

China's Aggressive Moves in The South China Sea: Escalating Tensions and The Urgency for Action

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ABSTRACT

China's actions in the South China Sea and claim of maritime territories in the region have been a cause of concern for littoral nations, for a while. However, ever since the construction of artificial islands in SCS, China's actions are perceived as violative of internal law, specifically the charter of UNCLOS. In addition, the islands being converted to military bases, by virtue of which Beijing is laying claims in the SCS and its resources, especially, energy resources, has become a reason for further insecurity among nations in the ASEAN region. Routine patrols of PLA Navy's vessels and other maritime surveillance vessels disguised as scientific research vessels, are increasingly venturing into SCS and beyond. This is likely going to cause geopolitical instability, in a region that acts a gateway to the Indian Ocean from the Pacific Ocean and will have a bearing on the SLOCs passing through. It is therefore necessary for nations in the region, specifically in ASEAN, to work together, showcasing collective action, to ensure there is no disruption to trade and commerce and more importantly, ensure further escalation and geopolitical contestations be avoided. ASEAN with emerging economies and home to several resources, is pivotal to the stability of the larger Indo-Pacific region. Ongoing conflicts in West Asia, particularly in the Arabian Sea and the Red Sea have already impacted trade. And the escalation of conflict in SCS, will result in supply chain disruptions and significant economic impact. This paper discusses the opportunities for synergies in terms of collective action among ASEAN states as well as like minded partners in the broader Indo-Pacific region.

Keywords: South China Sea, ASEAN, Marine Scientific Research (MSR), EEZ, UNCLOS

The South China Sea (SCS) is currently witnessing a significant escalation of tensions as China actively pursues a series of provocative actions aimed at destabilising the region's current status quo. It has been reported that China increasingly utilises its artificial islands as bases to bully the ASEAN nations sharing maritime boundaries in the SCS, and to curtail their access to offshore resources – oil, gas, and fisheries.¹ Beijing's claims to these resources across much of the SCS² are widely considered as *ultra vires* the UNCLOS, including unlawful conduct under the guise of Marine Scientific Research (MSR) activities in the SCS and the Western Pacific Ocean. These activities involving survey vessels, inclusive of the *Xiang Yang Hong 3*, *Shi Yan 6*, and *Haiyang Dizhi 10* have raised concerns as they have been perceived as spearheading China's dominance in the region. Beijing's wrongful interpretation of the provisions of the UNCLOS and the 'use of force' in the SCS violates both the sovereignty and sovereign rights of nations dependent on the SCS and its resources.

Even China's alleged claim of the 'nine-dash line' along the islands in SCS considered as 'invalid' in law, prove that Beijing has no legal right to impose its will on the region

unilaterally. However, China's 'invalid' claims were challenged by the Philippines in the SCS Arbitration wherein the arbitral tribunal decided that much of the PRC's claims are *ultra vires* the international law.³ Nonetheless, recent reports show that China have been carrying out exploration activities in the EEZs of ASEAN nations during the period of the unilateral fishing ban, thus violating the sovereign rights of these nations. Considering the recent surge in China's aggressive moves in the SCS, this article will analyse the increase in China's infringements upon the EEZs in the SCS and its dominance in the region. Thence, the imperative to re-examine China's aggression in the SCS and the urgency for a collective action amongst ASEAN nations in finalising the Code of Conduct feels both timely and urgent.

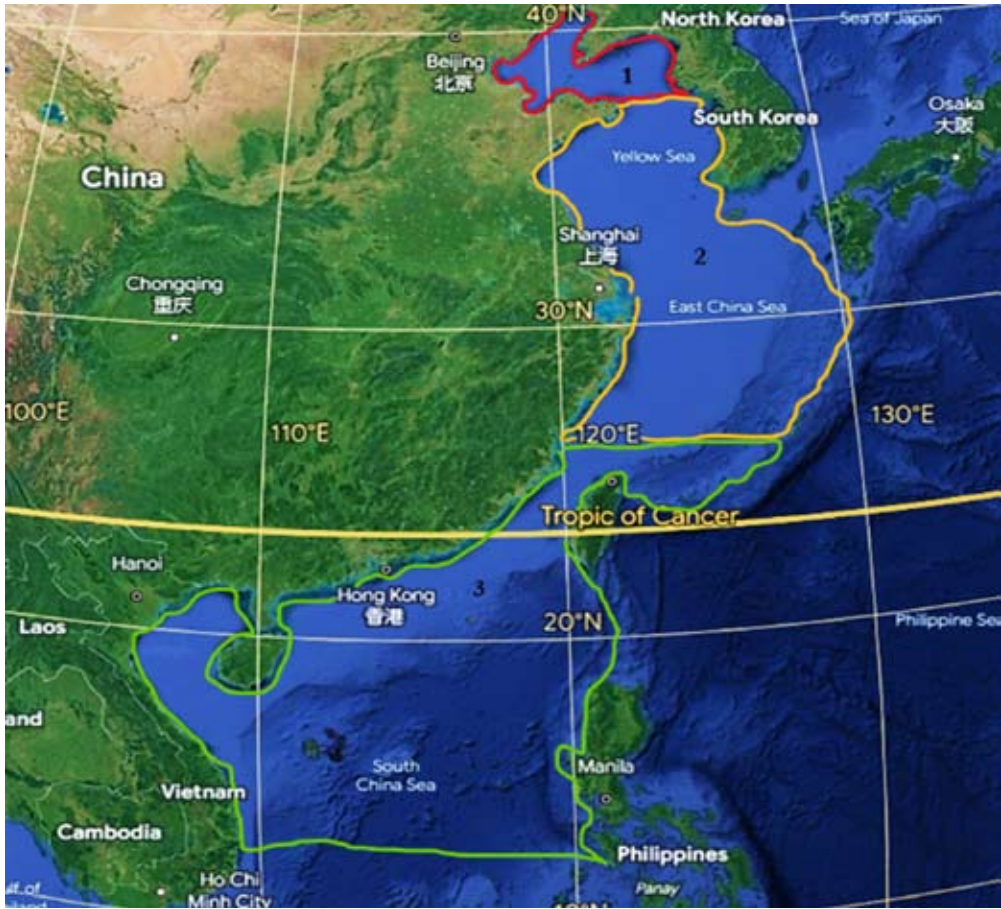
China's Maritime Assertiveness and Harassment in Contested Waters

China's ulterior motive appears to be achieving complete sovereignty and control over the South China Sea (SCS), an area where there are contested maritime claims with ASEAN nations. China's maritime assertiveness is evident in its annual unilateral fishing ban announced on 13 March 2023.⁴ Notably, this endeavour was strategically timed to coincide with the ASEAN-India Maritime Exercise (AIME-2023) which successfully concluded in the SCS on 08 May 2023. The unilateral fishing ban announced by the Ministry of Agriculture and Rural Affairs on 'Adjusting the Fishing Rest System in the Marine Summer Season' through Circular [2023] No. 1 mentions the following moratoriums:

1. The waters of the Bohai Sea and the Yellow Sea north of 35 degrees north latitude are suspended from 12:00 on May 1st to 12:00 on September 1.
2. The waters of the Yellow Sea and the East China Sea between 35 degrees north latitude and 26 degrees 30 minutes north latitude are suspended from 12:00 on May 1 to 12:00 on September 16.
3. The East China Sea and the South China Sea from 26°30' north latitude to 12° north latitude are suspended from 12:00 on May 1 to 12:00 on August 16 (**Refer to Fig. 1**).⁵

Despite the circular aiming to "*strengthen the protection of marine fishery resources and promote the harmonious co-existence between man and nature*", China's recent engagement in the SCS contradicts this notion. For instance, during the AIME 2023 exercise, it was reported that Chinese militia boats were manoeuvring amidst the naval formations in the area where the drills were being conducted. The Indian authorities were able to track the movements of at least five militia boats, and a Chinese research vessel assisting these boats. Later, the Chinese boats were identified as belonging to the *Qiong Sansha Yu* militia fleet, consisting of commercial fishing boats that cooperate with Chinese authorities for political objectives in the South China Sea.⁶ Also, on 07 May 2023, Chinese vessel *Xiang Yang Hong 10* along with its support vessel entered Vietnam's EEZ remaining there for almost a month. They were forced to leave following the protests

Fig.1: Moratoriums defined in the Circular.



Source: Authors' creation using Google Earth

from Hanoi.⁷ Further, in June 2023, a Philippine Navy (PN) patrol aircraft spotted Chinese Distant Water Fishing Fleets (DWFFs) guarded by the China Coast Guard (CCG) and People's Liberation Army Navy (PLAN) vessels over the Iroquois Reef, located within the Philippines EEZ.⁸

China has also been identifying and naming underwater features in the SCS, and in the Indian Ocean under the guise of MSR and claiming sovereignty over these features, thus violating Article 241 of the UNCLOS which clearly prohibits member States from using MSR to claim any part of the marine environment or its resources.⁹

China's Harassment Activities in the SCS

On 16 July 2023, the fishermen of Thitu Island stated that they still experience harassment in the West Philippine Sea (WPS) from the Chinese Coast Guard (CCG) vessels in the

area. These fishermen were forced to alter their fishing routes to steer clear of areas occupied by the Chinese militia and coast guard to avoid further harassment.¹⁰ However, tensions flared up on 05 August after six Chinese coast guard vessels and two maritime militia ships intercepted two smaller Philippine boats that were en route to resupply troops stationed at *BRP Sierra Madre*, near the Second Thomas Shoal. Three corvettes of the PLAN were also present in the area during the incident. The Chinese ships separated one of the boats in a ‘dangerous manoeuvre’ before firing a water cannon. These vessels also fired water cannons at the Philippine coastguard ships.¹¹ This increase in China’s harassment activities and alleged claims is due to the lack of a unified response, and deep divisions among the ASEAN member states – how to obtain redressal against the growing harassment. The fear of potential retaliation from China and the growing assertiveness in the SCS was not challenged by the Southeast Asian countries until the Philippines decided to take China to arbitration under Annex VII of the UNCLOS.¹²

The fact that few of the Southeast Asian countries, including Thailand, Myanmar, Laos, and Cambodia do not have any direct maritime territorial claims with China makes it more challenging for the ASEAN nations to reach a consensus on voicing opposition to China’s ‘use of force’ in the area. This is also another reason for the delay in finalising the Code of Conduct (COC). According to Ian Storey, an expert at the ISEAS-Yusof Ishak Institute in Singapore, the COC negotiation process has made no progress since 2002.¹³ Surprisingly, Beijing turned its attention back to the COC negotiations during the SCS arbitral proceedings. The same year, China initiated land reclamation and construction operations on the seven reefs under its control in the Spratly Islands, aiming to transform them into substantial military installations.¹⁴ China’s action in this context is perceived as a breach of trust and a display of double standards, creating challenges for ASEAN nations in attaining a comprehensive and efficacious agreement on the Code of Conduct (COC). Le Thu Huong, a senior analyst at the Australian Strategic Policy Institute also stated that “*the COC has become a ‘holy grail’, highly desired but unattainable. A major concern should be that this holy grail could turn into a tool for China to legitimise its actions in the South China Sea by engaging in the process while subverting its spirit*”.¹⁵

China’s Strategic Exploration Activities

China has taken a multifaceted approach in the SCS, deploying three distinct groups – (i) survey vessels exploring the contested waters, (ii) a combination of militia, coast guard, and naval ship formations encroaching upon the ASEAN nation’s EEZ, and (iii) Chinese scholarly delegations engaging in diplomatic discussions.¹⁶

Chinese Survey Vessels Exploring the Contested Waters

China has strategically deployed six survey vessels to conduct extensive exploration activities in areas of the SCS with the highest potential for oil and gas resources. Among these vessels, survey ship named *Haiyang Dizhi 4* (HDYZ-4) commenced its mission in

early April and lasted till 19 April 2023.¹⁷ Its designated operational area spanned the overlapping EEZ between Vietnam and Malaysia, including the continental shelf.¹⁸ This is, however, not a new occurrence as these vessels have been engaging in surveys and intimidation of Southeast Asian states. For instance, back in April 2020, the *Haiyang Dizhi 8*, accompanied by several CCG (China Coast Guard) and militia vessels, conducted surveys in a specific area of the Malaysian continental shelf, close to where the *West Capella* drill ship is located.¹⁹ Throughout this period, they persistently harassed the drill ship and its supply vessels. However, Malaysia showed disapproval to these activities by conducting regular patrols in the area using its navy and law enforcement ships.²⁰

Further, in April 2023, Chinese survey vessels, *Jia Geng* and *Haiyang Dizhi 720*, came in close proximity to the Dongsha Islands, located within Taiwan's EEZ.²¹ On 27 April 2023, *Jia Geng* changed course, and navigated to the Vanguard Bank, subsequently encroaching upon Malaysia's EEZ. On 01 May, the vessel was found navigating within Indonesia's EEZ. This incident highlighted China's disregard for the provisions of UNCLOS. However, to worsen the situation, two additional survey vessels entered the scene, namely *Xiangyanghong 14* and *Xiangyanghong 10*. The former have been conducting surveys near the Namyt Reef and the West Reef, part of the Spratly Islands since 30 April 2023. Notably, *Xiangyanghong 10*, accompanied by Chinese coast guard forces, have taken position near the Vanguard Bank since 07 May 2023. Tensions increased with the arrival of *Xiangyanghong 31* on 12 May 2023, as it navigated towards the area where the EEZs of Vietnam and the Philippines overlap, specifically near the Subi Reef.²² This concerted effort by China emphasizes its unwavering focus on exploring specific areas encompassed within the contested waters having significant quantities of oil and gas reserves.

A submerged feature in the SCS, the Vanguard Bank, also known as *Wan'an Tan* in China,²³ is of remarkable significance as it contains an estimated 5 billion tons of oil, of which approximately 2 billion tons are considered economically viable reserves. China's *Wan'an Tan* projects are aimed at exploring and exploiting these resources.²⁴ Vanguard Bank, a pivotal focal point in the SCS, boasting the largest reserves of oil is estimated to hold between 23 to 30 billion tons of oil.²⁵ As a result, it becomes apparent that all survey vessels conduct surveys this area, with particular attention given to *Xiang Yang Hong10* due to its substantial deep-sea surveys capabilities, and escorted by militia and naval ships.²⁶ Additionally, Chinese survey vessels have been found retrieving buoys with an aim to prevent the Philippines from asserting control in areas near the Whitsun Reef. In essence, China's survey ships are actively gathering data in the SCS and closing the data loop within the entire "EEZ belt" of all involved nations, ensuring a comprehensive dataset from all relevant parties.

China's Three Forces: Militia, Coast Guard, and Navy

According to the CSIS report (2021),³⁷ the majority of China's militia vessels cannot be directly linked to the Chinese government through the publicly available information on ownership networks, but they are easily identified through photos and videos, data from ship-to-ship automatic identification systems (AIS), and other tell-tale behaviour like

Table 1: is a Representative list of Chinese Vessels Infringing upon the EEZ of ASEAN Nations (2020-2023)

Name of the Ship	Types of Vessels and Year	Places visited in SE Asia	Purpose of Visit
Haiyang Dizhi 4	Vessel in the Research Segment, built-in 1980	The incursion into Vietnam's EEZ on 15 March 2023 for more than 17 hours ²⁷ Vietnamese waters on 14 June 2020 ²⁸	The ship was conducting an operation Oil exploration
Haiyang Dizhi 8	Research and Survey Vessel built in 2017. (Displacement 2368 t DWT)	Malaysia's EEZ near Beting Patinggi Ali (Luconia Shoals) waters for two weeks since 21 June 2023 ²⁹ Haiyang Dizhi 8 visited an area of the South China Sea that lies approximately 145 nautical miles off the coast of Sarawak on 20 June 2023 ³⁰	Conducting seabed research within Malaysia's EEZ in areas rich in oil and gas resources Conducting research operations in an area of the South China Sea, which is causing concerns for Malaysia as it's considered within its exclusive economic zone (EEZ)
Haiyang Dizhi 10	Research and Survey Vessel built in 2017 (Displacement 845 t DWT)	Criss-crossing the North Natuna Sea in Indonesia's exclusive economic zone (EEZ) on 5 October 2021 ³¹	Unlawful research according to Indonesian Researcher at the Indonesia Ocean Justice Initiative (IOJI)
Jia Geng and Haiyang Dizhi 720	Research/Survey Vessel that was built in 2017	Encroached into Malaysia's EEZ on 30 April 2023	Surveying
Xiangyanghong 14, Xiangyanghong 10, Xiangyanghong 31	Research/Survey Vessel that was built in 2016	Conducting operations between Namyit Reef and West Reef of the Spratly Islands since 30 April 2023 Sailing in Vietnam's EEZ on 7 May to 4 June 2023	Navigates towards the shared exclusive economic zone (EEZ) of Vietnam and the Philippines, specifically in the vicinity of Subi Reef Operated primarily around joint oil and gas operations led by Russian and Vietnamese firms
CCG 5901 (The world's largest coast guard vessel with 165 meters)	Patrol Vessel built in 2016	Sailing near Natuna Sea's Tuna Bloc and Vietnamese Chim Sao fields since December 30th as reported on 15 January 2023 ³² Operated near Vanguard Bank on 8 June 2023	Monitoring the resource-rich maritime area. This area is claimed by both China and Indonesia Obtaining valuable information for economic development and military intelligence ³³

CCG5205 Zhaojun WPS Ex 44111 (101 meters)	Patrol Vessel built in 2015	Encountered in the vicinity of Ayungin Shoal and Sabina Shoal in the West Philippine Sea on 14 February 2023 ³⁴ Chinese ship CCG5205 and Vietnamese vessel Kiem Ngu 278 had a close encounter in the South China Sea’s disputed waters near Vanguard Bank on 26 March 2023 ³⁵	Asserting maritime claims and conducting surveillance The Chinese vessel’s presence relates to the Vietnam-China territorial dispute over the Spratly Islands and seabed resources
Da Yang Hao	Research Vessel built in 2019	The ship surveyed the West Philippine Sea area by November 22, followed the Kyushu-Palau Ridge underwater feature, and had entered Palau’s EEZ by November 30, 2021 ³⁶	Conducting underwater surveys and data collection

Source: Authors’ Compilation from Various News Reports

“rafting-up” by tying multiple boats together.³⁸ China has strategically deployed three forces simultaneously, each serving distinct purposes. Notably, there is a clear distinction between civilian entities, such as maritime militia ships, coast guard vessels, and naval ships. This division allows for the calculated execution of a plan that aims to normalize confrontations within the invalid “nine-dash line” using tactics associated with grey hulls. The first aspect involves China’s maritime militia force, which maintains a constant presence and fulfils dual functions within the scope of encirclement operations. The first function is to establish blockades around uninhabited features in the central region of the invalid “nine-dash line”. For instance, on 23 April 2023, a concentrated deployment of over 100 ships surrounding the Whitsun Reef and 18 ships near Sabina Shoal was reported. The subsequent role involves safeguarding the innermost perimeter while providing escort services for maritime survey vessels or areas under China’s illicit control within the South China Sea. This is evident from the Chinese military’s involvement in escorting the militia ships that were found to be intimidating the naval formations during the recently concluded AIME-2023.

The second aspect is the pivotal role of the Chinese Coast Guard. With law enforcement responsibilities, this force actively engages in “encroachment” activities to support the Chinese militia, countering the presence of law enforcement ships from ASEAN nations. Notably, two Chinese coast guard ships, namely *CCG4303* and *CCG5305*, have been found consistently providing escort to the survey vessel *Xiang Yang Hong10* in Vietnam’s Vanguard Bank as early as mid-May 2023.

The third aspect includes the PLAN which maintains a significant presence in the outermost perimeter, although not directly involved in the operations conducted by the militia and coast guard. However, two activities must be highlighted – *firstly*, self-exercises were announced in certain areas of the South China Sea on 27 April 2023,

and *secondly*, bilateral exercises between China and Singapore took place from 28 April to 01 May 2023, specifically near the southern tip of the South China Sea, in an area claimed by China. These exercises aim to promote openness and mutual understanding in the maritime domain. However, on 23 April 2023, a group of unidentified Chinese naval ships were detected near Thitu Island, indicating their support for the Chinese coast guard's activities. The final group consist of maritime survey ships and patrol boats. Although these groups can operate independently, their activities demonstrate a high level of coordination and sophistication.

These observations indicate that the Chinese have assigned specific roles to each unit within the three forces: militias (to enforce a siege), coast guard and navy (to encroach and the use of force). The possibility for the forces to coordinate and collaborate in the future to enhance China's strategy in the SCS could become a 'headache' for ASEAN nations.

Chinese Scholarly Delegations Engaging in Diplomatic Discussions

Even though the role of the third group often goes unnoticed despite its significance, China recently dispatched three delegations as part of the South China Sea Strategic Situation Probing Initiative (SCSPI) to engage in bilateral discussions with ASEAN nations involved in dialogue mechanisms pertaining to the South China Sea. It is noteworthy to mention that the Director of SCSPI led a delegation that visited the Philippines from 02 April to 05 April 2023,³⁹ engaged in a dialogue with Indonesian CSIS scholars in Indonesia on 06 April 2023,⁴⁰ followed by a visit to Malaysia from April 10 to 12, and finally visiting Singapore on 13 April and 14 April 2023.⁴¹ However, it seems that the delegation failed to create any traction as there was an increase in Chinese ships conducting survey activities in the SCS as early as 15 April 2023.

China's adherence to the "three warfare(s)"⁴² strategy includes utilizing scholarly exchanges to gain insights into ASEAN nations and assess their influence. This approach aids in understanding battlefield dynamics and determining optimal timing for manoeuvres.

Even though the *Xiang Yang Hong10* survey ship encroached upon Vietnam's EEZ on 07 May 2023, it took until 25 May for Vietnam's Ministry of Foreign Affairs to formally request the ship, along with the accompanying coast guard ships and fishing vessels, to exit Vietnam's EEZ.⁴³ Vietnam is observed to have utilized a variety of channels and means to press its legal standpoints and build up a coalition to counter the legal warfare.⁴⁴ Vietnam's standpoint is a clear example of the difficulties faced by island nations in the SCS to uphold the rules-based order, while also retaliating against China.⁴⁵

Similarly, Malaysia and Indonesia in collaboration with Vietnam are adopting a similar approach in dealing with China's grey zone tactics in the South China Sea. However, this strategy seems to be ineffective. Cameron Smith, an Australian expert on regional security, emphasizes the importance of proactive initiatives in warfare, as advocated by Sun Tzu. Instead of reacting to China's moves, maritime nations should take the lead, shifting the liability onto China. The Philippines' lawsuit against China exemplifies this approach, which should become the norm rather than the exception.

Conclusion

The approach of leveraging global public opinion regarding China's escalating maritime assertiveness and harassment within the SCS, which encompasses the (i) frequent targeting of fishermen, (ii) imposing unilateral fishing bans which overlap with ASEAN nations EEZ, (iii) strategy of conducting exploration activities by means of MSR, and (iv) using three warfare(s) strategy, could prove advantageous for countries such as Vietnam and the Philippines, as they grapple with increasing threats from China. Notably, both these nations have embarked on a path of cooperation, having negotiated an agreement concerning territorial assertions in the South China Sea. Nonetheless, the details of this agreement, though already in motion, remain concealed from the public eye.⁴⁶ However, to garner support and shed light on the situation, both Vietnam and the Philippines could contemplate leveraging international public opinion. This strategic move could involve revealing the specificities of the ongoing agreement while also re-examining China's aggressive moves in the SCS and the urgency in finalizing the COC to uphold the principles of justice and sovereignty.

By exposing China's actions through international channels, these countries can potentially elevate the discourse around the South China Sea disputes. Engaging the global community's attention might lead to increased diplomatic pressure on China, encouraging adherence to established international frameworks and regulations. Consequently, the act of harnessing international public opinion could emerge as a vital tool in safeguarding the interests of ASEAN nations and maintaining the stability of the region. An essential step entails bringing attention to the encroachment of Vietnam's EEZ by a Chinese vessel conducting MSR and claiming sovereignty over submerged features in the SCS which violates the provisions of the UNCLOS. This action has the potential to adversely affect China's standing, as it raises 'claims' about its adherence to international maritime laws and regulations.

Countries especially Vietnam and the Philippines should also focus on fostering cooperation with environmental groups in enhancing capacity-building for directing policy towards fisheries protection and conservation in the SCS, consistent with international law. This approach has the best prospects for garnering wider support within ASEAN, given the priority it accords to thwarting illegal fishing.

Even though the ASEAN nations are joining forces to counter China's aggressive moves in the SCS, recent research by the CSIS reveals that about 300 Chinese maritime militia vessels are actively patrolling the disputed Spratly Islands, often engaging in aggressive actions like intentionally colliding with foreign ships, highlighting China's assertive pursuit of territorial claims.⁴⁷ This situation raises concerns, especially for ASEAN nations having territorial disputes with China, as the prolonged delay in the COC negotiations poses a dilemma — *can the ASEAN nations rely on China's commitment to a conclusive agreement amidst persistent incidents of harassment?*

Notes

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