

## CHAPTER III

### THE SOUTH CHINA SEA AND THE CLAIMANT STATES

#### **A. The South China Sea**

Historically, the South China Sea is part of the Pacific Ocean, which covers parts of Singapore and the Malacca Straits to the Taiwan Strait with an area of about 3.5 million km<sup>2</sup>. (Shincun, 2013) s

The countries and regions bordering the South China Sea are (clockwise from the north) of the People's Republic of China (PRC) including (Macau and Hong Kong), Republic of China (Taiwan), Philippines, Malaysia, Singapore, Brunei, Indonesia, and Vietnam. The large rivers that flow into the South China Sea include the Pearl (Guangdong) river. Min, Jiulong, Red, Mekong, Rajang, Pahang, and Pasif.

Geographically the South China Sea stretches from the southwest to the northeast, with its southern border 3 °, the latitude between South Sumatra and Kalimantan (Karimata Strait), and its northern border is the Taiwan Strait from the northern tip of Taiwan to the Fujian coast in mainland China. The South China Sea is located in the South of the People's Republic of China (PRC) and Taiwan; in the west of the Philippines; in the west, Sabah Sea (Malaysia), Sarawak (Malaysia), and Brunei; in the north of Indonesia; in the northeast of the Malay Peninsula (Malaysia) and Singapore; and in the east of Vietnam.

Seen from the International Oceanic System, the South China Sea Region is an area that has economic, political and strategic values. So that this region contains the potential for simultaneous conflict of potential cooperation. In other words, the South China Sea region which includes oil and natural gas

contained in it, as well as its very important role as a world oil trade and distribution route, has made the South China Sea region an object of local debate for many years. (Goh, 2005)

The first oil and gas discovery in the archipelago was in 1968. According to data from *The Geology and Mineral Resources Ministry of the People's Republic of China* (PRC) estimates that the oil content in the Spratly Islands is around 17.7 billion tons ( $1,60 \times 10^{10}$  kg). This fact places the Spratly Islands as the fourth largest vessel of oil reserves in the world.

First, the South China Sea region has economic potential, especially oil content and military strategy lies in the choice of international seas. Second, the disputing countries are in dire need of oil for industrial sustainability and national economic sustainability. Conflicted disputes in the South China Sea (the South China Sea, or SCS) were preceded by Chinese claims to the Spratly and Paracel Islands in 1974 and 1992. (Shincun, 2013)

This was triggered by China first issuing a map that included the Spratly Islands and Paracels. In the same year, China maintained its military presence on the islands. The claim of course immediately gets a response from countries whose borders intersect in the South China Sea, especially ASEAN member countries. (the South China Sea, 2008) As for these countries, including Vietnam, Brunei Darussalam, the Philippines, and Malaysia.

In the South China Sea, there are four islands, and the reefs are Paracel, Spratly, Pratas, and Macclesfield islands. As we know that territorial disputes in the South China Sea are not limited to both the Spratly and Paracel islands, (such as the dispute over Phu Quac Island in the Gulf of Thailand between Cambodia and Vietnam), Spratly and Paracel's multilateral claims are more prominent because of the intensity of the conflict. Since China's claim to the islands in the South China Sea in 1974, China regards the South China Sea as its sea sovereignty.

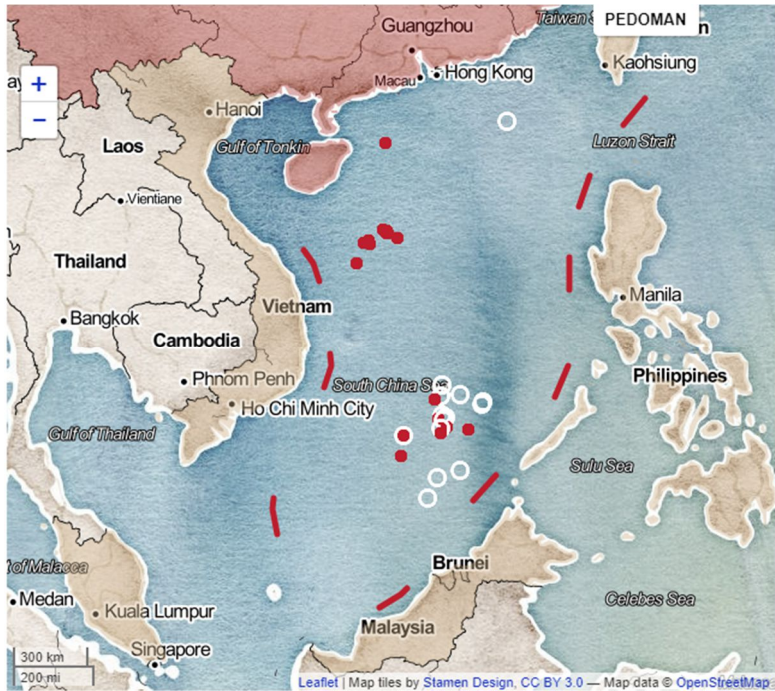
## **B. The Claimant States**

Besides being based on historical evidence and driven by the development of international maritime law, political, strategic and economic factors also being the background of the conflict in the South China Sea. The economy is important for the countries in dispute because of the south China sea region rich in oil, natural gas, and fisheries. The South China Sea has high strategic value because it is a traffic route for crude oil shipments and world trade. The political aspect of the problem of the South China Sea concerns the issue of territorial claims. (South China Sea Territorial Disputes, n.d.) The defeat in defending the region will cause domestic problems, so it is deemed necessary for the states parties to maintain it in accordance with the law and agreements created.

ASEAN member countries on the Spratly Islands conflicts are Brunei Darussalam, Malaysia, Philippines, Vietnam, Taiwan, and China. Taiwan and Vietnam also demand ownership of the Paracel, which has been under Chinese control since 1974. All political, economic and military policies claimant states in the South China Sea are important for dispute resolution. Vietnam and Taiwan still want to break the historical argument from China. While the Philippines, Brunei Darussalam, and Malaysia use UNCLOS as a guide in determining the outer boundaries of the region. In the matter of settling disputes, Claimant states ASEAN seeks to bring this dispute into the multilateral realm even though China wants a settlement through bilateral cooperation. Clear determination of boundaries for territorial sovereignty rights still has not found a meeting point. In defending their claims, claimant states ASEAN view China as very aggressive, and its actions can trigger regional instability. However, if the right to use all matters concerning the strategic value of the South China Sea is utilized for cooperation, then the opportunity to make this region stable becomes very wide open.

# 1. China's Position in the South China Sea Conflict

Picture 3.1. China's Claiming Map



Source: <https://projects.voanews.com/south-china-sea/indonesian/china/>

Based on historical records, Chinese scientists believe that China was the first country to find and name a group of islands in the South China Sea, even though when the exact time was discovered it was still not agreed upon. (Shincun, 2013) It is noted that the effective management of the administrative area of the South China Sea had begun since the Western Han dynasty (206 BC-9 AD). For China, its sovereignty over the Spratly Islands has been confirmed in international conventions, such as the Cairo Declaration, the Potsdam Declaration, and the Japan-China Peace Agreement. And for China too, they claimed that there are no other South China Sea

claimant countries has more evidence to support its sovereignty claim over the island. (Shincun, 2013)

In the Chinese perspective, the historical factors as the country that first discovered and named, and used continuously for more than 2000 years, legitimized its sovereignty and sovereign rights over the four island groups in the "*U-shaped line*" in the South China Sea. The "*U-shaped line*" is also known as the *nine-dotted line* or *nine-dash line* because China's nine-point offshore series forms the letter U. The first official map showing Chinese *dotted line* claims began in 1947 when China declared its sovereignty over the Islands Paracel and Spratly by printing *The Location Map of the South China Sea Islands*. On this map, the Pratas Islands, Paracel Islands, Macclesfield Bank, and the Spratly Islands are part of China with the use of 11-dotted lines and the southern limit at 4° North Latitude. (Dexia, 2003)

In 1953, with the approval of Prime Minister Zhou Enlai, two dotted lines in the Gulf of Tonkin were abolished without official explanation. The Chinese map issued after 1953 became the beginning of the show the nine-dotted line in the LCS. After the declaration of the nine-dotted line, there was no apparent opposition from the international community at that time. None of the neighboring countries submitted diplomatic protests to China. Therefore, in the Chinese perspective, the nine-dotted line has been approved and recognized.

The Chinese government immediately made an effort to protect its sovereignty and sovereign rights over islands in the LCS and the surrounding seas while continuing to keep abreast of the development of international sea law by ratifying UNCLOS. There are several policies issued by the Chinese government, as can be seen in the Table below.

**Picture 3.2. China's Sovereignty Protection Policy in the South China Sea**

Policy	Time	Contents
Expenditures of map locations in the South China Sea	1947	The first official map to display Chinese dotted line claims
Declaration on the Territorial Sea	September 1958	The Chinese government declared its sovereignty over the Pratas Islands, Parcel Islands, Macclesfield Bank and the Spratly Islands, but did not mention the UShaped Line.
Law on the Territorial Sea and Contiguous Zone	February 1992	In the article 2 in this Law clearly states that the sovereignty of the islands in the South China Sea belongs to China.
Ratification of UNCLOS	May 1996	China is ready to resolve maritime disputes based on the convention.
The Chinese government issued four declarations		One of them is to reaffirm the article 2 Law on the Territorial Sea and Contiguous Zone: Chinese sovereignty over the Pratas Islands, Parcel Islands, Macclesfield Bank, and the Spratly Islands
Declaration on Baselines of Territorial Sea		The Chinese government declares the territorial sea floor of the Parcel Islands, and that other territorial seabed lines will be declared later.
Law on the Exclusive Economic Zone and the Continental Shelf	June 1998	The implementation of sovereign rights in the Exclusive Economic Zone (EEZ) and continental shelf. "Historic rights" are mentioned without definition. Article 14 of this Law states that the policy under this Law does not affect China's historical rights

Source: Sichuan Wu, *op.cit*, which is reprocessed.

In the 1990s, from Law on the Territorial Sea and Contiguous Zone, the ratification of UNCLOS, until the launch of the EEZ was the first time for China for 2,000 years to assert its sovereign rights over the South China Sea through legislation. For China, this maritime legislation is a legal basis

for the Chinese government to protect its sovereign rights in the South China Sea, also a legal basis for negotiations with other claimants if territorial disputes arise, including for joint development in the South China Sea. China's basic attitude in resolving the South China Sea problem is clear that the settlement must be done bilaterally, not multilaterally. However, China does not seem to be able to continue with bilateral conflict resolution options as China sees Southeast Asia as the future of their regionalism, from a geopolitical and geo-economic perspective, China should be able to be compromised to achieve a "win-win solution" for peaceful conflict resolution.

## **2. ASEAN Parties in South China Sea Issue**

ASEAN member countries on the Spratly Islands conflicts are:

### **a. Vietnam**

For Vietnam, China's claim to the South China Sea is a major threat to territorial sovereignty. As a claimant party, Vietnam bases its demands historically.

Vietnam has a collection of names for small regions in the South China Sea. The Vietnamese had called the islands Hoang Sa, or Yellow Sand since the 15th century. In modern Vietnamese, the name is spelled Hoàng Sa or Cát Vàng. These names have the same meaning, namely Yellow Sand or Yellow Shelf. Under the Vietnamese Emperor Minh Mang (1820-1841) in the 19th century, the Spratly Islands were referred to as the Ten Thousand League Shoals. In the past, with complex information about Paracel and the Spratly Islands, seafarers knew only about a large area in the middle of the sea with underwater bays, which were very dangerous for water vehicles, which were called by Bien Dong (Baltic Sea) by Vietnamese. Ancient Vietnamese documents show this area under different names, including "Bai Cat Vang" (Golden

Sand), "Hoang Sa" (Golden Sand), "Van Ly Hoang Sa" (Ten Thousand-Li Golden Sand), "Dai Truong Sa" (Grand Long Sand), or "Van Ly Truong Sa" (ten thousand-long sand) Most of the sea maps made by Western seafarers from the 16th to the 18th century describe Paracel and the Spratly Islands as an archipelago and name the 'Pracel', 'Parcel' or 'Paracels'. (Historical Documents on Vietnam's Sovereignty over Paracel and Spartly Islands, 2011)

Picture 3.3. Vietnam's Claiming Map

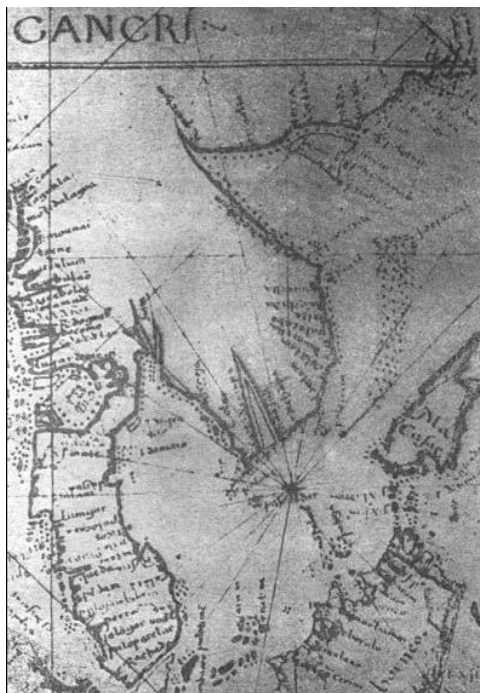


Source: <https://projects.voanews.com/south-china-sea/indonesian/vietnam/>

Subsequent advances in science and navigation enable differentiation between two islands. It took until a year before the Paracel Islands were clearly and accurately located, as is known today by the Kergariou-Loemaria fact-finding mission, to help Paracel stand out from the Spratly Islands in the south. All the maps mentioned above determined Pracel (including Paracel and the Spratly Islands) as an area located in the middle of the east of the Vietnamese mainland and further away from



the coast in comparison with the coastal islands of Vietnam. The two islands referred to as "Paracels" and "Spratley" or "Spratly" islands on the current international sea chart are real islands of "Hoang Sa" and "Truong Sa" Vietnam. (Historical Documents on Vietnam's Sovereignty over Paracel and Sparty Islands, 2011)



Picture 3.4 A 16th-century Portuguese nautical chart with the Paracel and the Spratly Islands as a single archipelago east of the mainland of Vietnam. Source: <http://english.vietnamnet.vn/fms/special-reports/9481/historical-documents-on-vietnam-s-sovereignty-over-paracel-and-spratly-islands.html>

The China-Vietnam conflict in fighting over the Paracel archipelago experienced ups and downs. Vietnam calls the Spratly the name Dao Truong Sa. In 1988 there was tension in the Spratly Islands between China and Vietnam. Twenty Chinese warships that were sailing on the South China Sea blocked the Vietnamese Navy, resulting in clashes at the Southern Johnson Reef and resulting in the loss of 74 Vietnamese soldiers. (Johnston, 1988) China has also cut off the seismic cable for oil exploration of 02 Binh Minh and Viking II ships leased by Petro Vietnam on May 26, 2011, and June 9, 2011, which Vietnam then strongly protested. (Gunawan, 2014)

And it was done again by China National Offshore Oil Corporation (CNOOC) which is the only Chinese company with offshore drilling technology, in June 2012 opened a tender for energy reserves near Paracel Marine to the international world as an effort to prevent foreign tenants in Vietnam from developing oil and gas resources in this block. CNOOC also deployed the HYSY 981 offshore drilling platform near the Paracel Islands in May 2014 and invited strong protests from Vietnam.



Picture 3.5 Fishing boats were seen in the bay of Ly Son islands in Quang Ngai province in Vietnam, April 10, 2012. On 3 March 2012, China detained 21 Vietnamese fishermen and their two ships when they were in the waters off the Paracel Islands. Source: Reuters

Tensions broke out again in 2014 after China placed an oil drilling platform off the coast of Haiyang Shiyou 981 in a location claimed to be the territory of Vietnam's Exclusive Economic Zone. This triggered massive anti-Chinese demonstrations in Hanoi. Eventually, China National Petroleum Corp closed the platform operation and moved it near Hainan Islands in southern China. Although the Chinese Ministry of Foreign Affairs spokesman, Hong Lei said that the transfer was not related to any external elements, this relocation certainly contributed to reducing tensions between the two countries in the disputed territory.

### **b. Philippines**

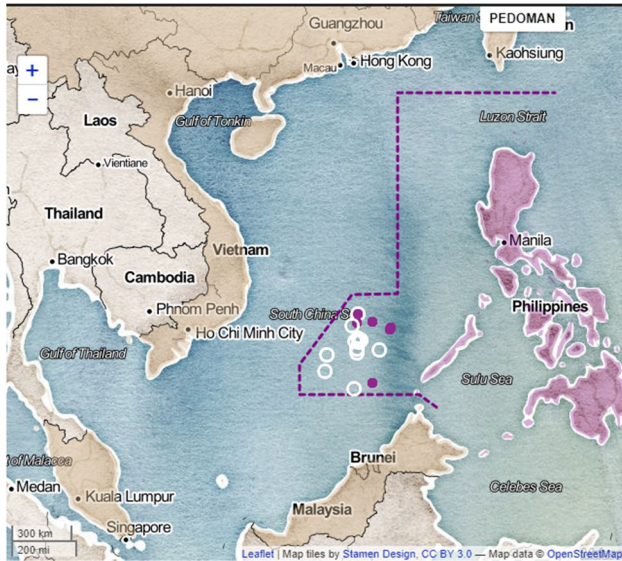
Disputes between the Philippines and China over conflicting ownership claims against the Spratly Islands increased in 2011. The Department and spokesman of the Philippine Government began to refer to the entire sea area as the Western Philippine Sea.

In the Philippine Atmospheric, Geophysical and Astronomical Administration (PAGASA) service, the Philippine Government insists that the region will always be called the Philippine Sea. The disputed small islands in the sea are also called by various contradictory names, with claims of contradictory sovereignty over them that have occurred for hundreds of years. (Hays, 2012) Western nations refer to a group of islands as the Spratly Islands, but China calls it the Nansha Islands.

The Philippines calls Karang Scarborough a Panatag Beting, Bajo de Masinlóc or Karburo. China has named it the Huangyan Islands since 1983. In 1947, the Kuomintang government of the Republic of China declared sovereignty over the rock and named it Minzhu Jiao or The Coral of Diplomacy. The Western name comes from the Scarborough merchant ship Britain's East India Company was drowned without survivors crashed into the reef in 1784. The Philippines tried to state its sovereignty over the Scarborough Reef for half a century, by

building a 27.23 ft (8.3 meters) tower there in 1965. (Sengketa nama Laut China Selatan atas Kepulauan Spartyly dan Paracel ungnak konflik lebih dalam, 2012)

Picture 3.6 Philippines' Claiming Map



Source: <https://projects.voanews.com/south-china-sea/indonesian/philippines/>

In 2012, the Philippine Government will auction three areas in the SeaSouth China is also claimed by China for oil exploration activities and gas. The Philippines is keen to reduce dependence on energy imports. However, waters claimed by a number of these countries have a large source of energy. The block to be auctioned is near Palawan province, near Malampaya, and Sampaguita which contains natural gas. This area is close to Reed Bank, which is also claimed by China. The entire area offered is located in 200 miles of the exclusive Philippine economic zone in accordance with UNCLOS (United Nations Sea Law Convention). (Filipina lelang daerah laut china selatan, 2012)

The Philippines have taken a series of policy measures on disputes in the South China Sea, including the purchase of US and Japanese warships. The Philippine government has spent 678 million dollars to modernize the military over the past three years, including to buy two Hamilton-class used cutter ships obtained from US Coastguard troops. (Hays, 2012) In addition, the Philippines also allows warships and US military personnel to originate in the Philippines and plans military exercises with the US with a higher frequency and plans to move the main military armies of the Navy and Air Force to Subic Bay, a former US military base in the Philippines. The action was aimed at making its military force as soon as possible deployed to the disputed South China Sea region with China. The actions of the Philippines will exacerbate the conflict so that it will not be beneficial for problem-solving and peace in the Asia Pacific region.



Picture 3.7 The Philippine flag flew at the Sierra Madre BRP, the old Philippine Navy ship, which had run aground since 1999 and became a Philippine military detachment on the Second Thomas Shoal, part of the Spratly Islands. Source: Reuters

### **c. Brunei Darussalam**

Brunei and Malaysia are two countries that recently claimed part of the South China Sea. The two countries claim

coral and sand structures and islands in their exclusive economic zones based on the UNCLOS definition. Brunei does not claim islands in the region, but Malaysia, whose economy relies heavily on trading cooperation with China, which claims only a few islands in the Spratly Islands.

Picture 3.8 Brunei Darrusalam's Claiming Map



Source: <https://projects.voanews.com/south-china-sea/indonesian/recent/>

Brunei, which is sometimes referred to as the "silent plaintiff" of the South China Sea, first declared its rights to a piece of land that was more or less square in the disputed sea shortly after independence from Britain in 1984.

Marine structures such as Bombay Castle, Louisa Reef, Owen Shoal, and Rifleman Bank are all in the Brunei Exclusive Economic Zone, but the oil-rich empire only claims Louisa Reef, which is on their continental shelf. The Louisa Reef is part of the Spratly Islands, and the sea structure is also claimed by China and Vietnam.

Brunei is the only plaintiff country that does not occupy any of the marine structures or has a military presence in the region. (VOA Laut China Selatan, n.d.)

#### d. Malaysia

The Malaysian government is based on geographical proximity and reasons security reasons, in addition to the country's sovereign rights to the Exclusive Economic Zone (EEZ) 200 nautical miles. Malaysia named the Spratly Islands by the name Aba and Layang-Layang Reef, while China called it Nansha Quadao. Compared to China, Vietnam and the Philippines, Malaysia's claim is a weak claim.

Picture 3.9 Malaysia's Claiming Map



Source: <https://projects.voanews.com/south-china-sea/indonesian/recent/>

Malaysia is a newcomer in the struggle for claims in the Spratly Islands because the country's claim emerged in December 1979 when Malaysia published a sea map which

included several islands in the Spratly cluster including on the continental shelf of Malaysia.

The map made by the Malaysian Government in 1979 is very clear including several islands in the Islands as national territories, which incidentally has also been claimed jointly by Taiwan, China, Vietnam, and the Philippines. It is reasonably suspected that the Malaysian Government's claim was based solely on the reality that the islands are located economic zone exclusive and also because it is located close to the mainland Sabah. Unilateral application of international sea law (UNCLOS 1982) regulating the EEZ and continental shelf is also the basis for creating a new sea map. Since 1983 Malaysia has carried out a water survey around Amboyna Cay Island which indicates Malaysia's seriousness to explore it in the future.

Malaysia as a country which is divided into two parts, one of which is the sea waters alluding to the *nine-dash line*. This Chinese claim received a strong reaction from the Malaysian side. But both Malaysia and China both can still refrain from using military instruments.

While Brunei Darussalam is the only country that does not claim islands or land in the territory of the Spratly Islands and does not directly contact China. Brunei wants firmness about the issue of the continual boundaries of its country's waters which cover areas around the waters of the Spratly Islands. This then led to a conflict with Malaysia, namely a dispute regarding a rock to the south of the South China Sea when the tide was below sea level. However, the dispute between Brunei and Malaysia regarding sovereignty claims around the Spratly Islands is relatively calm, not to the point of causing open conflict towards war between the two countries.

#### **e. Indonesia**

Natuna Islands waters are geographically the waters that connect Indonesia to the East Asia and the Pacific Ocean



regions. In the region, precisely between Sekatung Island in Indonesia and Condore Island in Vietnam bordering and only not more than 245 miles, both have continental shelf contours with no continental boundaries. Although until now Indonesia continues to negotiate the issue of the border with Vietnam, the region has become an open area for three countries, including China. If you look at the map claimed by the parties, especially by China, and seen from the interests of national sovereignty, China's nine-dashed line cuts and passes Indonesia's EEZ in the Natuna Sea. However, since the beginning, Indonesia has insisted that it does not need to be a claimant state because more losses can be caused. Even though in the end, Indonesia will have border issues with countries that are able to claim or become the owners of the Spratly Islands. Thus, this is the challenges for Indonesia in an effort to confirm its borders.

Picture 3.10. Natuna Islands and Indonesian Border



Source: <http://www.batasnegeri.com/waspadai-china-sudah-mengklaim-wilayah-natuna/>

Indonesia tends to position itself to take distance or neutral in the CSF conflict. For Indonesia, it is better to put forward a diplomatic approach. Indonesia has an interest in

security stability. Therefore the policy that it chooses is a preventive diplomacy policy. This was marked by the Indonesian initiative to organize a Workshop on the Management of Conflict Potential in the LCS (The Workshop on Managing Potential Conflict in the South China Sea) in 1992, which was followed by the parties to the dispute. The purpose of the Workshop was more to divert potential conflicts by building confidence among the disputing parties. Since the beginning of the LCS workshop was not intended to discuss and resolve disputes, but to reduce the level of potential conflict to identify and attempt to exploit cooperation opportunities.

#### **f. Non-claimant States**

The views of non-party countries in ASEAN thoroughly support efforts to resolve the issue of the South China Sea. The main reason for Singapore as a hub country, for example, is security certainty in the South China Sea lane which influences trade traffic. (Singapore urges China to clarify South China Seas claim, 2011)

Laos encourages all claimant states to create regional peace, especially in the South China Sea. Cambodia wants the South China Sea issue not to bring outside parties or become an international issue only between China, Taiwan, and ASEAN. The proximity of Cambodia to China is suspected to be the reason why the South China Sea issue at the ASEAN level has a deadlock. (Chen, 2012)

Although Myanmar is not a demanding state, the government of Myanmar attaches great importance to developments in the South China Sea. Myanmar has consistently pursued and supports all efforts to promote a peaceful resolution of the conflict through consultation and negotiation in accordance with universally recognized principles of international law, including the UNCLOS of 1982. Myanmar requests all parties to exercise restraint with regard to activities that could increase tension and refrain from threats or use of force. As a member of ASEAN, Myanmar is

committed to the rule of law in the conduct of foreign relations in the international community. Myanmar will always be ready to cooperate with ASEAN Member States and China for full and clear implementation on the basis of the Declaration on the conduct and conclusion of the Code of Conduct. Myanmar claims to be a country that is close to all claiming countries and does not approve military involvement that can cloud the atmosphere. (Myanmar's statement on the Award of the Arbitral Tribunal on the South China Sea under Annexure VII of UNCLOS, 2016)

Thailand is pushing for a change in DOC towards COC to achieve regional security. The Thailand government hopes for an early conclusion of the code of conduct as well as the full and effective implementation of a non-binding non-aggression document, called Declaration on the Conduct in the South China Sea or DOC. (Callar, 2014)