

Introductory Remarks

by

H.E. Professor Dr. Surakiart Sathirathai

Chairman of the Asian Peace and Reconciliation Council (APRC)

Former Deputy Prime Minister and Minister of Foreign Affairs of

Thailand

at

The Roundtable on Functional Cooperation in the South China Sea

organized by

The Saranrom Institute of Foreign Affairs (SIFA) and

Myanmar Institute of Strategic and International Studies (Myanmar-ISIS)

Yangon, 3 July 2014

Honorable APRC Council Members,

Your Excellency Deputy Foreign Minister U Thant Kyaw,

Chairman U Nyunt Maung Sein,

Distinguished participants,

On behalf of the APRC and SIFAF, I would like to express our heartfelt thanks and deep appreciation to Myanmar-ISIS for helping to make possible this Roundtable on Functional Cooperation in the South China Sea.

The statements by His Excellency Deputy Foreign Minister U Thant Kyaw - and the welcoming remarks by U Nyunt Maung Sein, Chairman of Myanmar-ISIS, clearly indicate that the South China Sea is currently an issue that has wide-ranging implications for the peace, security and prosperity of this region, indeed for the international community as a whole.

The historical, geographical and legal dimensions, which intersect with multiple and overlapping boundary claims, make the South China Sea a sensitive potential international flashpoint.

It threatens to cast a long shadow over China-ASEAN relations, and could serve as an excuse for involvement of powers from outside the region, creating a new 'international situation' of permanent tension and even strife. This is something we should avoid at all costs.

Despite being a non-claimant state, but as the current Chairman of ASEAN, Myanmar bears a special responsibility to help address the issue and prevent the escalation of such implications. Likewise, although a non-claimant

state, Thailand also bears a responsibility as current coordinator of the ASEAN-China dialogue to help ensure that the South China Sea issues do not disrupt the mutually beneficial relations and understanding that ASEAN enjoys with China.

ASEAN, China and friends in and outside the region, too, have the responsibility to ensure that tension or armed conflict will not take place nor bear adverse impacts on the implementation of the ASEAN Economic Community and hinder the free flow of goods, services, capital and investment, and skilled labour. Tension in the South China Sea will certainly affect the business community's confidence inside and outside the ASEAN region on the emerging Regional Comprehensive Economic Partnership (RCEP), the world's would-be largest free trade area, encompassing 16 countries: ASEAN, China, Japan, South Korea, India, Australia and New Zealand.

It is gratifying, therefore, that gathered at this Roundtable today are a group of men and women of goodwill from all the claimant states, together with former senior policy-makers, well-respected academics, recognized experts from outside the region, as well as practitioners in the field of functional cooperation. The diverse and comprehensive composition of this Roundtable indeed makes it truly a One-and-a-half Track event, in-between the Track One of governmental negotiations and the Track Two of academic and research sessions.

We are gathered not necessarily as representatives of any country or organization. We are not here to argue on legal claims or to negotiate or to reach agreed conclusions, but to explore with open minds the possibilities that exist for functional cooperation in the South China Sea based on factual data and practical experiences.

We are gathered here in order to explore practical and sustainable solutions to the looming crisis in the South China Sea. It is no secret that should the situation in the South China Sea be allowed to escalate into further confrontation, we shall risk turning the South China Sea into a Sea of conflict, armed brinkmanship and possible war disrupting global trade and vital lifelines for the Asia-Pacific region.

Since issues of territorial sovereignty and perceived national interests are involved, the danger is that a lack of progress, inadvertent actions, or continued stand-off can stoke nationalistic sentiments on all sides. This would prove difficult to keep in check and would further hamper an amicable solution in both the short and longer term. It is perhaps time for all sides to take one step back in order to obtain a better view of the larger picture and of the possible ways forward. The situation has first to be de-politicized. A shared vision of shared opportunity has then to be created.

More than half of the world's annual merchant fleet tonnage -- about 5.3 trillion US dollars in value -- passes through the Malacca, Sunda, Lombok and Makassar straits linking the Indian Ocean with the South China Sea. Over one third of the global crude oil and over one half of the global liquid natural gas are transported daily through the South China Sea to provide about two-thirds of the energy supply of Northeast Asia. The South China Sea forms a vital link in the global supply chain.

The energy reserves in the South China Sea are also abundant. Proven oil reserves are about 7.7 billion barrels and estimated reserves range from 28 billion barrels to 130 billion barrels. If the latter estimate were to turn out to be accurate, then the oil reserve of the South China Sea would be second only to that of Saudi Arabia. As for the natural gas reserves, the estimates range

between 266 trillion cubic feet to about 900 trillion cubic feet. Dr. Mark Valencia could certainly elaborate further on the natural resources available in the area.

In addition to these energy reserves, the South China Sea holds one third of the world's marine biodiversity providing seafood to 1.5 billion people living around it. Given these enormous energy and marine resources, the South China Sea has the potential to be the hub of an economic revolution for its littoral and hinterland states, lifting them up to greater prosperity and well-being.

However, economic considerations based on projected natural resources in the area, the vital importance to international shipping lanes, as well as the political considerations based on new balance-of-power calculations in the region, have added to the complexities, and make it difficult to rely on any single approach in reaching a resolution of the situation.

Notwithstanding, mechanisms for conflict avoidance are also actively being sought. On the formal governmental track, discussions on territorial boundary issues take place. Running parallel to that track is the second track whereby the Declaration on the Conduct of Parties in the South China Sea has been concluded and where consultations on a follow-up Code of Conduct are being held. These should continue. But in my humble opinion, these two tracks need to be supplemented and complemented with a third track that focuses on functional cooperation. Functional cooperation will turn potential conflicts and tension on territorial claims into potential cooperation.

Chinese statesman Deng Xiao-ping once advised that all parties should shelve their territorial claims for the time being and concentrate on cooperation for mutual benefits. To shelve the territorial claims is not to relinquish them.

Look at the Antarctica. The nations claiming their pieces of territory on that continent have not relinquished their territorial claims but have cooperated in environmental conservation and scientific exploration.

Why can't the South China Sea's littoral countries explore somewhat similar cooperation with each other, for example on renewing the fishery stocks, navigation safety and scientific exploration? These kinds of functional cooperation can be undertaken simultaneously while the governmental negotiations to delimit maritime boundaries and the ASEAN-China negotiations on the Code of Conduct of the Parties in the South China Sea continue. An important benefit of this functional cooperation is to contribute to the positive atmosphere of mutual trust in the two governmental tracks, thereby facilitating the eventual success of those negotiations, and avoiding a make-or-break situation.

There are many examples from various regions of the world of the kind of joint development areas (JDAs) being created and sectoral, functional cooperation being undertaken whilst pending the formal delimitation of maritime boundaries. They conform with the framework of "provisional arrangements of a practical nature" as provided for under Article 74(3) and 83(3) of the 1982 UN Convention on the Law of the Sea. Dr. Vasco Becker-Weinberg would be able to expand further on this point.

Japan and Korea agreed in 1974 on joint development of the southern part of the continental shelf of the two countries. An agreement was signed in 1989 between Australia and Indonesia to create a zone of cooperation in the area between East Timor and Northern Australia, and in 2002 the Timor Sea Treaty was signed between East Timor and Australia. In 1992, an MOU between Malaysia and Vietnam for the exploration and exploitation of petroleum in the

continental shelves of the two countries was signed. China has signed joint development agreements with Japan and Vietnam in overlapping or adjacent maritime areas.

Back in 1979, Thailand and Malaysia agreed on a Joint Development Area for exploration and extraction of oil and gas in overlapping maritime areas in the Gulf of Thailand with profit-sharing arrangements which is still functioning amicably to this day even without a formal sea boundary agreement. "Brothers drinking from the same well" is the motto of the Malaysia-Thailand Joint Development Authority. Datuk Rosli bin Boni, the CEO of the Authority would be able to provide us with details of some of the practical, day-to-day arrangements.

In the South China Sea, there are of course many areas of multiple overlapping claims by more than two claimant states. But this should not be an insurmountable obstacle. Indeed it should be seen as a good test for the ingenuity of international lawyers, as well as an opportunity to spread the risks and burdens among a larger number of stakeholders, to attract more multinational investment, to create economies of scale, and thus to enlarge the potential pie for all concerned. Nowadays there are many business models that could be adapted to suit the situation in the South China Sea. For instance, instead of discussing the area to be delimited as a basis for profit sharing, capital investment, special and differential treatment for certain claimant states, management participation and in kind contribution can altogether form basis for profit sharing formula.

There is no one single comprehensive solution for a complex situation. We must first 'dis-aggregate' the problem, break it down into more manageable portions. International practices show that cooperation can range from

environmental protection, research on marine life, management of sustainable fisheries, joint investment ventures, and joint management of maritime navigation leading all the way up to joint development areas of oil and gas.

To explore and discuss in a concrete manner the possibilities and potentials of such functional, sectoral cooperation, a mechanism for alternative dialogue may need to be established. A Forum on Functional Cooperation could be established bringing together representatives of national and regional stakeholders, corporations, state enterprises, investors, academic institutions, and business people, to identify, implement and manage functional cooperation activities.

Excellencies, distinguished participants,

The South China Sea is a vast region, much of which has yet to be fully explored. In many ways it is a new frontier, traversed only in passing. Globalization, technological advances, economic necessities, and geo-political imperatives have now caught up with it, and are threatening to churn up huge waves of misunderstanding and acrimony. We must act quickly to ensure that these do not gather into a devastating tsunami. We must calm the waters by swamping the area with a network of continuing dialogues on all tracks, of technical exchanges, of functional cooperation, and of informal consultations among all stakeholders that can help to foster trust and confidence. Dialogue on functional cooperation is less confrontational than claims on sovereignty. It will create a comfort level among claimant states allowing them to feel that the South China Sea issue is a discussable agenda. It is a confidence building process which will complement the atmosphere in the discussions on territorial boundary and on the Code of Conduct in the South China Sea.

After all, I firmly believe that no-one, claimant or non-claimant states alike, wishes to see the South China Sea becoming a crucible of conflict. With goodwill from all around and proper management, the South China Sea must and will become the Sea of Partnership, Peace and Prosperity.

Thank you very much for your attention.
