Power, Norms, and Trust: Interrelated Factors Impacting ASEAN Management of South China Sea Disputes

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Abstract

In 1992, the Association of Southeast Asian Nations (ASEAN) officially recognized and called for a peaceful resolution to the South China Sea disputes. It has now been more than 30 years since it did so, but ASEAN has not resolved the disputes, resulting in economic and security problems in the region. This paper explores ASEAN's ineffectiveness by showing the interrelationship between otherwise siloed sets of explanatory factors, such as material interests and the practice of ASEAN norms. In addition, it highlights the importance of the dynamics of trust, a rarely examined and understudied element in ASEAN diplomacy, based on documentary analysis and interviews with regional experts and officials. The paper offers a detailed empirical account of ASEAN diplomacy, and contributes to international relations literature more generally by theorizing the interrelationship between dependency, trust, and the practice of diplomatic norms. Most importantly, it provides the operationalization and application of the concept of trust in the South China Sea disputes, for the first time, to explain ASEAN's ineffectiveness. It demonstrates that social trust is an essential component of the background knowledge that constitutes ASEAN diplomats' reflexive behaviors and practices toward conflict resolution.

Keywords: ASEAN, ASEAN diplomacy, ASEAN centrality, South China Sea

Introduction

The relevance of the Association of Southeast Asian Nations (ASEAN) as an effective regional organization has been debated since the Association's inception in 1967. One of the crucial sources of assessing ASEAN's effectiveness is its ability to manage territorial disputes in the South China Sea (SCS) between five member states (Brunei, Indonesia, Malaysia, the Philippines, and Vietnam) and China. ASEAN recognized the SCS disputes as a regional concern in 1992 and embarked on a decades-long attempt to manage the disputes. ASEAN has committed to play a central role in managing disputes and relations between its member states and external powers. Yet, in the more than thirty years since, ASEAN has had limited impact on resolving the SCS disputes. ASEAN centrality, which emphasizes ASEAN as a dominant regional platform to manage disputes and crises, has been slow and suboptimal in dealing with the disputes. This research surveys this issue and asks: How is ASEAN centrality limited in regional dispute and crisis management? By examining the SCS disputes, my research shows the interrelationship between otherwise siloed sets of explanatory factors, such as material interests and the practice of ASEAN norms. In addition, it highlights the importance of the dynamics of trust, a rarely examined and understudied element in ASEAN diplomacy. To support my argument, I rely on documentary research and in-depth interviews with 15 ASEAN practitioners and 19 scholars, which took place in Jakarta and Phnom Penh.

This paper makes two contributions to international relations research and conflict management literature on ASEAN. First, it offers a detailed empirical account of ASEAN diplomacy, and contributes to international relations literature more generally by theorizing the interrelationship between dependency, trust, and the practice of diplomatic norms. Based on a survey of existing explanations, the analysis of ASEAN's ineffectiveness in resolving the SCS disputes is insufficient when any of the three factors [the dependency, trust and the practice of diplomatic norms] are excluded. Instead of separating the three factors, a

clear understanding of ASEAN's ineffectiveness can be achieved by seeing these factors as interrelated and adopting an "eclectic" approach.[1] Most importantly, in-depth interviews with ASEAN officials support my analysis of this interrelation. Second, my paper provides the operationalization and application of the concept of trust in the SCS disputes, for the first time, to explain ASEAN's ineffectiveness. Trust is a less explored concept in understanding regional organizations' responses to disputes and crises. I show that social trust is an essential component of the background knowledge that constitutes the ASEAN diplomats' reflexive behaviors and practices toward conflict resolution. At first, the development of diplomats' trust begins through reflexive rational calculation of the cost and meanings of putting trust in others, as seen in Edward's concept of rational trust.[2] When trust becomes institutionalized or habituated, individuals no longer make rational decisions based on the consequence of trust. Their experience becomes background knowledge that reflexively informs them of the rational trust shared within the community.

This paper is divided into five parts. First, I offer a survey of alternative explanations and show their inadequacy in addressing the puzzle of the disputes. Second, I provide my arguments of the three interrelated reasons in more detail. In the third section, I discuss my rationale for using the practice framework and interviews to inform my analysis. In the last section, I support my arguments with empirical evidence of ASEAN's varied dependency on China, ASEAN diplomats' perception of norms and practices, and the lack of trust. This is done in three steps. I first survey the case details of ASEAN's activities in the SCS disputes from 1992 to 2024. In the second step, I explore the three interrelated factors separately through economics data, scholarly articles, and a survey of ASEAN's activities. Finally, to show the interrelations between the three factors, I zoom into the 45th ASEAN Ministerial Meeting (AMM) hosted by Cambodia in the third step.

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[1] Sil and Katzenstein 2010, 10
[2] Edwards 2018

Existing Explanations

To explain ASEAN's inability to resolve the SCS disputes and realize its stated policy aims, international relations literature provides three potential sets of explanations. The first draws on neorealist theory and stresses the effects of asymmetries in relative state power between China and ASEAN member states (AMS). The second emphasizes the persistence of norms within ASEAN and how these norms affect ASEAN's conflict resolution process. This strand of literature tends to come from constructivist traditions. Finally, a third strand of literature explores the potential role that trust may play in limiting organizational responses to conflict management. However, this strand of literature is much less well-developed in international relations generally, particularly regarding ASEAN, where there is a dearth of the studies on trust.

In the following subsections, I assess the strengths and weaknesses of the three explanations. My survey of the existing explanations highlights two observations: (1) the practice turn is valuable in complementing the limited assumptions of dependency and norms in analyzing ASEAN's ineffectiveness, and (2) international relations scholars tend to recognize the importance of social trust, but its definition and the ways it has the effects on ASEAN's ineffectiveness are rarely explained.

Power Asymmetry and Dependency

For the SCS disputes, assessments of ASEAN's ineffectiveness in managing regional disputes in the realist camp point to power asymmetry and economic dependence as the main factors. Mastanduno points out that "regional institutions such as ASEAN, the ASEAN regional forum, or APEC are only as strong as the great power interests behind them."[3] Realists are unsurprised that a regional organization of weak states dependent on China is "essentially ineffective" in compelling China to

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[3] Mastanduno 2014, 40

change its behaviors.[4] The ASEAN members can be divided into three groups.[5] The first group consists of "states that are closely aligned with and increasingly economically dependent on China", which are Cambodia and Laos. The second group includes Vietnam and the Philippines, the most vocal opponents of China's claim to the SCS. The third group includes the other six AMS, who adopt a neutral position. Cambodia and Laos's strong economic dependence on China has led to the lack of a united stance in remaining neutral. Since ASEAN follows the norms of consensus, consensus on the SCS disputes cannot easily be reached due to China's influence on some AMS. This divisiveness means that "ASEAN is playing an increasingly peripheral role in the management of these disputes".[6] Majumdar supports this point by implying that ASEAN lacks unity, making it highly challenging for ASEAN to resolve multilateral disputes such as the SCS.[7]

Moreover, Jones and Smith question ASEAN's effectiveness as a regional organization in constraining China.[8] In an economic sense, China had been sucking away foreign direct investment from the AMS while also increasingly becoming ASEAN's largest trading partner. For the SCS case, Jones and Smith assert that ASEAN's forums have not been effective enough to stop China from "unilaterally" building its military base and using force at the SCS.[9] Most importantly, China has not signed any binding agreement with ASEAN, nor has it given up on its historical claim to the SCS.[10] Although China is not directly at fault for these issues, it plays a significant role in legitimizing the military junta of Myanmar by using its economic power to disunite AMS policy toward the issue. However, the

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[4] Stubbs 2019, 7
[5] Cook 2018, 73
[6] Cook 2018, 74
[7] Majumdar 2015, 82
[8] Jones and Smith 2007
[9] Jones and Smith 2007, 177
[10] Jones and Smith 2007, 179

connection of precisely how China's sanction busting creates dependency, which leads to a disunited ASEAN, is less well-documented.

The limitation with power asymmetry and dependency arguments is its deterministic view on the role of material capabilities in coercing and compelling states' behaviors. This is rooted in the limited definition of power. This limitation prevents scholars from fully understanding "how global outcomes are produced and how actors are differentially enabled and constrained to their fates".[11] Realists assume that the state's power is drawn strictly from military and economic capabilities. This assumption is problematic because it ignores another dimension of power that a powerful state like China has used in combination with military and economic power. Power from this assumption is inadequate to fully conceptualize how power works in diplomatic settings. In diplomatic settings, a more useful concept to understand power is what Adler-Nissen and Pouliot called 'emergent power', which refers to the "endogenous resources – social skills or competences – generated within practices".[12] Competence refers to socially accepted standards recognized through relations with others.[13]

Persistence of ASEAN Norms

Constructivism opposes neorealism's structural explanation that material power triumphs over all spheres of world politics. Instead, constructivist scholars focus on nonmaterial elements such as ideas and identities. Ideas are "intersubjective" and "institutionalized", meaning that they are socially constructed.[14] Identities are also intersubjective in the sense that actors within a state develop a "collective sense" of their cultures and politics, which are distinguishable from others. Most importantly, it is the meaning prescribed by "human action and

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[11] Barnett and Duvall 2005, 41

[12] Adler-Nissen and Pouliot 2014, 891

[13] Adler-Nissen and Pouliot 2014, 895; Glas and Laurence 2022, 4

[14] Hurd 2014, 302

interaction" that shapes the material world.[15] Constructivists accept that states are driven by self-interest. However, national interest is shaped by the state's interaction and their identities. In ASEAN, most states have similar identities, due to their weak power and sentiment toward external powers, especially as all Southeast Asian states (with the exception of Thailand) were colonized by European powers. ASEAN's 'imagined community' adopted its cultural and political identities through cooperation to avoid further exploitation by external powers. At the same time, ASEAN states have shown a commitment to avoiding confrontation like the one between Indonesia and Malaysia, which was known as 'Konfrontasi' ('Confrontation').[16] As a result, these shared identities have led to the "security community" of ASEAN.[17] The security community refers to "groups of states which have developed a long-term habit of peaceful interactions and ruled out the use of force in settling disputes with other members".[18] However, this does not mean that there is no conflict of interest. In a security community like ASEAN, states may disagree over policies, but they would generally accept to manage the conflict peacefully.[19]

Constructivist scholars point to the positive effect of the ASEAN Way in socializing China in the SCS disputes. In the SCS, "ASEAN could claim some success in dealing with China" because ASEAN was able to socialize China to "conduct Sino-ASEAN multilateral consultations".[20] The SCS disputes have dented ASEAN's unity, but it does not mean ASEAN has been completely dysfunctional. ASEAN and China agreed to the Declaration of the Code of Conduct (DOC) in 2002. Most importantly, ASEAN and China have continued to hold dialogues on the issue. At the same time, the negotiation process has been "painfully slow", showing the

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[15] Adler 1997, 332
[16] Acharya 2009, 58
[17] Acharya 2014, 1
[18] Acharya 2009, 1
[19] Adler and Barnett 1998, 35
[20] Acharya 2009, 158

suboptimality of the ASEAN norms in resolving the SCS disputes.[21] However, the slow pace of ASEAN's conflict resolution in bilateral disputes and the SCS disputes is the alarming trend of ASEAN's ineffectiveness in managing disputes. Moreover, the "slow, ineffectual informal dialogue" of ASEAN has the potential to heighten the tension of conflicts.[22] This also demonstrates ASEAN's persistence in practicing its norms in managing many security disputes, whether regional or bilateral.

Nevertheless, constructivist scholars remain optimistic about avoiding conflict and emphasis of dialogue in the SCS made possible by the 'ASEAN Way'.[23] For instance, Townsend-Gault praises ASEAN for using its forums and workshops to socialize China into resolving the disputes peacefully and multilaterally.[24] More importantly, the informal workshops have served as foundations for the formal negotiations that led to the agreements to pursue the Code of Conduct (COC) and DOC. Johnston resonates with this point by attributing the ASEAN Regional Forum (ARF) as the key source of reducing the likelihood of China engaging in militarized disputes over the SCS.[25] ASEAN diplomats managed to persuade Chinese diplomats to respect the ASEAN norms at its multilateral platforms (ARF and AMM) and informal workshops. ASEAN diplomats also managed to slow down China from forcing its historical claims against ASEAN claimant states. Despite the slow negotiation, China dropped and narrowed the scope of its claim of the SCS (specifically stepping back from its claim to Indonesia's Natuna Islands).[26] The exclusion of the Natuna Islands exemplifies the achievement of ASEAN in socializing China in changing its behavior.

Although constructivist scholars highlight the importance of the pacifying effect of ASEAN and its norms in conflict resolution, it tends to

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[21] Acharya 2009
[22] Glas 2017, 852
[23] Majumdar 2015, 82
[24] Townsend-Gault 1998
[25] Johnston 2003, 137
[26] Johnston 2003, 137

suffer from three main criticisms. The first criticism from ASEAN skeptics questions the empirical accuracy of the pacifying effect of ASEAN norms.[27] For instance, Glas provides that ASEAN states experienced 105 militarized interstate disputes between 1946 and 2010.[28] This evidence contradicts the narrative that "while the organization has existed, the intra-regional conflict has been a rarity".[29] The second set of criticisms of traditional constructivist accounts comes primarily from scholars of the 'practice turn', in which the scholars take international relations practices as a category of analysis.[30] The constructivist tradition's emphasis on identity and norms becomes limited when explaining the change and persistence of ASEAN norms.[31] Constructivists assume that ASEAN's persisting norms have been due to the transformation of its identity and regional interest.[32] This assumption implies that diplomats can perceive a clear understanding of ASEAN's changing norms constituted by its changing identity. Consequently, diplomats make decisions based on their perception of norms "each time an actor faces a decision". Similarly, the rationalist account viewed that the 'continuity' of norms in ASEAN has been due to the constant pursuit of material interest.[33] Davies points out that these accounts provide an "inaccurate" analysis of diplomatic practices in ASEAN because "[t]he ASEAN rationality was unthinking and reflexive".[34]

Trust in ASEAN's Conflict Management

The amount of international relations literature that explicitly attributes the lack of trust as an essential factor in effective conflict and

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[27] Stubbs 2019, 5
[28] Glas 2017
[29] Beeson 2020, 33
[30] Davies 2016; Hopf 2018; Glas and Laurence 2022
[31] Davies 2016
[32] Davies 2016, 6
[33] Davies 2016, 8
[34] Davies 2016, 10–11

crisis management is surprisingly small despite the importance of trust. In general, trust literature is limited,[35] as emphasized by Versloot, in showing "*how* trusting relations affect multilateral diplomatic practice".[36] As a concept, trust is conceptualized along three main approaches: rationalism, psychology, and constructivism.[37] Rational or strategic trust refers to the willingness of an individual or organization to cede control to another party based on the belief that they will fulfill their obligations and avoid inflicting any harmful actions.[38] This definition points out the importance of reciprocity in a trusting relationship. Actors are predisposed to the belief that others are untrustworthy if they expect them to fail to meet expectations, so there needs to be assurance of reciprocity. Actors may strategically put out credible 'signals' to make them appear trustworthy and uphold reciprocity.[39] The criticism of rational trust comes mainly from the psychological and constructivist approaches.[40]

The sense of reciprocity is built by years of repeated interactions and experience.[41] This point is reiterated by Ba, who highlights that relationships that lack trust demand "consistency of interaction over time".[42] When trust exists between actors, trust helps to "cognitively reduce or eliminate the overall amount of risk and uncertainty they face in making decisions".[43] To avoid the lack of trust, states rely on international institutions to monitor and provide "dependable expectations of peaceful change".[44] When there is a trusting relationship, states use their knowledge and belief of others to engage to peacefully resolve disputes instead of relying so much on international institutions.

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[35] A. Kydd 2000; Rathbun 2011; Wheeler 2018; Haukkala, Wetering, and Vuorelma 2018
[36] Versloot 2022, 510
[37] See Haukkala, Wetering, and Vuorelma 2018
[38] Hoffman 2002, 394
[39] Kydd 2007
[40] Booth and Wheeler 2008; Rathbun 2011
[41] Adler and Barnett 1998, 46
[42] Ba 2006, 169
[43] Keating and Ruzicka 2014, 755
[44] Adler and Barnett 1998, 46

Despite the importance of trust in conflict resolution, studies which provide accounts examining the potential role of trust and mistrust are rare.[45] Two pieces that specifically attempt to show this connection are found in Weissmann's and Emmers' respective articles.[46] Emmers argues that "residual mistrust" has been the main factor that explains "the lack of progress made towards conflict resolution under ASEAN auspices".[47] For Weissmann, the informal workshops for the SCS disputes between ASEAN and Chinese diplomats have helped ASEAN to build "trust and confidence-building mechanisms".[48] Consequently, the increased trust between ASEAN and Chinese diplomats has allowed them to avoid miscalculations and confrontations.[49] The evidence of this transformation is shown in ASEAN's processes in workshops and forums in socializing China to build trust through multilateralism. Weissmann perceives these processes as positive because China's acceptance of multilateral engagement with ASEAN led to the regional code of conduct in 2002.[50]

In short, trust is a less explored concept in understanding regional responses to disputes and crises. The concept also lacks proper operationalization. I show that rational trust is less suitable for examining how norms are practiced, as it assumes that ASEAN leaders and diplomats make a cost-benefit calculation every time they make a decision. This notion deviates from the practices of ASEAN diplomats, which unconsciously draw from their collective background knowledge. The ways that trust becomes embedded and habituated in this background knowledge of ASEAN provide insights into ASEAN's ineffectiveness. I show that using relational trust in tandem with the practice approach has the explanatory power to show that trust is an essential component of the background knowledge that constitutes the reflexive behaviors and

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[45] Edwards 2018
[46] Weissmann 2010 and Emmers' 2017
[47] Emmers 2017, 76
[48] Weissmann 2010, 54
[49] Weissmann 2010, 55
[50] Weissmann 2010, 59

practices of the ASEAN Community of Practice (CoP) toward conflict resolution.

Argument

I propose that ASEAN has been ineffective in resolving the SCS disputes for three interrelated reasons. First, China has been effective in using its economic power and emergent power to infiltrate and contest over the competence of the ASEAN norms. Second, the ASEAN CoP relies on ineffective ASEAN norms and practices in resolving regional disputes. Third, there is a lack of relational trust amongst AMS and between AMS and China. In other words, the explanatory variables are the three factors and their interrelation, and the dependent variable is ASEAN's ineffective response in resolving the SCS disputes.

As shown in Figure 1, I argue that relational trust is an essential component of the background knowledge that constitutes the ASEAN CoP's reflexive behaviors and practices toward conflict resolution. Background knowledge is a "set of collectively shared dispositions and expectations embedded in practices".[51] Moreover, background knowledge is subjective and intersubjective because it transcends individual expectations of collective actions to a community level. In a CoP, diplomats draw on background knowledge to make sense of the world. Through the routinized translation of background knowledge that led to "habitual practices", repetitive practices led to a lack of reflection.[52] Trust is a significant component of such background knowledge because it provides the expectation of cooperation. At first, the development of trust of diplomats begins through reflexive rational calculation of the cost and meanings of putting trust in others. When trust becomes institutionalized or habituated, individuals no longer make rational decisions based on the consequence of trust. Instead, their experience and identity become background knowledge that reflexively informs them of the relational trust

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[51] Adler 2019, 72-73
[52] Glas 2017, 838

shared within the community. I argue that since ASEAN officially recognized the SCS disputes in 1992, the level of relational trust has been inadequate between ASEAN and Chinese diplomats; this can be seen in the limited nonbinding agreements. The lack of relational trust embedded in diplomats' practices has prevented ASEAN and Chinese diplomats from having a meaningful commitment to resolving the disputes. As a result, the lack of binding commitment due to the lack of relational trust has caused ASEAN to be ineffective.

Figure 1: Causal Mechanism
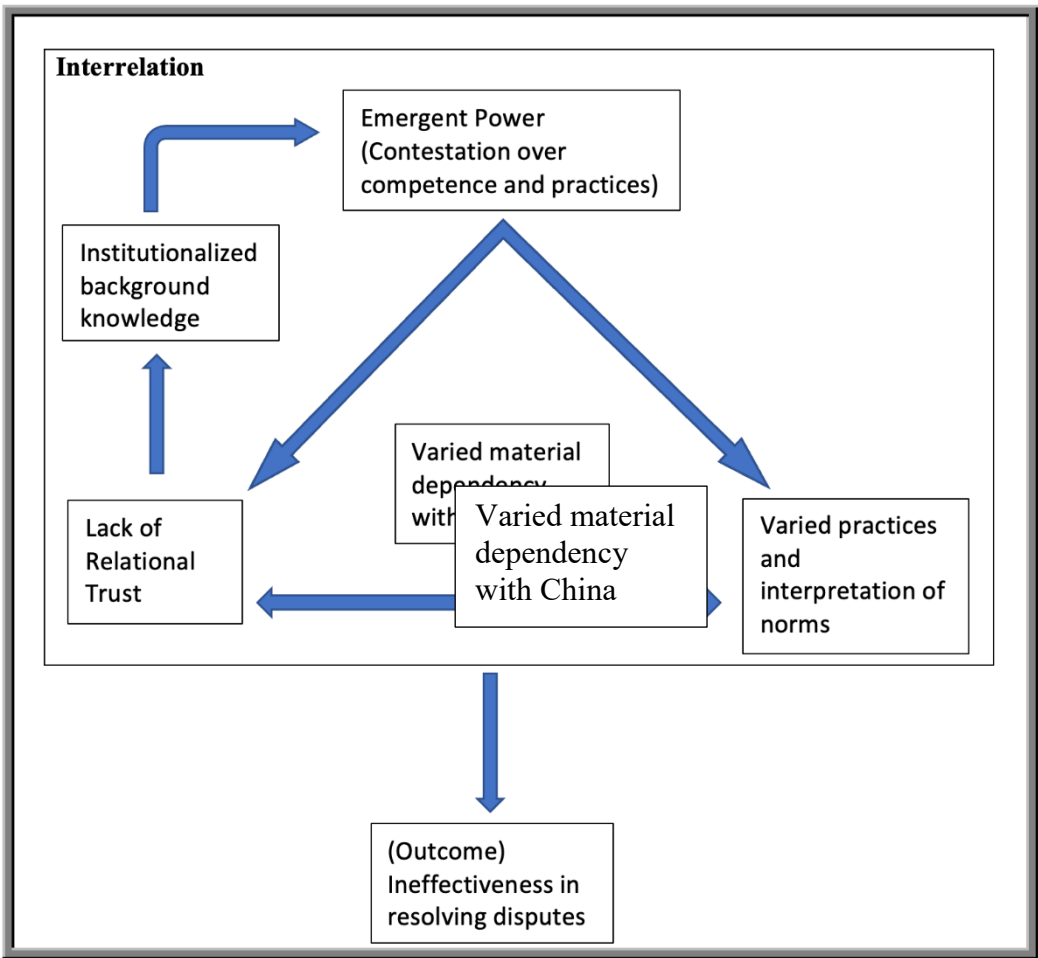
Method

To support my arguments, I rely on archival documents and in-depth qualitative interviews as the main methodological tools. Before conducting the interviews, I investigated documents, including working groups' statements, joint communiqués from ministerial meetings, and reports from the ASEAN Secretariat and its website. However, these documents are inadequate because they are examples of face-saving diplomacy, which occurs when officials avoid bringing up sensitive topics in official meetings and statements.[53] Getting into the nitty-gritty of diplomacy in practice requires an understanding of their habits and reflexivity. One option to achieve this is conducting participant observation during ministerial meetings. Even though this is ideal, my chance of getting access to observe those meetings is slim. Thus, the more realistic option is to conduct in-depth interviews with ASEAN officials. Before interviewing them, I first interview experts on ASEAN conflict management. These experts include scholars, professors, and commentators who have written extensively about ASEAN from academic institutions and reputable organizations such as The Diplomat and the Center for Strategic and International Studies. This step aims to gain a deeper insight into ASEAN's conflict management that the experts may not have clarified in their works. Most importantly, I use the data from the expert interviews as a part of the background knowledge to assess the data I will collect from the next step, which is the detailed interviews with the ASEAN CoP.

Drawing on the work of my doctoral supervisor, Prof. Aarie Glas, I understand a CoP as a distinct group of officials assembled and associated through three interrelated qualities: dense interactions, common repertoires, and a collective enterprise.[54] The ASEAN CoP comprises officials within ASEAN Secretariats, foreign ministers, working group staff, and technocrats who share the collective enterprise of pursuing ASEAN

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[53] See Nair 2019
[54] See Glas 2022

regionalism and, as a result, responding to crises, including the SCS disputes. The main goal of my interviews with members of the ASEAN CoP is to understand how dynamics of inter-state power, diplomatic norms, and trust interact as officials attempt to arrive at a productive consensus over these issues. More narrowly, I intend to investigate particular or crucial within-case cases, including discussions in 2012 over the ultimately failed Foreign Ministers' statement over the SCS disputes and around the ad-hoc meetings in early 2021 in response to the coup which gave rise to the Five-Points Consensus (FPC) that defines ASEAN's response to the February coup in Myanmar.

In the existing literature, scholars tend to analyze ASEAN CoP behavior at face value, using these archival documents. Conducting interviews provides an opportunity to diverge from the literature by allowing diplomats to express their personal opinions and practice of norms. This process diverges from the traditional constructivist way of studying norms, which is too reliant on using documentary research to prove primarily that norms exist but not necessarily how diplomats practice them. In other words, in-depth interviews offer a way of seeing the how ASEAN norms cause certain organizational responses, how the norms are practiced, and who are the competent parties that manage to influence others to practice the norms their ways. This is precisely the main theoretical and methodological limitation that power-based accounts that center on state material power as a causal factor without looking at the emergent power fail to offer.

I conducted 15 in-depth interviews with the ASEAN officials and 19 ASEAN scholars in two locations: Indonesia and Cambodia. The first location for the interviews was the ASEAN Secretariat (ASEC) in Jakarta, where I aimed to conduct around sixty in-depth interviews in the span of two months. This is where I spent the majority of my time collecting data because ASEC is the hub for the ASEAN CoP. Then, I spent three weeks, aiming to conduct fifteen in-depth interviews with officials working in Cambodia who played a significant role in the two cases. Cambodia was the chair of the 2012 AMM, when ASEAN for the first time failed to release

a joint communique due to disagreements over a paragraph on the SCS disputes. Ten years later in 2022, Cambodia's chairmanship was once again in the spotlight when Myanmar was excluded from the AMM.

Survey of ASEAN Activities

ASEAN's official involvement with the SCS disputes began in 1992, and is attributed to the tension which emerged between China and Vietnam over oil extraction in the exploration bloc in Vietnamese waters near Vanguard Bank. Vietnam was not a member of ASEAN at that time; the country joined ASEAN three years later, in 1995. The 1992 dispute occurred following, at least, two earlier fatal disputes between the two countries. A security clash between Chinese and Vietnamese soldiers resulted in the death of 75 Vietnamese soldiers in 1974,[55] while in March 1988, Chinese vessels were responsible for an incident at Johnson South Reef which led to the death of 64 Vietnamese soldiers.[56] As the conflict heightened in 1992, ASEAN released the ASEAN Declaration on the SCS at the 25th ASEAN AMM in Manila. The declaration marked the first joint multilateral effort of ASEAN member states to explore the "possibility of cooperation in the South China Sea".[57]

As the SCS disputes received more international attention, ASEAN diplomats continued to release joint communiqués in every AMM, except for the 45th AMM. Occasionally, ASEAN diplomats also issued statements on the SCS after their meetings at the ARF, ASEAN Summits, and informal ASEAN Heads of Government Meetings. The territorial disputes in the SCS gradually became a problem for another AMS – the Philippines – in 1994m when= China occupied and built structures at the "Philippine-claimed Mischief Reef".[58] The area claimed by the Philippines also overlaps with

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[55] Severino 2010, 41; Thayer 2013, 76; Interview with Joshua Lipes 13 March 2018
[56] Interview with Joshua Lipes, 13 March 2018
[57] See https://cil.nus.edu.sg/databasecil/1992-asean-declaration-on-the-south-china-sea/.
[58] Thayer 2013, 76

Malaysia's claimed territory.[59] Similar to the previous joint communiqués and statements, the 1994 joint communiqué reiterated the goals and principles of the declaration in 1992 "by peaceful means and to exercise self-restraint".[60]

Furthermore, the 1994 joint communiqué offered a glimpse of the ASEAN norms and practices of managing the SCS disputes. It recognizes that "some countries concerned were already having bilateral consultations".[61] With a similar result to the previous statement, the joint communiqué failed to stop the disputes between China and the Philippines. In 1996, ASEAN continued to manage the disputes by endorsing the idea of establishing a COC.[62] The COC followed second track diplomatic interactions, which comprised ASEAN and Chinese diplomats and scholars to find solutions through peaceful means.[63] These interactions appeared to be a growing strategy in ASEAN to include scholars and civil societies in tackling regional conflicts.[64] More specifically, one of the purposes of the COC was to unite ASEAN officials to deal with the disputes multilaterally.[65] The other purpose was to engage in dialogue and foster cooperation with China.[66] Based on a researcher from a think tank working extensively on track two, the 2000s saw 'productive' engagement at this level, and these engagements not always but sometime translated into policy results; this differed to the late 2010s, which saw 'practitioners' pay less attention to recommendations from track two.

On top of the ineffective statements, the COC's drafting processes signified another ineffective and lengthy way of ASEAN's handling of these disputes. The drafting process took almost five years just to get ASEAN

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[59] Buszynski 2003, 351

[60] See https://cil.nus.edu.sg/wp-content/uploads/2017/08/1994-27th-AMMJC-1.pdf.

[61] Ibid.

[62] Buszynksi 2003, 354; Severino 2010, 44

[63] Jones and Smith 2002; Buszynski 2003, 350

[64] Glas and Balogun 2020, 2

[65] Buszynski 2003, 350

[66] Buszynski 2003, 351

officials to agree on the language and contents.[67] Vietnam and the Philippines had been working on a combined draft, but after being frustrated by the rejection of the combined drafted agenda, the Philippines decided to work on its own draft of the COC soon after.[68] At the ASEAN Senior Officials' Meeting (SOM) in 1999, both Vietnam and the Philippines submitted their respective drafts.[69] The two drafts further led to more time-wasting and disunity because ASEAN diplomats failed to make a decision of how to combine the drafts or which draft to choose. In March 2000, ASEAN and China exchanged the texts of their respective COCs. They, too, could not agree on a consolidated final text. Four major areas of disagreement emerged: geographic scope, restrictions on construction on occupied and unoccupied features, military activities in waters adjacent to the Spratly Islands, and policies concerning the detainment of fisherman found in disputed waters.

After the Chinese officials were briefed of the combined draft of the COC in 1999, China already finished its version of the draft.[70] China's version of the draft demanded that the territorial disputes, especially the Paracels and Spratlys, be handled bilaterally rather than multilaterally. ASEAN officials had to once again work among themselves to weaken the languages in the drafts to meet the demand of China. The Philippines and Vietnam chose to let go of the terms 'Paracels' and 'Spratlys', and use the vaguely-stated term 'disputed areas' instead.[71] The heads of government from AMS approved the changes and the new drafts, although Philippines officials reportedly "lobbied" other ASEAN officials to move the COC forward.[72]

ASEAN and China signed an agreement on the DOC in 2002 but waited until 2011 to agree on the Guidelines of the DOC. Like the DOC, the

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[67] Thayer 2013, 76
[68] Buszynski 2003, 354
[69] Buszynski 2003, 354
[70] Thayer 2013
[71] Buszynski 2003
[72] Thayer 2013, 76

guidelines contain vague terminology, although the language used is not dominated by China's position. The guidelines reaffirm ASEAN and China's commitment for the guidelines to be "carried out in a step-by-step approach in line with the provisions of the DOC".[73] This means that ASEAN and China should follow the emphasis of the Treaty of Amity and Cooperation (TAC) and international law mentioned in the 2002 DOC. Another similarity between the DOC and the guidelines points to the ASEAN's norm of consensus. The consensus needs to be built on a 'voluntary' basis through consultation and dialogues. Both the DOC and the guidelines also highlight the commitment of 'confidence-building measures' and trust-building. The focus on trust reveals the limited relational trust between the two parties, and shows ASEAN's and China's perception of improving relational trust as a key factor in resolving the disputes. These two documents imply that ASEAN's effectiveness in the SCS disputes cannot entirely be explained by power asymmetry. Instead, it is the case of power combined with diplomacy, norms, and trust.

The next major event was the 2012 AMM in Cambodia, which completely eroded the trust between ASEAN and Chinese diplomats. ASEAN and China failed to reach an agreement for a combined COC was the. For the first time in ASEAN's history, ASEAN diplomats failed to release a joint communiqué due to the disagreement between ASEAN diplomats over mentioning the SCS disputes. From 2014-2020, ASEAN's response to the SCS disputes had become more promising but still limited. ASEAN diplomats had enjoyed inconsistent unity in terms of joint statements. At the 2014 AMM, Cambodia and Laos agreed to release a 'standalone statement', raising concerns over China's dispatch of vessels into Vietnam's exclusive economic zone.[74] Then, ASEAN diplomats agreed to release the Chairman's statement at the 26th ASEAN Summit, expressing more concerns over the "eroded trust and confidence" which destabilized the region. For Storey, the second statement is "ASEAN's strongest

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[73] See https://asean.org/declaration-on-the-conduct-of-parties-in-the-south-china-sea-2/.
[74] Storey 2018, 117

statement to date on the dispute".[75] While this may appear to be an improvement in terms of a more united ASEAN, ASEAN then saw another setback at the 2016 AMM. The Philippines demanded that the then-ASEAN Chair, Laos, release a joint communiqué that recognized China's loss at the international arbitration in 2016.[76] By practicing the norms of consensus, the Philippines' demand went unmet, resulting in another typical vague joint communiqué that stresses the commitment for trust-building. Again, the sources of ASEAN's limitation were rooted in ASEAN norms and the lack of relational trust. Regardless, ASEAN and China continued to have productive but limited engagement going forward, including multiple readings of the COC draft between 2019 and 2024, although a conclusion has not yet been reached

The three key takeaways from the survey of ASEAN's activities from 1992-2024 are that the ASEAN process has been suboptimal in dealing with the SCS disputes despite some promising progress. First, ASEAN has put out key agreements (DOC and Guidelines of DOC) and statements, but they contain vague language and lack clear position and direction. Second, some ASEAN diplomats prefer that the disputes be resolved bilaterally, but others push China to use ASEAN mechanisms. Thirdly, ASEAN has consistently stressed the need for trust and confidence building, with SOM meetings and track two dialogues as the core mechanisms. Yet a trust deficit seems to remain between ASEAN officials. In the following sections, I explain the effects of these factors separately and analyze their interrelation with a case study of the 45th AMM.

Dependency and China's Diplomatic Power

The deviation of China and ASEAN member states' economic and military power exemplifies the comparison of big and minor powers. Globally, China had the second largest economy in 2019, with a total gross

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[75] Storey (2018, 117-118
[76] Prashanth Parameswaran 25 July 2016

domestic product (GDP) USD 88 trillion.[77] Meanwhile, the ten ASEAN states' combined GDP was around USD 3 trillion in the same year, sitting in fifth place globally.[78] China also possesses a strong maritime power relative to ASEAN states, which can be seen in China's 'state-of-the-art' infrastructure, military vessels, and equipment in the SCS.[79] Furthermore, China is amongst the top five trading partners with several ASEAN members: Indonesia and Myanmar export significant natural resources to China, while Singapore, which has the highest GDP in Southeast Asia, is China's major foreign direct investment partner.[80]The Philippines has also developed stronger ties with China over time. The Joint Development Agreement (JDA) between the Philippines and China has led China to reward the Philippines with large amounts of foreign direct investment.[81] In 2016, President Rodrigo Duterte's visit to China led to USD 24 billion of Chinese foreign direct investment and overseas development aid,[82] although the actual amount provided and invested has not reached the promised amount. As in Cambodia, most of these Chinese investments have come in the form of offshore gambling investments.[83] In 2019, China showed effort to fulfill the promise and even increase the funding to USD 169 billion for infrastructure renewal.[84] Whether China's pledge to help the Philippines will be fulfilled remains to be seen.

The inconsistency of China's promises to the Philippines has two implications. First, China attempts to tell these states that China is willing and capable of assisting them, but this help comes with a caveat: AMS must relax their positions in the SCS dispute. Secondly, AMS will be punished by China through the withdrawal of assistance if they dare to

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[77] See https://thedocs.worldbank.org/en/doc/241891576716685045-0070022019/original/ceudec2019en.pdf.
[78] Stromseth 2020
[79] Cronin and Neuhard 2020, 21
[80] Salidjanova and Koch-Weser 2015
[81] Interview with Richard Heydarian 7 April 2018
[82] Interview with Alvin Camba 5 August 2018
[83] Interview with Alvin Camba 5 August 2018
[84] Jennings 6 September 2019

oppose China. These conditions are less problematic for Cambodia, as it is considered as a "devoted" and "stable client state" of China that was eager "to repay assistance partly through reliable diplomatic support".[85] Cambodia's diplomatic support of China was explicit during the 45th AMM in Phnom Penh in 2012. Not only did Cambodia get China into the AMM, Cambodia also refused to release a joint statement on the SCS.

The main shortcoming of looking at ASEAN-China relations through the macro-lens of economic dependency is that dependency does not always have a consistent effect on outcomes (as realists would generally expect). The assumption of a dependency theory provides that the Philippines and Vietnam would conform to China's demands in fear of sanctions. During the 45th AMM in 2012, for example, China preferred that ASEAN members avoid releasing sensitive statements on China and the SCS. However, the Philippines had naval disputes with China at Scarborough Shoal and demanded the release of a joint communiqué with statements on the SCS. The Philippines' behaviors led China to ban the Philippines' agricultural exports to China. If dependency worked based on sanctions, it would be expected that the Philippines would have become less outspoken on the SCS disputes. Instead, the Philippines brought the case to international arbitration against China in 2013 and won decisively in 2016.[86] However, China refused to recognize the ruling and insisted on resolving the disputes bilaterally with the claimant states.[87] The next event that shows the flaw of economic power was when the Philippines demanded ASEAN release the joint communiqué by citing the Hague ruling in the 2016 AMM. Due to the lack of consensus, the ruling was not mentioned in the joint communiqué. Once again, it would be expected that China place more sanctions on the Philippines. China instead lifted the ban on the import of Philippines' bananas a few months later, which shows the inaccurate realist assumption of the linkage between security and

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[85] Ciorciari 2014, 3
[86] Kipgen 2018, 6
[87] Kipgen 2018, 6

economics. The linkage here is that economic power and gains are transferred into military power. The Philippines is China's most significant security threat, as seen in the Scarborough shoal incidents, so trading with the Philippines means giving power to China's biggest adversary. It does not mean that economic power is useless because it can be effective as seen in Cambodia's case. However, it is empirically incorrect to cite China's material power broadly as the only source of ASEAN's ineffectiveness in resolving the SCS disputes.

To express its power and divide ASEAN, China channels its material power through diplomatic practices. If economic power is all China needs, China would not dedicate its time and resources to ASEAN-China forums and Indonesian-led workshops. The ASEAN CoP has used its forums to push out key initiatives, such as the Declaration in 1992, DOC in 2002, and the ongoing draft of the COC. Economic power is not enough to stop these initiatives from taking place, so China's objective is to use its diplomats to make ineffective the ASEAN forums. From China's perspective, there is no debate that China prefers bilateral negotiations with the claimant states instead of through multilateral negotiations such as the ARF. However, China's coercive strategy in the SCS makes ASEAN states perceive China as a threat instead of a benign rising power.[88] ASEAN created the ARF in 1994 to address security issues with the members within the organization and its partners (China, the European Union, India, Japan, Pakistan, Russia, and the US).[89] ASEAN has generally accepted China's wish that the disputes must be handled directly with the states involved. ASEAN, as a group of weak states with a history of being bullied by big powers, is understanding of concerns around China. ASEAN's sentiment on China can be seen from the pressure of the US in the areas of "human rights, trade, labor laws, and the environments".[90] As a result, ASEAN has tried to prevent the involvement of external powers in the ARF and solve the

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[88] Ba 2016
[89] Astarita 2008, 81-82
[90] Foot 1998, 438

disputes with China. This leads to another complication, which is that the ARF "has lost its potential for active conflict resolution and has been relegated to mere confidence building".[91] ASEAN missed the opportunity to use this forum to internationalize the SCS disputes while calling for China's accountability with the backing of external powers. China successfully convinced ASEAN that discussing the SCS disputes at the ARF and soliciting help from external actors will lead to instability in the region.

An example of China's power in diplomatic settings can be seen in the 2010 ARF, held in Hanoi. During the meeting, a Vietnamese diplomat raised concern over China's coercive activities at the SCS. The US diplomat supported the Vietnamese by reiterating then-Secretary of State Hillary Rodham Clinton's statement that China's claim to the SCS is "invalid" and violates international law, and the US will offer to help facilitating "moves to create a code of conduct in the region".[92] China's then-Foreign Minister Yang Jiechi immediately left the meeting for an hour but returned with a "30-minute response",[93] In which he said, "China is a big country and other countries are small countries, and that's just a fact."[94] Later, Yang issued a statement that "there was no need to internationalize the issue, that China was still intent on solving all of the disputes bilaterally and that China's view represented the interests of 'fellow Asians'."[95] The way Yang skillfully framed the response and subsequent statement was perceived as effective and skillful, which led "a dozen Asian delegates" to "express their congratulation to the Chinese side" after the meeting. The expression of approval from ASEAN diplomats is significant in showing that many of them recognize China's competence. For the US, the mention of the international law during the meeting further revealed to the ASEAN diplomats (except the Filipino and Vietnamese diplomats) that the US lacks the competence in understanding ASEAN's insistence on avoiding

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[91] Astarita 2008, 82
[92] Interview with Richard Pomfret 30 July 2010
[93] Ibid.
[94] Ibid.
[95] Ibid.

external interference and the use of international law in the SCS disputes. This is not to say that ASEAN uniformly agrees on relying on international law. As mentioned, the Philippines and Vietnam had expressed their commitment for the UN Convention on the Law of the Sea (UNCLOS), as seen in the Philippines' international arbitration case against China.

The analysis of China's power in diplomacy highlights a key implication, which is that material power cannot be automatically translated into diplomatic settings. Chinese diplomats have had to skillfully frame their position at ARF to emerge as competent actors.

Limitations of the ASEAN Way at the SCS Disputes

ASEAN's response to the SCS disputes has been informed by the diplomatic and governance norms of the organization, the so-called 'ASEAN way'.[96] The ASEAN way refers to the "decision-making process that features a high degree of consultation and consensus".[97] It stresses the conflict resolution process through dialogue and consultation. Then, the ASEAN way can be understood as the "set of prescriptive norms that signal what regional states, or their representatives, *ought* to do," which manifests itself in the Treaty of Amity and Cooperation's principles and through the repeated interactions of ASEAN diplomats.[98] The TAC offers five main principles: 1) mutual respect for state sovereignty, 2) the right of non-interference, 3) settlement of disputes through peaceful means, 4) renouncement of the threat or the use of force, and 5) effective regional cooperation. The TAC provides that the ASEAN way goes beyond the norms of informality and consensus. The ASEAN way also includes the principle and norm of non-interference. Assessing ASEAN's ineffectiveness in the SCS disputes requires the consideration of all three of these norms because ASEA's practices of these norms prevent the SCS disputes from being resolved.

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[96] Acharya 2001
[97] Acharya 2014, 79
[98] Glas and Balogun 2020, 4-5

In terms of the norm of informality, the Indonesia-led Working Group exemplifies the practices of this norm. This initiative is a track two diplomacy or informal diplomacy, which has not intended to "resolve questions of sovereignty over the Spratly Islands". Instead, it has been used as a trust and confidence-building measure.[99] The workshops organized by the Working Group also show ASEAN's practices of the norms of consensus. ASEAN's delay in the finalization of the COC between the Philippines and Vietnam from 1996 to 2002 was due to the lack of consensus on the conflicted claims over the SCS. Other examples of the practice of the norm of consensus includes the failed joint communiqué in Cambodia in 2012, and the exclusion of any mention of the Philippines's victory at the tribunal attribution in the joint communique in 2016. ASEAN diplomats, especially Cambodian diplomats, regularly warn against the interference of external actors. Then-Cambodian Prime Minister Hun Sen once said: "The South China Sea disputes are not between ASEAN and China, and they are between the direct claimant states".[100] These show that ASEAN norms exist in ASEAN and the ASEAN CoP practices these norms regularly in the SCS disputes.

Before discussing the other two norms, I show here ASEAN CoP's practices of the norm of informality in the SCS disputes. The norm of informality refers to the emphasis of resolving disputes through dialogue and consultation in informal settings.[101] Even though this norm allows for looseness and informality in the early years of ASEAN, it has been suboptimal in helping ASEAN to resolve the SCS disputes. Whenever the discussion of the SCS disputes comes up, ASEAN diplomats often ask to move the discussion to informal meetings and the working group. Because the format of the working group follows informal process and dialogue, the discussion on the SCS disputes "is studiously avoided".[102] The reason for the lack of attention to the SCS disputes in this informal workshop is

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[99] Townsend-Gault 1998, 182
[100] Vannarith 22 June 2016
[101] Acharya 2014, 80
[102] Townsend-Gault 1998, 182

because the purpose of the workshop is supposed to be for the "promotion of cooperation" instead of resolving disputes.[103] This is problematic because ASEAN diplomats put much emphasis on the informal process. In other words, the norm of informality means that the informal workshop is where substantial progress and decision is made. As both the formal and informal meetings led to a limited discussion on the jurisdiction of the SCS, it implies that ASEAN diplomats have largely ignored the SCS disputes. The proponent of the ASEAN's workshop highlights two achievements. These include the joint projects and proposals of "biodiversity protection, sea-level rise monitoring, and marine scientific research and data exchange", as well as China's participation in ASEAN forums.[104] This may appear as a good achievement on the surface level because it seems that China and ASEAN have engaged in dialogue and cooperation. However, as long as the problems of the SCS disputes go unresolved, these projects will be ineffective. The reason is that the lack of free navigation of the SCS due to China means that Chinese activities, such as illegal fishing and island-building, continue to locate risk on the sea. This so-called 'achievement' masks the limited progress of the issue that really matters: the resolution of the jurisdiction of the SCS.

Both the norms of informality and consensus practiced by ASEAN diplomats have slowed down the negotiation and drafting process of the COC and DOC. The norm of consensus refers to the decision-making process that forges a considerable support that emphasizes a majority-rules-based process and leaves no one out. ASEAN diplomats perceive this norm as "a pragmatic way of advancing regional economic and political cooperation".[105] However, it runs the risk of the lack of consensus in divisive issues, such as as the SCS disputes. From the perspective of the claimant states of Philippines and Vietnam, China's claim to the SCS violates their interest. From the perspective of Cambodia, who is close to

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[103] Townsend-Gault 1998, 183
[104] Townsend-Gault 1998, 186
[105] Acharya 2001, 83

China and not a claimant, going against China puts their relationship is at stake. Then, the norm of consensus is counter-intuitive, given that the SCS disputes affect ASEAN member states' national interests distinctively. Instead of drafting the COC multilaterally as a regional organization, ASEAN officials drafted the COC unilaterally, leading to different versions of the draft. At first, ASEAN requested the officials of the Philippines and Vietnam to submit a draft to the ARF SOM in 1996. Both Filipino and Vietnamese officials failed to come up with a combined draft due to the lack of consensus, resulting in ASEAN urging both parties to resolve the disagreement at informal workshops in 1997.[106] Another piece of evidence is the draft of the DOC in 1996-2002. It was "redrafted four times" at the working group, showing ASEAN and Chinese diplomats' commitment to the principle of consensus.[107] The original drafts had strong wording, criticizing China and favoring the Philippines. However, the DOC became a watered-down version of the original drafts.

A more recent example of the effect of the practices of the norm of consensus and non-interference was Cambodia's and Laos's successful attempt in blocking sensitive phrasing on the SCS disputes in the joint communiqué in 2016.[108] ASEAN and Chinese diplomats met at the ASEAN-China forum to discuss on the SCS disputes. The Philippines demanded that the joint communiqué includes words which recognized the Philippines' victory in international arbitration against China, but the Cambodian diplomats blocked this, resulting in another vague and indirect statement, which read:

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[106] Buszynski 2003
[107] Nischalke 2000, 99
[108] Kurt Campbell 25 July 2016

> "We remain seriously concerns about the recent ongoing developments and took notes of the concerns expressed by some ministers on the land reclamations and escalations of activities in the area, which have eroded trust and confidence, increased tensions and may undermine peace, security and stability in the region."[109]

On top of the norm of consensus, the norm of non-interference has also played a role in delaying the negotiation process. In the SCS disputes, the norm of interference means that the disputes need to be resolved regionally with China, excluding external actors. Cambodian and Laos diplomats perceived the ruling as an external tool that interfered in the ASEAN way of resolving the disputes. If the US was jointly welcomed by ASEAN in helping to resolve the dispute, the US could have intimidated China into following international law. Cambodia's and Laos's success in blocking the statement in 2016 means that ASEAN has been stuck with its current conflict resolution tools of informal dialogue instead of using an international instrument to carve its way out of the disputes.

To summarize, ASEAN diplomats' practices of the norms of informality, consensus, and non-interference are the factors that have hamstrung ASEAN's effectiveness at resolving the SCS disputes. ASEAN diplomats' insistence on practicing the norm of informality has distracted diplomats away from reaching a resolution with China, limiting ASEAN's discussion of the disputes in formal proceedings. Furthermore, the norm of consensus has been counterproductive for ASEAN because it slowed down the agreements. The agreements were also vague and non-binding because the norm of consensus needs to take into account of all actors. At times, this norm has prevented ASEAN from putting out strong joint statements on China's position, showing the lack of cohesion of ASEAN diplomats. ASEAN diplomats also insist on practicing the norm of non-interference, avoiding the help of external actors and international law. Consequently, diplomats have been restrict to ASEAN's limited norms and

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[109] See: https://asean.org/joint-communique-of-the-49th-asean-foreign-ministers-meeting/.

China's way of dealing with the disputes. The analysis of the informal workshops provides that ASEAN and Chinese diplomats have tried to focus on trust-building measures. The focus on building trust indicates that ASEAN and Chinese diplomats perceive relational trust as a steppingstone into reaching a resolution. Thus, it is important to assess the level of relational trust between these two parties in the next section.

Limited Relational Trust within ASEAN and in ASEAN-China Relations

Relational trust can be understood as trusting without expecting any reciprocation, at least in the short term. Actors engaging in relational trust understand that they are vulnerable to others because others may not reciprocate. Relational trust occurs when the possibility of defection is known, but the relational trusters chose to trust them anyway. When dealing with a multilateral dispute that includes claimant and non-claimant states, as in the SCS disputes, relational trust is a crucial factor. For instance, a relational truster who was a claimant state would expect other states (claimant or non-claimant) would approach the disputes with fairness and without self-interest. In a broad sense, ASEAN and Chinese diplomats understand the importance of relational trust in resolving the regional disputes. Such a statement can be seen from the remarks of the then-Secretary-General of ASEAN, Le Luong Minh, in 2015. The statement raised concern over activities in the SCS, which "eroded trust and confidence, increased tensions and may undermine peace, security and stability in the region".[110] The remarks called for "all parties concerned to enhance mutual trust, and confidence, exercise self-restraint, refrain from unilateral act which may complicate or escalate tensions at sea".[111] AMS foreign ministers highlighted that trust is an important factor in implementing the DOC and COC. Another evidence of such a statement of trust can be found in the Joint Statement on East Asia Cooperation, issued

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[110] See https://vietnamlawmagazine.vn/asean-ministers-concern-east-sea-matters-4909.html.
[111] Ibid.

on 27 November 1999.[112] The statement provides that ASEAN and its partners (China, Japan, and South Korea) "agreed to promote dialogue and to depend on consolidate collectives' efforts with a view to advancing mutual understanding, trust, good, neighborliness and friendly relations, peace, stability, and prosperity in East and the world".[113] Once again, trust is mentioned in the statement, which shows the relevance of its underpinning quality in forging cooperation.

Since the official recognition of the SCS disputes by ASEAN in 1992, the statements and behaviors between ASEAN and Chinese diplomats have implied a lack of relational trust. The first example of the lack of relational trust can be seen from the ASEAN Declaration on the South China Sea, issued at the 25th ASEAN Ministerial Meeting. When ASEAN diplomats proposed that a Chinese diplomat sign the Declaration, Qian Qichen initially refused to do so on the ground that "China had not been involved in the declaration's drafting".[114] This view from Qichen shows the lack of relational trust from the Chinese side. If there was relational trust, the Chinese diplomat would have signed the declaration in good faith, believing that the ASEAN diplomats' draft was not trying to exploit his trust. Even though Qian later "subscribed" to the principles of the declaration through either bilateral or multilateral means, China only engaged in negotiations "when the conditions are ripe".[115] As pointed out by Buszynski, it was "equivocal" as to know when the disputes become ripe.[116] The vagueness of Qian's agreement to the principles of the declaration shows the lack of commitment to a binding agreement. It is important to note that after the declaration in 1992, ASEAN member states became more cautious with future agreements and drafts.

Chinese diplomats' unwillingness to binding agreements highlight two important indicators of the lack of relational trust: fear of entrapment

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[112] See: https://asean.org/joint-statement-on-east-asia-cooperation-28-november-1999/.
[113] Ibid.
[114] Severino 2010, 42
[115] Buszynski 2003, 350
[116] Buszynski 2003, 350

and fear of abandonment. First, the fear of entrapment arises when an actor engages in actions that other actors do not necessarily support. Second, the fear of abandonment is an indicator of the lack of relational trust because it refers to the doubt of abandoning commitments and agreements. These two indicators of the lack of relational trust from China represent the recurring themes of the development of the COC. China feared that the draft of the COC, developed by ASEAN between 1994 and 1999, would include clauses that favored ASEAN member states instead of China. The factors of concern included the geographical scope, joint military exercises, construction activities, and detainment policy. If China was to agree to the ASEAN draft, they would have been entrapped and limited to engage within the boundary of the four conditions set by ASEAN. This fear of entrapment caused China to draft its own COC that favored China's interest. Even though the two drafts were later combined, the contents of the final draft were watered-down, leaning toward China. It is important to note that the COC still has not been signed by China. Instead, China and ASEAN signed the DOC in 2002.

Interrelations of Power, Norms, and Trust at the 45th AMM

To understand the interrelations between the two-level dependency, lack of relational trust, and ASEAN norms and practices, this section provides a snapshot of the 45th AMM in 2012. Taking place in Cambodia, this AMM was the meeting which showed ASEAN's vulnerability in engaging in effective means to reach an agreement with China on the COC. For the first time in its then forty-five-year history, ASEAN failed to issue a joint communiqué from the AMM. This case study shows that dependency works in two ways: economic and diplomatic. Dependency also led to the failure to release the joint communiqué not just by itself but through China's involvement in the ASEAN forum, the lack of relational trust, and ASEAN norms and practices. A glance at the development of the SCS disputes since first recognized in 1992 is not especially surprising because these factors have plagued ASEAN since

then. However, it was during the 45th AMM that these three interrelated factors explicitly came into play. For ASEAN, the aftermath of the 45th AMM has a devastating effect on the centrality of the ASEAN CoP. The then-Philippine Foreign Undersecretary released a statement that "[n]ever seen before has our relations in the regional association been as strained as it is today".[117]

Leading up to the 45th AMM, China had been a major contributor of financial aid and loans to that year's AMM Chair, Cambodia. After the AMM, China rewarded Cambodia with a promised sum of USD 600 million in aid and loans, which showed the magnitude of economic impact China had on Cambodia.[118] Between May and August 2012, then-Chinese Vice President Xi Jinping and other officials engaged in bilateral meetings with not just Cambodian diplomats but also with Filipino, Vietnamese, Singapore, Laotian, and Burmese diplomats.[119] The agenda of these meetings focused on joint developments and political and military cooperation. However, the meetings between Chinese and Vietnamese diplomats could not stop Vietnam from passing the Vietnamese Law of the Sea on 21 June 2012, which was a response to China's announcement on its increasing presence in the SCS.[120] Similarly, the Philippines also increased the deployment of ships to prepare for Chinese fishing boats in July. The passing of the law and deployment of ships from Vietnam and the Philippines showed that ASEAN had no collective voice on the SCS disputes, and that the level of effectiveness of economic dependency with China varied within ASEAN. While Cambodia became an obedient proxy to China, Vietnam and the Philippines took actions to push back against China's aggression. However, the Philippines was still cautious in pointing a finger at China when the joint communiqué collapsed. Instead, the blame was put on Cambodia and other ASEAN members:

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[117] Basilio 2012
[118] Interview with David Hutt 1 September 2016
[119] Sutter and Huang 2012
[120] Sutter and Huang 2012

> "The "souring of the mood" was attributed by everyone who was there to the failure of ASEAN to issue a joint communiqué, resulting from the ASEAN chair's firm position not to reflect the recent developments in South China Sea despite the view of the majority of the member states that these developments impinge on the overall security of the region.'"[121]

This diplomatic response to the failed joint communiqué shows China's somewhat-effective approach in its reward and punishment strategy. A standoff between Chinese and Filipino vessels in April 2012 led China to punish the Philippines with a ban on banana imports, hinting that the Philippines would risk facing further economic sanctions if the criticisms on SCS persisted.

Regardless, the banana ban did not stop the Philippines from contesting against China, revealing the limitation of economic dependency. Frustrated by the ineffectiveness of ASEAN practices and fearing the abandonment of the completion of the COC, the Philippines filed the disputes against China outside of the ASEAN CoP. The case against China was brought to the Permanent Court of Arbitration under Annex VII of UNCLOS. The court ruled a "nearly across-the-board win for the Philippines".[122] The decision reached by the court is not the concern here. Rather, the focus is that there is a connection between the fallout in the 45th AMM and the Philippines' decision to bring the case outside of the ASEAN CoP. The lack of relational trust and persistence of ASEAN practices manifested in the 45th AMM that led the Philippines to follow this course of action. Notably, the case illustrates that China needed to do more instead of just relying on its economic power to stall the negotiation of the SCS disputes.

ASEAN diplomats came into the 45th AMM with a low level of relational trust in each other and Chinese diplomats. Relational trust is a type of background knowledge that is habituated by repeated interactions

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[121] Basilio 2012
[122] Interview with Robert D. Williams 12 July 2016

in the past. The effort of China to foster ties with Cambodia while threatening the Philippines with export bans created mistrust between ASEAN diplomats. The reason was that it was hard for the Philippines to be convinced that the Cambodian chair had an impartial view on the SCS because there were promises of aid and private meetings between Chinese and Cambodian diplomats. At the same time, the Filipino diplomats were doubtful of China's intention in using Cambodia's chairmanship as a proxy to avoid harmful statements against China. Although economic dependency was not enough in coercing the Philippines to take a softer stance at the AMM, it worsened the level of relational trust. During the actual meeting, the ASEAN CoP operated under the lack of relational trust by showing commitments to the norms of informality, consensus, and non-interference. Remarkably, this commitment toward consensus-building led to no joint communiqué. The connection I draw here is that the level of relational trust between ASEAN members and Chinese diplomats was not improved before the meeting because of China's diverse actions towards Cambodia and the Philippines. This was expected, because it had been institutionalized as background knowledge from prior interactions throughout the years. Because the level of relational trust had not improved, the practices of norms represented the habitual practices of ASEAN as informed by the lack of relational trust.

Through the perceived diplomatic power and competence of Chinese diplomats, we can see the use of power at the 45th AMM. The presence of Chinese diplomats in Cambodia during the 45th AMM made it hard for even pro-Chinese officials to bring their concerns over China and the disputes. China violated the CoP of ASEAN officials, which was supposed to be a safe space for ASEAN to formulate a cohesive position. ASEAN diplomats' ability to negotiate with external actors as a collective actor were undermined by China. China's infiltration of the ASEAN CoP shows how power worked in practice, as it inserted its diplomats into formal and informal settings. Even worse, it led to the further erosion of relational trust within the ASEAN CoP. For instance, ASEAN diplomats allegedly accused "Cambodian officials" in sharing "drafts of the

proposed joint statement with Chinese interlocutors".[123] Even though this accusation has not been verified, the presence of China made ASEAN diplomats doubt each other, leading to a further collapse in relational trust.

Applying the first indicator of the lack of relational trust showed that Hor Namhong, then Deputy Prime Minister of Cambodia, was afraid of being entrapped in releasing the joint communiqué that was not a representation of his country's position toward China and the SCS. Chinese diplomats also had a similar fear that they would be stuck with a joint communiqué favoring the Philippines and Vietnam. For the perspective of the Philippines and Vietnam, the second indicator, which is the fear of abandonment, also arose during the meeting. The Filipino diplomat doubted that the Chair would abandon the agreement to bring up the discussion on the COC at the meeting. As stated by the then-Filipino Undersecretary:

> "ASEAN had already agreed on the key elements of the proposed code of conduct on the South China Sea for discussion with China. The Philippines was successful in having its suggested main elements included to give the code the substance it requires."[124]

The Undersecretary's fear became reality when the Chair proceeded to abandon this agreed agenda. The agenda for the 45th AMM was supposed to include the discussion on the SCS. However, the Chair refused to discuss this topic at the formal meeting. Leading up to the 2012 meeting, Cambodian and Filipino representatives in ASEAN also broke ties and snubbed each other for a month.[125] Since Cambodia considered the Philippines' and Vietnam's complaints as bilateral issues, it meant that discussing the matter at the formal forum would risk violating ASEAN's non-interference policy.

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[123] Bower 2012
[124] Basilio 2012
[125] Nair 2019, 19

Since ASEAN upholds the norm of consensus in its CoP, Cambodia's refusal to include statements on the SCS was enough to prevent the political pressure from the Philippines and Vietnam. The norm of consensus was stressed by the then-Philippines Foreign Undersecretary in response to the failure to release the joint communique: "The strain being felt by ASEAN is not attributable on the Philippines, but it was reportedly due to the failure of the ASEAN chair (Cambodia) to gain a consensus."[126] The stress on consensus reveals the importance of the ASEAN norms, and how China took advantage of these norms by using diplomatic power. Not only did ASEAN fail to release the joint statement, but ASEAN's draft of the COC was also not published. ASEAN diplomats almost developed a consensus during the meeting.[127] However, the private meeting between Cambodian diplomats and then-Chinese Foreign Minister Yang Jiechi three days before the end of the 45th AMM led Hor Namhong to reject the ASEAN's draft.[128] The private meeting caused doubts among members of the ASEAN CoP, and "a diplomat" was reported to have "the impression that China asked Cambodia to avoid using sensitive words" that were uncomfortable for China.[129] Another implication from the Filipino diplomat's statement on the failure of the Chair to reach consensus shows a contestation of face-saving diplomacy. Here, the Filipino diplomat engaged in shaming and blaming the Chair, which negatively affected the Cambodia diplomat's statu. This shows the internal contestation of the ASEAN norm of informality and the possible erosion of this norm within the CoP. Cambodian diplomat Hos Sereythonh responded to this statement by accusing the Philippines and Vietnam of "playing dirty politics" and "hijacking the joint communiqué".[130]

In addition to the importance of consensus, this statement reveals that face-saving practices only occur within the ASEAN CoP setting. For

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[126] Basilio 2012

[127] Sato 2013

[128] Sato 2013

[129] Sato 2013, 105

[130] BBC 1 August 2012, https://www.bbc.com/news/world-asia-19073987

example, when the undersecretary stepped outside of the community and put forward his request, he was no longer engaged in trying to save the face of his colleagues. At the same time, it reveals the institutionalization of the TAC's principle of non-interference. Defending Cambodia's chairmanship power to not release the joint communiqué, Hor Namhong stated:

> "I requested that we issue the joint communique without mention of the South China Sea dispute… but some members countries repeatedly insisted to put the issue of the Scarborough Shoal… I have told my colleagues that the meeting of the ASEAN foreign ministers is not a court, a place to give a verdict about the dispute.'"[131]

Following this, a group of ASEAN diplomats released the Statement of the ASEAN Foreign Ministers after ASEAN failed to release the joint communiqué. This statement included the ASEAN's Six-Point Principles on the South China Sea.[132] These principles were not so different from the previous joint communiqué. Vague language such as "ASEAN Foreign Ministers reiterate and reaffirm the commitment of ASEAN member states to" full implementation of the DOC and full respect of international law and self-restraint were repetitive of previous statements, which was not altogether surprising, given that the ASEAN CoP had been riddled with a lack of relational trust. The statement failed to provide the actual steps and processes of how the DOC should be implemented and how the COC would be agreed upon. It is important to note that the six principles were another product of the informal practices of the ASEAN CoP. Once again, it was Indonesia, with the help of Singapore, who served as mediators after the fallout of the 45th AMM. Indonesia's then-Foreign Minister Marty Natalegawa took trips to have bilateral meetings with other ASEAN

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[131] BBC 13 July 2012, https://www.bbc.com/news/world-asia-18825148
[132] See: https:// asean.org/ wp-content/ uploads/ images/ AFMs%20Statement% 20on%206% 20Principles%20on%20SCS.pdf.

diplomats and come up with the missing joint communique. The minister tried to engage in "shuttle diplomacy" by flying to Manila, Hanoi, Bangkok, Phnom Penh, and Singapore over just two days.[133] These bilateral consultations were inefficient, and could have been achieved through the official AMM. Without the joint communiqué, ASEAN was exposed, as ASEAN diplomats could have used this opportunity to show that they had their own agency despite of their varied levels of dependency on China. It could also have proved that ASEAN speaks with once voice and did not fear of being entrapped in releasing statements that may upset China. However, the persistence of the interrelated factors of two levels of dependency, lack of relational trust, and ASEAN practices of norms greatly limited ASEAN's ability to effectively manage the SCS disputes.

Conclusion

The ineffectiveness of ASEAN's response to the SCS disputes has been due to both internal and external factors. Externally, China uses its material and diplomatic power to create a dependence among ASEAN member states. Since the level of dependence is varied, this also leads to a lack of generalized trust between ASEAN and China. Nevertheless, the lack of generalized trust also exists within the ASEAN CoP itself, which is part of the internal issues affecting ASEAN's effectiveness. The other internal problem is the practice of ASEAN norms, such as the norms of informality, consensus, and non-interference. In this paper, I show that ASEAN norms and practices, as well as the lack of generalized trust, have had an interrelated effect and caused ASEAN's approach to the management of SCS disputes to be ineffective. I explain each of these factors by analyzing ASEAN's activities during 1992-2024 and relying on the CoP framework. In terms of dependency, the ASEAN-China economic and diplomatic relationship shows that it must be understood through two levels. First, economic dependency was proven to be an effective tool

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[133] Thayer 2013, 79

during Cambodian's chairmanship of the 2012 AMM. However, it was shown to be drastically ineffective against the Philippines, as the banning of Filipino exports to China did not stop the Philippines from pursuing the release of the joint communiqué in the 45th AMM. More importantly, the Philippines brought the case to international arbitration and won, further upsetting China. I propose that the micro-level of dependency through the practices of Chinese diplomats is essential in showing how power actually works in the diplomatic environment. I show that the lack of generalized trust and ASEAN's CoP practices of consensus and informality as norms were the other connected factors that helped to render the effectiveness of these two levels of dependency between China and ASEAN states. ASEAN diplomats' practices of its norms have persisted due to the lack of generalized trust, which is a part of the background knowledge that diplomats in the CoP reflexively drew from. These norms are ill-suited for a swift and decisive resolution of the SCS disputes because they emphasize the processes of interactions between diplomats but not the outcomes of resolving the disputes.

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