



## Why China Is Not Interested in a South China Sea Code of Conduct

By Shannon Tiezzi for The Diplomat

***A South China Sea code of conduct would threaten Beijing's interests – so don't expect much progress in negotiations.***



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According to *Reuters*, ASEAN officials say that they will meet with Chinese representatives in Singapore beginning March 18 to try and make some progress on talks to establish a “code of conduct” in the South China Sea. China agreed to discuss a South China Sea code of conduct at the ASEAN forum last July, a move that was widely applauded in the region. The first round of meetings was held in Beijing in September, and concluded with an agreement to seek “gradual progress and consensus through consultations.”

Unfortunately, when it comes to ASEAN, China, and the South China Sea, progress has been slow and consensus almost nonexistent. Negotiations over a code of conduct are complicated by the simple fact that not every ASEAN member state is involved in the territorial disputes. Of the 10 ASEAN members, Vietnam, the Philippines, Malaysia, and Brunei claim territory that also falls within China’s “nine-dash line.” Even these four states are not on the same page, with Vietnam and the Philippines vocally protesting China’s ‘aggression’ and Malaysia and Brunei keeping a much lower profile.

Of the remaining ASEAN states, Indonesia often positions itself as a mediator, sometimes joined by Singapore. The others (Cambodia, Laos, Myanmar, and Thailand) have little interest in becoming embroiled in disputes between China and their neighbors – especially as China accounts for over 12 percent of all ASEAN trade. China is an especially lucrative partner for Cambodia, which received a promise of nearly \$550 million in aid last year, and for Myanmar, where China accounts for one-third of all foreign direct investment.

Actually, China and ASEAN already have one agreement on the South China Sea – the 2002 “Declaration on the Conduct of Parties in the South China Sea.” That document expressed a desire to “enhance favorable conditions for a peaceful and durable solution of differences and disputes among countries concerned.” In the 2002 declaration, ASEAN and China reaffirmed a commitment to international law (including the UN Convention on the Law of the Sea) and to the freedom of navigation in the South China Sea. All parties also agreed to “resolve their

territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force.” Further, the parties agreed to “exercise self-restraint” in taking actions that could “complicate or escalate disputes.”

Finally, in the declaration ASEAN and China agreed that adopting an official “code of conduct” would “further promote peace and stability.” Yet since 2002, there’s been little progress made towards actually taking that next step. In fact, disagreements over how to handle proposals for a code of conduct helped derail the 2012 ASEAN ministerial meeting held in Cambodia. The U.S. had reportedly pushed hard for progress on a code of conduct, with backing from Vietnam and the Philippines. Other ASEAN states, notably host nation Cambodia, refused to back the proposal. The meeting dissolved without even the customary diplomatic communiqué.

Many look to Indonesia, seen as ASEAN’s honorary leader, to bridge the gap between the various member states. Indonesia has in fact been taking its role as mediator quite seriously. In the aftermath of the failed 2012 ASEAN ministerial meeting, Indonesian Foreign Minister Marty Natalegawa visited the Philippines, Vietnam, Thailand, Cambodia, and Singapore. His shuttle diplomacy resulted in the “Six-Point Principles” being issued on July 20, snatching a diplomatic victory from the ashes of the ASEAN meeting.

Indonesia is also responsible for a reported draft version of a possible “code of conduct.” According to *Reuters*, which has seen the draft, the preliminary text from Indonesia would call for an end to military exercises in disputed waters and reaffirm total freedom of navigation in the region. The draft also reportedly set out rules to prevent accidents at sea.

China has resisted coming into negotiations with a sample draft, and from Indonesia’s proposal it’s not hard to see why. China’s navy routinely conducts exercises in disputed regions, and the Chinese Coast Guard also patrols the water as a way of asserting Chinese control. If a code of conduct would outlaw such activities, it’s hard to imagine why China would sign on to it.

China, meanwhile, has its own requirements for a code of conduct, as articulated last year by Foreign Minister Wang Yi. Wang insisted on “consensus through negotiations,” saying that the negotiations should “keep the comfort of all parties in mind.” From the Chinese perspective, this means that countries with friendly relations with Beijing should not be pressured to support a hardline code of conduct. It’s unlikely that Beijing is overly concerned with Vietnam and the Philippines’ “comfort” being infringed on by an overly lax code of conduct.

Wang also called for an “elimination of interference,” saying that the reason ASEAN and China have made no progress on a code of conduct is due to outside meddling. Wang is referring to U.S. efforts to encourage a code of conduct – China has repeatedly denounced U.S. involvement in ASEAN meetings as interference in what then-Minister of Defense Liang Guanglie has called the “distinctively Asian” regional architecture. “Only Asians should lead the process to resolve regional issues,” argued *China Daily* after the U.S. raised the South China Sea as an issue at the 2010 ASEAN summit. In other words, China wants the U.S. excluded from regional conversations, and will not move forward on a code of conduct until the U.S. butts out.

Consensus will be difficult to forge, but no ASEAN member state would recommend moving forward on a code of conduct without it. Meanwhile, Wang’s other main condition is unlikely to be met. Since the U.S. has repeatedly stated it has an interest in the peaceful resolution of the South China Sea disputes, such ‘interference’ is unlikely to go away anytime soon. The U.S. will continue to voice its support for a code of conduct, which China will interpret as unwanted interference. U.S. involvement in the process allows some in China to deny that ASEAN itself is interested in a code of conduct, and which provides an excuse for Beijing to drag its feet on the process.

Ultimately Beijing has the most to lose from a code of conduct. Such an agreement would limit its activities in waters that China claims and *de facto* controls (such as the Paracel Islands and, increasingly, the Scarborough Shoal), while also hampering China’s strategy to increase its area of *de facto* control through maritime patrols. Countries don’t generally give up national advantages (perceived or real) in exchange for the stability provided by international law – the U.S., for example, still has not acceded to UNCLOS.

China is unlikely to prove an exception. It loses little and gains much by stalling the code of conduct talks – or at least making sure the final version is so watered down as to be essentially meaningless.

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