islands” that was submitted by Aderina Tririzky majoring in International Relations from the Faculty of Business and International Relations was assessed and approved to have passed the Oral Examinations on February, 18th 2013

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DECLARATION OF ORIGINALITY

I declare that this thesis, entitled “SOUTH CHINA SEA: INDONESIAN ROLE OVER THE CONTESTED ISLANDS (2009 – 2012)” is, to the best of my knowledge and belief, an original piece of work that has not been submitted, either in whole or in part, to another university to obtain a degree.

Cikarang, Indonesia, 30 January, 2013

Aderina Tririzky
South China Sea dispute is involving six countries from different region. Four of the claimants are ASEAN member states: Brunei, Malaysia, Vietnam, and the Philippines; two of the claimants are non-ASEAN member states: China and Taiwan. Those claimants are contested Spratly and Paracel Islands located in the South China Sea. The two islands are being contested because rich of oil and gas which can be used for each claimants’ interests.

Indonesia played a crucial role in ensuring peace and stability in the ASEAN region. Indonesia became a facilitator between the claimants through many ways. Indonesia has been conducting “Workshop on Managing Potential Conflicts in the South China Sea” annually since 1990. The initiative of this workshop is the Ambassador Dr. Hasjim Djalal. Indonesia has also been succeeded in conducting “shuttle diplomacy” to the consolidate claimants.

This thesis is using qualitative method and descriptive research. The writer is using case study strategy to analyze the South China Sea dispute. The data was conducted as primary and secondary sources. Primary sources are the data comes from speeches or official documents related to the issue. While secondary sources are the data which conducted from newspapers, magazines, and websites related to the issue.

This thesis aims to learn the Indonesian ways in conducting diplomacy to other country. Besides in this thesis, we can also know that Indonesia is succeed in maintaining ASEAN regional stability through become a facilitator between all the claimants.

Keywords: South China Sea, Indonesia, Spratly Islands, Paracel Islands, ASEAN, and regional stability.
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Jakarta, 30 January 2013

Aderina Tririzky
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<th>Full Form</th>
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<tbody>
<tr>
<td>AMM</td>
<td>ASEAN Ministers Meeting</td>
</tr>
<tr>
<td>ARF</td>
<td>ASEAN Regional Forum</td>
</tr>
<tr>
<td>ASEAN</td>
<td>Association of Southeast Asia Nations</td>
</tr>
<tr>
<td>ASEAN PMC+1</td>
<td>ASEAN Post-Ministerial Conference</td>
</tr>
<tr>
<td>bcm</td>
<td>Billion Cubic Metres</td>
</tr>
<tr>
<td>COC</td>
<td>Code of Conduct</td>
</tr>
<tr>
<td>CBMs</td>
<td>Conflict-Building Measures</td>
</tr>
<tr>
<td>DOC</td>
<td>Declaration of Conduct</td>
</tr>
<tr>
<td>EEZ</td>
<td>Exclusive Economic Zone</td>
</tr>
<tr>
<td>SCS</td>
<td>South China Sea</td>
</tr>
<tr>
<td>SEA-NET</td>
<td>Southeast Asia Network for Education and Training</td>
</tr>
<tr>
<td>SSRFAB</td>
<td>South Sea Region Fisheries Administration Bureau</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>USA</td>
<td>United States of America</td>
</tr>
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</table>
CHAPTER I
INTRODUCTION

1.1 Background of The Study

International Relations become more interest recently since it covers plenty objectives within international affairs. There are several actors in international relations namely states, transnational corporations, financial institutions, political-military organizations, social and cultural movements, and great variety of non-governmental groups with special-interest agendas\(^1\). One of the most influential actors among other is states. A state may be defined as a clear-cut and bordered territory, with a permanent population, under the jurisdiction of supreme government that is constitutionally independent of all foreign governments: a sovereign state. States are independent of each other, at least legally: they have sovereignty. But that does not mean they are isolated or insulated from each other. On the contrary, they adjoin each other and affect each other and must therefore somehow find ways to coexist and to deal with each other.\(^2\)

In people’s life, dispute, or usually called conflict, is always happened. It is not only happened between people, but also between states. The example of conflict between people is conflict about the opinion differences while the example of conflict between states is Indonesia and Malaysia on Ambalat case\(^3\). Conflict as a phenomenon will never be absent in the constellation of

international politic as long as there is an interaction between countries in the world along with differences which could triggered conflict. Conflict occurs because of the differences of opinion or interest between two or more parties which interacted. In the international world, conflict not only involving one or two countries, but it involves many countries and the international community.

In these days, the conflict phenomenon still happening and developed not only between individual, but also in the inter-state level (domestic, regional, and global). The field coverage is also spreading into the ethnic, religion, region, politic, economy, technology, and military competition. The ongoing conflict in the world is not a new thing in the lives of international actors, because the term conflict has existed since then and appeared in international life. It means that the pattern of relationships that exist in this world does not always reveal the existence of a harmony. The statement above clearly describes the dispute in the South China Sea. The root of conflict came from the desire to dominate a region, South China Sea, which claimed by six countries until finally there is an overlapping conflict in claiming the region which known have the potential of resources and become the second world largest trade route.

The South China Sea (SCS) issue is a sample of dispute in International Relations which involve six countries: China, Taiwan, Vietnam, the Philippines, Brunei, and Malaysia; which contesting two groups of islands, the Paracel and Spratly Islands. The South China Sea dispute involves some of ASEAN members, such as Brunei, Malaysia, the Philippines, and Vietnam. Geographically, the South China Sea encompasses a portion of the Pacific Ocean stretching roughly from Singapore and the Strait of Malacca in the southwest, to the Strait of Taiwan (between Taiwan and China) in the northeast. The area includes more than 200 small islands, rocks, and reefs, with the majority located in the Paracel and Spratly Island chains. The Spratlys links the Pacific Ocean and the Indian Ocean.

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5 Taiwan, based on international recognition, is not a country. However, considering its international role in various regional and international organizations, for analytical reason, this research finds that Taiwan can be consider as country
South China Sea is an important ocean with a huge potential because it contains petroleum and natural gas and also rich of fishery resources. Most importantly, South China Sea is a vital sea-lane, by far the shortest route from the North Pacific Ocean to the Indian Ocean. It is the world’s second busiest international sea-lane, and well over half of the world’s petroleum-bearing traffic passes through its waters. Over half of the tonnage shipped through the sea is crude oil from the Gulf, destined for East Asia. The features in the South China Sea are grouped into three archipelagos; the Spratly Islands, the Paracel Islands, the Pratas Islands; Macclesfield Bank and Scarborough Shoal.

The island territories of the South China Sea are not all concerned by the current disputes, which relate to only two archipelagos, the Paracel and Spratly Islands. While actually other archipelagos, the Pratas Islands, Macclesfield Bank, and Scarborough Shoal, are also contested by several countries, but the tension is not as high as two other islands, the Paracel and Spratly Islands. Those claimants are only contesting Paracels and Spratlys because it is predicted have rich resources on oil and gas, according to some scholars. Those six claimants have their own perspective about the islands’ claim.

The South China Sea dispute has been going for decades since 1947 when China published its map on the South China Sea claims. This dispute which involved several countries has impacted not only the Asia continental, but also the entire world. The claimants have different claim background on the South China Sea islands. China, the major power in the South China Sea, claimed all of the islands. China issued a map detailing its claims. It was first appeared in “South Sea Islands Location Map” released by the Chinese government in February 1948.

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8 China’s Sovereignty over South China Sea Indisputable. Retrieved on 28th January 2013 from http://www.china.org.cn/opinion/2012-05/23/content_25454569.htm
Figure 1.1 China’s Nine-dotted Line

The nine-dotted line, U-shape line, or nine-dash map (literally, "Nine division lines of the South China Sea") refers to the demarcation line used by China for its claim to the South China Sea, an area including the Spratly Islands\(^9\), Pratas Islands\(^10\), Macclesfield Bank\(^11\), James Shoal, Paracel Islands\(^12\), and Scarborough Shoal\(^13,14\). In March 2008, Zheng Zhenhua, a Senior Chinese diplomat stated that:

“The dotted line of the South China Sea indicates the sovereignty of China over the islands in the South China Sea since ancient times and demonstrates the long-standing claims and jurisdiction practice over the waters of the South China Sea”\(^15\)

As stated above the China’s nine-dotted line of the South China Sea is clearly shows the claims of China in the South China Sea since ancient times. The China’s historic claims to the South China Sea is officially drawn in 1947 by the then–Chinese Nationalist Government, which was originally an "eleven-dotted-line". After the Communist Party of China took over mainland China and formed the People's Republic of China in 1949, the line was adopted and revised to nine

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\(^9\) Xisha, according to Chinese name

\(^10\) Dongsha Islands, according to Chinese name

\(^11\) Zhongsha Islands, according to Chinese name

\(^12\) Nansha Islands, according to Chinese name

\(^13\) Huangyan Islands, according to Chinese name


as endorsed by Zhou Enlai. The line, which has been called a “traditional maritime boundary line”, encloses the main island features of the South China Sea: the Pratas Islands, the Paracel Islands, the Macclesfield Bank, and the Spratly Islands\(^{16}\).

Vietnam also claims all of the islands territories. Vietnam was disagreeing with Beijing's opinion and considers that Spratly and Paracel Islands are parts of Vietnam's sovereignty since 17\(^{th}\) century\(^{17}\). In its development, Vietnam does not recognize the territorial sovereignty of China in that region, so by the end of World War II Paracel Islands occupied by southern Vietnam, including several remote islands in the Spratly Islands. The Phillipines occupy some remote islands in the eastern Spratly Islands, which called “kelayaan”, since 1971 and Panata islands in 1978. The reason of why the Philippines occupied those regions is because no one claimed those regions. The Philippines statement is referring to San Fransisco peace agreement 1951 about the waiver of Japan on the Spratly Islands. Malaysia was also claimed several remote islands in the Spratly Islands based on its continental shelf boundary map in 1979. Brunei which got its independence from England on January 1\(^{st}\), 1984 was only claimed the water not the remote islands in those two groups of islands\(^{18}\).


Table 1.1 Claims by Country

<table>
<thead>
<tr>
<th>Country</th>
<th>South China Sea</th>
<th>Spratly Islands</th>
<th>Paracel Islands</th>
<th>Gulf of Thailand</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brunei</td>
<td>UNCLOS</td>
<td>No formal claim</td>
<td>No</td>
<td>n/a</td>
</tr>
<tr>
<td>Cambodia</td>
<td>(n/a)</td>
<td>n/a</td>
<td>n/a</td>
<td>UNCLOS</td>
</tr>
<tr>
<td>China</td>
<td>All*</td>
<td>All</td>
<td>All</td>
<td>n/a</td>
</tr>
<tr>
<td>Indonesia</td>
<td>UNCLOS</td>
<td>No</td>
<td>No</td>
<td>n/a</td>
</tr>
<tr>
<td>Malaysia</td>
<td>UNCLOS</td>
<td>3 islands</td>
<td>No</td>
<td>UNCLOS</td>
</tr>
<tr>
<td>Philippines</td>
<td>Significant portions</td>
<td>8 islands</td>
<td>No</td>
<td>n/a</td>
</tr>
<tr>
<td>Taiwan</td>
<td>All*</td>
<td>All</td>
<td>All</td>
<td>n/a</td>
</tr>
<tr>
<td>Thailand</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>UNCLOS</td>
</tr>
<tr>
<td>Vietnam</td>
<td>All*</td>
<td>All</td>
<td>All</td>
<td>UNCLOS</td>
</tr>
</tbody>
</table>


n/a = not applicable

*excluding buffer zone along littoral states (calculations for buffer unknown)


As shown above, the Spratlys are claimed in total by China, Vietnam, and Taiwan, whereas Malaysia laid claim to parts of the continental shelf underlying the southernmost islands in the chain. Indeed, ownership of virtually all of the
South China Sea is contested. The disputed islands in the South China Sea assumed importance only after it was disclosed that they were near the potential sites of substantial offshore oil deposits\textsuperscript{19}. Those claimants have their own national interest in context of the sources of Paracel and Spratly Islands. According to Hans Morgenthau

\begin{quote}
“Realism believes interest, the essential concept and defined as power, is an objective category of universal application, but it does not give the concept a permanently fixed meaning. The concept of interest is actually the essence of politics, which is not affected by time and space”\textsuperscript{20}
\end{quote}

All in all, interest is the ubiquitous objective reality in human society. National interest is the sum total of a sovereign nation’s demands for survival and development in international relationship framework. In other words, it is the sum total of a sovereign nation’s demands for its materialistic and spiritual survival and development in the competition of international relations\textsuperscript{21}.

Though Indonesia does not a claimant, but Indonesia assume that the South China Sea is an important route, since it is become one of Indonesia export – import routes. It makes Indonesia become such a facilitator between the disputants to maintain the effect of the South China Sea dispute to the regional stability in the Southeast Asia. The Indonesian role in South China Sea dispute based on its foreign policy entitled “bebas-aktif” or independent and active foreign policy. The principles underlying Indonesia’s foreign policy were expounded for the first time by Mohammad Hatta on September 2, 1948 at Yogyakarta in Central Java. He once stated

\begin{quote}
“The Government is of the firm opinion that the best policy to adopt is one which does not make us the object of an international conflict. On the contrary, we must remain the subject who reserves the right to decide our own destiny and fight for our own goal, which is independence for the whole of Indonesia”\textsuperscript{22}
\end{quote}

The above statement was an indication of the policy, Indonesia would take in international relations, which later became known as “mendayung antara dua karang” or rowing between two reefs.

\textsuperscript{19} Spratly Islands Conflicting Claims. Revealed on 26\textsuperscript{th} October 2012 from http://www.globalsecurity.org/military/world/war/spratly-conflict.htm
\textsuperscript{22} Hatta, Mohammad (1976). Mendayung antara Dua Karang.
Indonesia’s foreign policy is independent and active foreign policy. The policy is independent because Indonesia does not side with world powers. The foreign policy is active to the extent that Indonesia does not maintain a passive or reactive stand on international issues but seeks active participation in their settlement. In other words, Indonesia’s independent and active policy is not a neutral policy, but it is one that does not align Indonesia with the super powers nor does it bind the country to any military pact.\(^{23}\)

The Indonesian foreign policy becomes a basic principle in its role on South China Sea dispute. Indonesia became a facilitator in South China Sea dispute. In fact, Indonesia had been involved in this dispute since 1990s. Indonesia through its former Foreign Minister, Dr. Hassan Wirajuda, considers itself as a successful facilitator for South China Sea dispute.\(^{24}\) Indonesia does not have any claim in the South China Sea, but Indonesia felt the need to be a facilitator in this dispute because through the involvement of four ASEAN member states, causing the disruption of the stability and resilience of ASEAN. Indonesia was succeeded in conducting its diplomacy through “shuttle diplomacy”.\(^{25}\)

In July 2012, the 45th ASEAN Foreign Ministers Meeting held in Phnom Penh failed to publish the Joint Communiqué for the first time in the history of ASEAN due to diverging opinions on the South China Sea issue. President Yudhoyono directed foreign minister Marty Natalegawa to immediately engage in conducting diplomacy. Marty embarked on a 36-hour “shuttle diplomacy tour” to the Philippines, Vietnam, Cambodia, Malaysia and Singapore, and preserved the solidarity of ASEAN by coordinating ASEAN members to publish a joint declaration that did not involve the sensitive issue. Indonesia is playing a constructive role in the South China Sea issue. Indonesia has always safeguarded

\(^{23}\) Indonesia: Country Study Guide. USA: International Business Publications, p. 130


the peace and stability of the South China Sea and larger Asia Pacific region, supported China’s position of resolving South China Sea disputes through bilateral channels, while ASEAN member countries also anticipate that Indonesia will play a constructive role in the issue. Indonesia pushed the China-ASEAN Foreign Minister Meeting in July 2011 to reach consensus on the guidelines to implement the Declaration on the Conduct of Parties in South China Sea (DOC). On the sidelines of the 45th UN Assembly in September 2012, Indonesia circulated the self-drafted Code of Conduct in the South China Sea (COC) among ASEAN member countries.

1.2 Problem Identification

On the background above, it clearly shows how serious the SCS dispute is. The impact of the dispute is not only felt by ASEAN member states, but also the entire world. The claimants have their own national interest in claiming the SCS. Each country has its prove based on history or documents, that shows their ownership of several islands in two archipelagos, Spratly and Paracel Islands. This dispute become complex to solve and it needs interference from other country to help the claimants to solve this problem and maintain the regional stability in the Southeast Asia.

Through Indonesia Foreign Minister, Dr. Marty Natalegawa, Indonesia has been playing an active role to alleviate tensions. ASEAN analyst Bantarto Bandoro of the Indonesian Defence University, on 18th July 2012, stated:

“Indonesia is rebuilding its image as one of the most important actors in the region and to show its regional commitment to stability. Its confidence has been raised by the praise it received from the chairmanship of ASEAN last year, and it sees itself as being able to mediate and play a neutral role as it is not a claimant state.”

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26 Indonesia’s “Confidence” Diplomacy under the Yudhoyono Government. Retrieved on 14th January 2013 from http://www.ciis.org.cn/english/2012-12/31/content_5638110.htm
As stated above, Indonesia becomes neutral in playing its role in case of the SCS dispute. Even though Indonesia has its own national interest in the Natuna Island, Indonesia plays a neutral role in the SCS dispute.

On this study, the researcher will observe the Indonesian role in the SCS dispute, especially on how Indonesia maintain the regional stability which caused by this dispute. National interest of each claimant also will be observed, so that in the end of this research, the researcher will know deeper of what are in the Spratly and Paracel Islands which could bring a huge dispute between countries surround it. This thesis will describe the recent developments of the South China Sea dispute since 2009 until 2012. The explanation of the dispute is through the leadership of four ASEAN leaders; Thailand as ASEAN chairman in 2009, Vietnam as ASEAN chairman in 2010, Indonesia as ASEAN chairman in 2011, and Cambodia as ASEAN chairman in 2012. The reason of why the researcher use timeframe from 2009 – 2012 is because the South China Sea dispute started to heat up again in 2009 and Indonesia in that year also expressed its objection about the submission of a new map by china to the UN. Furthermore, Indonesia, who became chairman of ASEAN in 2011, began to prove that Indonesia could be a good chairman through being a facilitator in the SCS dispute. This research is aimed to analyze the role played by Indonesia in keep the peace through preventive diplomacy, so that the dispute does not lead to war.

1.3 Statement to the Problem

This research is about to observe how Indonesia uses preventive diplomacy in facilitate the claimants in the South China Sea. In the end of this research, the researcher expects on the Indonesia’s strategies in implement its neutral role in the South China Sea dispute. Based on what have been identified above, the statement of problems of this research as following:

a. What are Indonesia’s national interests in the context of Southeast Asia’s regional stability?
b. What are the national interests of each claimant?

c. What mechanisms have been used by Indonesia to maintain regional stability?

1.4 Research Objectives

According to the statement of problems above, the main objectives of this thesis are:

a. To prove that Indonesia is capable in maintain the regional stability in Southeast Asia;

b. To know the national interest of each claimant and the islands potency;

c. To analyze Indonesia’s mechanism in maintaining the regional stability

1.5 Significant of the Study

The significance of the study in the case of the topic chosen here stated as follows:

a. To know in depth, observing at closer point of views on the role of Indonesia in maintain the regional stability in the Southeast Asia;

b. To analyze the national interests of each claimant on the Spratly and Paracel Islands;

c. To know Indonesia mechanisms in solving the regional dispute

1.6 Theoretical Framework

On this study, the researcher will use several international relations theories; international regimes theory, and mediation/third party in conflict management to observe the topic.
The first theory is international regime theory. It is a perspective that focuses on cooperation among actors in a given area of international relations. An international regime is viewed as a set of implicit and explicit principles, norms, rules, and procedures around which actors' expectations converge in a particular issue-area. This regime theory is used to explain the ASEAN Regional Forum (ARF) with regards to settle the dispute. Regime can explain this phenomenon of ARF and others documents involved with the forum among the claimants and ASEAN along with the future of ASEAN’s institutionalization and recommendations moving forward and developing as a Code of conduct.

The second theory is conflict resolution. The researcher was divided conflict resolution into third-party facilitation and confidence-building measures and preventive diplomacy. In this facilitation a distinctive role is played by a third party, that is, one not directly involved in the dispute in question. The third party should be impartial in the dispute. Its role is not to be confused with being a ‘facilitator’ or providing ‘good offices’.

1.7 Scope and Limitations of the Study

On this study, the researcher has some limitations in doing the research.

Those limitations are:

a. The South China Sea dispute has been happened for centuries, but in this study, the researcher takes four years to observe the development of the dispute. So that it will be limited since year 2009 until year 2012;

b. On this study, the researcher will only focus on the dispute happening in the Spratly and Paracel Islands;

c. As the willingness of Indonesia to be a facilitator between the claimants in the South China Sea dispute, the researcher will only used Indonesia perspective to provide this research. The perspective will covering Indonesia as a country and Indonesia as ASEAN member state to provide the research;

1.8 Definitions of Terms

There are several basic keywords that will be frequently used, namely:

a. Claimants: a person making a claim, especially in a lawsuit or for a state benefit. Several countries which claiming the South China Sea islands. Those countries are China, Taiwan, Vietnam, the Philippines, Brunei, and Malaysia. Those countries are claimed several islands in Spratly and Paracel Islands. They have their own proof related to the ownership of those islands31;

b. Dispute: A disagreement or argument. This term used according to the problem happened in the South China Sea. Several countries have territorial problem in the South China Sea in claiming some islands in two archipelagos, Spratly and Paracel Island32;

c. Diplomacy: the art or science of conducting such negotiations. This term means to solve problem through compromise. The claimant countries choose this way to prevent war caused by this dispute. In this case, Indonesia becomes a mediator between the claimants to maintain the regional stability in the Southeast Asia33.

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1.9 Conceptual Framework

This thesis consists of five chapters and the outline can be observed in figure above. It starts with introduction followed by literature review, research methodology, data analysis and interpretation, and conclusion.

Figure 1.2 Conceptual Framework

Chapter I: Introduction

This chapter is containing the background about the South China Sea dispute and the Indonesia involvement to be a facilitator on that dispute. It starts with subject overview; a problem discussed is presented, resulting in the purpose and formulation of the research questions. Then followed with scope and limitation and finally ended with definition of term and thesis outline.

Chapter II: Theoretical Framework

This chapter presents various research theory and concept referring to the dispute. It starts with how national interest through realism could be the beginning of the dispute and the international regimes and mediation theory could help to solve the dispute.
Chapter III: Research Methodology

In this chapter, methodology which is applied in the research is presented and research paradigm. Within this section, all criteria needed in qualitative research are explained as well as procedures to strengthen the credibility of this research.

Chapter IV: Data Analysis and Interpretation

This chapter could be separated into two parts; history of the dispute and the analysis about the dispute since 2009 – 2012 and how the Indonesia involvement could help to solve the dispute.

Chapter V: Conclusion and Recommendation

At this last part of the research, it explains the conclusion of the research as well as the limitation contained. To introspect the limitation of the research, several recommendations are also included that hopefully would be the future additional information for upcoming research. Besides that, recommendation is also attached in order to get beneficial effect of this thesis.
CHAPTER II
THEORETICAL FRAMEWORK

2.1 Theoretical Background

In this research, the researcher will use two International Relations theories; International Regime theory and Conflict Resolution. International Regime theory will use to describe the issue settlement through organization related to the South China Sea dispute, such as Association of Southeast Asia Nations (ASEAN), ASEAN Regional Forum (ARF), and ASEAN Foreign Ministers Meeting (AMM). Since Indonesia is not part of claimant, the Indonesia’s involvement will be described through Conflict Resolution through Third-Party Facilitation theory and Confidence-Building Measures and Preventive Diplomacy. Those theory will use to describe Indonesia’s ways in facilitate all claimants in the South China Sea dispute as a third party. These are the theories which used in the research.

2.2 International Relations

International Relations recently emerge as one of major disciplinary in today issues since it covers almost all aspect in world’s major problems. As mentioned by Dougherty and Pfaltzgraff (2001), the term international relations encompasses many different activities – all international communications, commercial and financial transactions, athletic contests, tourism, scientific conferences, educational exchange programs, and religious missionary activities. To learn international is so important, as important as any events happened in international affairs. International relations has a significant impact on our lives. Our daily lives are increasingly international in their focus; improvements in communications and transport technology mean we are constantly coming into contact with people, places, products, opportunities, and ideas from other countries. As students as students of politics, we are concerned with relationships between or among all of the actors – state and non-state, international and
transitional – to the extent that they contribute to an understanding of political phenomena\textsuperscript{34}.

The study of international relations enables us to explain why international events occur in the manner in which they do and gives us a greater understanding of world in which we live and work. International relations is a broad and complex topic both for countries engaged in relationships with other nations, and for observers trying to understand those interactions. These relationships are influenced by many variables. They are shaped by the primary participants in international relations, including national leaders, other politicians, and nongovernmental participants, such as private citizens, corporations, and nongovernmental organizations. They are also affected by domestic political events and nonpolitical influences, including economics, geography, and culture. Despite all of these other influences, the primary focus of international relations is on the interactions between nations.

2.3 International Regimes Theory

International regimes theory is viewed as a set of implicit and explicit principles, norms, rules, and procedures around which actors’ expectations converge in a particular issue-area of international relations. Principles are beliefs of facts, causation, and rectitude. Norms are standards of behavior defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for actions. Decision-making procedures are prevailing practices for making and implementing collective choice\textsuperscript{35}.

According to Andreas Hasenclever\textsuperscript{36}, various theories have been proposed to shed light on at least some of these variables; state, non-state actors, and institution. According to the explanatory variables that these theories emphasize, they may be classified as power-based, interest-based, and knowledge-based approaches, respectively. In fact, we may talk of three schools of thought within


\textsuperscript{36} Andreas Hasenclever, P. M. (1997). Theories of International Regimes. UK: Cambridge University Press.
the study of international regimes: realists, who focus on power relationships; neoliberals, who base their analyses on constellations of interests; and cognitivists, who emphasize knowledge dynamics, communication, and identities. The use of term “schools” does not imply that there are no significant differences among the positions taken by members of the same school with respect to international regimes. International regimes can facilitate informal contact and communication among officials, and permit governments to attain objectives that would otherwise be difficult or impossible. The cost of forming regimes will become low when there are existences high levels of formal and informal communication among states under conditions of complex interdependence.

“International regimes are commonly defined as social institutions around which expectations converge in international issue-areas. The emphasis on convergent expectations as the constitutive basis of regimes gives regimes an inescapable intersubjective quality. It follows that we know regimes by their principled and shared understandings of desirable and acceptable forms of social behavior. Hence, the ontology of regimes rests upon a strong element of intersubjectivity”

As stated above, international regimes is an institution built to resolve the international dispute. Krasner argued that international regimes are those pertaining to activities of interest of the international system. For the most part, these are activities taking place entirely outside the jurisdictional boundaries of sovereign states (for example, deep seabed mining), or cutting across international jurisdictional boundaries (for example, high-seas fishing), or involving actions with a direct impact on the interest of two or more members of the international community (for example, the management of exchange rates). In formal terms, the member of international regimes are always sovereign states, though the parties carrying out the action governed by international regimes are often private entities (for example, fishing companies, bank, or private airlines). It follows the implementing terms of international regimes will frequently involve a two-step procedure, a feature that is less characteristic of regimes at the domestic level.

Haggard once stated that many studies fail to specify what they mean by regime transformation or treat it in a one-dimensional way. Regimes may change over time or vary across cases in at least four ways: strength, organizational form,
scope, and allocational mode. As we shall argue, different theoretical approaches address one or more of these variables, but are less useful in explaining others. As we shall argue, different theoretical approaches address one or more of these variables, but are less useful in explaining others. 

a. Strength
The majority of "regime change" studies try to explain why regimes eventually weaken or decay. Strength is measured by the degree of compliance with regime injunctions, particularly in instances where short-term or "myopic" self-interests collide with regime rules.

b. Organizational form
In its quest to move beyond the study of concrete international organizations, recent regimes literature has largely ignored problems of organizational design and operation. Some issues are conducive to decentralized regulation: regime injunctions may only call on states to share information, or to refrain from certain actions, such as polluting, over-fishing, nuclear testing, or raising tariffs. Other regimes, such as a fixed-exchange-rate regimes, demand positive interventions by states, but remain largely decentralized. Most regimes, however, are likely to have at least some minimal administrative apparatus for the purpose of dispute settlement, the collection and sheering of information, or surveillance.

c. Scope
Scope refers to the range of issues the regime covers. Though changes in regime scope have attracted little theoretical attention, its neglect can cause misleading characterizations. The jurisdictional scope of a regime is not incidental to its success. Overly broad jurisdiction raises administrative costs and complexity, but overly narrow agreements may allow little room for bargaining and issue-linkage. One important cause of regime change is the "externalities" associated with inadequate scope.

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d. Allocational mode

Regimes can endorse different social mechanisms for resource allocation. A market-oriented regime supports the private allocation of resources, discourages national controls, guarantees property rights, and facilitates private contracting. As Oran Young states

"free enterprise systems . . . are not institutional arrangements operating outside or in the absence of any regime. Such systems clearly require explicit structures of property or use rights."\(^{38}\)

At the other extreme, authoritative allocation involves the direct control of resources by regime authorities, and will demand more extensive, and potentially autonomous, organizational structures.

2.4 Conflict Resolution

Conflict resolution is a wide range of methods of addressing sources of conflict matter at the inter-personal level or between states and of finding means of resolving a given conflict or of continuing it in less destructive forms than, say, armed conflict. Processes of conflict resolution generally include negotiation, mediation, diplomacy and creative peace building. The term "conflict resolution" is sometimes used interchangeably with the terms dispute resolution or alternative dispute resolution\(^{39}\). The researcher divided conflict resolution with regard to the South China Sea dispute into two terms, third-party facilitation, and confidence-building measures and preventive diplomacy.

2.4.1 Third-Party Facilitation

The term facilitation comes from the verb facilitate, which means to make easier or less difficult, or to assist in the progress. Facilitation is conducted by a third party – individuals external to a dispute between two or more people – whose task is to help disputant reach an agreement. Most mediation practice involves two parties. In contrast, facilitation is used for multi-party meetings and consensus building.

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processes. The emphasis is on the negotiation process and less on the substance of the outcomes. Unlike mediation, facilitation does not focus so much on decision-making, but rather on enhancing the mutual understanding of perceptions, interests and needs or preparing joint action.

A facilitator is a neutral party who moderates discussions, monitors speaking time, records key discussion points, periodically summarizes the discussion, and provides constructive feedback. Facilitators help create an atmosphere of trust and fairness by ensuring that all groups have equal say in the discussion and that everyone understands each other. In contentious situation, the facilitator maintains civility and keeps the discussion focused.

2.4.2 Confidence-Building Measure and Preventive Diplomacy

Confidence-building measures (CBMs) have the objective to prevent, manage and resolve crises that are likely to escalate into violent conflicts between states or between states and non-state actors. CBMs can thus be unilateral, bilateral or multilateral depending on the nature of the conflict. They are often facilitated and supported by third parties, including regional and international governmental and non-governmental organizations. CBMs can be military, diplomatic, political, or cultural in their nature and they can be applied equally in conflicts between, across, and within states. Understanding the utility of CBMs requires considering that their purpose changes over time in a conflict cycle. In the short term, they aim to arrest an escalating crisis before the outbreak of major violence or to stabilize an

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immediate post-ceasefire situation. In the medium term, CBMs are meant to increase contact and trust between conflict parties and socialize them into a new approach to addressing their dispute. In the long term, they can play a crucial role in paving the way to, and sustaining, a meaningful conflict settlement. Preventive Diplomacy is non-coercive actions taken, by individuals, governments, multilateral organizations, and/or international agencies, and through the invitation or voluntary consent of all parties directly involved, to prevent disputes from arising between or among parties, to prevent existing disputes from escalating into conflicts, and to limit the spread or recurrence of the latter if they occur. Preventive Diplomacy could involve both intra-state and inter-state conflicts, governmental and non-governmental actors, conventional as well as non-traditional security challenges, and a whole range of diplomatic, economic, and political instruments.

Confidence Building Measures and Preventive Diplomacy are important instruments in conflict prevention. They mitigate tensions and prevent disputes from arising between or among ASEAN Member States, as well as between ASEAN Member States and non-ASEAN member countries. They will also help prevent the escalation of existing disputes. To reduce the tension and eventually diffuse the conflict, confidence-building measures (CBMs), such as shelving the territorial sovereignty issue, should be established.

45 ASEAN Political Security Community Blueprint
1.5 Chapter Summary

International regimes is an institution built to resolve the international dispute. The member of international regimes are always sovereign states, though the parties carrying out the action governed by international regimes are often private entities. A basic idea behind international regimes is that they provide a transparent state behavior and a degree of stability under conditions of anarchy in the international system. It is more than a set of rules it is higher level than institution. It has four elements principle, norm, rules and decision making procedures. One of the best known International Maritime Regimes is the United Nations Convention on the Law of the Sea (UNCLOS). This regime theory is used to explain the ASEAN, ARF, and AMM with regards to settle the South China Sea dispute. Regime can explain this phenomenon of ARF and others documents involved with the forum among the claimants and ASEAN along with the future of ASEAN’s institutionalization and recommendations moving forward and developing as a Code of conduct.

Conflict resolutions through third-party facilitation and Confident-building Measures (CBMs) have been used to explain the approaches that Indonesia should try to facilitate the claimants. Such agreements are meant to build trust among the conflicting parties and limit escalation. Some common CBMs are agreements meant to give each party assurance that the other is not preparing for a surprise military action or pursuing policies associated with such future action. Such agreements provide a way to avoid misunderstandings about ambiguous events or perceived threats and play an important role in instilling a sense of stability and security. As a third party, Indonesia can employ its own diplomatic powers to facilitate a peaceful settlement in the South China Sea; however, its efforts cannot succeed unless the claimant nations themselves are willing to engage in multilateral negotiations.
CHAPTER III
RESEARCH METHODOLOGY

The Advanced Learner’s Dictionary of Current English lays down the meaning of research as “a careful investigation or inquiry especially through search for new facts in any branch of knowledge.” Research is an academic activity and as such the term should be used in a technical sense. According to Clifford Woody research comprises defining and redefining problems, formulating hypothesis or suggested solutions; collecting, organizing and evaluating data; making deductions and reaching conclusions; and at last carefully testing the conclusions to determine whether they fit the formulating hypothesis.

The purpose of research is to discover answers to questions through the application of scientific procedures. The main aim of research is to find out the truth which is hidden and which has not been discovered as yet. Though each research study has its own specific purpose, we may think of research objectives as falling into a number of following broad groupings:

1. To gain familiarity with a phenomenon or to achieve new insights into it (studies with this object in view are termed as exploratory or formulative research studies);
2. To portray accurately the characteristics of a particular individual, situation or a group (studies with this object in view are known as descriptive research studies);
3. To determine the frequency with which something occurs or with which it is associated with something else (studies with this object in view are known as diagnostic research studies);
4. To test a hypothesis of a causal relationship between variables (such studies are known as hypothesis-testing research studies).

49 Ibid. p.2
3.1 Research Method

This research used qualitative approach as its type because quantitative seems not suitable since less number is used as indicator of variable to answer research matter. This type of research aims at discovering the underlying motives and desires, using in depth interviews for the purpose. Through such research we can analyze the various factors which motivate people to behave in a particular manner or which make people like or dislike a particular thing. The differences between qualitative and quantitative research are listed below:

Table 3.1 Comparison of qualitative and quantitative research terms

<table>
<thead>
<tr>
<th>Qualitative Research</th>
<th>Quantitative Research</th>
</tr>
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<tbody>
<tr>
<td>Subjective</td>
<td>Objective</td>
</tr>
<tr>
<td>Holistic</td>
<td>Reductionist</td>
</tr>
<tr>
<td>Phenomenological</td>
<td>Scientific</td>
</tr>
<tr>
<td>Anti positivist</td>
<td>Positivist</td>
</tr>
<tr>
<td>Descriptive</td>
<td>Experimental</td>
</tr>
<tr>
<td>Naturalistic</td>
<td>Contrived</td>
</tr>
<tr>
<td>Inductive</td>
<td>Deductive</td>
</tr>
</tbody>
</table>

Source: Beverley Hancock (1998). An Introduction to Qualitative Research. Trent Focus Group

The level of analysis itself is at descriptive research. Descriptive research includes surveys and fact-finding enquiries of different kinds. It applies to analyze and present the facts in systematic arrangement, thus, it could be understandable and summed up. According to Kothari, descriptive research studies are those studies which are concerned with describing the characteristics of a particular individual, or of a group, whereas diagnostic research studies determine the frequency with which something occurs or its association with something else. Descriptive research

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51 Ibid. p. 37
researches are valuable in: (1) providing facts on which scientific judgments may be based, (2) providing essential knowledge about the nature of objects and persons, (3) for closer observation into the practices, behavior, methods, and procedures, (4) playing a large part in the development of instruments for the measurement of many things, and (5) formulating of policies in the local, national, or international level.

The nature of the research for the qualitative descriptive method focuses on social connections, interrelationships, life events, and other matters concerned with the social sciences. There are two qualitative descriptive approaches; the exploratory study and the case study. In this research, the writer is using case study approach. The case study is an investigation of one social unit, for example, a person, a family, or a state. Case study research is descriptive research that involves describing and interpreting events, conditions, circumstances or situations that are occurring in the present. Case studies emphasize detailed contextual analysis of a limited number of events or conditions and their relationships.

The studies concerning whether certain variables are associated are examples of diagnostic research studies. As against this, studies concerned with specific predictions, with narration of facts and characteristics concerning individual, group or situation are all examples of descriptive research studies. The major purpose of descriptive research is description of the state of affairs as it exists at present. The main characteristic of this method is that the researcher has no control over the variables; the researcher can only report what has happened or what is happening.

3.2 Qualitative Approach

Qualitative research is characterized by its aims, which relate to understanding some aspect of social life, and its methods which (in general) generate words, rather than numbers, as data for analysis \(^{55}\). Qualitative approach is used in this research because the research is in one particular setting which intended to investigate and understand the phenomenon: what it is happening, why it is happened, and how it is happened. The research also aims to apprehend social condition, incident, roles, interaction, and group. Dabbs (1982) remarked that qualitative and quantitative are not distinct. But to differentiate between those two types of research, he indicates that the notion of *quality* is essential to the nature of things. On the other hand, *quantity* is elementally an amount of something. Quality refers to the what, how, when, and where of a thing – its essence and ambience. Quality research, thus, refers to the meanings, concepts, definitions, characteristics, metaphors, symbols, and descriptions of things (Berg, 1989). In addition, qualitative method is suitable with this research because the researcher use descriptive analysis, including data and relevant information, facts and articles, which are used to support the analytical method to understand and recommend the trend to settle the disputes. The information in this research are from speeches and direct quotes from the concerned people, official documents, newspapers, magazines and websites including relevant research papers and studies addressing on the issue will also be studied.

3.3 Research Strategy

In this research, the researcher is using the case study strategy to conduct the research. A case study is one of several ways of doing research whether it is social science related or even socially related because its aim is to understand human beings in a social context by interpreting their actions as a single group, community or a single event: a case. Case study is an inquiry that focuses on describing, understanding, predicting, and/or controlling the individual (i.e.

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\(^{55}\) Patton, Michael Quinn & Cochran, Michael (2002). *A Guide to Using Qualitative Research Methodology*
process, animal, person, household, organization, group, industry, culture, or nationality). The case study strategy involves detailed, holistic investigation (for example, all aspects of a company) and can utilize a range of different measurement techniques (the case study researcher is not limited to any one methodological tool). Data can be collected over a period of time, and it is contextual (relative to a certain industry). The histories and stories that can be told about the event are also something that can be assessed and documented - not just empirical data, for example, stories and anecdotes about how the company interacts with the marketplace can be used.

In the context of qualitative approach, it tends to be more dynamic. It offers flexibility and by time could be adapt in several condition conform the development that more interesting, unique, and related to empirical observed. It is because social phenomena as qualitative object is not in mechanistic form but rather fulfilled by dynamics and could not be easily created literary depends on researcher will. Many qualitative investigator use the case study approach as a guide to their research. By concentrating on a single phenomenon, individual, community, or institution, the researcher aims to the manifest interaction of significant factors characteristic of this phenomenon, individual, community or institution. The researcher is able to capture various nuances, patterns, and more latent elements that other research approach might overlook.

Case study is the most suitable strategy for this research because this research was directed and explains the case which still happened. Through this strategy, we could know the real situation in the South China Sea from all of the claimants, so that we could make a better solution to solve the dispute.

### 3.4. Data Collection

In qualitative research, the quality of research depends on the quality and the completeness of the data. The question words that frequently used in the data

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gathering is what, who, where, when, why, and how. In this research, the researcher uses primary data analysis, such as speeches from important peoples, official documents, and books. The primary data are those which are collected afresh and for the first time, and thus happen to be original in character\textsuperscript{59}. The secondary sources analysis is also used, such as document analysis from newspapers, magazines, and news. The secondary data are those which have already been collected by someone else and which have already been passed through the statistical process\textsuperscript{60}. Bruce L. Berg (2009) stated that if the data in textual form, such as field notes, or can be made into textual form, such as by transcribing a tape-recorded interview, they may be organized in one manner. If they are video, photographic, or drawn material, they will require form of organization and analysis\textsuperscript{61}.

The methods and techniques in qualitative data collection is divided in two categories:

a. Observations

Observation is a basic techniques used in almost all qualitative research. Even if other methods or techniques are used, the researcher remains the most essential “sensor” or “instrument” and hence observation always counts. Observation is the main source of information in the field research\textsuperscript{62}.

b. Documents Studies

Existing records often provide insights into a setting and/or group of people that cannot be observed or noted in another way. This information can be found in document form. Documents can be divided into two major categories: public records, and personal documents\textsuperscript{63}:

\textsuperscript{60} Ibid. p. 95
\textsuperscript{61} Ibid. p. 52
Public records are materials created and kept for the purpose of "attesting to an event or providing an accounting". Public records can be collected from outside (external) or within (internal) the setting in which the evaluation is taking place.

Personal documents are first-person accounts of events and experiences. These "documents of life" include diaries, portfolios, photographs, artwork, schedules, scrapbooks, poetry, letters to the paper, etc. Personal documents can help the evaluator understand how the participant sees the world and what she or he wants to communicate to an audience. And unlike other sources of qualitative data, collecting data from documents is relatively invisible to, and requires minimal cooperation from, persons within the setting being studied.

In this research, the researcher using documents studies which related to the South China Sea dispute. The researcher gets public documents mostly from newspapers, books, and websites related to the topic, while the personal documents are got from the official documents.

3.4.a Document Analysis

As mentioned above, the documents related to this research are divided into two groups of data; primary data and secondary data.

a. Observation Method

The method which used to get primary data was through observation method. The observation method is the most commonly used method especially in studies relating to behavioural sciences. In a way we all observe things around us, but this sort of observation is not scientific observation. Observation becomes a scientific tool and the method of data collection for the researcher, when it serves a formulated research purpose, is systematically planned and recorded and is subjected to checks and controls on validity and reliability. Under the observation method,

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the information is sought by way of investigator's own direct observation without asking from the respondent. For instance, in a study relating to consumer behaviour, the investigator instead of asking the brand of wrist watch used by the respondent, may himself look at the watch. The main advantage of this method is that subjective bias is eliminated, if observation is done accurately. Secondly, the information obtained under this method relates to what is currently happening; it is not complicated by either the past behaviour or future intentions or attitudes. Thirdly, this method is independent of respondents’ willingness to respond and as such is relatively less demanding of active cooperation on the part of respondents as happens to be the case in the interview or the questionnaire method. This method is particularly suitable in studies which deal with subjects (i.e., respondents) who are not capable of giving verbal reports of their feelings for one reason or the other.

In this research, the researcher was got the primary sources from the speeches by important people; President of Indonesia, Dr. Susilo Bambang Yudhoyono, and the Indonesian Foreign Minister, Dr. Marty Natalegawa. Those speeches were got from the official websites of Indonesian Foreign Ministry and any other official websites.

b. Content Analysis Method

The content analysis method was used to get the secondary analysis. According to Kothari (2004), content-analysis consists of analyzing the contents of documentary materials such as books, magazines, newspapers and the contents of all other verbal materials which can be either spoken or printed. The analysis of content is a central activity whenever one is concerned with the study of the nature of the verbal materials. A review of research in any area, for instance, involves the analysis of the contents of

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Ibid. p. 111
research articles that have been published. The analysis may be at a relatively simple level or may be a subtle one. It is at a simple level when we pursue it on the basis of certain characteristics of the document or verbal materials that can be identified and counted (such as on the basis of major scientific concepts in a book). It is at a subtle level when researcher makes a study of the attitude, say of the press towards education by feature writers.

Secondary data means data that are already available i.e., they refer to the data which have already been collected and analyzed by someone else. Secondary data may either be published data or unpublished data. Usually published data are available in: (a) various publications of the central, state are local governments; (b) various publications of foreign governments or of international bodies and their subsidiary organizations; (c) technical and trade journals; (d) books, magazines and newspapers; (e) reports and publications of various associations connected with business and industry, banks, stock exchanges, etc.; (f) reports prepared by research scholars, universities, economists, etc. in different fields; and (g) public records and statistics, historical documents, and other sources of published information. The sources of unpublished data are many; they may be found in diaries, letters, unpublished biographies and autobiographies and also may be available with scholars and research workers, trade associations, labor bureaus and other public/ private individuals and organizations. Before using secondary data, the researcher must see that they possess following characteristics:

1. Reliability of data

The reliability can be tested by finding out such things about the said data: (a) who collected the data? (b) What were the sources of data? (c) Were they collected by using proper methods (d) at what time were they collected?

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68 Ibid. p. 112
69 Ibid. p. 115
collected? (e) Was there any bias of the compiler? (f) What level of accuracy was desired? Was it achieved?

2. Suitability of data
The data that are suitable for one enquiry may not necessarily be found suitable in another enquiry. Hence, if the available data are found to be unsuitable, they should not be used by the researcher. In this context, the researcher must very carefully scrutinize the definition of various terms and units of collection used at the time of collecting the data from the primary source originally. Similarly, the object, scope and nature of the original enquiry must also be studied. If the researcher finds differences in these, the data will remain unsuitable for the present enquiry and should not be used.

3. Adequacy of data
If the level of accuracy achieved in data is found inadequate for the purpose of the present enquiry, they will be considered as inadequate and should not be used by the researcher. The data will also be considered inadequate, if they are related to an area which may be either narrower or wider than the area of the present enquiry.

In this research, the researcher collected the secondary sources from various sources, such as books, newspapers, magazines, and online websites. The researcher uses books to know the history about the South China Sea dispute, while other sources were used to get the recent information on the dispute.

3.4.b Data Analysis
Data analysis is absolutely needed because all documents and theory will be analyzed and connected with the object of the research. The data, after collection, has to be processed and analyzed in accordance with the outline laid
down for the purpose at the time of developing the research plan. This is essential for a scientific study and for ensuring that we have all relevant data for making contemplated comparisons and analysis.

3.4.c Data Reduction

In qualitative research, the amount of data could be enormous. It depends on the circumstances of the research. In order to make it more effective and efficient on its assessment that will be outputted in result, a reduction of the data is required. It is clearly identified by Berg (2009) that qualitative data need to be reduced and transformed in order to make them more readily accessible, understandable, and to draw out various themes and patterns.70

3.4.d Interpretation

The result of interpretation of result that is achieved from data that already reduction from doing the research. In interpretation phase, events in research setting are also influencing. Quotations, narrations, and pictures are also attached in this research to describe the South China Sea dispute. Interpretation that is laid on the data which based on the theory will be clearly explained in chapter IV as the result of data analysis.

CHAPTER IV
ANALYSIS OF DATA AND INTERPRETATION OF RESULTS

4.1 Introduction

South China Sea is an important ocean with a huge potential because it contains petroleum and natural gas and also rich of fishery sources. Most importantly, SCS is a vital sea-lane, by far the shortest route from the North Pacific Ocean to the Indian Ocean. It is the world’s second busiest international sea-lane, and well over half of the world’s petroleum-bearing traffic passes through its waters. Over half of the tonnage shipped through the sea is crude oil from the Gulf, destined for East Asia. The features in the South China Sea are grouped into three archipelagos; the Spratly Islands, the Paracel Islands, the Pratas Islands; Macclesfield Bank and Scarborough Shoal. In this regard, the six claimants; China, Taiwan, Vietnam, Brunei, Malaysia, and the Philippines; are contesting Spratly and Paracel Islands. Each claimant has their own claimed version.

Indonesia is not a claimant in this dispute. Indonesia places itself as a mediator to the dispute. There are many ways adopted by Indonesia to maintain the regional stability in the Southeast Asia. The recent succeed diplomacy used by Indonesia is a 36-hour shuttle diplomacy did by Indonesian Foreign Minister, Dr. Marty Natalegawa in reaching the six point principles among the ASEAN member states.

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4.2 History of the Crisis

Figure 4.1 South China Sea Dispute Map

The South China Sea dispute is a conflict around issues of ownership of the Paracels and Spratly Islands unilaterally claimed by some countries, such as China, Taiwan, Vietnam, Philippines, Malaysia, and Brunei. China, Taiwan, and Vietnam with historical reasons have mastered both islands, while the Philippines, Malaysia, and Brunei claim ownership of the Spratly Islands based on the United Nations on the Law of the Sea 1982 (UNCLOS 1982)\(^72\). These claims were regarding to Hong’s book titled “*UNCLOS and Ocean Dispute Settlement: Law and Politics in the South China Sea*”\(^73\).


a. China

China claims both the Paracel Islands in the north and the Spratly Islands in the southern sector of the SCS. Its claim to the islands is based on historical usage, its ship captains having sailed across the SCS 2000 years ago and having used the sea as a regular navigational route during the Han dynasty (AD 206 – 220), in addition to first discovery and effective exercise of sovereignty. As Chinese voyages increased in frequency and range during the Tang Dynasty (AD 618 – 906), so did Chinese awareness of the Spratlys. From the twelfth through the seventeenth centuries, Chinese records made occasional reference to the islands, including maps displaying elevations. During this period, China viewed “itself as the center of a universal state” which “oversaw a hierarchy of tributary states”. From this perspective, it has no reason to make any formal claim of sovereignty. China’s presence in the Spratly area is more consistently documented from the nineteenth century onward. In 1876, the first formal act of a sovereignty claim was made, when China’s ambassador to England claimed the Paracel Islands as Chinese territory, and, in 1883, a German survey team on the Spratly Islands was expelled by the Chinese. An 1887 boundary treaty between France and China allocated all the islands east of 108°43 east of Greenwich (or 195°43 east of Paris) to China (which would cover all the Spratlys if the line were extended indefinitely to the south), but this basis for China’s claim is weak because the treaty does not name any islands and France later argued that this line covered only the northern part of the SCS. China’s authors claim that China has meet the requirements found in the Isle of Palmas arbitration by effectively exercising sovereignty over the Spratly islets without challenges for centuries until the French intrusion in 1933, and that SCS islands have “always been part of Chinese territory”. However, China’s claim has been argued by some commentators to be weak. China’s exercise to authority over the islands was only occasional and sporadic up

to the end of World War II, and that China’s claim to have exercised its authority continuously is weak. The opposition of foreign states also weakens China’s claims. Other nations did not “acquiesce” to China’s assertions of sovereignty. Currently, the Philippines, Malaysia, and Brunei, as well as Vietnam, all have significant claims to all or some of these islets.

b. Taiwan

Taiwan refers to itself as the “Republic of China” and has historically claimed to be the legitimate government of all of China. The Nationalist Government of China in 1947 issued a map containing the interrupted lines (U-shape line), which apparently constitutes a claim to all the waters of the SCS. On March, 1933, Taiwan adopted “Policy Guidelines for the SCS,” which asserted sovereignty over “the Spratly Islands, the Paracel Islands, Macclesfield Bank, and the Pratas Islands” and also stated that:

“The SCS area within the historic water limit is the maritime area under the jurisdiction of the Republic of China, in which the Republic of China possesses all rights and interests.”

The competing claims to the Spratlys were intensified after the outbreak of the Sino–Japan war in the early 1930s. After this war, some countries like Japan and France had taken advantage of Chinese weakness by occupying the Spratlys. Nevertheless, Taiwan stated that there was an understanding with Japan that the islands occupied by Japan in the SCS would be placed under Chinese jurisdiction in due course. Taiwan maintained that it restored its own sovereignty over the Spratlys in 1947. Taiwan also cited the 1952 Sino–Japanese treaty which recognized its sovereignty over the Spratlys. Taiwan insisted that although the 1951 San Francisco Treaty did not include the Spratlys as part of Taiwan, its sovereignty over the Spratlys could not be nullified.

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c. Vietnam

In its three White Papers issued in 1979, 1982, and 1988 respectively, asserted that the Spratly Islands were in the Chang Sha Islands in Vietnamese’s history, and the Vietnamese government had exercised jurisdiction over the Spratly Islands\textsuperscript{76}. Vietnam claims sovereignty over the whole Spratlys Islands based on historical grounds, preoccupation, and effective occupation. Vietnam also provides its own historical records in a similar fashion to China to justify its claims.

According to Vietnam, the Spratlys, along with the Paracels, had been mapped as part of its territory in the eighteenth century and it called them Houng Sa and Troung Sa respectively. Considering that it cannot provide better historical evidence than China regarding original discovery and historical right, Vietnam focuses more on the principle of “preoccupation”. It asserted that the Spratly Islands were \textit{res nullius}\textsuperscript{77} before 1933. In 1884, the French established a protectorate over Vietnam and began to assert a claim to the Paracel and Spratly Islands. France asserted physical control over nine of the Spratly islets between 1933 and 1939, and published a formal notice of annexation in its own official Journal on July 26, 1933.

Vietnam continued to assert its sovereignty at an international level, including meetings of the World Meteorological Organization, the 1951 Peace Conference in San Fransisco, and as Vietnam has “continue[d] to maintain precarious garrisons on up to 22 features in the Spratly, supporting a claim to effective occupation of part of the Spratly archipelago since 1973”. According to Van Dyke, Vietnam’s historical evidence in support of its claim to sovereignty over the Spratly is sparse, anecdotal, and inconclusive. Another difficulty faced by Viernam concerns statements made by North Vietnam’s Second Foreign Minister Ung Van Khiew in 1956 and again by Prime Minister Van Dong in 1958.

\textsuperscript{76}Hong, Nong. (2012). \textit{UNCLOS and Ocean Dispute Settlement: Law and Politics in the South China Sea}. New York: Routledge

\textsuperscript{77}According to http://definitions.uslegal.com/r/res-nullius/, \textit{res nullius} means nobody’s property or a thing which has no owner.
which seemed to acknowledge Chinese authority over the Spratlys. The Vietnamese now argued that these statements were a pragmatic necessity to gain the support of an ally during a military difficult time, and say that they subsequently reasserted their rights to the islets. Nonetheless, these statements continue to haunt the Vietnamese and weaken their position. The strongest factor in Vietnam’s favor is its physical possession and occupation of the largest number of Spratly features.

d. The Philippines

The Philippines claims most of the Spratly islets. Its claim is more recent than that of China and Vietnam, and is based on a theory that the islets are adjacent or contiguous to the main Philippines islands, that this region is vital to the country’s security and economic survival, that the islets were *res nullius* or “abandoned” after World War II, and that the recent Philippine occupation of some of the islets gives is title either through “discovery” or “perspective acquisition”. It also has mentioned its continental shelf extension as a basis for its claim.\(^78\)

The *res nullius* claim stems from the “discovery” and “occupation” of the Spratlys by a Filipino businessman and lawyer, Tomas Cloma, who claimed the islets in 1947 and established settlements there. Cloma’s claims were announced in 1956 after he declared a “protectorate” over the islets, named them “Kalaya’an Island Group” to be part of the Philippines. Marcos also issued a separate Presidential Decree that same day in 1978 that claims an exclusive economic zone around all the Philippines islands, which can be interpreted to include the “Kalaya’an Islands as well. When it ratified UNCLOS, the Philippines stated that its ratification “shall not in any manner impair or prejudice” its appurtenant waters.

Another branch of the *res nullius* claim is based on the 1951 San Fransisco Peace Treaty, after which – according to the Philippines – the Spratlys were “de facto under the trusteeship of the Allied Powers.

According to the Philippine view, the status of the islands as “trusts” nullified any previous ownership of them, and justifies its occupation of the features. The Philippines also argues that the Spratlys were “abandoned” during 1950 – 56, when no nation paid any attention to them. It asserts that Japan had acquired the islands but renounced its sovereignty over the Spratlys at the time of the 1951 San Francisco Treaty without ceding them to any other country. The Philippines has reinforced its res nullius /occupation claims by sanctioning drilling off the Reed Band area since 1971 and occupying eight of the features since 1978.  

There are criticisms of the Philippine claim. First, the view that the islets had been abandoned is challenged by China and Vietnam. Cloma’s occupation of the Spratly Islands lasted only a few months, and, in any event, the independent territorial claims of a private individual are not equivalent to governmental claims unless the individual is acting on the authority of government asserts jurisdiction over the individuals. At the time Cloma made his claim, the Philippine government neither approved nor disapproved his actions. Furthermore, a 1955 government declaration on straight baselines around the Philippine archipelago did not include the Kalaya’an area in the baselines. The continental shelf claim is also weak because the deep Palawan Trough separates the Spratly Islands from the Philippine archipelago and thus there is no natural prolongation as required by Article 76 of UNCLOS to extend such a claim beyond the 200 nm limits.

e. Malaysia

Malaysia is the only claimant laying its claim without providing historical record. Malaysia asserts two legal bases for its claims; continental shelf extension and discovery/occupation. Malaysia’s continental shelf claim arises out of the Geneva Conventions of 1958 pertaining to territorial waters and continental shelf boundaries, which Malaysia signed in 1960.

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Malaysia passed its own Continental Shelf Acts on 1966 and 1969, defining its continental shelf as “the scabbed and subsoil of submarine areas adjacent to the coast of Malaysia,” up to 200 meters deep of the limit of exploitability. A related legislative act, the Petroleum Ming Act in 1966, governs the exploitation and development of natural resources “both on offshore”. The most explicit depiction of Malaysia’s continental shelf claim is a map it published in 1979 entitled “Map Showing the Territorial Waters and Continental Shelf Boundaries”.

In this map, Malaysia defined its continental shelf area and claimed all islands arising from it. Malaysia has publicly defended its claims on several occasions. In 1983, the deputy minister asserted that Malaysia’s claim to Amboya Cay “was simply a question of geography”. In the spring of 1995, Malaysia’s Prime Minister Mahathir visited Teremba Layang-Layang to reaffirm Malaysia’s claim to this feature.

Malaysia’s claims are difficult to justify under a continental shelf theory. Although Malaysia may have asserted this claim only in order to protect its other maritime zones, neither UNCLOS nor Malaysia’s own Continental Shelf Act 1966 indicate that the continental shelf pertain to land or rocks that rise above sea level. The wording of both acts addresses only submerged land and rocks, and Article 76 (1) of UNCLOS refers to “the seabed and subsoil of the submarine areas that extend … [from a] natural prolongations of its land to the other edge of the continental margin. Malaysian officials appear to have recognized the weaknesses in their claim of sovereignty over islands based on the natural prolongation of the continental shelf, and now tend to emphasize Malaysia’s second basis for its claims, discovery and occupation of the islands, which is traditional method of exerting sovereign control over new territory. This claim is based on the 1979 map. In addition, Malaysia established a garrison on one of the Spratly islets in 1983; and in 1986, it occupied two more.

Like the continental shelf claim, Malaysia’s “occupation” claim is on an uncertain footing because its occupation and exploitation are relatively recent and have been vigorously contested by other nations. In order to claim land as *res nullius*, a nation must not just discover it but must exercise effective control over it. In addition, Malaysia has undercut its own potential claim to some extent because its nearby continental shelf boundary treaty with Indonesia gave Indonesia considerable shelf area beyond an equidistant line at certain locations.

### f. Brunei

Brunei currently claims two reefs, Louisa Reef (which is also claimed by Malaysia) and Rifleman Bank, and a maritime zone based on the prolongation of its continental shelf. The Rifleman Bank Claim, which Brunei published in a 1988 map extending its continental shelf, apparently is based on a 350 nm continental shelf claim. Brunei claimed a 200 nm fishing zone in 1982 and a 200 nm EEZ in 1984. Though Brunei claims Louisa Reef, its right to an extended maritime zone based on this claim is weak because Louisa Reef has only two small rocks that are above water at high tide, which would not have the capacity to generate an EEZ or continental shelf under article 121 (3) of UNCLOS. Its claim to an EEZ does not appear to be consistent with the requirements of UNCLOS, because the East Palawan Trough interrupts the “natural prolongation” of the continental shelf 60 – 100 miles off Brunei. In addition, Brunei has not attempted to evict foreign fishing boats or vessels from the area it claims.

Before the 1960s, other claimants of the South China Sea admitted or did not respond to China’s claim of South China Sea islands. But after 1960s, when large reserve of oil and natural gas were found in the region, claimant countries

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began to counter China's claim and the dispute arose. The disputes after 1960s can be divided into 3 phases.\(^{82}\)

The first phase was between 1970s and early 1990s when claimant countries adopted various measures to conquer or control islands and rocks in questions. The most severe military conflict took place between China and Vietnam in the 1970s. On January 1\(^{st}\), 1974, the armed conflict between China and South Vietnam were fighting over the Paracel Islands. The conflict killed eighteen people and until recently the Paracel Islands is controlled by China.\(^{83}\) On March 14, 1988, the fighting resumed in the Spratly Islands, Fiery Cross Reef, which sank three Vietnamese boats and killed seventy-four people in the incident.\(^{84}\) Yet over the claims issues between China and Vietnam, in April 1988 Malaysia catch forty nine the Philippines’ fishermen in Permatang area of the Spratly Islands because they were beyond the Continental Shelf of Malaysia.\(^{85}\) After the formulation of the United Nations Convention on the Law of the Sea in 1982, based on their own interpretation of the UNCLOS, claimant countries started to legitimate their claims based on the UNCLOS. The period between 1970s and early 1990s was characterised with constant military conflict because of lack of communications and trust among claimants. On the other hand, the Cold War prevented those conflicts to escalate to larger scale wars.

The second phase started with China's formal proposal of Set Aside Dispute and Cooperative Exploration by Li Peng, then Prime Minister of China in 1990. The proposal was acknowledged by other claimants, but all claimants did not cease the conquering. Military conflicts decreased dramatically between claimants. However, noticeable change of policies of Vietnam and the Philippines toward China took place. Bilaterally, China and the Philippines reached an agreement on an eight-point Code of Conduct in their Joint Statement on

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Consultations on the South China Sea and other Areas of Cooperation in August 1995. Those bilateral Code of Conduct are referring to the problem between China and the Philippines when the Philippines “discovered” Chinese occupation of the Mischief Reef in February 1995. In the fourth annual bilateral consultative dialogue between Vietnam and the Philippines also produced a nine-point Code of Conduct in October 1995 which similar with the China and the Philippines’ Code of Conduct. With the fall of Soviet Union and lose of its support from the Soviet Union, the Vietnamese government started to improve and normalize its relations with China. In the late 1990s, several agreements were signed between Vietnam and China to settle the land territorial dispute and sea territorial dispute in the Beibu Gulf. Major conflict between the two countries was ceased. On the other hand, the tension between China and the Philippines increased. As to balance China, the ASEAN claimants tried to coordinate their policies towards China, and to internationalize the dispute.

The third phase started by the signing of the Code of Conduct on the South China Sea in 2002 and China's joining of the Treaty of Amity and Cooperation in South-East Asia in 2003. The signing of the two agreements marked the official consensus reached between the claimants. As the first multilateral agreement reached between all claimants, the Code of Conduct on the South China Sea stipulates that the dispute should be dealt with in accordance to international laws. Most importantly, the Code of Conduct on the South China Sea expresses the will of all claimants to restrain from escalating the dispute and to resort to the cooperation in possible fields for the purpose of confidence building measures. The two agreements lay the foundation for peaceful resolution of the dispute in the South China Sea.

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If the Paracel and Spratley islands meet the legal requirements for an island, it would produce a zone of 200 miles. Failure to meet these requirements, the zone of 12 nautical miles entered of the territorial waters. It is grounded in the Article 121 paragraph (2) and (3) of UNCLOS 1982, which states:

2) Except as provided for in paragraph 3, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory.

3) Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.

The South China Sea dispute is in contrast to the case of the other border disputes. First, this conflict involved four countries of the region, nearly half of all countries in Southeast Asia, and two countries outside the region. It is obviously difficult in dispute resolution. Second, the dispute occurred in the sea area. Determination of the boundaries cannot be done arbitrarily, because the disputed region is an archipelago. In addition, the historical claims of several parties were also complicate the issue.

4.3 Distinct National Interests of All Claimants

Many states, in the region and around the world, have interests in the South China Sea. These interests include claims to territorial sovereignty over islands and coral reefs, claims to exclusive rights to develop maritime resources, freedom of navigation on the high seas and the consequences of ongoing naval modernization in the region. Competition over any or all of these interests could affect regional stability.

<table>
<thead>
<tr>
<th>No.</th>
<th>Country</th>
<th>Spratly Islands</th>
<th>Paracel Islands</th>
<th>Fishery</th>
<th>Oil &amp; Gas</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>China</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>2.</td>
<td>Taiwan</td>
<td>✓</td>
<td>✓</td>
<td>-</td>
<td>✓</td>
</tr>
</tbody>
</table>
### 4.3.1 China

China has sovereignty claims to the whole of both the Paracel and the Spratly archipelagos. Currently, China controls the whole Paracel archipelago. China took control of the eastern part of the Paracels in 1956 and the western part in 1974. China gained its first foothold in the Spratly archipelago in 1988. Since then, China has continued to expand its control over features in the islands\(^89\).

Chinese fishermen operate in the southern portion of the South China Sea near Indonesia and Vietnam. During the past decade, China has strengthened its ability to supervise fishing in the disputed waters and to enforce its domestic fishing laws. The principal Chinese agency tasked with this mission is the South Sea Region Fisheries Administration Bureau (SSRFAB). The SSRFAB’s tasks are to protect Chinese fishing boats when they operate in dispute waters, and to prevent foreign ships from operating within China’s claimed\(^90\). China has also enacted an annual fishing ban for two or three months in the summer in the North-Western part of the South China Sea since 1999. Any fishing vessel that goes into this area during the ban is subjected to fines and its catches and gear confiscated\(^91\).

In 2009, China became the second largest consumer of oil after the United States, and its consumption is likely to double by 2030, which would make it the world’s largest oil consumer. In 2010, it imported 52 percent of its oil from the Middle East, and Saudi Arabia and Angola together accounted for 66 percent of

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its oil imports. China has been diversifying its energy supplies to reduce this dependence upon imported oil and has sought to increase offshore production around the Pearl River basin and the South China Sea\(^\text{92}\). China’s total gas output expected to reach 176 billion cubic metres (bcm) by 2015, consumption at 230 bcm. With consumption expected to reach 230 bcm by the end of 2015, China's would depend on overseas supplies for about 35 percent of its needs, up from 15 percent in 2010\(^\text{93}\). That is why China needs to explore South China Sea’s resources on oil and gas to fulfill its need.

### 4.3.2 Taiwan

Taiwan pursues the same claims as mainland China in the South China Sea. Taiwan controls Itu Aban Island in the Spratly archipelago. Taiwan does not control any feature in the Paracel archipelago that is fully under China’s control\(^\text{94}\).

Taiwan does not have substantial domestic energy resources and must import the vast majority of its needs. Nearly half of total energy consumption in Taiwan is from oil (45 percent)\(^\text{95}\). Taiwan has encouraged investment in domestic oil and natural gas projects in light of a need to obtain a secure supply, including partnerships with mainland Chinese companies and overseas ventures. However, these efforts are unlikely to yield sufficient energy resources to reverse the island’s energy import dependence. That is why in 2013, Taiwan will launch oil and gas exploration efforts in water off Itu Aba Island in the South China Sea\(^\text{96}\).

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\(^{93}\) China Says Gas Output from South China Sea to reach 15 bcm. Retrieved on 6th February 2013 from http://www.reuters.com/article/2012/12/03/china-naturalgas-southchinasea-idUSL4N09D1L720121203


4.3.3 Vietnam

Vietnam has sovereignty claims to the whole of both the Paracel and the Spratly archipelago. Vietnam currently controls more than twenty features in the Spratly archipelago. The control over features in the archipelago has gradually been expanded since the mid-1970s, when Vietnam controlled six of the features. Vietnam does not control any feature in the Paracel archipelago that is fully under China’s control97.

The Vietnamese claim that 63 fishing boats with 725 crew members have been seized by the Chinese since 2005 in the South China Sea; they are then required to pay exorbitant fines for their release. In one incident that generated much publicity in Vietnam, a Chinese patrol vessel seized a Vietnamese fishing boat and its 12-man crew around the Paracels in March 2010. Vietnam through its Foreign Ministry Spokesman reiterated:

“China’s unilateral implementation of such fishing ban in the East Sea is a violation of Vietnamese sovereignty over the Hoang Sa archipelago, sovereign rights and jurisdictional rights over Viet Nam’s exclusive economic zones and continental shelf, violating the Declaration on the Conduct of Parties in the South China Sea (DOC), further complicating the situation in the East Sea. The Ministry of Foreign Affairs of Viet Nam met the Chinese side to lodge its protest against the Chinese conduct.”98

Vietnamese fisherman feels uncomfortable to fishing in the disputed area because of China unilateral fishing ban. Throughout the intervening years, incidents involving fishing and coast guard vessels have continued, maintaining, if not escalating the tensions between Vietnam and China99.

In 2004, Vietnam began to announce joint ventures with foreign oil companies and public bidding on oil exploration in the South China Sea. Vietnam is the major oil producer in the area, with the state-owned oil company PetroVietnam producing 24.4 million tons, or 26 percent of Vietnam’s total production, in 2010 from three fields in the South China Sea100. With production in established fields declining, PetroVietnam has concluded 60 oil and gas exploration and production contracts with various foreign companies in an effort

99 Ibid
100 Ibid
to exploit new ones. As Vietnam attempts to exploit new fields, there is the possibility of renewed clashes with China, which has consistently opposed Vietnam’s attempts to conclude exploration agreements with international oil companies in the South China Sea\textsuperscript{101}.

### 4.3.4 Philippine

The Philippines as a sovereignty claim to the major part of the Spratly archipelago. It has control at least ten features in the Spratly archipelago. The Philippines first took control of five features in the early 1970s and has since expanded its control\textsuperscript{102}.

On April 8, 2012, a Philippine surveillance plane spotted eight Chinese fishing vessels anchored in a lagoon at Scarborough Reef. Interpreting this as illegal fishing in Philippine waters, the Philippine Navy deployed its flagship and after armed soldiers boarded the Chinese vessels they found large amounts of illegally collected coral, giant clams and live sharks, a violation of the Philippine Fisheries Code\textsuperscript{103}. The boarding party reported back to the ship and soon after, two Chinese maritime surveillance ships arrived and stopped between the BRP Humabon and the Chinese fishing vessels. Their intent was to prevent any arrests or detentions of Chinese fishermen. The standoff commenced when each vessel demanded the other to leave its country’s waters. The Philippine Navy confiscated what they had deemed an illegal catch and the Chinese fishing boats eventually left a week later\textsuperscript{104}.

The Filipino Malampaya and Camago fields are in waters claimed by China. Both fields are estimated to contain a combined amount of 2.3 to 4.4 Tcf of natural gas reserves. The Philippines has proceeded with development of the


\textsuperscript{102} Ibid

\textsuperscript{103} The Code makes provision for the management and conservation of fisheries and aquaculture in the Philippines and the reconstitution or establishment of fisheries institutions both at the national and local level. Retrieved on 9\textsuperscript{th} February 2013 from http://www.fao.org/fishery/shared/faolextrans.jsp?xp_FAOLEX=LEX-FAOC016098&xp_faoLexLang=E&xp_lang=en

\textsuperscript{104} Ring, Andrew H. (2012). A US South China Sea Perspective: Just Over the Horizon. Harvard University
fields and linked the gas output to three power plants via a 312-mile pipeline. There have been no objections from China regarding this development. The Malampaya field has an estimated 150 million bbl of oil; as of January 2008, plans were underway to begin international bidding rounds for development of the field\textsuperscript{105}. The Philippines has attempted to boost self sufficiency in oil production and has set a target of 60% by 2011. It intends to offer 15 exploration contracts for offshore exploration off Palawan in an area claimed by China\textsuperscript{106}. The Philippine company is holding a contract to explore for oil and gas in disputed waters in the South China Sea\textsuperscript{107}.

4.3.5 Malaysia

Malaysia has a sovereignty claim to the southern part of the Spratly archipelago. Currently Malaysia controls at least three features in the Spratly archipelago. Malaysia first took control of Swallow Reef in 1983 and has since then expanded its control\textsuperscript{108}.

Malaysia consumes the majority of its oil production and domestic consumption has been rising as production has been falling. The government is focused on opening up new investment opportunities by enhancing output from existing fields and developing new fields in deepwater areas offshore Sarawak and Sabah\textsuperscript{109}. Many Malaysian natural gas fields located offshore Sarawak are also claimed by China, but to date, China has not specifically objected to their development. Malaysian oil reserves have been dropping and to increase production it must finds new field to develop. Its current plans include ramping

\textsuperscript{105} South China Sea. Retrieved on 6\textsuperscript{th} February 2013 from http://www.eia.gov/cabs/South_China_Sea/Full.html
\textsuperscript{107} Pangilinan: Oil Project in S. China Sea needs China or US Support. Retrieved on 6\textsuperscript{th} February 2013 from http://www.abs-cbnnews.com/business/01/17/13/pangilinan-oil-project-schina-sea-needs-china-or-us-support
\textsuperscript{109} Malaysia. Retrieved on 9\textsuperscript{th} February 2013 from http://www.eia.gov/countries/cab.cfm?fips=MY
up deep-water production in the South China Sea with help from Royal Dutch Shell\textsuperscript{110}.

4.3.6 Brunei

Brunei has a sovereignty claim to Louisa Reef in the Spratly Islands, but Brunei does not control the reef. Brunei’s claim to Louisa Reef is based on the fact that it is located within the continental shelf area claimed by Brunei in the South China Sea\textsuperscript{111}.

The national interests of all claimants covered in territorial claim in Spratly and Paracel Islands, fishing area, oil and gas exploration, and shipping lanes in the South China Sea. Each claimant are competing to get as many as possible to protect their own national interest.

4.4 Indonesian Interest in Regional Scope

The South China Sea dispute that has lasted for decades had calmed down for few years. Lately the dispute heated up again in 2009 because China submitted its territory map formally to the UN which included all of the Paracel and Spratly Islands and the surrounding seas. Otherwise the region is still become dispute for some countries. Other claimants and Indonesia was proposed their protest to the UN about the China’s new map. The impact of this recent issue is the disrupted of ASEAN regional stability\textsuperscript{112}.

The South China Sea dispute heats up until the end of 2012. Therefore Indonesia whose has role as ASEAN chairman in 2011 was started to take some steps since 2009 to prove Indonesian capability to be ASEAN chairman and to maintain the stability in Southeast Asia region. Indonesia was cooperated with

\textsuperscript{110} Ring, Andrew H. (2012). A US South China Sea Perspective: Just Over the Horizon. USA: Harvard University

\textsuperscript{111} Ooi, Keat Gin. (2004). \textit{Southeast Asia: A Historical Encyclopedia, from Angkor Wat to East Timor}. USA: ABC-CLIO, Inc. p. 1241

Canada, initiated by Ambassador Dr. Hasjim Djalal, created a series of workshops on “Managing Potential Conflicts in the South China Sea” which have been held in Indonesia, under the auspices of the Research and Development Agency within the Department of Foreign Affairs, since 1990. It was attended by government and military officials in their private capacities as well as by academics from the region and Canada to explore ways to develop the cooperation among the nations bordering on the South China Sea. In 20th Workshop on Managing Potential Conflicts in the South China Sea, the Indonesian Foreign Minister, Dr. Marty Natalegawa, has been delivered his speech about maintaining the regional stability in ASEAN according to the South China Sea dispute. The existence of the workshop is expected to keep the regional stability in the Southeast Asia.

“… that potential for conflicts even more transform them to actual opportunities for all of us to come together and to be working hand in hand in promoting collaboration in the area of the South China Sea. … the value added that the South China Sea Workshop process has brought cooperations on such important issues as bio-diversity studies or climate change impact on the sea level etc., these are issues and concern that cross national boundaries that do not recognize national limitations they are the kind of issues that are bringing us together in this setting that we are in the South China Sea. …”

As stated above, Indonesia felt need to keep ASEAN still united to solve the SCS dispute. Indonesia believed that the SCS dispute could be solved through the cooperation from entire world, generally, and all of the claimants, specifically.

In addition, an Indonesian source, who closely followed the contacts between the two countries, in 2011 informed that US had asked Indonesia to receive 24 used F-16 fighter jets from the US, rather than purchasing new ones that would come in a fourth number of the granted units. The Indonesian Military (TNI) could operate the 24 jets much earlier than waiting for the new units, to

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113 The South China Sea Informal Working Group, Introduction. Retrieved on 20th October 2012 from faculty.law.ubc.ca/scs/

boost Indonesia’s capabilities, including to monitor the situation in the South China Sea\textsuperscript{115}. Responded to the news, Teuku Rezasyah, Ph.D stated that

“Indonesia should not let the US allow a ‘war by proxy’ by using Indonesia, as it did in Timor Leste (then East Timor) in 1975”

As mentioned above, Indonesia should not take the US offer to anticipate China’s rising in the South China Sea. It will disrupt the regional stability because Indonesia will seems not trusting China in the South China Sea case.

Indonesia, for its part, is not a claimant to any disputed territories in the SCS (Spratly, Pratas, Paracels Islands, etc)\textsuperscript{116}. Indonesia is not a claimant state in the South China Sea (SCS) with regard to the disputed ownership of islands located therein. Indonesia has a major strategic interest in preserving its claims around Natuna Island, which lies well to the south of the Spratlys. Indonesia’s ownership of the gas-rich fields off Natuna was undisputed until China released an official map with unclear maritime boundaries indicating that Chinese claimed waters in the South China Sea may extend into the waters around the Natuna Island.

However, assured of its neutral position, Indonesia, through Prof. Hasjim Djalal, initiated workshops on Managing Potential Conflicts in the SCS. Interestingly, in the 1993 workshop, the Chinese delegation presented a map illustrating its country’s “historic waters” that showed that China’s claimed areas overlapped with Indonesia’s EEZ adjacent to the Natuna Islands. Consequently, it was suggested that Indonesia was being “drawn into the fray” of the South China Sea disputes (Johnson, 1997). Indonesia asked for clarification from China regarding the claim, but China offered no explanation. Instead, china offered a negotiated solution that Indonesia rejected, since Indonesia does not see the need for maritime negotiation with China. Indonesia further confirmed its rejection by stating that that the nine-dashed line map of China “lack[s] international basis” and therefore its purpose is “tantamount to upset[ting]” the 1982 United Nations


Convention on the Law of the Sea (UNCLOS). In other words, Indonesia does not consider China one of its neighbors with which it must settle maritime boundaries.

Although Indonesia is not involved in the dispute in the South China Sea, concern for Indonesia is still there. President of the Republic of Indonesia confirmed that Indonesia needs to be aware if there is a conflict because it would disrupt the nation's security and economic conditions since the area into the path of Indonesia's import and export activity is also adjacent to the Indonesian Exclusive Economic Zone (EEZ).\(^{117}\)

Indonesia has interests at stake, especially considering the overlap between China’s “9-dotted-line” claim and Indonesia’s exclusive economic zone (EEZ) around the Natuna Islands, located at the southern part of SCS. Indonesia is entitled to maritime area in the SCS as in the Natuna Islands. As it is an archipelagic country, Indonesia may claim territorial sea, exclusive economic zone (EEZ) and continental shelf measured from archipelagic baselines, which connect the outermost points of its outer islands. Consequently, Indonesia could theoretically claim a large area of waters in the SCS. On the other hand, Malaysia and Vietnam, two of Indonesia’s closest neighbors in the region, are also entitled to maritime areas, which to a large extent overlap with Indonesia’s. To deal with this issue, Indonesia has delimited seabed (continental shelf) boundaries with Malaysia (1969) and Vietnam (2003). However, maritime delimitation for water column has yet to be done.

Territorial aspects of a country is closely related to sovereignty and sovereign rights and jurisdiction in the state. An area of the country also have limits (both land and sea) because adjacent territory of another country.\(^{119}\) Border region as a sovereign borders and the “front page” of a country, is universally have a strategic role in the determination of the government's policies in the


\(^{118}\) Indonesia’s South China Sea Dilemma: Between neutrality and Self-Interest. Retrieved on 31\(^{st}\) January 2013 from [http://philippinesintheworld.org/?q=node/1536](http://philippinesintheworld.org/?q=node/1536)

\(^{119}\) Some countries generally have land and air region, but there are some countries that do not have the sea region. For example, Laos, Paraguay, Bostwana, Zambia, Rep. Czech, etc.
national interest as well as inter-state relations\textsuperscript{120}. This reason causes the border issue becomes a sensitive issue for every country.

Indonesia is seen as a key player in the South China Sea dispute between China, which claims almost all of it, and ASEAN countries Vietnam, the Philippines, Brunei and Malaysia, which claim parts of it\textsuperscript{121}. Indonesia is not a claimant, but has put a lot of effort into harmonizing ASEAN. Friction among Southeast Asian countries came to the surface following the unprecedented failure to issue any paragraph on South China Sea at the association’s ministerial meeting in Phnom Penh in July. Then, Indonesia took the initiative to recalibrate ASEAN through a 36-hour effort, shuttle diplomacy, visits and phone contacts to reach a common ASEAN position. In 2011, when Indonesia chaired ASEAN, the prospects for managing the problems in the South China Sea appeared promising. After almost a decade since the Declaration of Conduct (DoC) in the South China Sea was agreed to in 2002, China finally agreed in July 2011 to sign off on guidelines for its implementation. Expectations were high that ASEAN and China would be a step closer to reaching an agreement on the more binding Code of Conduct (CoC) in the South China Sea, which would provide a framework for joint cooperation, a mechanism to prevent conflicts and to manage crises whenever they arose.

4.5 The Practices of Indonesia Diplomacy in Managing the Crisis

The Preamble of the Constitution of 1945 (UUD 1945) in the fourth paragraph, mandates Indonesian citizens to always participate in the establishment of world order. Based on that, Indonesia also had to maintain order and peace in the South China Sea. Through Association of Southeast Asian Nations (ASEAN), Indonesia has been trying to resolve the South China Sea dispute. In the Annual Press Statement 2012, Dr. Marty Natalegawa stated:

“Indonesia has shown its capability to manage potential conflict in the South China Sea by working hard to ensure the conclusion of an agreement between ASEAN and China on the Guidelines for the implementation of the Declaration on the Conduct of Parties in the South China Sea. … Indonesia has also successfully reaffirmed the relevance of the ASEAN Regional Forum as a platform for discussion of security issues in Southeast Asia and East Asia”.

During its ASEAN leadership in 2011, Indonesia has successful in maintain the regional stability caused by the South China Sea issue. Indonesia placed itself as a mediator between the claimants through many ways. These are Indonesia’s ways in maintaining the stability in Southeast Asia.

a. **Workshop on Managing Potential Conflicts in the South China Sea**

Since 1990, Indonesia has been convening, hosting and otherwise serving as the moving spirit behind the series of annual workshops on "managing potential conflict in the South China Sea. The Indonesian informal workshops on the South China Sea were not intended to solve territorial disputes among the various claimants, but aimed to achieve three things: devise cooperative programs in which all participants can take part; promote dialogue among the directly interested parties so they can find solutions to their problems, including territorial disputes; and develop the confidence-building process so that everyone will feel comfortable with one another.

Since the beginning, the South China Sea Workshop (SCSW) process formulated and agreed upon some basic principles for managing potential conflicts.

**Table 4.2. Workshop On Managing Potential Conflicts In The South China Sea**

<table>
<thead>
<tr>
<th>NO</th>
<th>Workshops</th>
<th>Places</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The 1st Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Bali</td>
<td>22-24 Januari 1990</td>
</tr>
<tr>
<td>2</td>
<td>The 2nd Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Bandung</td>
<td>15-18 Juli 1991</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>No.</th>
<th>Workshop Details</th>
<th>Location</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>The 3rd Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Yogyakarta</td>
<td>29 Juni - 2 Juli 1992</td>
</tr>
<tr>
<td>4</td>
<td>The 4th Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Surabaya</td>
<td>23 - 25 Agustus 1993</td>
</tr>
<tr>
<td>5</td>
<td>The 5th Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Bukittinggi</td>
<td>26-28 Oktober 1994</td>
</tr>
<tr>
<td>6</td>
<td>The 6th Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Balikpapan</td>
<td>9-13 Oktober 1995</td>
</tr>
<tr>
<td>7</td>
<td>The 7th Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Batam</td>
<td>17 Desember 1996</td>
</tr>
<tr>
<td>8</td>
<td>The 8th Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Pacet, Puncak, Jawa barat</td>
<td>2-6 Desember 1997</td>
</tr>
<tr>
<td>9</td>
<td>The 9th Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Ancol, Jakarta</td>
<td>1-3 Desember 1998</td>
</tr>
<tr>
<td>10</td>
<td>The 10th Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Bogor</td>
<td>5-8 Desember 1999</td>
</tr>
<tr>
<td>11</td>
<td>The 11th Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Cengkareng, Banten</td>
<td>26 - 29 Maret 2001</td>
</tr>
<tr>
<td>12</td>
<td>The 12th Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Jakarta</td>
<td>1-2 Oktober 2002</td>
</tr>
<tr>
<td>13</td>
<td>The 13th Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Medan</td>
<td>17-18 September 2003</td>
</tr>
<tr>
<td>14</td>
<td>The 14th Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Batam</td>
<td>24 - 26 November 2004</td>
</tr>
<tr>
<td>15</td>
<td>The 15th Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Banten</td>
<td>24 - 26 November 2005</td>
</tr>
<tr>
<td>16</td>
<td>The 16th Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Bali</td>
<td>23-Nov-06</td>
</tr>
<tr>
<td>17</td>
<td>The 17th Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Yogyakarta</td>
<td>23-24 November 2007</td>
</tr>
<tr>
<td>18</td>
<td>The 18th Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Manado</td>
<td>28-29 November 2008</td>
</tr>
<tr>
<td>19</td>
<td>The 19th Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Makassar</td>
<td>13 - 14 November 2009</td>
</tr>
<tr>
<td></td>
<td>The 20th Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Bandung</td>
<td>2-3 November 2010</td>
</tr>
<tr>
<td>----</td>
<td>-----------------------------------------------------------------------</td>
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</tr>
<tr>
<td>21</td>
<td>The 21st Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Solo</td>
<td>9-11 November 2011</td>
</tr>
<tr>
<td>22</td>
<td>The 22nd Workshop On Managing Potential Conflicts In The South China Sea</td>
<td>Bandung</td>
<td>23-24 November 2012</td>
</tr>
</tbody>
</table>

Source: Workshop on Managing Potential Conflicts in South China Sea taken from Ministry of Foreign Affairs’ official documents

In November 2008, at the eighteenth SCS Workshop held in Manado, Indonesia, the Taiwanese and Chinese participants for the first time expressed a willingness to work together and come up with a joint SCS project proposal. The China-Taiwan South-East Asia Network for Education and Training (SEA-NET) joint project was adopted at the nineteenth SCS Workshop held at Makassar, Indonesia, in November 2009.7 The China-Taiwan joint project was considered “a milestone in the Workshop process” and will first be implemented in Taiwan in 2010 and then in China in 2011.

- **19th Workshop on managing Potential Conflicts in the South China Sea, Makassar, Indonesia, 13-14 November 2009**

  The workshop was attended by 55 participants from Brunei Darussalam, Indonesia, Lao PDR, the People’s Republic of China, Malaysia, the Philippines, Singapore, Thailand, Vietnam, and Chinese Taipei. This workshop was underlined the importance of South China Sea for peace, security, stability, and prosperity for countries in the region. The workshop discussed the impact of the tide and sea level rise to coastal areas, the environment, the people, and the economy in the region\(^\text{124}\).

- **20th Workshop on Managing Potential Conflicts in the South China Sea, Bandung, Indonesia, 1-3 November 2010**

\(^{124}\) Statement of 19th Workshop on Managing Potential Conflicts in the South China Sea
The Workshop was attended by 59 participants from Brunei Darussalam, Cambodia, the People’s Republic of China, Indonesia, Lao PDR, Malaysia, the Philippines, Singapore, Chinese Taipei, Thailand, and Vietnam.

In his Keynote Speech, Dr. Marty Natalegawa underlined the importance of South China Sea for peace, security, stability and prosperity for countries in the region. The Minister underlined that despite the remaining jurisdictional issues of the South China Sea, the Workshop has further continued to serve its purpose in managing the potential conflicts in the region. The Workshop has also had its multiplier effects beyond the Workshop proper as acknowledged by the international community including ASEAN. Seizing the momentum of this 20th Anniversary, the Minister also highlighted that the Workshop process must put itself in the context of recent regional milieu and global changes. He suggested that the commemorative period be used to take stock on the changes and challenges that the Workshop has to work through. The Minister expected that the Workshop will continue to contribute to the maintenance of peace and stability in the region in the years ahead.

- **21st Workshop on Managing Potential Conflicts in the South China Sea, Solo, 9-11 November 2011**

The workshop was attended by 51 participants from Brunei Darussalam, the People’s Republic of China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Chinese Taipei and Vietnam. In this workshop, the Vice Minister for Foreign Affairs of Indonesia, Mr. Suprapto Martosetomo underlined that workshop should seize the momentum of the Guidelines on the Implementation of the Declaration on the Conduct of Parties in the South China Sea (DOC) adopted during the ASEAN-China Ministerial Meeting in July 2002.

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125 Statement of 20th Workshop on Managing Potential Conflicts in the South China Sea
2011. He also stated that the workshop may take stock on the agreed projects that have ot been implemented and subsequently bring them forward into other appropriate and effective mechanisms. For the first time, Myanmar was participated as an observer and complements the involvement of all participating authorities of the ASEAN member countries in this 21st workshop.126 Prof. Dr. Hajim Djalal welcomed the fact that the situation in the South China Sea has become more conducive. These positive developments are signified by the adoption of the Guidelines on the Implementation of the Declaration on the Conduct of Parties in the South China Sea (DOC) by ASEAN and China127.

- **22nd Workshop on Managing Potential Conflicts in the South China Sea, Bandung, Indonesia, 23-24 November 2012**

The workshop was attended by 62 participants from Brunei Darussalam, People’s Republic of China, Indonesia, Malaysia, the Philippines, Singapore, Chinese Taipei, Thailand and Vietnam. Mr. Pitono Purnomo, Head of Policy Analysis and Development Agency of the Ministry of Foreign Affairs of the Republic of Indonesia, reiterated the importance of the workshop as one of the enduring mechanisms in promoting confidence building and preventive diplomacy in the South China Sea128.

In practice, the settlement of disputes in the border region is always associated with other countries. The workshops are existed as a facilitation tool by Indonesia to joint cooperation between the South China Sea claimants.

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126 Ibid.
127 Statement of 21st Workshop on Managing Potential Conflicts in the South China Sea
128 Statement of 22nd Workshop on Managing Potential Conflicts in the South China Sea
b. Shuttle Diplomacy

For the first time in forty five years ASEAN Ministerial Meeting (AMM), ASEAN could not paper over differences among its members in a Joint Communique. ASEAN members have always had differing views, sometimes quite serious. The major reason behind this failure was that Cambodia, as ASEAN Chair, refused to allow any mention of Scarborough Shoal and EEZs and continental shelves. In the ministers’ discussion Cambodia twice threatened to withhold the joint communiqué in order to pressure Vietnam and the Philippines. Vietnam and the Philippines were supported by Indonesia, Malaysia and Singapore. When an emergency meeting was held afterwards Indonesia and Singapore brokered a compromise that Vietnam and the Philippines agreed to. When the compromise wording was taken to Cambodia’s foreign minister he refused to consider it and walked out of the meeting. Foreign observers report that Cambodia was in close consultation with China. It is hard to avoid the conclusion that Cambodia put its relations with China higher than ASEAN solidarity and unity.

As long as the ASEAN member states failed to manage the code of conduct to regulate the action in the South China Sea, it could impact to the escalating tension in that region. Moreover, the claimants have increased its military preparations recently. Indonesian Foreign Minister, Dr. Marty Natalegawa, has succeeded in doing shuttle diplomacy according to the President Susilo Bambang Yudhoyono’s direction to the Philippine, Vietnam, Cambodia, and Singapore. ASEAN member states have succeed in stated position about the South China Sea. It is reflected by the release of the statement from the ASEAN Foreign Ministers about ASEAN’s Six-Point

Principles on the South China Sea. The statement was released in Phnom Penh, Cambodia, 20th July 2012. The contents of ASEAN’s Six-Point Principles on the South China Sea are:

1. the full implementation of the Declaration on the Conduct of Parties in the South China Sea (2002);
2. the Guidelines for the Implementation of the Declaration on the Conduct of Parties in the South China Sea (2011);
3. the early conclusion of a Regional Code of Conduct in the South China Sea;
4. the full respect of the universally recognized principles of International Law, including the 1982 United Nations Convention on the Law of the Sea (UNCLOS);
5. the continued exercise of self-restraint and non-use of force by all parties; and

Those statements are the commitment of all ASEAN member states according to the South China Sea dispute. ASEAN Foreign Ministers (AFM) have equalize their position through six points above temporarily.

Indonesia’s strategic significance can be understood from the fact that it played ‘shuttle diplomacy’ between the countries during the present ASEAN meeting. Indonesian foreign minister came out with a ‘common position’ of the ASEAN members to the declaration of a code of conduct and UNCLOS. Regardless of the fact that it has overlapping territorial claims with China and Taiwan over the Natuna gas fields, it is one of the proactive countries in Southeast Asia which has taken initiatives towards a binding code of conduct for the SCS.

Indonesian Foreign Minister, Dr. Marty Natalegawa embarked on a 36-hour diplomacy tour to the Philippines, Vietnam, Cambodia, Malaysia and Singapore that resulted in ASEAN member states agreeing on a joint

133 Statement of the ASEAN Foreign Ministers. Held in Phnom Penh, Cambodia, 20th July 2012
statement on the ongoing disputes in the South China Sea. The effort was seen as necessary after the ASEAN foreign ministers, for the first time in the group’s 45-year history, failed to produce a joint communique from the ASEAN Ministerial Meeting in Phnom Penh because they couldn’t agree on the paragraph about the territorial disputes.\(^\text{135}\)

c. Summits

The topic about South China Sea dispute was discussed in ASEAN Summit since 2009. The researcher is considered four summits on South China Sea dispute for four years. The following data are considered the discussion list in the ASEAN Summits which discuss about South China Sea dispute since 2009 until 2012.

<table>
<thead>
<tr>
<th>Summits</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASEAN Summit</td>
<td>√</td>
<td>√</td>
<td>√</td>
<td>√</td>
</tr>
<tr>
<td>ASEAN – China Summit</td>
<td>-</td>
<td>√</td>
<td>√</td>
<td>√</td>
</tr>
<tr>
<td>ASEAN Ministerial Meeting</td>
<td>√</td>
<td>√</td>
<td>√</td>
<td>-</td>
</tr>
<tr>
<td>ASEAN Regional Forum</td>
<td>√</td>
<td>√</td>
<td>√</td>
<td>√</td>
</tr>
</tbody>
</table>


1. 2009

a. 2009 Blueprint on the ASEAN Political-Security Community (1 March 2009)

This discussion was ensured full implementation of the DOC for peace and stability in the South China Sea. In summary, this Blueprint was

\(^{135}\) Indonesia Leads From the Front on ASEAN. Retrieved on 28\(^{th}\) January 2013 from [http://www.thejakartaglobe.com/politics/indonesia-leads-from-the-front-on-asean/536384](http://www.thejakartaglobe.com/politics/indonesia-leads-from-the-front-on-asean/536384)
focused in the implementation of the DOC and work towards the adoption of a regional Code of Conduct in the South China Sea.\(^{136}\)

b. **2009 Joint Communiqué of the 42nd ASEAN Foreign Ministers Meeting (Phuket, 20 July 2009)**

In this meeting, the major issue is to continuing importance of the DOC as a milestone document between ASEAN and China, to ensure the peaceful resolution of disputes in the area. Also to encouraged the continued exercise of self-restraint by all the parties to resolving disputes in the South China Sea.\(^{137}\)

c. **2009 Chairman’s Statement of the 16th ASEAN Regional Forum (Phuket, 23 July 2009)**

In this meeting, the ministers reaffirmed the continuing importance of the DOC as a milestone document between the member states of ASEAN and China to ensure the peaceful resolution of disputes in the area. The ministers also reiterated the hope that the member states of ASEAN and China would expeditiously conclude the Guidelines on the implementation of the DOC. Also they encouraged to continued exercise of self-restraint by all the parties to resolving disputes in the South China Sea.\(^{138}\)

2. **2010**

a. **2010 Chairman’s Statement of the 16th ASEAN Summit (Ha Noi, 9 April 2010)**

The ministers stressed the importance of effective coordination and collaboration among various sectoral bodies, such as DOC, in the implementation of the APSC Blueprint.\(^{139}\)

\(^{136}\) Blueprint on the ASEAN Political-Security Community  
\(^{137}\) Joint Communiqué of the 42\(^{nd}\) ASEAN Foreign Ministers Meeting “Acting Together to Cope with Global Challenges”  
\(^{138}\) Chairman’s Statement 16th ASEAN Regional Forum  
\(^{139}\) Chairman’s Statement of the 16\(^{th}\) ASEAN Summit
b. **2010 Joint Communique of the 43rd ASEAN Foreign Ministers Meeting (Ha Noi, 19-20 July 2010)**

The ministers reaffirmed the importance of the DOC as a milestone document between ASEAN and China to promoting peace, stability, and mutual trust and to ensuring the peaceful resolution of disputes in the area. They also stressed the importance of maintaining peace and stability in the South China Sea and encouraged the continued exercise of self-restraint to resolving disputes in the South China Sea\(^{140}\).

c. **2010 Chairman’s Statement of the 17th Meeting of the ASEAN Regional Forum (Ha Noi, 23 July 2010)**

The ministers stressed the importance of maintaining peace and stability in the South China Sea. They also reaffirmed the continuing importance of the DOC as a milestone document between ASEAN Member States and China to ensuring the peaceful resolution of disputes in the area. The ministers encouraged efforts towards the full implementation of the Declaration and the eventual conclusion of a Regional COC\(^{141}\).

d. **2010 Chairman’s Statement of the 17th ASEAN Summit (Ha Noi, 28 October 2010)**

The ministers reaffirmed the importance of the DOC signed between ASEAN and China to promote peace and stability in this area through dialogue and cooperation and peaceful resolution of disputes in accordance with universally agreed principles of international law including the UNCLOS. They also stressed the need to intensify efforts for effective implementation of the DOC and move toward the eventual conclusion of a regional COC\(^{142}\).

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\(^{140}\) Joint Communique of the 43rd ASEAN Foreign Ministers Meeting

\(^{141}\) Chairman’s Statement of the 17th Meeting of the ASEAN Regional Forum

\(^{142}\) Chairman’s Statements of the 17\(^{th}\) ASEAN Summit
e. 2010 Chairman’s Statement of the 13th ASEAN-China Summit
   (Hanoi, 29 October 2010)
   The ministers reaffirmed the commitment to fully and effectively
   implement the DOC and work towards the eventual adoption, on the
   basis of consensus, of a code of conduct in the South China Sea, to
   further contribute to peace, stability and cooperation in the region.

3. 2011
a. 2011 Chair’s Statement of the 18th ASEAN Summit (Jakarta, 7-8
   May 2011)
   The ministers reaffirmed the importance of the DOC as a milestone
   document signed between ASEAN and China to promoting peace,
   stability and to ensuring the peaceful resolution of disputes in this
   area. They also stressed the need to further intensify the efforts of both
   ASEAN and China to the effectiveness of full implementation of the
   DOC and move forward the eventual conclusion of a Regional COC.
   The ministers resolved to take advantage of the momentum to finalize
   the Guidelines on the implementation of the DOC and initiate
   discussions on a regional COC.

b. Joint Communique of the 44th ASEAN Foreign Ministers’
   Meeting, Bali, Indonesia, 19 July 2011
   The ministers conducted the discussion of recent developments in the
   South China Sea and expressed serious concern over the recent
   incidents. The ministers underlined the importance of maintaining
   peace and stability in the South China Sea. They also reaffirmed the
   importance and continued relevance of the DOC as a milestone
   document between ASEAN and China to promoting peace, stability,
   and mutual trust and to ensuring the peaceful resolution of disputes in
   the area. In this meeting, the ministers also look forward to the

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143 Chairman’s Statement of the 13th ASEAN-China Summit
144 Chairman’s Statement of the 18th ASEAN Summit
finalization of the Guidelines on the implementation of the DOC. The ministers noted that the Workshop on Managing Potential Conflicts in the South China Sea has been able to encourage cooperation with a view to fostering trust and understanding among its participants.\textsuperscript{145}

c. Chairman’s Statements of 18\textsuperscript{th} ASEAN Regional Forum, Bali, Indonesia, 23 July 2011

The Ministers welcomed the recent finalization and adoption of the Guidelines for the DOC at the recent ASEAN PMC+1 with China. They also reaffirmed the importance and continued relevance of the DOC as a milestone document between ASEAN Member States and China to promoting peace, stability and mutual trust and to ensuring the peaceful resolution of disputes in the area. They looked forward to the full and effective implementation of the DOC to promote a conducive condition in the South China Sea. The Ministers reaffirmed the importance of maritime security and safety in the South China Sea. They stressed the importance of promoting a peaceful, friendly and harmonious environment in the South China Sea for maintaining and enhancing peace, stability, economic growth and prosperity in the region. They also encouraged the need to move towards the eventual establishment of a regional code of conduct (COC) in the South China Sea as provided in the DOC\textsuperscript{146}.

d. Chairman’s Statement of the 14\textsuperscript{th} ASEAN-CHINA Summit, Bali, Indonesia, 18 November 2011

The ministers were succeeded in the endorsement of the Guidelines on the Implementation of the DOC by the Ministers at the ASEAN-China Post Ministerial Conference in Bali, Indonesia on 22 July 2011. They also reaffirm the importance of the DOC as a milestone document to promoting peace, stability and mutual trust and to ensuring the

\textsuperscript{145} Joint Communique of the 44\textsuperscript{th} ASEAN Foreign Ministers’ Meeting
\textsuperscript{146} Chairman’s Statements of 18\textsuperscript{th} ASEAN Regional Forum
peaceful resolution of disputes in the area. The ministers also agreed to push forward efforts to fully and effectively implement the DOC and work towards the eventual adoption of a code of conduct in the South China Sea, so as to further contribute to peace, security, stability and cooperation in the region\textsuperscript{147}.

4. 2012
a. Chairman’s Statement of the 20\textsuperscript{th} ASEAN Summit, Phnom Penh, Cambodia, 3-4 April 2012
The ministers reaffirmed the importance of the DOC as a milestone document signed between ASEAN and China to promoting peace, stability, and mutual trust in the South China Sea and to ensuring the peaceful resolution of disputes in this area. They also stressed the need to intensify efforts to ensure the effective and full implementation of the DOC based on the Guidelines for the implementation of the DOC\textsuperscript{148}.

b. Chairman’s Statement of the 19\textsuperscript{th} ASEAN Regional Forum, Phnom Penh, Cambodia, 12 July 2012
The Ministers emphasized the importance and continued relevance of the DOC as a milestone document signed between ASEAN Member States and China to promoting peace, stability and mutual trust and to ensuring the peaceful resolution of disputes in the area, and the adoption of the Guidelines for the implementation of the DOC in July 2011. They noted that this year is the 10th Anniversary of the signing of the DOC. They looked forward to the full and effective implementation of the DOC to promote conducive conditions in the South China Sea. The Ministers stressed the importance of maintaining peace and stability in the South China Sea, the continued

\textsuperscript{147} Chairman’s Statement of the 14\textsuperscript{th} ASEAN-CHINA Summit
\textsuperscript{148} Chairman’s Statement of the 20\textsuperscript{th} ASEAN Summit
exercise of self-restraint and the non-use of force by all parties concerned, and the promotion of confidence-building in this area\textsuperscript{149}.

c. Chairman’s Statement of the 15\textsuperscript{th} ASEAN-China Summit, Phnom Penh, Cambodia, 19 November 2012

The ministers underlined the significant importance of DOC as a historic document which reflects the collective commitment of ASEAN Member States and China to promote peace, stability, mutual trust and confidence in the South China Sea. They also reaffirmed their commitment to continue to effectively implement the DOC in full, to enhance maritime security, and to encourage the parties concerned to resolve territorial and jurisdictional disputes by peaceful means\textsuperscript{150}.

d. Chairman’s Statement of the 21\textsuperscript{st} ASEAN Summit, Phnom Penh, 18 November 2012

The ministers underlined the importance of DOC as a milestone document which signifies the collective commitment of ASEAN Member States and China to promote peace, stability and mutual trust in the South China Sea. They also underscored the importance of the ASEAN’s Six-Point Principles on the South China Sea. The ministers also reaffirmed their commitment to continue to fully and effectively implement the DOC; enhance maritime security cooperation; to encourage the parties concerned to resolve territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force, through consultations and negotiations by sovereign states directly concerned. They welcomed the progress in the implementation of the Guidelines to implement the DOC through the agreed cooperative activities\textsuperscript{151}.

\begin{flushleft}
\textsuperscript{149} Chairman’s Statement of the 19\textsuperscript{th} ASEAN Regional Forum
\textsuperscript{150} Chairman’s Statement of the 15\textsuperscript{th} ASEAN-China Summit
\textsuperscript{151} Chairman’s Statement of 21\textsuperscript{st} ASEAN Summit
\end{flushleft}
In addition, Indonesia has prompted ASEAN to agree Guidelines for the Implementation of Declaration on Conduct of Parties in the South China Sea as a follow up of Declaration of Conduct (DOC) in July 2011 and begin discussions on elements of a regional Code of Conduct (COC) in the South China Sea. COC discussed the legal issues and the formulation of rules of behavior in the South China Sea. All of summits above are held in several ASEAN member states. The purpose of those summits are same, to maintain peace in regional stability in South China Sea.
CHAPTER V
CONCLUSION

This research is using qualitative approach through descriptive strategy. The case study research was chosen to describe of what happening in South China Sea region. The timeframe of this research is since 2009 until the end of 2012. The researcher got data mostly from magazines, newspapers, and websites related to the issue. This dispute is not only disrupting the regional stability of Southeast Asia, but also all over the world. The involvement of Indonesia expected to help in solving the dispute.

Other underlying claimant motivations vary but economics is clearly another common driving factor. Those contested islands have many resources under it which can used for profitable thing. The potential for profit in the form of oil, gas, fish, and mineral resources seems to be behind many claims, although (especially in the case of oil) this is based more on expectations of future discoveries than on proof of existing reserves. The claimants of two groups of islands in the South China Sea are China, Taiwan, Malaysia, the Philippines, Brunei, and Vietnam.

South China Sea dispute happened for decades since 1947 when China published its map on the South China Sea claims. China claims both the Paracel Islands in the north and the Spratly Islands in the southern sector of the SCS. Its claim to the islands is based on historical usage. The nine-dotted line map refers to the demarcation line used by China for its claim to the South China Sea. After the Communist Party took over mainland China and formed the People’s Republic of China in 1949, the line was adopted and revised to nine as endorsed by Zhou Enlai.

Vietnam also claims all of the islands territories. Vietnam was disagreeing with Beijing’s opinion and considers that Spratly and Paracel Islands are part of Vietnam’s sovereignty since 17th century. In its development, Vietnam does not
recognize the territorial sovereignty of China in that region, so by the end of World War II, Paracel Islands occupied by southern Vietnam, including several remote islands in the Spratly Islands. Vietnam claims sovereignty over the whole Spratlys Islands based on historical grounds, preoccupation, and effective occupation.

The Philippines occupy some remote islands in the Spratly Islands, which called “kelayaan”, since 1971 and Panata Islands in 1978. The reason of why the Philippines occupied those regions is because no one claimed those regions. The Philippines statement is referring to San Francisco peace agreement 1951 about the waiver of Japan on the Spratly Islands. According to the Philippine view, the Spratlys were “abandoned” during 1950 – 1956, when no nation paid any attention to them so that the Spratlys could be renounced as its sovereignty.

Malaysia asserts two legal bases for its claims; continental shelf extension and discovery/occupation. Malaysia was also claimed several remote islands in the Spratly Islands based on its continental shelf boundary map in 1979. The map is published in 1979 entitled “Map Showing the Territorial Waters and Continental Shelf Boundaries”. In this map, Malaysia defined its continental shelf area and claimed all islands arising from it. Brunei currently claims two reefs, Louisa Reef and Rifleman Bank, and a maritime zone based on the prolongation of its continental shelf.

Indonesia is not a claimant, but in this dispute Indonesia places itself as a facilitator between the claimants. Indonesia is entitled to maritime area in the SCS as in the Natuna Islands. Indonesia has a major strategic interest in preserving its claims around Natuna Island, which lies well to the south of the Spratlys. Although Indonesia is not involved in the dispute in the South China Sea, concern for Indonesia is still there. President of the Republic of Indonesia confirmed that Indonesia needs to be aware if there is a conflict because it would disrupt the nation's security and economic conditions since the area into the path of Indonesia's import and export activity is also adjacent to the Indonesian Exclusive Economic Zone (EEZ). Indonesia has put a lot of effort into harmonizing ASEAN. Friction among Southeast Asian countries came to the surface following
the unprecedented failure to issue any paragraph on South China Sea at the association’s ministerial meeting in Phnom Penh in July. Then, Indonesia took the initiative to recalibrate ASEAN through a 36-hour effort, shuttle diplomacy, visits and phone contacts to reach a common ASEAN position. In 2011, when Indonesia chaired ASEAN, the prospects for managing the problems in the South China Sea appeared promising. After almost a decade since the Declaration of Conduct (DoC) in the South China Sea was agreed to in 2002, China finally agreed in July 2011 to sign off on guidelines for its implementation. Expectations were high that ASEAN and China would be a step closer to reaching an agreement on the more binding Code of Conduct (CoC) in the South China Sea, which would provide a framework for joint cooperation, a mechanism to prevent conflicts and to manage crises whenever they arose.

   South China Sea dispute is still not over yet until early 2013, but Indonesia has been succeeded in maintaining the regional stability through many ways, such as workshops. The initiative of conducting the Workshop on Managing Potential Conflicts in the South China Sea was come from Ambassador Dr. Hasjim Djalal. Those workshops are annually held in Indonesia participating of ASEAN member states and the claimants. As ASEAN has initiated and got involved Since 1990’, it somehow contribute the way a regional forum to employ its own diplomatic powers to mediate a peaceful settlement in the South China sea dispute as in the past through ARF, ASEAN-China meeting, and other related dialogue. However, its efforts cannot succeed unless the claimant nations themselves are willing to engage in multilateral negotiations.

   The resolution to the South China Sea maritime border dispute is difficult because it is as complex as these multiple claims are various in the motives and concerns. It would be summarized that the dispute is difficult to be solved by using one approach as its commitment has been both limited and ambiguous behind, involved with territory, maritime zone and the rich resources assumed existed in the South China Sea.
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APPENDICES

DECLARATION ON THE CONDUCT OF PARTIES IN THE SOUTH CHINA SEA

The Governments of the Member States of ASEAN and the Government of the People's Republic of China,

REAFFIRMING their determination to consolidate and develop the friendship and cooperation existing between their people and governments with the view to promoting a 21st century-oriented partnership of good neighbourliness and mutual trust;

COGNIZANT of the need to promote a peaceful, friendly and harmonious environment in the South China Sea between ASEAN and China for the enhancement of peace, stability, economic growth and prosperity in the region;

COMMITTED to enhancing the principles and objectives of the 1997 Joint Statement of the Meeting of the Heads of State/Government of the Member States of ASEAN and President of the People's Republic of China;

DESIRING to enhance favourable conditions for a peaceful and durable solution of differences and disputes among countries concerned;

HEREBY DECLARE the following:

1. The Parties reaffirm their commitment to the purposes and principles of the Charter of the United Nations, the 1982 UN Convention on the Law of the Sea, the Treaty of Amity and Cooperation in Southeast Asia, the Five Principles of Peaceful Coexistence, and other universally recognized principles of international law which shall serve as the basic norms governing state-to-state relations;

2. The Parties are committed to exploring ways for building trust and confidence in accordance with the above-mentioned principles and on the basis of equality and mutual respect;

3. The Parties reaffirm their respect for and commitment to the freedom of navigation in and overflight above the South China Sea as provided for by the universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea;
4. The Parties concerned undertake to resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force, through friendly consultations and negotiations by sovereign states directly concerned, in accordance with universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea;

5. The Parties undertake to exercise self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability including, among others, refraining from action of inhabiting on the presently uninhabited islands, reefs, shoals, cays, and other features and to handle their differences in a constructive manner.

Pending the peaceful settlement of territorial and jurisdictional disputes, the Parties concerned undertake to intensify efforts to seek ways, in the spirit of cooperation and understanding, to build trust and confidence between and among them, including:

   a. holding dialogues and exchange of views as appropriate between their defense and military officials;
   b. ensuring just and humane treatment of all persons who are either in danger or in distress;
   c. notifying, on a voluntary basis, other Parties concerned of any impending joint/combined military exercise; and
   d. exchanging, on a voluntary basis, relevant information.

6. Pending a comprehensive and durable settlement of the disputes, the Parties concerned may explore or undertake cooperative activities. These may include the following:

   a. marine environmental protection;
   b. marine scientific research;
   c. safety of navigation and communication at sea;
   d. search and rescue operation; and
   e. combating transnational crime, including but not limited to trafficking in illicit drugs, piracy and armed robbery at sea, and illegal traffic in arms.

The modalities, scope and locations, in respect of bilateral and multilateral cooperation should be agreed upon by the Parties concerned prior to their actual implementation.

7. The Parties concerned stand ready to continue their consultations and dialogues concerning relevant issues, through modalities to be agreed by them, including regular consultations on the observance of this Declaration, for the purpose of promoting good neighbourliness and transparency, establishing harmony, mutual understanding and cooperation, and facilitating peaceful resolution of disputes among them;
8. The Parties undertake to respect the provisions of this Declaration and take actions consistent therewith;

9. The Parties encourage other countries to respect the principles contained in this Declaration;

10. The Parties concerned reaffirm that the adoption of a code of conduct in the South China Sea would further promote peace and stability in the region and agree to work, on the basis of consensus, towards the eventual attainment of this objective.

Done on the Fourth Day of November in the Year Two Thousand and Two in Phnom Penh, the Kingdom of Cambodia.
STATEMENT OF THE ASEAN FOREIGN MINISTERS

(Phnom Penh, Cambodia, 20 July 2012)

As a result of consultations among the ASEAN Foreign Ministers, the ASEAN Foreign Ministers issue the following:

“ASEAN’s Six-Point Principles on the South China Sea

ASEAN Foreign Ministers reiterate and reaffirm the commitment of ASEAN Member States to:

1. the full implementation of the Declaration on the Conduct of Parties in the South China Sea (2002);
2. the Guidelines for the Implementation of the Declaration on the Conduct of Parties in the South China Sea (2011);
3. the early conclusion of a Regional Code of Conduct in the South China Sea;
4. the full respect of the universally recognized principles of International Law, including the 1982 United Nations Convention on the Law of the Sea (UNCLOS);
5. the continued exercise of self-restraint and non-use of force by all parties; and

The ASEAN Foreign Ministers resolve to intensify ASEAN consultations in the advancement of the above principles, consistent with the Treaty of Amity and Cooperation in Southeast Asia (1976) and the ASEAN Charter (2008).”