

Expanding the ASEAN-China Free Trade Agreement to Include Cooperative Exploration of the
South China Sea

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Abstract

The tensions in the South China Sea (SCS) present an opportunity for the Association of Southeast Asian Nations (ASEAN) and China to cooperate on furthering economic interdependence, thereby promoting stability in the region. Recent successes in trade and investment as a result of the ASEAN-China Free Trade Agreement (ACFTA) demonstrate the People's Republic of China's (PRC) willingness to expand economic relations with ASEAN countries. Furthermore, both ASEAN and China's dependence on foreign energy coupled with the vast hydrocarbon reserves in the SCS are an impetus for cooperative exploration. Finally, the rapid depletion of fish stocks within the SCS over the last 20 years demands collaboration between the PRC and ASEAN. In order to realize equitable economic sharing of resources throughout the SCS, ASEAN must expand the ACFTA to include hydrocarbon and fishery cooperation, thus recognizing that the motivations for the PRC's actions in the SCS are out of economic survival and not a quest for regional hegemony.

INTRODUCTION

China and the Association of Southeast Asian Nations (ASEAN) member-states share a strategic geo-political and geo-economic position in one of the most contested regions in the world, the South China Sea (SCS). Recent successes in trade and investment as a result of the ASEAN-China Free Trade Agreement (ACFTA) demonstrate the People's Republic of China's (PRC) willingness to expand economic relations with ASEAN countries.¹ Furthermore, both ASEAN and China's dependence on foreign energy coupled with the vast hydrocarbon reserves in the SCS are an impetus for cooperative exploration. Finally, the rapid depletion of fish stocks within the SCS over the last 20 years demands collaboration between the PRC and ASEAN. In order to realize equitable economic sharing of resources throughout the SCS, ASEAN must expand the ACFTA to include hydrocarbon and fishery cooperation, thus recognizing that the motivations for the PRC's actions in the SCS are out of economic survival and not a quest for regional hegemony.

BACKGROUND

The Foreign Ministers of Indonesia, Malaysia, the Philippines, Singapore, and Thailand were the initial signatories to the document forming ASEAN on August 8, 1967.² This document, known as the ASEAN Declaration, contained five articles promoting "cooperation in the economic, social, cultural, technical, educational and other fields, and in the promotion of

¹ The ASEAN-China Free Trade Agreement (ACFTA) is used interchangeably with the China-ASEAN Free Trade Agreement (CAFTA) and the ASEAN-China Free Trade Area (ACFTA).

² "History - ASEAN | ONE VISION ONE IDENTITY ONE COMMUNITY," ASEAN.Org (2019), <https://asean.org/asean/about-asean/history/>.

regional peace and stability through abiding respect for justice and the rule of law and adherence to the principles of the United Nations Charter.”³ ASEAN expanded over the next 32 years until, in 1999, Cambodia became the tenth and final Member State, joining Brunei, Viet Nam, Laos, and Cambodia.⁴ As spelled out in the Treaty of Amity and Cooperation in Southeast Asia (TAC) in 1976, the central theme to the charter of ASEAN is the fundamental principle of sovereignty and “the right of every State to lead its national existence free from external interference, subversion or coercion.”⁵ ASEAN is built on the spirit of cooperation and by promoting a peaceful alliance founded on the rule of law. The Member States aim “to accelerate the economic growth, social progress and cultural development” of the entire Southeast Asian region.⁶

ASEAN and China were not significant trade partners during the 1980s and 1990s as they were competitors of cheap manufacturing.⁷ A dialogue began in 1991 when the PRC’s Foreign Minister, H.E. Qian Qichen, attended the opening session of the 24th ASEAN Ministerial Meeting.⁸ With a desire for cooperation, ASEAN granted China full Dialogue Partner status in 1996, and in 2000 the ASEAN-China Expert Group formed to study bilateral economic relations.⁹ A framework agreement signed in 2002 established an “early harvest program,” reducing the tariffs on 500 products, mostly agricultural, beginning in 2004.¹⁰ This agreement was the foundation for the eventual ASEAN-China Free Trade Agreement (ACFTA) which,

³ “History.”

⁴ “History.”

⁵ “History.”

⁶ “History.”

⁷ Min-Hua Chiang, "China–ASEAN Economic Relations After Establishment Of Free Trade Area," *The Pacific Review* 32, no. 3 (2018): 270, doi:10.1080/09512748.2018.1470555.

⁸ "Overview Of ASEAN-China Dialogue Relations," ASEAN.Org (2019), https://asean.org/storage/2012/05/Overview-of-ASEAN-China-Relations-Jul-2019_For-Web_Rev.pdf.

⁹ Chiang, 273.

¹⁰ Chiang, 273.

consisted of three separate agreements: “Agreement on Trade in Goods signed in November 2004, Agreement on Trade in Services signed in January 2007 and Agreement on Investment signed in August 2009.”¹¹ This agreement, which is now in full effect, proposes to bring ASEAN-China trade to \$1 trillion (USD) and bi-lateral investment to \$150 billion (USD) by 2020.¹²

While ACFTA brought economic cooperation and trade expansion between ASEAN and China, the competing territorial claims to the SCS still cause tension. China’s historical claims to the SCS date to the third century AD when accounts to the Imperial Court detail the use of the sea and its islands.¹³ In 1914, private Chinese cartographers drafting the Chinese national atlas delineated most of the SCS and two island groups, the Paracel and Spratly Islands, within the boundaries of a continuous line.¹⁴ In 1947, the Chinese government circulated an atlas with an eleven-dash line delineating its scope of authority in the SCS, and in 1949 the Chinese government gave Hainan District of Guang Dong Province authority over all islands within the boundary.¹⁵ The now disputed nine-dash line first appeared in a Chinese atlas in 1953 and served as China’s claim to historical sovereignty.¹⁶

Even with deeper economic interdependence between ASEAN and China, the dispute in the SCS between Brunei, Malaysia, Philippines, Vietnam, and China risks undermining future progress. Tensions in the SCS stem from the potential oil, natural gas, and fishing resources it contains. These tensions led to a brief war with Vietnam over the Spratly Islands (Nansha

¹¹ Chiang, 273.

¹² “Overview of ASEAN-China Dialogue Relations.”

¹³ Zhiguo Gao and Bing Bing Jia, “THE NINE-DASH LINE IN THE SOUTH CHINA SEA: HISTORY, STATUS, AND IMPLICATIONS,” *The American Journal of International Law* 107, no. 1 (2013): 100, <https://search-proquest-com.usnwc.idm.oclc.org/docview/1346762263?accountid=322>.

¹⁴ Zhao Hong, “The South China Sea Dispute and China-ASEAN Relations,” *Asian Affairs* 44, no. 1 (2013): 28, DOI: 10.1080/03068374.2012.760785.

¹⁵ Gao and Jia, 103.

¹⁶ Gao and Jia, 103.

Islands to China) in 1974, but by 2004 Vietnam occupied twenty-nine of the Islands.¹⁷ In 2009, China submitted its claim of the SCS to the United Nations (UN) using its nine-dash line map as evidence, but the Philippines challenged their claim and initiated arbitration in 2013.¹⁸ The Permanent Court of Arbitration (PCA) issued a ruling on 12 July 2016 in which, “The Tribunal concluded that there was no legal basis for China to claim historic rights to resources within the areas falling within the ‘nine-dash line’.”¹⁹ Additionally, the Tribunal found that China violated the Philippines' sovereign rights and caused severe harm to the maritime environment with its land reclamation and island-building.²⁰ Tensions remain high as China continues to build islands throughout the SCS, and recent suspected militarization of those islands runs the risk of armed conflict.

ASEAN-China Free Trade Agreement Success

Despite the rising tensions in the SCS, recent successes in the ACFTA, as well as the PRC's Belt and Road Initiative (BRI), demonstrate China's willingness to expand economic relations with ASEAN. ASEAN represents the world's third-largest population and the fifth largest economy as of 2016.²¹ ASEAN's growing economic expansion and China's BRI is an enormous opportunity for ASEAN and China. When dialogue began in 1991, bilateral trade between ASEAN and China only amounted to \$6.3 billion (USD), but by 2016 it was \$475

¹⁷ Gao and Jia, 105.

¹⁸ Hong, 30.

¹⁹ "Press Release: The South China Sea Arbitration (The Republic Of The Philippines V. The People's Republic Of China)," Pca-Cpa.Org (2016), <https://pca-cpa.org/wp-content/uploads/sites/6/2016/07/PH-CN-20160712-Press-Release-No-11-English.pdf>.

²⁰ "Press Release".

²¹ "4 ASEAN Infographics: Population, Market, Economy," ASEAN UP, March 26, 2018, <https://aseanup.com/asean-infographics-population-market-economy/>.

billion (USD).²² President Xi Jinping stated, “The neighboring region has major strategic significance” to China’s national rejuvenation.²³ ASEAN Member states must share that same position and regard bilateral trade with China as an area of strategic opportunity to promote peace and stability in the region.

While many ASEAN Member States are skeptical of China’s Belt and Road Initiative, the ACFTA is expanding economic interdependence that is not only fueling China’s rise, but also the rise of ASEAN. The principle agreement of the ACFTA, the Agreement on Trade in Goods, aims to reduce tariffs on over 90% of product items by 2020 (ref Table 1).²⁴

Table 1. Tariff reduction schedule under CAFTA.

	China+ASEAN-6				China+ASEAN-10		
	2010	2012	2015	2018	2015	2018	2020
Normal products track 1 (91% of total products items)	0%				0%		
Normal products track 2 (2% of total products items)	5%	0%			5%	0%	
Sensitive products 7% of total product items		Below 20%		Below 5%	Below 20%		Below 5%
Highly sustentative products			Below 50%			Below 50%	

Table 1. Source: Min-Hua Chiang, 274.

As a result, ASEAN-Chinese trade increased from \$292 billion (USD) in 2010 to \$475 billion (USD) in 2016.²⁵ Additionally, ASEAN ranks as China’s third-largest import and export partner behind the US and Hong Kong, while China ranks as ASEAN’s largest trade partner.²⁶ ASEAN was the first significant partner China signed a Free Trade Agreement (FTA) with, and the FTA

²² Huang Haitao, “The Role of Trust in China-ASEAN Relations – Towards a Multi-level Trust Building for China and ASEAN,” *International Journal of China Studies* 8, no. 1 (2017): 46.

²³ Haitao, 55.

²⁴ Chiang, 273.

²⁵ Chiang, 267.

²⁶ Chiang, 267.

is critical to the PRC's East Asia expansion and the BRI.²⁷ By capitalizing on these successes, ASEAN has a strategic window of opportunity to negotiate further economic interdependence with China, but also an opportunity to address military and security as well.

Encouraged by the success of the Agreement on Trade in Goods, the second agreement of ACFTA, the Agreement on Trade in Services, opened up opportunities for foreign direct investment (FDI) between ASEAN and China that ASEAN needs to expand further while taking advantage of the PRC's BRI. This agreement that took effect in 2007 secured significant commitments from China in the construction, environment, transportation, and commercial services sectors (ref Table 2).²⁸ As part of the agreement, China extended opening-up measures

Table 2. Major commitments in services under CAFTA.

	China	Singapore	Malaysia	Thailand	Philippines	Brunei	Indonesia
Construction	V		V	V	V		V
Environment	V						
Transportation	V	V	V	V		V	
Sport	V	V					
Commercial services	V	V	V		V		
Financial services		V	V				
Entertainment		V					
Travel services			V	V	V	V	V
Energy services					V		V
Professional services							
Medical services		V		V			
Education services				V			

Table 2. Source: M in-Hua Chiang, 274.

in investment, allowing “sole investor, relaxation of foreign shareholder ratio and national treatment for ASEAN investors.”²⁹ ASEAN Member states reciprocated by granting China

²⁷ Qiaomin Li and Sholeh Maani, “Detecting Positive Effects of the ASEAN-China Free Trade Agreement on Foreign Direct Investment,” *International Economics and Economic Policy* 15, no. 1 (2016): 71, DOI: 10.1007/s10368-016-0366-y.

²⁸ Chiang, 274.

²⁹ Chiang, 274.

greater access than their World Trade Organization (WTO) commitments required, including some services not offered to other WTO members.³⁰ While the liberalization of services is limited when compared to other WTO commitments around the globe, FDI in ASEAN has more than doubled since the signing of the agreement in 2007 (ref Figure 1).³¹ Before the ACFTA, ASEAN's FDI hovered around \$30 billion (USD) per year, but since China began investing, FDI rose to a record \$137 billion (USD) in 2017.³² This increase pushed ASEAN's global share of FDI to 20 percent in 2017.³³ The PRC's continued expansion of the BRI is an ideal opportunity for ASEAN to capitalize on these investments and further economic interdependence, thus increasing the likelihood of stability in the SCS.

Figure 1. Foreign Direct Investment in ASEAN

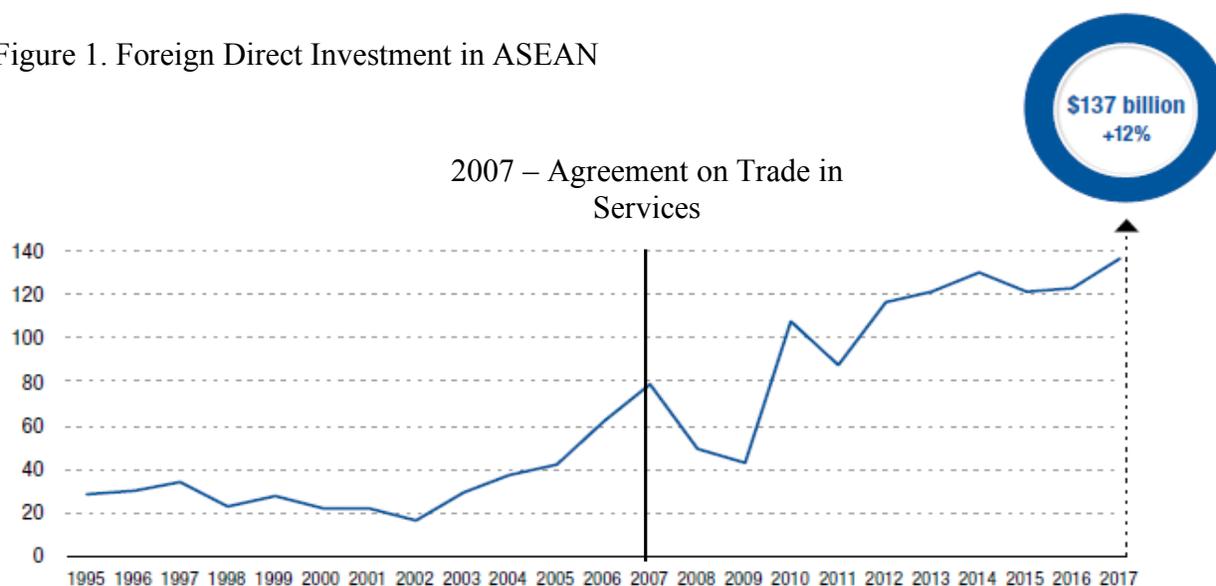


Figure 1. Source: The ASEAN Secretariat, XVII.

³⁰ Chiang, 274.

³¹ "ASEAN Investment Report 2018: Foreign Direct Investment and the Digital Economy in ASEAN," ASEAN.Org (2018): XVII, <https://asean.org/storage/2018/11/ASEAN-Investment-Report-2018-for-Website.pdf>.

³² "ASEAN Investment Report 2018," XVII.

³³ "ASEAN Investment Report 2018," XVII.

As a result of the ACFTA's success, ASEAN and China began holding negotiations in 2015 to upgrade the current FTA facilitating further trade of goods and services.³⁴ Since more than 90% of goods are already tax-free, the upgraded ACFTA should focus on facilitation procedures and the opening-up of further services. Specifically, ASEAN and China identified services such as engineering, construction, sporting and recreational services, securities, and travel as areas of further cooperation.³⁵ Additionally, ASEAN signed the ASEAN-Hong Kong, China Free Trade Agreement (AHKFTA) in November 2017, broadening market access liberalization and cooperation in trade and services with Hong Kong.³⁶ Finally, the ACFTA serves as the foundation for ASEAN's Regional Comprehensive Economic Partnership (RCEP) initiative promoting "a modern, comprehensive high-quality, and mutually beneficial economic partnership agreement" between ASEAN and China, Australia, India, Japan, South Korea, and New Zealand.³⁷ By continuing economic expansion through multilateral agreements with China and the rest of the regional partners, ASEAN, if successful, will achieve greater regional interdependence and ultimately, a more stable SCS.

Cooperative Hydrocarbon Exploration

Building on the success of the ACFTA, both ASEAN and China's dependence on foreign energy is an impetus for cooperative exploration of the vast hydrocarbon reserves in the SCS. In

³⁴ Lu Jianren, "The 21st Century Maritime Silk Road and China-ASEAN Industry Cooperation," *International Journal of China Studies* 7, no. 3 (2016): 380, <https://search-proquest-com.usnwc.idm.oclc.org/docview/1872105410?accountid=322>.

³⁵ Chiang, 275.

³⁶ "The Signing of the ASEAN-Hong Kong, China Free Trade Agreement and ASEAN- Hong Kong, China Investment Agreement," ASEAN.org (2017), <https://asean.org/wp-content/uploads/2017/11/FINAL-JMS-on-the-signing-of-AHKFTA-and-AHKIA.pdf>.

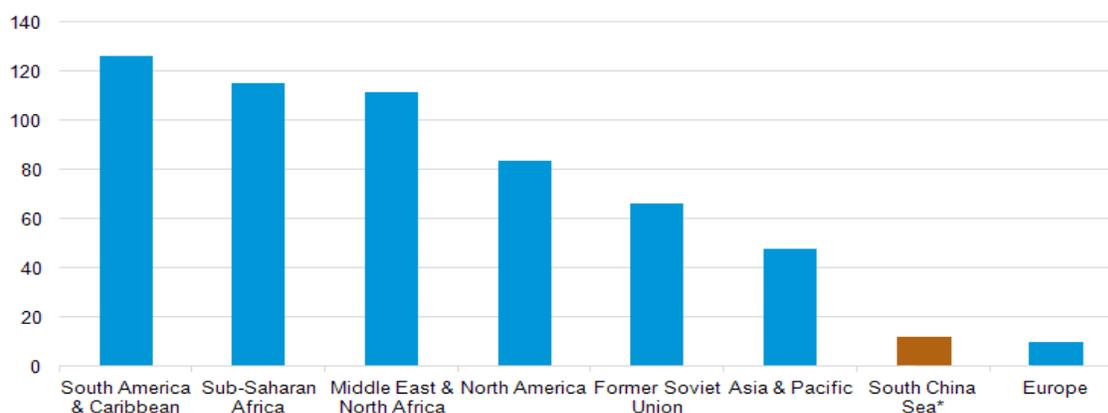
³⁷ "Regional Comprehensive Economic Partnership (RCEP)," ASEAN.org (2016), https://asean.org/?static_post=rcep-regional-comprehensive-economic-partnership.

2018, China and the five largest ASEAN countries by Gross Domestic Product (GDP) – Thailand, Singapore, Indonesia, Malaysia, and the Philippines – all ranked in the top 28 of crude oil importers globally, with China being first.³⁸ Asian countries collectively imported 53.2% of global crude, with China alone responsible for 20.2% of total crude imports alone.³⁹ China’s fuel imports of petroleum gases and crude oil grew 51.6 percent and 46 percent, respectively, from 2017 to 2018 as industrial demand surged to record highs.⁴⁰ With these levels of dependency on foreign energy, ASEAN Member States and China must settle territorial disputes and look to the SCS for energy independence.

The SCS does not possess the hydrocarbon reserves of other regions around the globe; however, it does provide a near term solution for the Southeast Asian countries while continuing to explore other options (ref Figure 2). The US Energy Information Administration (EIA)

World's undiscovered oil resources, 2012

billion barrels of oil



Note: Undiscovered resources are mean undiscovered technically recoverable resources.

* Does not include Gulf of Thailand, Indonesia's Java, Borneo and Sumatra basins, or Sulu Sea.

Source: U.S. Energy Information Administration, USGS World Estimate of Undiscovered Resources 2012, USGS Assessment of Undiscovered Resources of Southeast Asia 2010

Figure 2. Source: “South China Sea.”

³⁸ Daniel Workman, “Crude Oil Imports by Country,” World’s Top Exports, September 16, 2019, <http://www.worldstopexports.com/crude-oil-imports-by-country/>.

³⁹ Workman, “Crude Oil Imports by Country.”

⁴⁰ Daniel Workman, “China’s Top 10 Imports,” World’s Top Exports, September 25, 2019, <http://www.worldstopexports.com/chinas-top-10-imports/>.

projects that consumption of total liquid fuels in Asian countries will rise at a rate of 2.6 percent annually, accounting for over 30 percent of global consumption by 2030.⁴¹ For reference, China's oil consumption in 2018 was 12.8 million barrels per day, and imports accounted for 69.8 percent of consumption.⁴² The EIA estimates there to be approximately 11 billion barrels of oil and 190 trillion cubic feet of known natural gas reserves in the SCS.⁴³ Due to the territorial disputes and under-exploration, these estimates may be inaccurate as the Chinese National Offshore Oil Company (CNOOC) estimated in 2012 that the reserves could contain up to 125 billion barrels of oil and 500 trillion cubic feet of natural gas.⁴⁴ Regardless of the quantity, most of these reserves remain untapped due to territorial disputes, and ASEAN should seize on China's recent willingness to negotiate in the SCS and forge a path of cooperative exploration.

ASEAN and China's agreement on a draft Code of Conduct (CoC) in the South China Sea is a critical step in ASEAN-China relations and could provide the opportunity for further cooperation. ASEAN and China first engaged in talks regarding the SCS in 1996; however, it was not until 2002 that they reached a compromise on a Declaration on the Conduct of Parties in the SCS (DOC).⁴⁵ This document was non-binding, but it established a framework to begin negotiations and served as the basis for the 2011 guidelines to implement the DOC. The single draft, reached in August 2018 at the ASEAN Foreign Ministers' Meeting in Singapore, will not resolve the disputes in the SCS; however, both sides acknowledged that it was an essential step

⁴¹ "South China Sea," US Energy Information Administration, last updated February 7, 2013, <https://www.eia.gov/beta/international/regions-topics.php?RegionTopicID=SCS>.

⁴² "South China Sea Energy Exploration and Development," Center for Strategic & International Studies Asia Maritime Transparency Initiative, accessed October 2, 2019, <https://amti.csis.org/south-china-sea-energy-exploration-and-development/>.

⁴³ "South China Sea."

⁴⁴ "South China Sea."

⁴⁵ Raisina Debates, "Is the latest draft of the "South China Sea Code of Conduct" Really a Milestone?" *Observer Research Foundation*, September 20, 2018, <https://www.orfonline.org/expert-speak/44343-latest-draft-south-china-sea-code-conduct-really-milestone/>.

in establishing trust. Through building trust in the region, ASEAN and China can potentially settle long-held territorial disputes, but more importantly, open the door to cooperative exploration of the SCS.

The Memorandum of Understanding (MoU) on Cooperation on Oil and Gas Development between the Philippines and China is an example of China's willingness to commit to joint exploration, and ASEAN should look to use it as a framework for future multilateral negotiations. In the November 2018 MoU, the Philippines and China agreed to establish a Joint Steering Committee and Working Groups to negotiate cooperative oil and gas development agreements within one year.⁴⁶ China's representative is the China National Offshore Oil Corporation, while the Philippines designated the Philippine National Oil Company-Exploration Corporation as well as private service contractors as its representative.⁴⁷ This collaboration is significant as it signals a change in China's policy towards joint exploration as well as its typical hardline stance on public-private partnerships. ASEAN should seize on the Philippine-China joint exploration project as an opportunity for the collective SCS claimants to negotiate joint development in cooperation with private industry.

Combining multi-stakeholders such as ASEAN, China, and private industry is a path to the sustainable exploitation of the SCS. In 2017, the UN Environmental Program highlighted the importance of multi-stakeholders on sustainable resource management as a means of greater transparency, legitimacy, and compliance.⁴⁸ Commercial agreements between Malaysia and Vietnam in the disputed areas of the Gulf of Thailand are an example of successful cooperation. This joint development agreement, signed in 1992, includes equal sharing of cost and liabilities

⁴⁶ Julius Cesar Trajano, "Resource Sharing and Joint Development in the South China Sea: Exploring Avenues of Cooperation," *NTS Insight* 19, no. 1 (2019), <https://think-asia.org/handle/11540/9847>.

⁴⁷ Trajano.

⁴⁸ Trajano.

as well as benefits.⁴⁹ If successful, joint development agreements could quell the territorial disputes with regards to the nine-dash line and provide a framework for future ASEAN-China cooperation in the SCS.

Cooperative Fishery and Marine Resource Conservation

Overfishing in the SCS and the subsequent depletion of fish stocks is a critical issue that ASEAN and China must collaborate on to solve the environmental, social, and economic consequences. In 2015, the SCS accounted for 12 percent of the global fish catch and ranked as one of the top five most productive fisheries in the world.⁵⁰ Unfortunately, since the 1950s, SCS fish stocks decreased by 70-95 percent, and in the last 20 years, harvests declined 66-75 percent.⁵¹ Diminishing fish stocks is a critical issue for the estimated 3.7 million people employed by the fishing industry and the 22 million fishermen in the Asian countries that border the SCS.⁵² Additionally, China, Vietnam, and Thailand are three of the top five global fishery exporters, which is crucial for foreign exchange and the influx of foreign currency.⁵³ Without the cooperation of ASEAN and China in addressing the overfishing of the SCS, these Asian

⁴⁹ Trajano.

⁵⁰ Trajano.

⁵¹ Trajano.

⁵² Clive H. Schofield, Rashid Sumaila, and William Cheung, "Fishing, not oil, is at the heart of the South China Sea dispute," *The Conversation* (2016): 2, <https://ro.uow.edu.au/cgi/viewcontent.cgi?referer=http://scholar.google.com/&httpsredir=1&article=3503&context=lhapapers>.

⁵³ Hongzhou Zhang, "Fisheries cooperation in the South China Sea: Evaluating the Option," *Marine Policy* 89 (2018): 68.

countries face the real socioeconomic reality of a diminishing and potentially irrecoverable fishing industry.

In addition to the economic consequences, the depletion of fish stocks has potentially life-threatening consequences to the populations of these countries. These resources account for over 77 percent of the protein intake for the nearly 190 million people in the coastal areas around the SCS.⁵⁴ The people of this region are the most reliant in the world on fish as a source of protein, and with China's urbanization, the per capita consumption increased nearly ten times over the past 30 years (ref Figure 3).⁵⁵ Due to dietary changes, income growth, and population increases throughout ASEAN, projected consumption could rise to 61.5 kg per capita by 2050.⁵⁶

Table 1

Per capita supply of fish in China and ASEAN 2013. Source: Author' compilation from [38].

Country/Year	Per Capita Fish Supply: Kg/Year			Fish/Animal Protein
	1980	1990	2013	2013
Brunei	37.66	33.37	46.7	22.7%
Cambodia	2.94	20.73	41.43	68.7%
Indonesia	12.07	20.63	28.17	52.7%
Laos	7.38	14.06	19.83	40.4%
Malaysia	42.86	62.37	58.97	38.8%
Myanmar	14.49	17.56	54.39	42.3%
Philippines	32.43	28.83	31.58	37.5%
Thailand	17.03	29.39	24.83	33.6%
Vietnam	10.15	19.92	32.67	27.3%
China	5.17	24.4	34.67	21.2%
World	11.47	15.9	18.98	16.2%

Figure 3. Source: Hongzhou Zhang, 69.

Likewise, China's consumption could reach 41 kg per capita by 2035, accounting for 38 percent of global fish consumption.⁵⁷ With these types of increases, the SCS fish stocks will continue to

⁵⁴ Zhang, 68.

⁵⁵ Zhang, 69.

⁵⁶ Zhang, 69.

⁵⁷ Zhang, 69.

decrease, and the economic and health concerns in the region will increase unless the parties involved can promote a cooperative solution to the sustainable management of the industry.

ASEAN and China should look to historical precedent as well as the Mediterranean Sea for examples of cooperation. Before 2012, fishermen in the Scarborough Shoal co-existed peacefully for generations.⁵⁸ In this disputed territory, Taiwanese, Chinese, Filipino, and Vietnamese fishermen often converged, and the expectation was cooperation and assistance.⁵⁹ This cooperation changed after the Chinese and Philippine coast guard standoff in 2012, disrupting the livelihood of the Filipino fishermen in the coastal town of Mosalic, where the Philippine Bureau of Fisheries and Aquatic Resources estimates they lost 80 percent of their income.⁶⁰ In the Mediterranean, fishermen organized a network called the Mediterranean Platform of Artisanal Fishers (MedArtNet), including members from Spain, France, Italy, and Greece.⁶¹ MedArtNet promotes marine ecological knowledge and sustainability of ecosystems in the Mediterranean Sea, and their efforts received praise from the Mediterranean Network of Marine Protected Area Managers in 2014.⁶² While independent nations within the SCS organize their own co-management frameworks, they must adopt these on a larger scale as a collaboration between ASEAN and China. With marine resources being a critical component to these nations now and even more so in the future as populations continue to rise, the joint development of the SCS fishing industry and an oversight mechanism for enforcement is critical.

⁵⁸ Trajano.

⁵⁹ Trajano.

⁶⁰ Trajano.

⁶¹ Trajano.

⁶² Trajano.

Counter Argument

Some analysts might argue ASEAN should not negotiate on behalf of its Member States, and further cooperation with China is not necessary as a result of the Permanent Court of Arbitration ruling regarding the nine-dash line. On July 12, 2016, the Arbitral Tribunal rejected the Chinese claim of historical rights and further found that none of the features in the SCS qualified for an exclusive economic zone.⁶³ Additionally, the court ruled that China violated the sovereign rights of the Philippines by interfering with fishing and petroleum exploration.⁶⁴ The Tribunal's ruling in the landmark case gives justification to the other claimants throughout the SCS and delegitimizes the PRC's island-building activities. According to Raul Reichler, the lead attorney for the Philippines, "The tribunal's ruling not only benefits the Philippines, it also benefits other states bordering the South China Sea like Indonesia, Malaysia, and Vietnam. If China's nine-dash line is invalid as to the Philippines, it is equally invalid to those states and, indeed, the rest of the international community."⁶⁵ The ruling in favor of the Philippines, applied to the remainder of the SCS states, provides the international justification to forego cooperation with China's aggressive behavior and for these states to unilaterally develop their exclusive economic zone waters. Sharing and cooperation with China in the SCS would legitimize their actions and appear as bowing to the coercion of a bigger power.

While the landmark case offers support to the other claimants of the SCS resources, ASEAN should still seek further cooperation as a means to greater regional stability. For

⁶³ Hao Duy PHAN and Lan Ngoc NGUYEN, "The South China Sea Arbitration: Bindingness, Finality, and Compliance with UNCLOS Dispute Settlement Decisions," *Asian Journal of International Law* 8, no. 1 (2018): 36, <http://dx.doi.org/10.1017/S2044251317000121>.

⁶⁴ Tom Phillips, Oliver Holmes, and Owen Bowcott, "Beijing rejects tribunal's ruling in South China Sea case," *The Guardian* (2016), <https://www.theguardian.com/world/2016/jul/12/philippines-wins-south-china-sea-case-against-china>.

⁶⁵ Tom Phillips.

starters, China rejected the court's decision and claimed it was illegal based on three arguments, "(1) the arbitration was illegally constituted without China's consent and participation; (2) the Arbitral Tribunal had no jurisdiction; and (3) the Arbitral Tribunal was not a legitimate "international court".⁶⁶ While this does not invalidate the court's ruling, it does signal that the issue is not settled, at least from China's perspective. However, as a signal of willingness to cooperate following the ruling, President Xi Jinping insisted that "China was still committed to resolving disputes with its neighbors."⁶⁷ As ASEAN's biggest trade partner, China is a critical economic player in the region, and it would be in ASEAN's best interests to quickly and peacefully resolve the SCS disputes. By engaging as a collective, ASEAN can negotiate from a position of economic strength. From China's perspective, establishing cooperation with ASEAN will further their BRI and prevent Member States from turning elsewhere for investment and stability, namely the European Union or the US. By building trust through hydrocarbon and fishery exploration, ASEAN and China will both gain legitimacy on the international stage, and trust is the first step in settling the SCS disputes.

Conclusion

Through expanding the ACFTA to include hydrocarbon and fishery cooperation, ASEAN Member States will realize equitable sharing of economic resources throughout the SCS and ensure stability in the region. With the recent negotiations on upgrading the current ACFTA, China demonstrated its willingness to further economic interdependence with ASEAN through trade and investment. Additionally, China's agreement with the Philippines to jointly explore oil

⁶⁶ PHAN, 40.

⁶⁷ Tom Phillips.

and gas development in disputed territories despite the ruling of the PCA signals a change in the PRC's aggressive behavior. Finally, the life or death reality that diminishing fish stocks in the SCS are critical to the survival of both ASEAN and Chinese populations demands collaboration. Through meaningful cooperation and more profound interdependence, ASEAN and China will build trust throughout the region and ultimately reduce tensions, thus establishing a stable SCS.

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