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INDO-PACIFIC MARITIME SECURITY: CHALLENGES AND COOPERATION

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Managing security tensions in the South China Sea: the role of ASEAN

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Indo-Pacific Maritime Security: Challenges & Cooperation

Managing security tensions in the South China Sea: the role of ASEAN

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Defence Force Academy, Canberra.

This paper reviews current diplomatic and political efforts to manage security tensions in the South China Sea, with a focus on interactions between the Association of Southeast Asian Nations (ASEAN), China and the United States.

The central argument of this chapter is that ASEAN promotes its centrality in Southeast Asian security affairs primarily through dialogue and confidence-building measures (CBMs).

Accordingly, ASEAN as an organisation (as opposed to its individual members) will not take sides in the strategic rivalry between China and the United States in the South China Sea.

This paper is divided into four parts. Part 1 critically reviews three key terms used in discussions on maritime disputes and security tensions in the South China Sea. Part 2 provides an overview of options for managing tensions in the South China Sea. Part 3 considers proposed CBMs for managing tensions. Part 4 offers some conclusions.

1. Defining Key Terms

Three key terms are used by government officials and popularised in the media regarding tensions in the South China Sea: land reclamation, freedom of navigation and militarisation. These terms are not defined with precision and may serve to obfuscate the issues rather than clarify them. For example, ASEAN can sign joint statements separately with China and the United States that both support freedom of navigation; yet at the same time the U.S. charges China with interfering with freedom of navigation and China denies it is doing so.

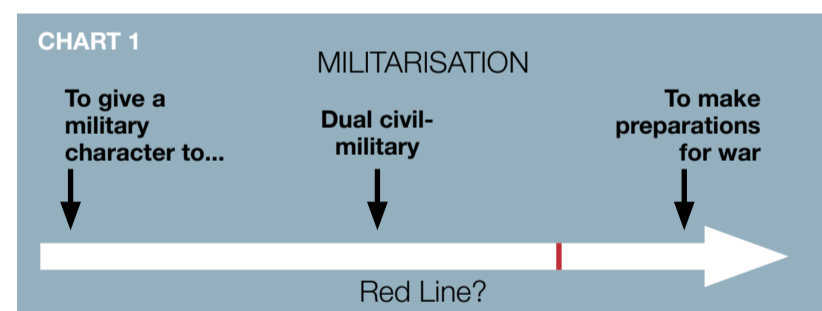
Land Reclamation. According to United States officials, in 2014-15 China's 'land reclamation' totalled twelve square kilometres.¹ The use of the term 'land reclamation' is misleading because none of the features occupied by China are islands.² Chinese-occupied features have not lost land due to erosion by wind or water.³ China is dredging sand from the seabed and gouging coral reefs to fill in low-tide elevations (features that are submerged at high tide) by pouring concrete over this mass to create artificial islands. The use of the term 'land reclamation' is misleading because it implies that China is recovering soil from islands that have been eroded. An island under international law is entitled to a twelve nautical mile

territorial sea and a 200 nautical mile exclusive economic zone (EEZ). Artificial islands are only entitled to a 500-meter safety zone and no air space.

Freedom of Navigation. The United States claims that it conducts freedom of navigation operational patrols (FONOP) to challenge excessive – and therefore illegal – claims to maritime space than is allowed by international law, including the United Nations Convention on the Law of the Sea (UNCLOS). The USS *Lassen*, for example, conducted a FONOP within twelve nautical miles of China's artificial island on Subi reef.⁴

China has not legally promulgated or declared an official baseline around any of its occupied features in the Spratly Islands, nor has China delineated a twelve nautical mile territorial sea around any of its artificial islands. China in fact claims an ambiguous 'military or security alert zone' around its artificial islands. U.S. FONOPs focus too narrowly on hypothetical legal entitlements that China itself has not claimed. U.S. FONOPs do not address the real issue in question: China's assertion of control over what it claims are its 'territorial waters' within its nine-dash line claim to the South China Sea.

Militarisation. In 2015 the United States began to accuse China of militarising the South China Sea through its construction of artificial islands that could serve as forward operating posts for military aircraft and ships. China responded by making three arguments.



¹ The other claimants to the South China Sea – Taiwan, Vietnam, Malaysia and the Philippines – 'reclaimed' a total of 0.87 square kilometres over the last four and a half decades. Admiral Harry Harris, Commander of the U.S. Pacific Command, quoted in 'China Accuses US of Militarizing South China Sea', Voice of America News, 30 July 2015. <http://www.voanews.com/content/china-accuses-us-of-militarizing-south-china-sea/2886799.html>.

² Under international law 'an island is a naturally formed area of land, surrounded by water, which is above water at high tide'. United Nations Convention on the Law of the Sea, Part VIII, Article 121(1); http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf. All the features occupied by China are either low-tide elevations or rocks. Their status is currently the subject of Arbitral Tribunal proceedings brought by the Philippines against China. The construction of an artificial island does not alter its legal status as either a rock or low-tide elevation.

³ Carlyle Thayer, 'No, China is Not Reclaiming Land in the South China Sea', *The Diplomat*, 7 June 2015. <http://thediplomat.com/2015/06/no-china-is-not-reclaiming-land-in-the-south-china-sea/>

⁴ 'Document: SECDEF Carter Letter to McCain On South China Sea Freedom of Navigation Operation', reprinted in *USNI News*, January 5, 2016; <http://news.usni.org/2016/01/05/document-secdef-carter-letter-to-mccain-on-south-china-sea-freedom-of-navigation-operation>.

First, China will undertake 'some necessary defence measures' to protect its interests and these measures will be determined by the level of threat that China faces. China argues it has the right to self-defence.⁵ Second, China argued it was only doing what other claimants had done by putting military personnel on its features to protect the infrastructure that it had built, such as docks and airstrips.⁶ Third, China charged that the United States was militarising the South China Sea by overflights by military aircraft and by conducting patrols and exercises with naval warships.⁷

Neither China nor the United States has defined what they mean by militarisation. Militarisation, in the everyday use of the term, can mean, 'to give a military character to' some object or 'to make preparations for war'.⁸ Defining militarisation is not clear-cut; there are grey areas where certain types of equipment or even ships and aircraft could have a dual civil-military purpose.

Militarisation should be viewed as a spectrum of activities as illustrated in Chart 1 above. This spectrum could include the following:

- > stationing uniformed armed military personnel on features
- > building bunkers and defensive gun emplacements
- > constructing dual-use infrastructure such as docks, jetties, airstrips, radar and communications equipment
- > placing long-range radar, signals intelligence (SIGINT) and electronic warfare (ELINT) equipment on features
- > deploying armed coast guard vessels, paramilitary fishing trawlers or aerial reconnaissance aircraft armed with air-to-surface or anti-submarine missiles, self-propelled artillery, anti-aircraft missiles, surface-to-surface missiles, amphibious craft and forces, naval warships, cruise missiles, submarines, jet fighters and bombers.

Policy recommendation: There is a role for the ASEAN-Institute for Security and International Studies (ASEAN ISIS) network of think tanks, the Council on Security Cooperation in the Asia Pacific (CSCAP), the ASEAN Regional Forum Inter-sessional Meeting (ARF ISM) on Maritime Security, the ASEAN Defence Ministers Meeting-Plus (ADMM-Plus) Working Group on Maritime Security and other think tanks to hold seminars and conferences to work out a definition of militarisation and what particular aspects of militarisation would be destabilising (as illustrated by the red line in Chart 1).

One possible litmus test for destabilising activities may be found in the Declaration on Conduct of Parties in the South China Sea signed between the ten members of ASEAN and China in November 2002.⁹ Paragraph 5 reads: '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.

2. Managing Tensions in the South China Sea

Tensions in the South China Sea are a product of the claims and actions by China and the littoral states, the Philippines and Vietnam. Over the past two years tensions have risen in the South China Sea particularly due to China's construction of infrastructure on its artificial islands in the Spratlys and an action-reaction cycle precipitated by U.S. FONOPs and China's response. These tensions can only be managed by the two countries concerned through bilateral dialogues, particularly military-to-military discussions.

At the time of writing, it was clear that another source of tension would emerge when the U.N Arbitral Tribunal made its determination on the Philippines' claims against China. China has refused to participate directly in the Arbitral Tribunals' proceedings and this year embarked on a campaign to denigrate the Arbitral Tribunal's legal standing.

According to international law, decisions by the Arbitral Tribunal are to be carried out immediately and are not subject to appeal. The Arbitral Tribunal has no powers of enforcement.

⁵ Xinhua, 'China's construction on South China Sea islands should not be mistaken for militarization: Vice FM', Xinhuanet.com, 22 November 2015, http://news.xinhuanet.com/english/2015-11/22/c_134842603.htm; Bill Geertz, 'War of words over South China Sea militarization heats up', *Asia Times*, 30 November 2015, <http://atimes.com/2015/11/war-of-words-over-south-china-sea-militarization-heats-up/>; Reuters, 'China Says South China Sea Militarization Depends on Threat', *Jakarta Globe*, 4 February 2016; <http://media.thejakartaglobe.com/international/china-says-south-china-sea-militarization-depends-threat/>; and Scott Murdoch, 'China rejects island missile claims', *The Australian*, 18 February 2016, <http://www.theaustralian.com.au/news/world/china-rejects-claim-of-antiaircraft-missiles-in-south-china-sea/news-story/7b8c14a6873b306b0411712fa0cb75f0>.

⁶ Matthew Lee and Eileen Ng, 'US, China bicker over territorial claims in South China Sea', *The Courier*, Associated Press, 5 August 2015, <http://www.northjersey.com/news/u-s-china-bicker-over-territorial-claims-in-south-china-sea-1.1386751> and Xinhua, 'China's construction on South China Sea islands should not be mistaken for militarization: Vice FM'.

⁷ 'China Accuses US of Militarizing South China Sea', *Voice of America News*, 30 July 2015, <http://www.voanews.com/content/china-accuses-us-of-militarizing-south-china-sea/2886799.html>; and Jim Sciutto, 'Behind the scenes: A secret Navy flight over China's military buildup', 26 May 2015, <http://edition.cnn.com/2015/05/26/politics/south-china-sea-navy-surveillance-plane-jim-sciutto/>.

⁸ *Merriam-Webster Dictionary*, <http://www.merriam-webster.com/dictionary/militarize> and *The Free Dictionary*, <http://www.thefreedictionary.com/militarization>.

⁹ Declaration on Conduct of Parties in the South China Sea, 4 November 2012; http://www.asean.org/?static_post=declaration-on-the-conduct-of-parties-in-the-south-china-sea-2.

What seems certain is that the decisions of the Arbitral Tribunal will be accepted by the Philippines – win, lose or draw. China will mount a shrill international propaganda campaign rejecting the competency of the Arbitral Tribunal to make decisions that go against China's interests.

The United States and other members of the international community will launch a political-diplomatic campaign to back the Tribunal's determination and pressure China to accept the Tribunal's findings. Tensions can be expected to rise as a consequence.

ASEAN, because it has argued for a peaceful resolution of maritime disputes on the basis of international law, including UNCLOS, will stick to its position that all disputes should be settled without the threat or use of force and on the basis of international law. ASEAN's centrality on this issue is important for regional peace and security because it is not in the interests of China or the United States to oppose a unified ASEAN. ASEAN members have reached consensus on the importance of ASEAN centrality in their declaratory policy statements. China advocates a dual-track approach in the settlement of territorial disputes. The first track consists of negotiations between the parties directly concerned, while the second track promotes China and ASEAN jointly managing security in the South China Sea. In practice, however, China has not been averse to playing on differences within ASEAN to block any initiative or policy that goes against its interests. Achieving ASEAN centrality is a difficult work-in-progress and this leads individual ASEAN members on occasion to work outside the ASEAN framework when they feel frustrated by ASEAN inaction.

Generally, ASEAN members are in agreement that it is not in their collective interests for maritime disputes in the South China Sea to become a proxy for strategic rivalry between China and the United States.

The United States and its allies and like-minded partners need to coordinate better multilateral diplomacy to provide increased support for maritime domain awareness and capacity-building for the maritime law enforcement agencies of the ASEAN claimant states. This should be a top priority in bilateral annual ministerial meetings as well as at similar trilateral and quadrilateral fora. At the same time, like-minded ASEAN dialogue partners (Australia, India, Japan, South Korea, New Zealand and the United States) will need to coordinate a political-diplomatic strategy to support ASEAN centrality in ASEAN-centric institutions such as the East Asia Summit where China attempts to restrict the agenda and exclude maritime security issues.

ASEAN has in place a number of mechanisms to manage its relations with China and other dialogue partners. For example, this year Singapore plays an important role as ASEAN's country-coordinator for relations with China.

ASEAN holds regular summit meetings with China and the United States. And ASEAN has a number of multilateral mechanisms to manage its relations with China, the United States and other major powers: ASEAN Regional Forum, ADMM-Plus, Expanded ASEAN and the East Asia Summit. Decision-making in each of these institutions is based on 'the ASEAN Way' of dialogue, inclusiveness, consensus, and at a pace comfortable to all. ASEAN, therefore, has not been successful in resolving security tensions in Southeast Asia involving outside powers.

It is instructive to compare the wording on the South China Sea in five statements: those issued following the 18th ASEAN and China Summit (21 November 2015), ASEAN and the United States 3rd Summit (21 November 2015) and the ASEAN-China Special Leaders' Summit at Sunnylands (15-16 February 2016), and statements emanating from the 10th East Asia Summit (22 November 2015), where both the U.S. and China were represented, and the most recent statement issued by the February 2016 ASEAN Foreign Ministers' Retreat in Vientiane (27 February 2016). These statements highlight the convergence on the principles of managing and settling disputes between ASEAN on the one hand and China and the United States on the other. Over the last two years, ASEAN has sharpened the wording on the South China Sea to indicate its frustration at the slow pace of implementing provisions of the Declaration on Conduct of Parties in the South China Sea and drafting the final text of the Code of Conduct in the South China Sea.

The Chairman's Statements issued following ASEAN's summit meetings with the China and the United States all agreed on: the importance of peace, security and stability in the region; freedom of navigation and overflight; implementation of the DOC and the early conclusion of a Code of Conduct; self-restraint; no threat or use of force; peaceful resolution of disputes; and international law, including UNCLOS.

The Chairman's Statement following the 18th ASEAN-China Summit (November 2015) included two issues not included in other joint statements – a reference to the importance of mutual trust and confidence (taken from the DOC) and 'friendly consultations and negotiations' (China's preferred term).¹⁰ In contrast, the Chairman's Statement following the 3rd ASEAN-U.S. Summit (November 2015) included only one issue not included in other statements – reference to the practices of the International Maritime Organization and the International Civil Aviation Organization.¹¹

¹⁰ Chairman's Statement of the 18th ASEAN-China Summit, Kuala Lumpur, 21 November 2015, http://www.miti.gov.my/miti/resources/Chairmans_Statement_of_the_18th_ASEAN-China_Summit.pdf.

¹¹ Chairman's Statement of the 3rd ASEAN-United States Summit, Kuala Lumpur, 21 November 2015; <http://www.asean.org/storage/2015/12/Final-Chairmans-Statement-of-3rd-ASEAN-US-Summit.pdf>.

These references reflect U.S. concerns about what it considers unsafe and unprofessional behaviour by Chinese military warships and aircraft operating in close proximity to U.S. military aircraft and ships.

The joint statement following the United States-ASEAN Summit in Sunnylands (February 2016), however, included six issues not included in previous ASEAN statements or with statements issued after ASEAN's previous summits with either China or the U.S. These issues included: maritime security and safety; full respect for legal and diplomatic processes; other lawful uses of the sea; unimpeded lawful maritime commerce; non-militarisation; and agreement to address common challenges in the maritime domain.¹² These issues reflect U.S. policy concerns, such as supporting the legal claims brought by the Philippines against China (full respect for legal and diplomatic processes), and they are also general enough that ASEAN can reflect its concerns without offending China.

ASEAN's most recent statement on the South China Sea was issued after the Foreign Ministers' Retreat held in Vientiane, Laos on 27 February 2016. This statement incorporated two issues adopted at the Sunnylands Summit: full respect for legal and diplomatic processes, and non-militarisation. The Foreign Ministers' Retreat also called for the 'expeditious establishment of the COC... and substantive development of the COC'. The incorporation of these issues demonstrated a convergence between ASEAN and the United States and ASEAN's frustration at the slow progress of confirming an agreement with China on the COC.

More significantly, the February 2016 ASEAN Foreign Ministers' Retreat sharpened the wording of previous ASEAN statements. For example, the statement issued after the 10th East Asia Summit in November 2015 declared:

*We took note of the serious concerns expressed by some leaders over recent and ongoing developments in the area, which have resulted in the erosion of trust and confidence amongst parties, and may undermine peace, security and stability in the region.*¹³

The statement issued after the February 2016 ASEAN Foreign Ministers' Retreat six weeks later sharpened this wording. Now the serious concerns of 'some leaders' became the concerns of all:

*Ministers remained seriously concerned over recent and ongoing developments and took note of the concerns expressed by some Ministers on the land reclamations and escalation of activities in the area, which have eroded trust and confidence, increased tensions and may undermine peace, security and stability in the region.*¹⁴

The statement issued after the ASEAN Foreign Ministers

Retreat reflected the most recent consensus by all ten ASEAN members that they collectively were seriously concerned about China's actions – without naming China.

This again demonstrated a sharpening of the language used by ASEAN arising from frustration over the slow pace of consultations with China on a DOC and COC.

3. Confidence-Building Measures

When ASEAN created the ASEAN Regional Forum in 1994-95, its first formal step to address regional defence and security issues, it adopted a Concept Paper based on three stages: confidence-building, preventive diplomacy, and conflict resolution (changed to elaboration of approaches to conflict). Later, ASEAN agreed that the confidence-building measures and preventive diplomacy states could proceed in tandem. In other words, the promotion of confidence-building measures became the *modus operandi* of ASEAN's approach to security issues. It was therefore not surprising that ASEAN and China included CBMs in their 2002 DOC:

*The Parties are committed to exploring ways for building trust and confidence in accordance with ... [the UN Charter, UNCLOS, ASEAN Treaty of Amity and Cooperation, Five Principles of Peaceful Coexistence, and other universally recognised principles of international law] and on the basis of equality and mutual respect...*¹⁵

In order to build trust and confidence, the DOC listed four measures: (a) holding dialogues and exchange of views as appropriate between their defence 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. Not one of these trust and confidence-building measures has been invoked to address the source of current tensions in the South China Sea, such as the assertiveness of the China Coast Guard and China's construction of artificial islands. Several of these measures could be used to address current tensions.

¹² Joint Statement of the U.S.-ASEAN Special Leaders' Summit: Sunnylands Declaration, 15-16 February 2016, Office of the Press Secretary, The White House; <https://www.whitehouse.gov/the-press-office/2016/02/16/joint-statement-us-asean-special-leaders-summit-sunnylands-declaration>.

¹³ Chairman's Statement of the 10th East Asia Summit, Kuala Lumpur, 22 November 2015; <http://www.asean.org/storage/2015/12/Chairmans-Statement-of-the-10th-East-Asia-Summit-Final-25-Nov.pdf>.

¹⁴ Press Statement by the Chairman of the ASEAN Foreign Ministers Retreat, Vientiane, 27 February 2016; http://www.asean.org/storage/2016/02/Press-Statement-by-the-Chairman-of-the-ASEAN-Foreign-Ministers27-Retreat_ENG_FINAL-as-of-27.pdf.

¹⁵ Declaration on Conduct of Parties in the South China Sea (4 November 2002); http://www.asean.org/?static_post=declaration-on-the-conduct-of-parties-in-the-south-china-sea-2.

For example, defence and military dialogues (Point A) could discuss navigational safety measures when military aircraft and naval ships encounter each other in the South China Sea. In addition, the parties concerned could exchange information on current and planned construction activities on their features in the Spratlys under Point D.

The DOC also listed five cooperative activities that could be undertaken:

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.*

In 2002, ASEAN and China agreed to work on the basis of consensus to implement the DOC. China insists that the DOC be implemented in full before a COC can be adopted. ASEAN and China have set up four joint working groups to discuss possible cooperative activities. To date not one of the trust and confidence-building measures included in the 2002 DOC has been implemented.

Policy recommendation: ASEAN and China, for example, could assess the impact of constructing artificial islands on the coral reefs and marine environment in the Spratly Islands (Points A and B). No joint working group has been set up to address the sensitive issue of 'safety of navigation and communication at sea' (Point C). Establishing this working group should be an ASEAN priority. Although China is wary of addressing this issue, it has repeatedly stated that the DOC must be implemented in its entirety before a COC can be adopted. China agreed to the voluntary adoption of the Code on Unexpected Encounters at Sea (CUES) by the Western Pacific Naval Symposium. The People's Liberation Army Navy has conducted CUES exercises with Indonesia. China has also reached agreement with the U.S. governing close encounters between their naval vessels and military aircraft. With some ASEAN diplomatic pressure, China may be more amenable to addressing 'safety of navigation and communication at sea.'

Since 2014, ASEAN has been pressing China to operationalize paragraph 5 of the DOC which states:

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.

ASEAN has been trying to get China to agree on what other activities could be included in the phrase 'among others' requiring 'self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability...' One idea being discussed is for ASEAN and China to adopt the Code for Unplanned Encounters at Sea (CUES), adopted by the Western Pacific Naval Symposium, now that implementation of CUES is gradually expanding.¹⁷

It should be noted, however, that none of the above trust and confidence-building measures and cooperative activities directly address the issue of militarisation of the South China Sea and China-United States strategic rivalry.

Conclusion

Australia and other like-minded countries should redouble their efforts to support ASEAN centrality in managing tensions in the South China Sea by including this as the top agenda item at bilateral and multilateral meetings and coordinating their approach at meetings of ASEAN-centric multilateral institutions.

ASEAN centrality is important because it provides the normative and political basis for the involvement of outside powers in resolving security issues raised by the South China Sea dispute.

An ASEAN in disarray would exacerbate regional tensions, as major powers could play on differences to advance their respective interests. Given concern expressed by ASEAN ministers and their counterparts in Australia and the United States over the militarisation of the South China Sea, priority should be given to defining militarisation and identifying red lines that, if crossed, would be destabilising.

¹⁶ Carlyle A. Thayer, 'Navigating Uncharted Waters: Maritime Confidence Building Measures and the Expanded ASEAN Maritime Forum', Presentation to EAMF: Enhancing Regional Maritime Security, Freedom of Safety of Navigation through Practical Implementation of Confidence Building Measures as well as Regional Instruments to Prevent and Manage Incidents at Sea, 3rd ASEAN Expanded Maritime Forum, Furama Resort Hotel, Da Nang, Vietnam, 28 August 2014; <https://www.scribd.com/doc/238055326/Thayer-Navigating-Uncharted-Waters-Proposals-to-the-3rd-Expanded-ASEAN-Maritime-Forum> and Carlyle A. Thayer, 'Review of the Implementation of the 2002 ASEAN-China DOC and COC and Challenges', Presentation to Seminar-Workshop on the Implementation of the 2002 ASEAN-China Declaration on the Conduct of Parties in the South China Sea (DOC-SCS), ASEAN-China Joint Working Group on the Implementation of the DOC, hosted by the Department of Foreign Affairs, Republic of the Philippines, Manila, 14-15 May 2015; <https://www.scribd.com/doc/269144849/Thayer-Implementation-ASEAN-China-Declaration-on-Conduct-of-Parties-in-the-South-China-Sea>.

¹⁷ 'Code for Unplanned Encounters at Sea, Version 1.0,' in 'Document: Conduct for Unplanned Encounters at Sea', *USI News*, 17 June 2014; <http://news.usni.org/2014/06/17/document-conduct-unplanned-encounters-sea/>

It is recommended that the ASEAN ISIS network, CSCAP, other think tanks, the ARF ISM on Maritime Security and the ADMM-Plus Working Group on Maritime Security could all be involved in defining militarisation and make policy recommendations.

It is further recommended that ASEAN's like-minded dialogue partners coordinate their diplomacy and urge all claimants to be transparent in their activities.

Transparency measures could include annual reports on construction and other activities carried out on occupied features in the Spratly islands. The DOC's call for 'self-restraint' should be used as the litmus test to evaluate whether a particular activity has contributed to complicating or escalating disputes thereby affecting peace and security in the South China Sea.

Australia, ASEAN members and other like-minded states should lobby China and the United States to manage their military-to-military encounters in the South China Sea with a view to dampening if not curtailing the current action-reaction cycle caused by China's construction of artificial islands, U.S. FONOPs and China's responses to these patrols.

Australia, ASEAN and other like-minded states should prepare to mobilize the international community to support the Arbitral Tribunal when it hands down its findings. China, in particular, should be pressed to respect international law and to bring its ambit claims to the South China Sea in conformity with international law, including UNCLOS.

Finally, Australia and all other like-minded states need to coordinate their international diplomatic activities to maintain the status quo in the South China Sea by clearly identifying red lines in militarising the Spratly Islands that should not be crossed. Australia, for example, could identify weapon systems and platforms that would be destabilising, such as anti-ship cruise missiles, deploying aerial reconnaissance aircraft armed with anti-surface or anti-submarine missiles, stationing marine forces with amphibious ships, and the permanent stationing of air superiority jet fighters, bombers and submarines.