

Towards a Rules-based International Order:

Navigating Japan's Role in a Minilateral Approach

among Southeast Asian Claimant States

to South China Sea Issues

Marlo Luigi M. Joble¹

Abstract

China has employed various measures, particularly gray zone operations, in its campaign to claim virtually more than 90% of the South China Sea. Isolated efforts by individual states to address South China Sea territorial issues, coupled with organizational gridlock manifested in the Association of Southeast Asian Nations, have left tension de-escalation and stronger maritime governance as objectives yet to be realized. With the wide array of policy options available, minilateralism – small-scale cooperation focused on interests rather than values – is deemed a potential recourse due to its flexibility to immediately respond to crises or opportunities without being impacted by bureaucratic delays. This paper identifies the convergence between China's strong economic influence and the Southeast Asian claimant states' South China Sea policies as deciding factors as to why a minilateral approach on the

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¹ Marlo Luigi M. Joble is a Visiting Research Fellow at The Japan Institute of International Affairs. His research interests cover geopolitics, international institutions, terrorism and political violence, and maritime security. His professional experience includes working for De La Salle University, the Presidential Communications Operations Office (The Philippines), the S. Rajaratnam School of International Studies, and the Presidential Commission on Visiting Forces (The Philippines). Luigi earned his master's degree in strategic studies from Nanyang Technological University and his bachelor's degree in international studies from De La Salle University. He can be reached at marloluigijoble@gmail.com.

issue has remained unexplored. It underscores that Southeast Asian minilateralism on South China Sea territorial issues may complement the operations of the Association of Southeast Asian Nations on matters of tension de-escalation and maritime governance. It further explores Japan's pivotal role in this regard towards realizing its vision of a Free and Open Indo-Pacific.

Keywords: Minilateralism, Gray Zone Operations, South China Sea, Rules-based International Order, Free and Open Indo-Pacific, Association of Southeast Asian Nations

Thesis Statement

Among the four Southeast Asian claimant states, namely Brunei, Malaysia, the Philippines, and Vietnam, minilateralism as an arrangement that brings together the smallest possible composition to produce the largest possible impact presents a viable policy recourse to the stalled cooperation between ASEAN and China in resolving South China Sea territorial issues through tension de-escalation and strengthened maritime governance. In view of the intensive interdependence between China's economic influence and the Southeast Asian claimant states' respective South China Sea policies, however, such an alternative remains unexplored and abstract. In this regard, Japan could play a crucial role in remedying this situation towards realizing its Free and Open Indo-Pacific strategy in the South China Sea.

公益財団法人日本国際問題研究所 The Japan Institute of International Affairs

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Introduction

The South China Sea (SCS), bordered by eight littoral states, namely Brunei, China, Indonesia, Malaysia, the Philippines, Singapore, Taiwan, and Vietnam, serves as an arena for tension escalation and power display in the 21st century. By exploiting the ambiguity between peace and war, the employment of gray zone operations supports the overall geopolitical objectives of a state vis-à-vis other states to realize their respective national interests.²

This is particularly observable with China in its campaign to assert dominance in the SCS. Land reclamation and the deployment of maritime constabulary forces among other tactics have defined the elements of its intensifying gray zone operations.³

Southeast Asian (SEA) claimant states have undertaken various policy measures to respond to China's intensifying maritime assertiveness in the SCS. Although some measures have stalled, particularly the 20-year-plus SCS Code of Conduct (COC) negotiations between the Association of Southeast Asian Nations (ASEAN) and China, others have had more national than regional impact and not necessarily changed the status quo.⁴

The need for more policy options to explore for de-escalating tensions and upholding maritime governance in the SCS is seen as warranted not only by SEA claimant states but also by extra-regional states, such as Australia, India, Japan, and the United States (US). A possible recourse, therefore, is minilateralism.

⁴ Raul (Pete) Pedrozo, "Is a South China Sea Code of Conduct Viable?" *International Law Studies* 97, no. 1 (2021): 938 – 949; James Goldrick, *Grey Zone Operations and the Maritime Domain*, (Canberra: Australian Strategic Policy Institute, 2018).



² Hideshi Tokuchi, "The Gray Zone in the Definition of Gray-Zone Warfare: Challenges for Japan-U.S. Cooperation," in *Murky Waters in the East China Sea: Chinese Gray-Zone Operations and U.S.-Japan Alliance Cooperation* (Seattle: The National Bureau of Asian Research, 2021): 1–10.

³ Rob McLaughlin, "The Law of the Sea and PRC Gray-Zone Operations in the South China Sea," *American Journal of International Law* 116, no. 4 (October, 2022): 821 – 835.

Minilateralism is small-scale cooperation that arises from situational interests in response to disaggregated issues.⁵ It differs from multilateralism in that it is usually not institutionalized and that it follows a voluntary, adaptable, less formal, and interest-based rather than value-based structure.⁶

With these ideas in mind, this paper seeks to answer the following questions:

- 1. What explains the absence of minilateralism among SEA claimant states to SCS territorial issues in a rules-based international order?
- 2. How will minilateralism coexist with ASEAN?
- 3. What role can Japan take in fostering a minilateral approach among SEA claimant states to SCS territorial issues and thereby realizing a vision of a Free and Open Indo-Pacific (FOIP)?

This paper cross-examines the 21st century SCS policies of the four SEA claimant states on SCS territorial issues, namely Brunei, Malaysia, the Philippines, and Vietnam, in its relations with China that contribute to the absence of minilateralism.

This paper then explores the potential complementary role of minilateralism to ASEAN through an analysis of existing Indo-Pacific minilateral arrangements.

This paper further identifies the roles Japan can play in the formation of minilateralism among SEA claimant states on SCS territorial issues through examining various policy measures.

⁶ Stewart Patrick, "Learning to Compartmentalize: How to Prevent Big Power Frictions from Becoming Major Global Headaches," published on June 4, 2014 by the Council on Foreign Relations.



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⁵ Stewart Patrick, "The New "New Multilateralism": Minilateral Cooperation, but at What Cost?" *Global Summitry* 1, no. 2 (2015): 115 – 134.

I. Understanding the Concept of Minilateralism

As traditional cooperation systems struggle to respond expeditiously to complex issues, impasses have triggered states to explore policy options for stability in the face of expanding interconnectedness and growing multipolarity. One such option is minilateralism.

Minilateralism emphasizes a non-binding, informal, flexible, and innovative framework that allows for immediate reactions to crises or opportunities without being impacted by bureaucratic delays typically present in institutionalized cooperation. Unlike conventional cooperation, principle and ideological alignment is not required in this ad hoc arrangement that brings together the smallest possible composition to devise the largest possible impact.

Although minilateralism was only coined by Miles Kahler in 1992, it was practiced as early as the 19th century as a complement or an alternative to multilateral frameworks to overcome the collective action dilemma.⁹

Despite the practical advantages, there are also drawbacks, among these being operational challenges. Minilateralism may, for instance, exacerbate power imbalances leading to exclusionary tendencies on shared interests. ¹⁰ As minilateralism lacks institutionalized mechanisms, it may operate without adequate functional oversight and thus contributes to the

¹⁰ Mladenov, "Minilateralism: A Concept That Is Changing the World Order."



⁷Patrick, "Learning to Compartmentalize: How to Prevent Big Power Frictions from Becoming Major Global Headaches."; Nickolay Mladenov, "Minilateralism: A Concept That Is Changing the World Order," published on April 14, 2023 at The Washington Institute for Near East Policy.

⁸ Mladenov, "Minilateralism: A Concept That Is Changing the World Order."; Moises Naim, "Minilateralism: The Magic Number to get Real International Action," published on June 21, 2009 at Foreign Policy.

⁹ Miles Kahler, "Multilateralism with small and large numbers," *International Organization* 46, no. 3 (Summer, 1992): 681 – 708; Mladenov, "Minilateralism: A Concept That Is Changing the World Order."; John Gerard Ruggie, "Multilateralism: the Anatomy of an Institution," *International Organization* 46, no. 3 (Summer, 1992): 561 – 598; Patrick, "The New "New Multilateralism": Minilateral Cooperation, but at What Cost?"; Michael Green, "Strategic Asian Triangles" in *The Oxford Handbook of the International Relations of Asia*, ed. Saadia Pekkanen, John Ravenhill, Rosemary Foot, (Oxford: Oxford University Press, 2014), pp. 748–750

global democratic deficit. It may also create a leadership vacuum that could work against itself.¹¹

Other downsides include rampant forum-shopping, fragmentation of regional and global governance and efforts due to reduced accountability, and minimization of critical international organizations. ¹²

The Southeast Asian Context of Minilateralism

Minilateralism is not new to Southeast Asia. In fact, the region hosts a number of minilateral forums focusing on economic cooperation and practical collaboration on nontraditional security challenges amidst multilateralism.¹³

Minilateral arrangements such as the Indonesia-Malaysia-Singapore Growth Triangle (1989), the Brunei-Indonesia-Malaysia-Philippines East ASEAN Growth Area (1994), the Cambodia-Laos-Vietnam Development Triangle (1999), the Malacca Straits Patrol (2004), and the Trilateral Cooperation Agreement among Indonesia, Malaysia, and the Philippines (2017) have defined the region's conduct.¹⁴

In addition to organic minilateralism, there have been minilateralist efforts with SEA states led by extra-regional powers such as China, India, Japan, and the US that have emerged in part due to magnifying geopolitical rivalries. The Mekong-Ganga Cooperation (2000), the

¹⁴ Shannon Smith, "The Indonesia-Malaysia-Singapore Growth Triangle: A political and economic equation," *Australian Journal of International Affairs* 51, no. 3 (November, 1997): 337 – 344; Montague Lord, *Prioritizing Strategic Directions for BIMP-EAGA*, (Manila: Asian Development Bank, 2004); Bhoj Raj Khanal and Wilairat Tongsiri, *The Cambodia, Lao PDR, and Vietnam (CLV) Development Triangle Opportunities, Challenges and Options for Future*, (Hanoi: Hanoi Research Centre, 2007); Ministry of Defense of Singapore, "Fact Sheet: The Malacca Straits Patrol," published on April 21, 2015 at Ministry of Defense of Singapore; Ian Storey, "Trilateral Security Cooperation in the Sulu-Celebes Seas: A Work in Progress," *Perspective*, no. 48 (August, 2018): 1 – 7.



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¹¹ Sung-Mi Kim, Sebastian Haug, and Susan Harris Rimmer, "Minilateralism Revisited: MIKTA as Slender Diplomacy in a Multiplex World," *International Organization* 24, no. 4 (December, 2018): 475 – 489.

¹² Alan Alexandroff, "Engaging in the Project on Global Summitry," published on June 11, 2014 at Rising BRICSAM.

¹³ Vannarith Chheang, *Minilateralism in Southeast Asia: Facts, Opportunities and Risks*, (Oxfordshire: Routledge, 2020).

Japan-Mekong Cooperation (2007), the Lower Mekong Initiative (2009), and the Lancang-Mekong Cooperation (2016) capture this geopolitical race for regional influence.¹⁵

Minilateralism's Success is Nonetheless Relative

With the conceptual expectations of its benefits and challenges established, minilateralism's success remains debated.

Looking at Indo-Pacific minilateralism among Australia, India, Japan, and the US, the Quad has worked on maritime security, economic cooperation, and the COVID-19 pandemic responses, among others. ¹⁶ Although it has succeeded in some respects, it has faced challenges, particularly in its "Quad Vaccine Partnership" that revealed procedural inefficiencies pointing to greater success through working independently than through pursuing minilateral arrangements. ¹⁷

The Indonesia-Malaysia-Philippines Trilateral Cooperation Agreement establishes synergies with ASEAN mechanisms, such as the ASEAN Our Eyes Initiative and ASEAN Maritime Forum, in ensuring maritime security from transnational crimes in porous regions and along sea lines of communications (SLOC). ¹⁸ It is notably one of the more successful examples of minilateralism as it achieved zero incidence in the first six months of 2023 as compared to the 99 reports registered in 2017. ¹⁹

¹⁹ Gusty Da Costa, "Indonesia, Malaysia, Philippines renew commitment to cooperation," published on July 25, 2023 at the Indo-Pacific Defense Forum.



¹⁵ Vannarith Chheang, "An Introduction to Greater Mekong Subregional Cooperation," *CICP Working Paper*, 34 (March, 2010): 1 − 22; Kei Koga, "The Emerging Power Play in the Mekong Subregion: A Japanese Perspective," *Asia Policy* 17, no. 2 (April, 2022): 28 − 34; Chheang, "Minilateralism in Southeast Asia: Facts, Opportunities and Risks."; Richard Grünwald, "Lancang-Mekong Cooperation: Present and Future of the Mekong River Basin," *Politické Vedy* 23, no. 2 (November, 2020): 69 − 97.

¹⁶ Zongyou Wei, "The evolution of the 'QUAD': driving forces, impacts, and prospects," *China International Strategy Review* 4 (December, 2022): 288 – 304.

¹⁷ Sarosh Nagar and Sergio Imparato, "The Disappointment of the Quad Vaccine Partnership," published on July 01, 2022 at The Diplomat.

¹⁸ Tom Abke, "Trilateral air, maritime patrols curtail kidnappings," published on June 3, 2019 at the Indo-Pacific Defense Forum.

Minilateralism also contributes to multilateralism following interest convergence between both arrangements. For instance, some SEA minilateralist initiatives have been precursors to ASEAN mechanisms.

The Our Eyes Initiative was a minilateral platform among six SEA states for information exchange to counter terrorism and violent extremism. It was then adopted by ASEAN as the ASEAN Our Eyes Initiative.²⁰

Minilateralism's success is therefore dependent on various factors at play. For example, membership dynamics, operational environments, mutual interests, target issues, and convergence with existing multilateralist endeavors, among others, play integral roles in influencing its trajectories.

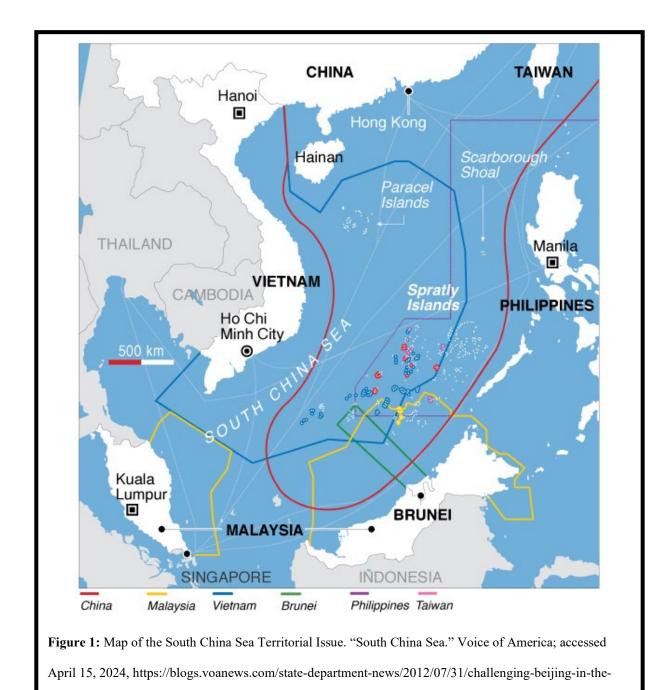
In this regard, policymakers must strike a 'judicious politico-diplomatic balance' that is critical to ensuring that minilateralism is able to succeed amidst various factors and alongside multilateral institutions.²¹

²¹ William Tow, "The Trilateral Strategic Dialogue, Minilateralism, and Asia-Pacific Order Building," in *US-Japan-Australia Security Cooperation: Prospects and Challenges*, ed. Yuki Tatsumi, (Washington, D.C.: Stimson Center, 2015), 23 – 36.



 $^{^{20}}$ Joanne Lin and Laura Lee, "Minilateral Cooperation in ASEAN May Help it Overcome Challenges in Multilateralism," *Perspective*, no. 16 (March, 2023): 1-10. 21 William Tow, "The Trilateral Strategic Dialogue, Minilateralism, and Asia-Pacific Order Building," in *US*-

II. China's Intensifying Maritime Assertiveness in the South China Sea



China is the largest littoral and most active claimant state on SCS territorial issues as it seeks to fulfill its grand strategy of securing a maritime frontier, controlling the disputed islands

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and SLOC, and projecting regional superiority.²² With this, China has adopted a dual-track strategy that resolves sovereignty questions through bilateral negotiations while managing non-sovereign concerns through multilateral initiatives.²³ It also employs intensive SCS gray zone operations and deceiving and delaying tactics, impedes sovereignty issue-resolution, influences ASEAN member states to its favor as it exerts its primacy, negotiates from a position of power, and generates outcomes that would benefit it the most.²⁴

Through these, China has managed to develop mighty military capabilities, establish illegal maritime feature control, and improve its overall position in the SCS.²⁵ China's hardline position, despite episodes of bilateral and multilateral cooperation, has raised serious challenges to claimant and extra-regional states.²⁶

Although maritime provocations are not always initiated by China, the magnitude to which China's responses impact other claimant states is exponential. China's intensifying maritime assertiveness over the Western Pacific by controlling the SCS ultimately constrains the effectiveness of established international institutions, particularly of ASEAN, in resolving conflicts peacefully. ²⁷

²⁷ Erik Beukel, "China and the South China Sea: Two Faces of Power in the Rising China's Neighborhood Policy," *DIIS Working Paper*, no. 07 (2010): 5-21.



²² Taylor Fravel, "China's Strategy in the South China Sea," *Contemporary Southeast Asia: A Journal of International and Strategic Affairs* 33, no. 3 (January, 2011): 292 – 319.

²³ Zhou Fangyin, "Between Assertiveness and Self-restraint: Understanding China's South China Sea Policy," International Affairs (Royal Institute of International Affairs 1944-) 92, no. 4 (July, 2016): 869 – 890.

²⁴ Taylor Fravel, *Strong Borders, Secure Nation: Cooperation and Conflict in China's Territorial Disputes*, (Princeton: Princeton University Press, 2008).

²⁵ Focus Group Discussion led by Mr. Hideshi Tokuchi, Tokyo, Japan, November 10, 2023.

²⁶ Jing Huang and Sharinee Jagtiani, "Introduction: Unknotting Tangled Lines in the South China Sea Dispute," in *Territorial Disputes in the South China Sea*, ed. Jing Huang and Andre Billo, (London: Palgrave Macmillan, 2015), 1 – 12.

ASEAN on the South China Sea Issue

Having brought the de facto security community notion into the region, ASEAN has utilized the ASEAN Way and Centrality in managing conflicts and served as a forum for its member states to achieve regional and national interests.²⁸

Apart from facilitating diplomatic engagements through mechanisms such as the ASEAN Foreign Ministerial and Defense Ministers' Meetings, the ASEAN Regional Forum, the ASEAN-China Joint Working Group and Ministerial Meeting, and the East Asia Summit, ASEAN has sought agreements with China in resolving SCS territorial issues against the backdrop of its 1967 ASEAN Declaration and 1976 Treaty of Amity and Cooperation in Southeast Asia. The 2002 Declaration on the Conduct of Parties in the SCS, the 2011 Implementing Guidelines of the Declaration on Conduct in the SCS, the 2012 Six-Point Principles on the SCS, the 2018 Single Draft SCS COC Negotiating Text, and the 2019 ASEAN Outlook on the Indo-Pacific have underpinned the non-use of force and the peaceful settlement of disputes through the 1982 United Nations Convention on the Law of the Sea (UNCLOS) in the face of growing power asymmetry and intensifying interest competition. ²⁹ A legally binding COC has yet to materialize, however, following conclusion delays due to irreconcilable differences within ASEAN and between parties to SCS territorial issue. ³⁰

³⁰ Leticia Simões, "The Role of ASEAN in the South China Sea Disputes," published on June 23, 2022 at E-International Relations.



²⁸ Hiro Katsumata, "Reconstruction of Diplomatic Norms in Southeast Asia: The Case for Strict Adherence to the "ASEAN Way"," *Contemporary Southeast Asia* 25, no. 1 (April, 2003): 104 − 121; See Seng Tan, "ASEAN Centrality," in *CSCAP Regional Security Outlook 2013*, ed. Desmond Ball, Anthony Milner, Rizal Sukma, Yusuf Wanandi, (Singapore: Booksmith Productions, 2012), 26 − 29; Focus Group Discussion led by Mr. Kensuke Yanagida, Tokyo, Japan, September 12, 2023.

²⁹ Ralf Emmers, *Cooperative Security and the Balance of Power in ASEAN and the ARF*, (London: Routledge, 2003); Bruce Elleman, *China's Naval Operations in the South China Sea: Evaluating Legal, Strategic and Military Factors*, (Amsterdam: Amsterdam University Press, 2018).

Following these diplomatic efforts, the agreements' provisions remain limited and unresponsive for effective conflict management. They also have not been translated fully into tangible results, especially of de-escalation.

Without any effective recourse in the wake of China's exploitation of the ASEAN Way's limitations and the failure to bring unity amidst diversity, ASEAN itself risks failing to serve its member states' material interests and putting its leadership and relevance into question.³¹

III. An Abstract Southeast Asian Minilateralist Approach to South China Sea Issues

As ASEAN's assertions of centrality to China – e.g. concluding COC in SCS negotiations, upholding the rules-based international order, and adhering to norms of self-restraint – have consistently struggled to materialize, other policy measures must be undertaken to improve the souring SCS geopolitical dynamics. ³² Some SEA minilateralist initiatives taken as policy options have succeeded in achieving their goals. To replicate such success with intersecting concerns in the SCS, minilateralism may present itself as both an opportunity and a policy recourse among SEA claimant states amidst China's intensifying maritime assertiveness. From minimizing trust and confidence deficits to starting towards interoperability in resolving shared SCS issues such as illegal, unreported, and unregulated fishing and marine degradation, it can expand to include contentious areas needing implementing principles such as land reclamation and disputed maritime feature militarization. Ultimately, minilateralism may work on

³² Focus Group Discussion led by Mr. Tetsuo Kotani, Tokyo, Japan, October 26, 2023.



 $^{^{31}}$ Sanae Suzuki, "Can ASEAN offer a useful model? Chairmanship in decision-making by consensus," *The Pacific Review* 34, no. 05 (February, 2020): 1 – 27; Le Hu, "Examining ASEAN's effectiveness in managing South China Sea disputes," *The Pacific Review* 36, no. 1 (June, 2021): 1 – 29.

collective delimitation. Such hypothetical minilateral actions would constitute strengthened maritime governance and may be adopted by ASEAN in its negotiations with China.³³

However, such a probable policy recourse remains an unexplored aspect of the SEA claimant states' relations beyond ASEAN.

This paper explains the absence of a minilateral arrangement among SEA claimant states on SCS territorial issues. An analysis of the respective SCS policies of SEA claimant states establishes positional commonalities as a basis for minilateralism. They center on three important aspects: (a) national strategies on the respective SCS maritime claims; (b) the application of international law, including the 1982 UNCLOS; and (c) receptiveness to SCS bilateral negotiations.

Brunei

Brunei has declared its claims since 1984. Although some entitlements are contested by China, Taiwan, and Vietnam, a bilateral exchange of letters with Malaysia on Louisa Reef seemingly led to a demarcation.³⁴

Despite contestations, it is the only claimant state without any active SCS territorial dispute as it neither asserts explicitly its sovereignty over its claims nor maintains any military presence there.³⁵ This is due to Brunei's employment of a 'silent claim' strategy and a two-step approach that stresses on non-confrontation while advocating for bilateral and multilateral cooperation and adherence to international law for peaceful resolution.³⁶

³⁶ Joshua Espeña and Anne Uy, "Brunei's Two-step Approach to the South China Sea," published on August 7, 2020 at the War on the Rocks; Ministry of Defence of Brunei Darussalam, "Defending the Nation's Sovereignty: A Secure and Resilient Future," published in 2021 by the Ministry of Defence of Brunei Darussalam; Bama



³³ Bich Tran, "Spotlight - Vietnam and Indonesia: January 5, 2023," published on January 5, 2023 by the Center for Strategic and International Studies.

 $^{^{34}}$ Ashley Roach, "Malaysia and Brunei: An Analysis of their Claims in South China Sea," *CNA Occasional Paper*, (August, 2014): 1-44.

³⁵ United States Department of State, "Integrated Country Strategy: Brunei Darussalam," approved on April 18, 2022 by United States Department of State.

Malaysia

Malaysia's claims are based on its 1966 law, a 1979 map, and the 2009 joint Commission on the Limits of the Continental Shelf submission with Vietnam, among others. It has also occupied, militarized, and exercised control over its claims since 1983, which are disputed by China, the Philippines, and Vietnam.³⁷

Apart from its economic considerations, which led to bilateral delimitation arrangements with Brunei in 2009 and Indonesia in 2018, its SCS policy upholds norms of self-restraint and de-escalation through ASEAN-led mechanisms and international legal frameworks.³⁸ Its varied hedging strategy reflects its core political and economic interests and has thereby been largely consistent with only minimal recalibrations over several administrations.

The Philippines

The Philippines' claims are based on its *terra nullius* and *res nullius* occupation, colonial inheritance, and national legislation between 1961 to 2009, among others. ³⁹ Despite the substantiation generated by the 2016 Permanent Court of Arbitration (PCA) ruling, its occupied claims remain contested by China, Malaysia, and Vietnam. ⁴⁰

⁴⁰ Mohd Irwan Syazli Saidin and Siti Noralia Mustaza, "ASEAN, China and the South China Sea Territorial Disputes: Analysis of Conflict Management Strategies," *Intellectual Discourse* 28, no. 2 (2020): 577 – 598.



Andika Putra, "Brunei's silent claims in the South China Sea: a case for the theory of trade expectations," *Cogent Social Sciences* 10, no. 1 (February, 2024): 1 - 13.

³⁷ The National Bureau of Asian Research, "Malaysia," updated on 2024 by The National Bureau of Asian Research.

³⁸ Ian Storey, "Malaysia and the South China Sea Dispute: Policy Continuity amid Domestic Political Change," *Perspective*, no. 18 (March, 2020): 1-10.

³⁹ International Crisis Group, "Competing Visions of International Order in the South China Sea," published on November 29, 2021 by the International Crisis Group.

Its SCS policy emphasizes the importance of ASEAN and the 1982 UNCLOS. It also subscribes to bilateral delimitation under international law. ⁴¹ Accordingly, it settled its maritime boundary with Indonesia in 2014. ⁴²

Despite the Philippines' similar strategic principles across multiple administrations in the 21st century, it suffers from policy inconsistencies and hedging issues that are derived from imperatives such as Philippines-China economic relations, the United States' security commitment to the Philippines, and administrations' agenda and priorities, among others. It is also vulnerable to the vicissitudes of electoral politics.⁴³

Vietnam

Vietnam's claims are based on its occupation since the 17th century, the colonial inheritance from France's legal annexation documents and its devolution to Vietnam, which have been reflected in its SCS white paper and diplomatic submissions to the United Nations. ⁴⁴ Vietnam faces opposition from China, Malaysia, and the Philippines to its occupied, reclaimed, and controlled claims. ⁴⁵

As a determinant to the Communist Party's political legitimacy, Vietnam's SCS policy has demonstrated a high degree of consistency for the past decades in upholding ASEAN and

⁴⁵ Asia Maritime Transparency Initiative, "Vietnam's Major Spratly Expansion," published on December 14, 2022 by the Center for Strategic and International Studies.



⁴¹ National Security Council of the Republic of the Philippines, "National Security Strategy: Security and Development for Transformational Change and Well-being of the Filipino People," published in 2018 by the National Security Council of the Republic of the Philippines.

⁴² Department of National Defense of the Republic of the Philippines, "National Defense Strategy 2018 – 2022," published in 2018 at the Department of National Defense of the Republic of the Philippines.

⁴³ Aileen Baviera, "Presidential Elections and the Country's Foreign Policy," published on December 09, 2015 at the Asia Pacific Pathways to Progress Foundation, Inc.

⁴⁴ Mark Rosen, "Philippine Claims in the South China Sea: A Legal Analysis," *CNA Occasional Paper*, (August, 2014): 1 – 49; Nguyen Thi Lan Anh, "The South China Sea Award: Legal Implications for Vietnam," *Contemporary Southeast Asia* 38, no. 3 (December, 2016): 369 – 374.

international legal frameworks to ensure unhampered SCS economic activities. 46 Vietnam also utilizes bilateral mechanisms both for de-escalation and delimitation. For example, high-level negotiations between Vietnam and China led to the 1999 and 2000 delimitations in the Gulf of Tonkin. 47

A cross-analysis between the established SEA claimant states' SCS policy considerations and respective relations with and approaches to China is warranted to determine the threshold and extent of coverage SEA claimant states can pursue when it comes to minilateralism, and to derive possible explanations as to why there is no existing minilateralism in this regard.

In analyzing SEA claimant states' relations with and approaches to China on SCS territorial issues, this paper focuses on two important aspects: (a) their respective trade relations with China; and (b) their respective approaches to China's intensifying maritime assertiveness in the SCS.

Brunei

As of 2021, China is Brunei's second largest trading partner, with Brunei having a trade surplus of US\$1,647,850,710.00 that makes China a profitable market.⁴⁸

China's 10-dash line and enshrined claims have not been publicly contested by Brunei as incompatible with the 1982 UNCLOS.⁴⁹ China also utilizes its maritime constabulary forces,

⁴⁹ Sufrizul Husseini, "Why Brunei is Hedging Between the U.S. and China," published on October 26, 2023 by the United States Institute of Peace.



⁴⁶ International Crisis Group, "Vietnam Tacks Between Cooperation and Struggle in the South China Sea," published on December 07, 2021 at the International Crisis Group; Mustafa Tüter, "Vietnam's Policy over South China Sea: Potential for Conflict Escalation?" *International Journal of Political Studies* 8, no. 2 (2022): 63 – 74. ⁴⁷ International Crisis Group, "Vietnam Tacks Between Cooperation and Struggle in the South China Sea."

⁴⁸ World Integrated Trade Solution, "Brunei trade balance, exports, imports by country 2021," by the World Bank Organization; accessed on October 29, 2023.

without broadcasting its automatic identification system signals at times, to conduct assertive maneuvers within Brunei's exclusive economic zone (EEZ), which Brunei condones.⁵⁰

Brunei's yielding SCS position reflects the greater importance of China's economic influence due to Brunei's declining economy and its decreasing extractable natural resources.⁵¹ This convergence has allowed Brunei to remain silent while it fulfills its long-term priorities under the *Wawasan Brunei 2035* that has seen Brunei-China projects such as the Brunei-Guangxi Economic Corridor emerge.⁵²

Malaysia

As of 2021, China is Malaysia's largest trading partner, with which Malaysia has a trade deficit of US\$8,918,163,500.00, making China an important source of goods.⁵³

As Malaysia subscribes to the 1982 UNCLOS, efforts to unilaterally delimit its maritime zones, such as China's 10-dash line, are rejected. Despite this, it employs 'behind-the-scenes diplomacy' that China finds preferable.⁵⁴ Such a policy aligns with its political and economic considerations by de-emphasizing the dispute to keep it from damaging its bilateral relations and by insulating Malaysia's valuable economic ties with China from the issue.

Malaysia also censors, suppresses nationalist sentiments and, at times, denies hostile acts by China to prioritize consultations over confrontations. ⁵⁵ Under Najib Razak's

⁵⁵ Kuik Cheng Chwee, "Hedging in Post-Pandemic Asia: What, How, and Why?" published on June 6, 2020 by The Asan Forum.



⁵⁰ Asia Maritime Transparency Initiative, "Gone Fishing: Tracking China's Flotilla from Brunei to Indonesia," published on January 30, 2020 by the Center for Strategic and International Studies.

⁵¹ Joshua Espeña and Anne Uy, "Brunei, ASEAN and the South China Sea," published on August 03, 2020 by the Lowy Institute.

⁵² Putra, "Brunei's silent claims in the South China Sea: a case for the theory of trade expectations."

⁵³ World Integrated Trade Solution, "Malaysia trade balance, exports, imports by country 2021," by the World Bank Organization; accessed on October 29, 2023.

⁵⁴ Storey, "Malaysia and the South China Sea Dispute: Policy Continuity amid Domestic Political Change."

administration, Malaysia denied the occurrence of Chinese naval exercises near James Shoal in 2013 as part of its strategy to court Chinese investments.⁵⁶

Malaysia's position since the early 1990s has been stimulated by China's economic influence. Malaysia has received Chinese investment in the East Coast Rail Link and the Malacca Gateway, among others projects.⁵⁷

The Philippines

As of 2021, China is the Philippines' largest trading partner, with which the Philippines has a trade deficit of US\$16,679,499,650.00, making China an important source of goods.⁵⁸

Given the Philippines' SCS policy inconsistencies, it has employed a variety of approaches to China's intensifying maritime assertiveness. For instance, the Arroyo (2001–2010) and Duterte (2016–2022) administrations tolerated China's SCS actions in favor of economic investments, with China overtaking Japan as the Philippines' largest trading partner during the latter presidency.⁵⁹ At the other end of the policy alignment spectrum, the Aquino III (2010–2016) and Marcos Jr. (2022–present) administrations took a confrontational approach; the former took China to the PCA in 2013, while the latter adopted an 'assertive transparency' strategy to 'name and shame' China, gain international support, and strengthen national resilience.⁶⁰

⁶⁰ Yusuke Takagi, "The Politics of Grand Strategy in an Emerging State: A Case Study on Philippine Diplomacy toward China," *Journal of Contemporary East Asia Studies* 11, No. 2 (2022): 329–45; Ray Powell and Benjamin Goirigolzarri, "Assertive Transparency: The Philippines' Counter Gray Zone Innovation," published on October 08, 2023 by SeaLight.



⁵⁶ Greg Torode, "PLA Navy amphibious task force reaches Malaysia 'to defend South China sea'," published on March 27, 2013 by the South China Morning Post.

⁵⁷ Johan Saravanamuttu, "Mahathir 2.0 & China: Hedging in a Fluid World," *RSIS Commentary*, no. 01 (January, 2020).

⁵⁸ World Integrated Trade Solution, "Philippines trade balance, exports, imports by country 2021," by the World Bank Organization; accessed on October 29, 2023.

⁵⁹ Bruno Hendler, "Duterte's Pivot to China, and Prospects for Settling the South China Sea Disputes," *Scielo Brazil Contexto Int.* 40, no. 2 (September, 2018).

Vietnam

As of 2021, China is Vietnam's largest trading partner, with which Vietnam has a trade deficit of US\$53,927,842,840.00, making China an important source of goods.⁶¹

Vietnam, alongside the Philippines, has been at the receiving end of China's intensifying maritime assertiveness in the SCS. The difference, however, is that Vietnam utilizes bilateral engagements and observes consistency in contrast to the Philippines as part of its de-escalation, balanced, and hedging strategy. ⁶² In 2014, China planted its Haiyang Shiyou 981 oil rig within Vietnam's EEZ. ⁶³ Although this led Vietnam to deploy its maritime constabulary forces to confront China, its mechanisms for conciliatory communication with China remain in place. ⁶⁴ This aligns with its overarching policy goal of avoiding armed escalations and ensuring national sovereignty protection while facilitating economic development and promoting its SCS interests through a cautious multi-pronged approach. ⁶⁵

Similar Positions, Varying Approaches

As this cross-analysis illustrates, SEA claimant states may not be as united overall as they have been perceived to be. However, niche areas of their SCS positions can be worked out through minilateralism following the rationale and previous successes of established SEA minilateralism.

Most facets of their SCS positions, such as their desire to resolve conflicts through ASEAN and international legal frameworks, align with each other. SEA claimant states also display openness to bilateral negotiations, which most have already undertaken in the past.

⁶⁵ Tüter, "Vietnam's Policy over South China Sea: Potential for Conflict Escalation?"



⁶¹ World Integrated Trade Solution, "Vietnam trade balance, exports, imports by country 2021," by the World Bank Organization; accessed on October 29, 2023.

⁶² Tüter, "Vietnam's Policy over South China Sea: Potential for Conflict Escalation?"

⁶³ International Crisis Group, "Competing Visions of International Order in the South China Sea."

⁶⁴ Ian Storey, "The Sino-Vietnamese Oil Rig Crisis: Implications for the South China Sea Dispute," *Perspective*, no. 52 (October, 2014): 1 – 11.

These stances suggest that they can be conformist but also pragmatic in dealing with their SCS claims. This structure is widely practiced in minilateralism. It it can be concluded that SEA claimant states may idealistically engage in minilateralism to defuse tensions and de-escalate in the SCS.

However, the variations in their relations with China and their approaches to SCS territorial issues constrain their scope of action. Therefore, the deciding factors as to why minilateralism remains abstract among SEA claimant states are: (a) China's influence and (b) collective policy incompatibility due to SEA claimant states' inconsistent SCS policies.

The China Factor

China poses both opportunities and threats to SEA claimant states' respective interests. Not only are they dealing with their largest trading partner (or second largest in the case of Brunei), they are also dealing with the most aggressive, expansive, and active party in SCS territorial issues, one that has military superiority even over their combined military capabilities.

Despite the diverse reactions from SEA claimant states, China has doubled down on its position not only by deploying maritime constabulary forces but also by flouting international law, severely limiting SEA claimant states' policy options.

SEA claimant states are quite conscious of the fact that any contentious and aggressive actions taken against China's claims would consequently be met with an economic backlash. It is therefore paramount for them to ensure unhampered economic momentum to avoid domestic resistance to their own political legitimacy.

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Collective Policy Incompatibility

Given Brunei's yielding position and Malaysia, the Philippines, and Vietnam's varying hedging strategies employed in their respective relations with China, the resultant policy incompatibility may not mesh well for minilateralism.

If this proves a chronic condition, the inconsistent trajectory of the Philippines' SCS policy may work to the detriment of any minilateral initiatives. This issue was observed with the Quad during its early years of operations. Australia's Prime Minister Kevin Rudd made a foreign policy change after a cost-benefit analysis found his country's trade relations with China more important than its Quad membership. This prompted Australia's temporary withdrawal in 2008 until the Quad's reemergence in 2017.

These factors thus contribute to the absence of minilateralism among SEA claimant states.

IV. Multilateralism and Minilateralism in Southeast Asia: Complementary or Conflicting on the South China Sea Territorial Issue?

As previously established, SEA minilateralism's success is not limited to its operational functions and goals; it has also contributed to ASEAN's functional mandate.

Following such a precedent, one may ponder if SEA claimant states' minilateralism on SCS territorial issues can be complementary to ASEAN. The immediate answer is that it will depend on the minilateralism's vital determinants, e.g. its focus, coverage, and goals.

If such a policy recourse is to be pursued to de-escalate tensions, implement ASEAN's SCS instruments and agreements, and generate aligned security conduct and initiatives at sea despite the absence of minilateralism in this regard, then minilateralism may complement ASEAN and ultimately help form and improve regional norms and operations among its member states. Such a setting may also create operational foundations and legal conduct in



practice that can be reflected in the COC while negotiating and concluding SCS agreements with China and contribute to more robust maritime governance.

However, making maritime delimitation to minimize tensions and confrontations the primordial goal of minilateralism may go against established ASEAN principles and mechanisms unless it is aligned with the 1982 UNCLOS and other international legal frameworks upheld by ASEAN.

Indeed, there are niche areas of SEA claimant states' positions on SCS territorial issues that can be worked on through minilateralism by following its rationale and the previous successes of established SEA minilateral arrangements. Nevertheless, such an approach is meant to supplement comprehensive multilateralism and remedy what is not immediately possible in the broader setting of pursuing international negotiations and concluding agreements that ramp down tensions among claimant states, including China, and ultimately achieving a rules-based international order in the SCS and wider Indo-Pacific.

V. Japan and the Four Southeast Asian Claimant States in South China Sea Issues

SCS territorial issues are of vital concern and interest for Japan. ⁶⁶ The SCS SLOC through which 80% of its crude oil imports from the Middle East pass are integral to Japan's energy security. ⁶⁷ Therefore, it is paramount that Japan ensure unhampered SCS SLOC access in view of China's intensifying maritime assertiveness. Japan has adopted a multi-dimensional approach, including reinforced stakeholder relations, and a FOIP vision that uphold international law in conflict resolution. ⁶⁸

⁶⁸ Ministry of Foreign Affairs of Japan, "Diplomatic Bluebook 2020," published in 2020 by the Ministry of Foreign Affairs of Japan.



⁶⁶ Focus Group Discussion led by Mr. Robert Eldridge, Tokyo, Japan, September 15, 2023.

⁶⁷ Yoji Koda, "Japan's Perceptions of and Interests in the South China Sea," *Asia Policy*, no. 21 (January, 2016): 29 – 35

In analyzing the role of Japan in fostering a common identity among SEA claimant

states to SCS territorial issues through minilateralism to realize its FOIP concept and remedy

its absence, this paper describes SEA claimant states' (a) trade relations with Japan and (b)

subscription to Japan's FOIP.

Brunei

As of 2021, Japan is Brunei's third largest trading partner, with which Brunei holds its largest

trade surplus of US\$1,916,997,820.00; this makes Japan its most profitable market.⁶⁹

As part of its SCS policy, Brunei subscribes to international law and ASEAN's

mechanisms in conflict management. However, it has not openly endorsed Japan's FOIP

concept due to its position on the great power rivalry in the Indo-Pacific.

Malaysia

As of 2021, Japan is Malaysia's fourth largest trading partner, with which Malaysia has a trade

surplus of US\$376,067,630.00, making Japan a profitable market. 70

Malaysia under Anwar Ibrahim's administration has not openly endorsed Japan's FOIP

concept as it seeks to maintain a delicate balance among great powers. Its SCS policy,

nevertheless, echoes the importance of the 1982 UNCLOS and the role of ASEAN in SCS

territorial issues.

⁶⁹ World Integrated Trade Solution, "Brunei trade balance, exports, imports by country 2021."

⁷⁰ World Integrated Trade Solution, "Malaysia trade balance, exports, imports by country 2021."

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The Philippines

As of 2021, Japan is the Philippines's second largest trading partner, with which the Philippines has a trade deficit of US\$1,110,158,840.00, making Japan an important source of goods.⁷¹

Under Ferdinand Marcos Jr.'s administration, the Philippines has publicly endorsed Japan's FOIP concept and its core ideas, such as during the 11th ASEAN-US Summit in 2023 and the Philippines-Germany bilateral meeting in 2024.⁷²

Vietnam

As of 2021, Japan is Vietnam's fourth largest trading partner, with which Vietnam has a trade deficit of US\$2,483,670,800.00, making Japan an important source of goods.⁷³

Prime Minister Pham Minh Chinh's administration has not officially endorsed Japan's FOIP concept. It has, however, aligned its SCS policy with ASEAN and the 1982 UNCLOS as part of its hedging strategy.

Strategies for Japan amid Southeast Asian Minilateralism in the South China Sea

With minilateralism absent among SEA claimant states due to the previously determined factors, Japan must take a proactive approach to gain the advantages it may obtain if minilateralism were to be pursued.

This paper outlines three strategies Japan can undertake to support and encourage SEA claimant states to engage in minilateralism among themselves and thereby help reduce tensions in the SCS, establish standards for legal conduct, and realize the FOIP concept.

⁷³ World Integrated Trade Solution, "Vietnam trade balance, exports, imports by country 2021."



⁷¹ World Integrated Trade Solution, "Philippines trade balance, exports, imports by country 2021."

⁷² Ferdinand Marcos Jr., "Intervention of President Ferdinand R. Marcos Jr. at the 11th ASEAN-US Summit," published in 2023 by the Presidential Communications Office; Presidential Communications Office, "A free and open South China Sea benefits the whole world, says PBBM," published in 2024 by the Presidential Communications Office.

These strategies are: (a) decoupling SEA claimant states from China; (b) intensifying

Japan's bilateral and multilateral confidence- and trust-building measures with SEA claimant

states; and (c) pursuing deeper collaboration via existing SEA minilateralism.

The China Decoupling Strategy

China has successfully weaponized trade to its advantage against SEA states' SCS policies, so

Japan must intensify its trade relations with SEA claimant states. Diversification of the trade,

economic, and investment reliance of these SEA claimant states may lead to an eventual

decoupling of their respective policy and decision-making processes with China, which has

curtailed their SCS policy priorities.

Achieving this will give SEA claimant states greater control of their SCS policies,

which may contribute to possible minilateralism aimed at tension de-escalation and

strengthened maritime governance, vis-à-vis China's intensifying maritime assertiveness.

Intensification of Bilateral and Multilateral Confidence- and Trust-building Measures

Under this strategy, Japan may avail itself of two options to remedy the absence of

minilateralism among SEA claimant states.

The first option is to establish a forum of like-minded states that would act as a

confidence- and trust-building mechanism promoting Japan's FOIP vision, and gradually invite

ideological converts. This is patterned on the US' Summit for Democracy, which Japan had

sought unsuccessfully to convene in 2011.⁷⁴ Given Japan's increasing international political

⁷⁴ Tomotaka Shoji, "The South China Sea: A View from Japan," NIDS Journal of Defense and Security 15

(December, 2014): 127 – 141.

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and economic influence and support from its allies in recent years, this option may be viable at this point.⁷⁵

If Japan were to succeed in the ideological and policy conversion of SEA claimant states to remedy policy inconsistencies, it would enhance its overall position and influence in promoting FOIP dialogues, potentially triggering these states to pursue minilateralism.

The second option is to intensify Japan's bilateral engagements with SEA claimant states and multilateral involvement in ASEAN. This would be accomplished by underscoring FOIP in mechanisms such as the ASEAN-Japan Summit, the ASEAN Plus Three, and the ASEAN Regional Forum and by generating engagement outcomes such as joint and vision statements and plans of action.

Through such agenda-, norm-, and ideological-setting engagements, Japan may espouse a common position adopting the provisions of the FOIP concept for minilateralism.

Deepening Collaboration with Existing Southeast Asian Minilateral Arrangements

Given the challenges Japan faces in effectively persuading SEA claimant states to pursue a SCS policy change and eventually minilateralism, Japan may instead choose to intensify its involvement in existing SEA minilateralism in the SCS.

The eventual aim of such involvement would be to expand membership and operations to include SEA claimant states and thereby contribute to de-escalating tensions and promoting a rules-based international order in the SCS. Hence, the Indonesia-Malaysia-Philippines Trilateral Cooperation Agreement is a probable minilateralist means of expanding by extending further assistance. Japan has upgraded the problem-solving capacity of this agreement's current

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⁷⁵ US News, "2023 Most Influential Countries," accessed on January 23, 2024 at US News.

operational structure by providing technical training and logistical support for patrols. ⁷⁶ Another minilateralist approach in this regard is the Malacca Straits Patrol among Indonesia, Malaysia, Singapore, and Thailand. Japan's assistance includes donating patrol vessels, providing financial assistance for navigation aids and infrastructure and conducting training exercises. ⁷⁷

It is therefore imperative that Japan intensively develops its existing engagements with these established minilateralist methods towards the eventual aim of managing China's intensifying maritime assertiveness by realizing a FOIP.

Conclusion

SCS territorial issues continue to grow as political, security, and economic flashpoints for both claimant and extra-regional states not only due to the embedded and traversing resources at stake but also to the intensifying gray zone operations being employed. This situation persists despite the numerous measures pursued.

Although minilateralism among SEA claimant states could be expected to de-escalate tensions and uphold maritime governance if appropriately utilized as a policy recourse, it remains disregarded mainly due to the two factors established in this paper: (a) China's influence and (b) collective policy incompatibility arising from SEA claimant states' inconsistent SCS policies.

Minilateralism can also be complementary with the region's premier multilateral arrangement ASEAN if its operations align with, subscribe to, and implement ASEAN's SCS

⁷⁷ Andrin Raj, "Japan's Initiatives In Security Cooperation In The Straits Of Malacca On Maritime Security And In Southeast Asia: Piracy And Maritime Terrorism," published in 2009 by The Japan Institute of International Affairs.



⁷⁶ Ismah Rustam, Sirwan Yazid Bustami, and Kinanti Rizsa Sabilla, "The Effectiveness of Indomalphi Trilateral Cooperation in Reducing Maritime Piracy by Abu Sayyaf Group in the Sulu-Sulawesi Sea," *Papua Journal of Diplomacy and International Relations* 2, no. 2 (2022): 163 – 183.

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instruments and agreements. It can even contribute towards the successful conclusion of the

ASEAN-China SCS COC negotiations after ensuring more robust maritime governance.

Given the need to mitigate tensions in the SCS, extra-regional states can take a pivotal

role in encouraging SEA claimant states to pursue minilateralism through various strategies.

Japan can endeavor to (a) decouple SEA claimant states from China; (b) intensify Japan's

bilateral and multilateral confidence- and trust-building measures with SEA claimant states;

and (c) pursue deeper collaboration with existing SEA minilateralist frameworks towards

realizing its FOIP vision.

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