

**Title: Strategic Management for South China Sea: Defence and Security Options  
for Malaysia**

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Draft Report**

**Purpose**

The study seeks to draw attention of all stakeholders in the government to the urgent need for strategic management of the South China Sea from a defence and security perspective.

**Project Impact**

The study intended to suggest a policy agenda and underscore the urgent need for a strategic vision in the form of a written document so as to address the issue of defending Malaysia's territory and jurisdictional issue. It will provide more effective management and coordination for policy decisions process.

**Abstract**

In 2014, MIMA concluded a report on China's Defense Policy & Maritime Strategy: Implication for Malaysia. The project was complemented with a stakeholder's discussion by key agencies dealing with maritime security issues in Malaysia. The outcome of the stakeholders meeting suggests that there is a need for Malaysia to adopt a policy for South China Sea. The current approach that Malaysia adopts with regards to issues on South China Sea is base on pragmatism and "ad hoc" consultations depending on the issue and the parties concerned. Malaysia is also practicing "soft approach" in dealing with certain country such as China. One of the questions is whether the 'soft approach' will benefit Malaysia in the long term as far as the strategic power within the region is shifting. There are recent developments that are concerning Malaysia directly- where China is interested of conducting survey in South China Sea especially in Beting Datu Patinggi Ali. In this regards, Malaysia need to have clear policies as weather it is allowable and what is approach for the best interest of Malaysia. Underlying that fact China is an important trading partner and our cordial relation with China benefited Malaysia economically, the study will outline strategic framework that will defend Malaysia fundamental interest including strategic, economic, military and diplomacy in the South China Sea.

## **Introduction**

The South China Sea has been a security conundrum in Asia Pacific creating security dilemma that is paradoxical. The situation in the South China Sea where issues surrounding the overlapping claims involving China and five other countries have taken on an urgent dimension. In addition to these multifaceted claims, the mix is further complicated by major external powers seeking to entrench their interests in this vital waterway. Although not openly declared, access to food and energy resources has always been an underlying dominant factor fuelling competing claims among countries in the area. However, there are other issues, such as nationalism, economics, environment, legal, political and resource management and more specifically, sustainable development attached to the claims that bring into the picture regional affiliations and organisations.

China's nine-dashed line claims and the subsequent activities change the approach adopted by claimants in dealing with the dispute. This is because, a more assertive activities by PLA Navy and the law enforcement in the South China Sea adversely impact on claimants including Malaysia's security in the South China Sea. From national perspectives, the SCS issues in particular events in the Spratly Islands will have some implication to Malaysia. These included the stronger presence of naval, fisheries, and law enforcement vessels in areas of overlapping maritime claims, the enactment of new laws and regulations in overlapping competing countries jurisdictions, and the increased number of routine patrols, surveillance, and combat readiness exercises.

As a neutral states Malaysia is not in a position to challenge nor does any inclination of doing so.<sup>1</sup> It is, however, concerned with the ramifications of China's "core interest" in the SCS to regional security. The naval enhancement, modernization of weapons systems and force structure, evolving maritime doctrines and geostrategic competition are issues of concern to Malaysia because of her stake in the South China Sea and as a littoral of the Straits of Malacca. This is because the National Defense Policy (NDP) of Malaysia has demarcated the geographical areas of Malaysia's vital interest, which the Malaysian Armed Forces (MAF) will have to defend against external threats and aggression.

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<sup>1</sup> *Close door meeting*, (2013), Recent Development in South China Sea, Institute of Strategic and International Relations, 12 November, Kuala Lumpur,

Besides, the Exclusive Economic Zones (EEZ), Continental Shelf surrounding South China Sea also falls within Malaysia's offshore economic interests. The maritime areas are also rich in living and non-living resources, contributing significantly to Malaysia's economic development. These are area of vital interest because approximately 50 percent of Malaysia's offshore hydrocarbon areas are in found off the East Coast in waters off Sabah and Sarawak.<sup>2</sup> In addition, the Straits of Malacca and the SLOC adjoining in the South China Sea; the airspace above are strategic areas that are critical to the nation's lifeline; hence it is the task of the Royal Malaysian Navy's to deter or deny any hostile acts towards these interests.

Malaysia has been supportive of bilateral discussion on the issues in the SCS with China. Nonetheless, Malaysia has overlapping claims with China in the Spratly Islands; nevertheless has ruled out the possibility of a conflict in the area.<sup>3</sup> Malaysia's was in the opinion that it has advantage of being further away from mainland China compared to the other claimants; enabling her to retain a positive position and to exclude any confrontation with China. Malaysia's general perception of China's rise as harmless based on China's historical experiences, where both countries had enjoyed cordial relations over the years. As such China is a peaceful nation and is not perceived as a threat by Malaysia which practices a "soft approach" towards China. However, this perception no longer can be sustained, and Malaysia began to realize that such an approach provides no benefit in the long term because of the territorial disputes in the South China Sea. Malaysia's threat perception on China also shifted as far as the power conflict emerges within the region especially with the US and China competing for strategic status.<sup>4</sup>

China would need resources and spaces to support 1.3 billion of their people. Thus, China will use all the available mean strategies to achieve this. China is adopting critical strategic thoughts from Mahan, Sun Tzu and Corbett in order to protect her maritime territory and expand her sea power. China will "unswerving" defend her nine-dashed line including those area that within Malaysia's EEZ. Malaysia is lacking behind in legal perspective as to defend her claims in the South China Sea a Sea issues.

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<sup>2</sup> Petronas Malaysia Petroleum Management, (2014) *Maritime Safety And Security – Oil & Gas Industry Perspective*, For Malaysia Technical Cooperation Programme (MTCP) Course 3/2014, 5<sup>th</sup> May, Maritime Institute of Malaysia, Kuala Lumpur.

<sup>3</sup> Hussin, Rahim (2014, 20 August). [Malaysia Security and Defense].

<sup>4</sup> Officials, Royal Malaysian Navy, Stakeholders Discussion on China's Defense Policy and Maritime Strategy: Implication to Regional Maritime Security, Kuala Lumpur. 3 October,

There are two layers about China relations with Malaysia; the first layer is the surface at the higher level bilateral relation which is all cordial and encouraging particularly with China and Malaysia leadership exchanging visits and supporting each other's policies. But the second layer which is at the bottom level is the problematic level where there is "suspicion" as to understand the real intentions of the China. As of now there are no clear descriptions on the "tipping point" of defense policy practiced today vis-à-vis the South China Sea.

In this regard, the latest development that could potentially change the status-quo on the management of the sea includes the Philippines' arbitral proceedings against China the legality of China's claim to historic rights and jurisdiction inside the nine- dash line and maritime rights and interests. The Philippines sought the offices of the Permanent Court of Arbitration to hear their case that are based on five principal jurisdictional issues: that China is not entitled to exercise what it refers to as "historic rights"; that the 9-dash line has no basis whatsoever under international law; that the maritime features claimed by China in the SCS are not islands that generate entitlement to an Exclusive Economic Zones or continental shelf but are "rocks" within the meaning of UNCLOS Article 121, paragraph 3; that China's massive reclamation activities cannot lawfully change the original nature and character of these features; that China has breached the Convention by interfering with the Philippines' exercise of its sovereign rights and jurisdiction; and that China has irreversibly damaged the regional marine environment in the Philippines' EEZ. China, on the other hand, does not accept any third-party involvement in the dispute. The case at the Permanent Court of Arbitration is being closely observed given the rising regional tensions as Chinese naval power grows.

The second worrying development regarding the SCS is China's expansion and upgrading of the land covering seven features i.e., Subi Reef, Johnson South Reef, Gaven Reef, Cuarteron Reef, Fiery Cross Reef and Hughes Reef. The Philippines claims that China's expansion of the reefs has encroached into its EEZ especially in the Mischief Reef which is approximately 135 km from the west of the Philippines. Vietnam has opposed China's construction and expansion of structures as well and has requested "China to desist from these wrongful actions". Malaysia's extended continental shelf covering an area up to latitude 12°30'N or an area up to 350 nautical miles from the baselines and Cuarteron Reef in which China is conducting construction works may also be affected. In this regard, the Malaysian government has taken a clear position that parties involved in the dispute must "negotiate without the show

of force, without raising tension or using tactics such as applying pressure on smaller countries.” China’s recent extensive land reclamation is widely seen as undermining the mutual trust and confidence building among the claimants in the South China Sea. In late July, PLA conducted military drills in eastern waters of Hainan Island notice were released by China’s Maritime Safety Administration that no vessels were allowed to enter the designated the area. This further increases the tension in the SCS.

The militarization of the SCS is another potential flashpoint. Apart from China which is aggressively building islands and airstrips on Fiery Cross Reef, Subi Reef and South Johnson Reef and facilities for military outposts, Indonesia is also planning a new military base in the border areas near the South China Sea to safeguard national interests and protect the sovereignty of Indonesian territory. Potential locations include Sambas, West Kalimantan, Natuna Islands, Riau Islands, and Tarakan, North Kalimantan. The Philippines is reopening the former US military facility at the Subic Bay and moving fighter planes and frigates into the deep-water harbour on the western island of Luzon. Japan, a non-claimant in the SCS, has approved a security bill that would allow her to participate in any military venture for the first time since World War II. Though the new bill is not directly targeted at the SCS, it relates to Japan-China maritime issues including in the East China Sea. Further, Japan has pledged to support the US and other allies should there be a conflict in the SCS.

Malaysia is concerned over the recent action-reaction incidents in the South China Sea as it depicts a region fraught with uncertainties and plagued by assertiveness and rhetoric by various parties willing to stake their respective claims. In the course of its existence, Asean has engaged several nations in the discourse towards greater understanding through confidence building measures. In August 2015, the Foreign Ministers of Asean issued a joint communiqué that highlighted their "serious concerns" over "recent developments which have increased tensions in the South China Sea. The South China Sea issues feature in the discussion at the 5<sup>th</sup> Asean Maritime Forum (AMF) and Expanded Asean Maritime Forum (EAMF) to held in Manado between 8- 10 September.

The initiatives for the full and effective implementation of the Declaration on the Conduct of Parties in the South China Sea (DOC) and continued efforts towards the Code of Conduct (CoC) are important efforts in preserving peaceful co-existence. This effort has seen a building

up of momentum. The Asean China Joint Working Group Meeting in July 2015 drew up the Second List of Commonalities of the COC consultations and concept documents on the Terms of Reference of the Eminent Persons and Experts Group (EPEG). The JWG also discussed introducing a senior officials' hotline platform among Ministries of Foreign Affairs of China and Asean member states to respond to maritime emergencies, and agreed to deliberate them at the senior officials' meeting. Although achieving an early conclusion of the COC may be difficult, the momentum towards a COC is positive. Further to this positive momentum, Asean and China are working to conclude a rules-based framework to regulate activities or conduct that would further promote peace and stability. This is expected to elevate current efforts in implementing the DOC towards a more meaningful Code acceptable to both. Eventually the COC will serve as an effective tool for preventive diplomacy.

Malaysia pledges to contribute to this effort. Moving together in a spirit of cooperation while recognizing the importance of amicable dispute resolution and peaceful dialogue will ensure that the South China Sea continues to play its role as an important commercial, shipping, environmental, and cultural hub serving the international community. In this regard, The Maritime Institute of Malaysia will be organising the *4<sup>th</sup> Mima South China Sea (SCS) Conference 2015 Conflict Prevention and the Rule of Law: Reassessing the SCS Conundrum in the 21st Century*, 8-9 September 2015 in Kuala Lumpur. The conference will highlight current developments in the South China Sea and their implications on the position of territorial claimants, the role of external parties, and explore ways to strengthen the existing cooperation towards peaceful resolution of disputes.

### **Assessment**

Due to ad hoc approaches there is evidently a lack of clarity with regard to Malaysia's position on the South China Sea. The current approach that Malaysia adopts with regard to SCS issues is based on pragmatism and ad hoc consultations depending on the issues and parties concerned. Malaysia also practices a "soft approach" in dealing with certain countries such as China. There have been developments that concern Malaysia directly such as China's interest in conducting surveys in the SCS especially in Beting Datu Patinggi Ali. Although there is "Directive" by National Security for enforcement issues on the ground measures, there is a need for a written policy. The Policy can be developed with the involvement of all relevant agency and

led by NSC under the existing “ Jawatankuasa Keselamatan & Kedaulatan Negara di Laut China Selatan”.

In this regard, Malaysia needs to have clear policies as to whether it is allowable and what is the best approach in the interests of Malaysia. This study recommends a formulation of a comprehensive strategic policy that will serve as a guideline for all relevant agencies to act in a coherent manner as far as security issues are concerned. This will lead towards effective implementation, management, and coordination of SCS issues by Malaysia. The intended policy could serve as a guiding document to the operational agencies on the ground. The study described six of Malaysia’s critical interests in the SCS namely strategic location, energy, fishery, law enforcement, security, and SCS as a Malaysia’s “diplomatic theater for geopolitics”. In order to secure the six critical interests, a policy is needed and should provide guidance for an initiative that we can and cannot do.

To have a policy on the SCS, this study identified the following:

- Strategic Defence Papers are the most important guide on long-term management plans including defense and capability
- Its allows the government and relevant stakeholders to understand opportunities, challenges, and security needs
- A policy paper is a comprehensive product reflecting the government's overall strategic and policy priorities
- It is developed deliberately as a guide for the period of time
- The policy guideline will include a comprehensive review of Malaysia's strategic environment, including the changes in the region and their implications for Malaysia’s strategic interests
- It will outline the tasks and priority activities in the SCS and how these can be achieved with the resources available

The study recommended establishing a high-level standing committee to discuss and provide policy guidance on issues relating to defence and strategic matters in the South China Sea. The committee will also be involved in the formulation of a policy paper for the South China Sea.

## Conclusion

Claimant in the South China Sea are wary of its recent actions by the other claimant because this new activities can be counterproductive in ensuring effective management of the dispute. The recent patterns indicate that South China Sea states can expect more of the same or even more provocative behaviour especially from military point of view. Should such a trend continue, it might complicate progress towards achieving a code of conduct in the South China Sea. ASEAN-China relations and issues on the South China Sea have been on the forefront of discussions, including attempts at achieving an early conclusion of a code of conduct of the parties in the South China Sea. As such, the repeat of unfriendly activities in disputed areas should be avoided by all claimants and efforts should be focus to building a friendlier cooperation. In this regard, the proposed ***New Framework Multi-claimant CCBM for the South China Sea*** is the most desirable capacity building cooperation that will turn the South China Sea into a calmer Sea.