THE POTENTIAL SOURCE OF CONFLICT IN ASEAN SEAWATER

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Abstract

ASEAN Community 2015 was formed with spirit to strengthen cooperation among ASEAN member countries in three main pillars; which one of them is ASEAN Political—Security Community (APSC). In ASEAN 2025 blue print, it is stated that this pillar aims to create ASEAN as stable and peaceful region. This paper addresses the potential source of conflict in regard to maritime security in ASEAN sea water which will cost a threat to pillar two ASEAN community. To achieve it aims, this paper observes bilateral dispute between ASEAN member countries related to IUU Fishing and the South China Sea (SCS) dispute considering this dispute involves 6 ASEAN members. The SCS has long been arena of dispute among some states which resulted into the strengthening of military capacity of those countries. This phenomenon will then a source of problem for ASEAN goal in the future especially those related to pillar two. Apart form that, IUU Fishing is also a trending topic in ASEAN region. This paper employs Bueger and Edmund maritime security concept in order to identify maritime security threat in above indicated sea. This paper found that some serious maritime challenges exist in ASEAN seawater which will threaten the ASEAN community goal.

Keywords: Maritime Security, the SCS Dispute, ASEAN community, IUU Fishing

INTRODUCTION

The idea of the ASEAN Community (AC) emerged at the ASEAN Summit in Kuala Lumpur in 1997, which planned the beginning of AC in 2020. Rapid change in economic, security and society then led acceleration of the origin targeted schedule, namely in 2015. ASEAN Community has three main pillars; the ASEAN Security Community, the ASEAN Economic Security, and the ASEAN Socio-Cultural Community. The ASEAN community will bring its 10 member countries closer, bound by a shared vision to create a region that is peaceful, stable and prosperous in a sustainable manner. The formation of the ASEAN Community is an important milestone in the evolution of ASEAN as an organization with the same regional identity, home to 620 million people, and aspirations towards One Vision, One Identity, One Community.

Furthermore, at the 27th ASEAN Summit in Kuala Lumpur on 18-22 November 2015, the "Kuala Lumpur Declaration on ASEAN 2025: Forging Ahead Together" was officially launched, which officially established the ASEAN community. "ASEAN 2025: Moving Forward Together" is a replacement document for the Road Map of the ASEAN Community (2009-2015) which ended on 31 December 2015. This document reflects the strategic steps for implementing the ASEAN Community in the next ten years. A number of new elements were added to ensure ASEAN 2025 remains relevant with the current challenges.

The Vision of the ASEAN Community 2025 aims to further strengthen the ongoing regional integration with strong aspirations to form an ASEAN society that is based on regulation, people-oriented and people-centered. The desire of ASEAN countries to increase their level of integration aims to create a peaceful and prosperous region. These ideals then face various challenges through the problems that still occur among the member countries of this regional grouping. On land, border disputes are still an issue between several countries, as well as at sea.

One issue that remains problematic for ASEAN countries is the dispute involving four of ten ASEAN member countries, namely the problems related to the South China Sea. This sea area has long been source of conflict among China, Taiwan, Vietnam, the Philippines, Brunei Darussalam and Malaysia. In

addition to the six countries mentioned above, there are also big countries such as the United States that argue that the China's fully claim of the South China Sea will threaten freedom of navigation in these territorial waters. There are also Indonesia that feel disturbed because the nine dashes line issued by China in 1990 has disrupted Indonesia's sovereignty in a rich of gas region, Natuna Island. In addition, IUU fishing between some ASEAN countries also pretense a threat to ASEAN unity. These problems pose a threat to ASEAN that is currently working to improve its integration. This paper tries to analyze the potential threats in ASEAN sea water by employed maritime security concept by Bueger and Edmund. This paper is expected to be an input for ASEAN related to maritime policy.

RESEARCH METHOD

This paper uses a qualitative research method that combines literature study and interview. Literature studies conducted on articles related to maritime security such as Benyond Seablindness: "A New Agenda for Maritime Security Studies" written by Edmund and Bueger [1], and "What is maritime security" written by Bueger [2]. Edmund and Bueger's argument regarding maritime activities is a framework used to analyze potential threats in the Southeast Asia sea area. Furthermore, to highlight maritime security that occur in ASEAN sea area, authors retrieved news from the BBC, the Department of Foreign Affairs of the Philippines, the Indonesian Ministry of Maritime Affairs and Fisheries and several articles written by scientists in this study. In addition, authors also conducted interviews with the staff of the Ministry of Maritime Affairs and Fisheries of West Sumatera to find out the maritime security problems that he commonly found when carrying out his tasks.

RESULT AND DISCUSSION

This discussion and analysis section is divided into several sections; a brief description of maritime security concept, maritime security issues in the ASEAN region, maritime security activities that ASEAN has / are currently undertaking and an analysis section.

a. Maritime Security Concept

This paper employs maritime security concept by Bueger and Edmunds [1] to describe the potential threats in the Southeast Asia sea region. Maritime security is a concept that is said to be the last buzzword in security studies. The definition of maritime security varies from one state to another due to the diversity of maritime security problems and challenges in every region [1], [2], [3]. Furthermore, Bueger (2015) argues that so-called maritime security threats are usually related to threats that occur in maritime areas such as inter-state conflicts, maritime terrorism, piracy, drug trafficking, people and illicit goods, the spread of weapons, illegal fishing, environmental crime or maritime accidents and maritime disasters.

Besides Bueger, there are also maritime territorial threats described by the United Nations in Oceans and Law of the Sea 2008 [4];
1. Piracy and armed robbery;
2. Terrorism;
3. Trading weapons and weapons of mass destruction;
4. Illegal drug trafficking;
5. Smuggling and human trafficking by sea;
6. Illegal fishing, which is not reported and off regulation; and
7. Acts that intentionally damage and disobey legal regulations for marine life.

It can be seen that the maritime threat explained by Bueger and the UN covers a complex and broad area, ranging from issues related to traditional security such as conflict and terrorism, to non-traditional security issues that are more human centrist such as disasters, human trafficking environmental pollution or the distribution of goods that can threaten human safety. As for the definition of maritime security, Bueger [2] adds that what is called maritime security is a condition where threats that might occur in maritime areas can be prevented or in other words conditions where the above threats do not occur.

There are several maritime security activities that can be carried out by actors. The activities according to Bueger [2] are as follows:

1. Activities that have been included in the Maritime Domain Awareness. Examples of this activity are monitoring via radar, satellite or data tracking, sharing data by entering it into a data base and having an information system;
2. Activities carried out at sea such as patrol, prohibition, search and inspection as well as training;
3. Law enforcement activities such as arrest, transfer of suspects, prosecution, trial and detention;
4. Coordination activities at different levels. Examples of this activities; coordination activities in the form of meetings, conferences and activities aimed at creating a harmonization of legal standards, procedures, mandates or activities to develop a strategic plan and implementation;
5. Activities related to naval diplomacy, capacity building, naval warfare.

Tabel 1. Maritime Security Activities

No.	Activities	Level	Explanation
1.	Organizing maritime security and managing its complexity.	1.Maritime Domain Awareness (MDA) and new epistemic infrastructure.	-Increase seafarers' awareness by providing information and knowledge in countering the threat in maritime domain.
			-Examples of activities classified in this section are tracking vessel movements, naval surveillance, air surveillance and, data analysis collection.
		2. Coordination and maritime security governance.	-Manage maritime areas by collaborating with other actors involved in this issue.
		3.Operational Coordination.	-Develop a strategy of development plan.
			-Carry out military operations.
2.	Capacity building and security sector reform		- Efforts to share knowledge and skills related to maritime management.

Source: [1]

Maritime security concept describes activities undertaken to prevent maritime threats and this efforts are cross-border activities, which require coordination between the actors involved. These activities will be highlighted to show maritime security carried out by ASEAN. This paper will not go deep into the evaluation of these activities, but will only explain what activities have been carried out by ASEAN.

b. Maritime Security threat in ASEAN

This section explains various maritime problems that occur in ASEAN both bilateral and multilateral such as the IUU Fishing problem and overlapping claims in the South China Sea (SCS) that have become multilateral conflicts. Although some of the cases described below occur bilaterally, but if collected together, there are many cases that pose a threat to the relations of ASEAN countries. Here's the explanation.

IUU Fishing problem among Indonesia, Vietnam, Malaysia and other ASEAN member.

One of the activities classified as maritime security threat is illegal fishing or formally referred to as IUU Fishing (Illegal, Unreported and Unregulated). This activity is classified as a maritime security threat due to several impacts caused by it such as: threatening the welfare of legal fishing, endangering food and economic security, assisting in transnational crime, distorting the market, contributing to human trafficking and threatening fisheries policy [5]. It can be seen that there are three activities included in this IUU fishing, namely illegal, unreported and unregulated fishing. FAO [6] defines unreported as actions that are not reported, or actions that are not reported correctly so that it is against national laws and regulations. In addition, unregulated activities also relate to violations related to not reporting or misreporting in the area of Regional Fisheries Management Organizations (RFMOs) [6]. Furthermore, what is meant by unregulated fishing refers to fishing activity that is not in accordance with applicable regulations. Fishing activities like this usually cause damage to resources because it is not unsuitable with the rules.

Indonesia with its vast sea area which surrounds the Indonesian islands, is a vulnerable area to maritime security threats. Indonesia's marine territories make up 2/3 of Indonesia's sovereign territory. Not only extensive, the Indonesian sea is also rich in various fisheries resources, it is said that the potential of fish resources owned by Indonesia reaches 9.9 million tons [7]. Indonesia's vast territorial waters are a particular difficulty for Indonesia, various limitations in terms of fleet and finance are existing [8].

The vast sea area coupled with the great natural resources possessed by the Indonesian seas, as well as Indonesia's adjacent position to other territorial waters, places Indonesia as a vulnerable country to experience fisheries violations. It has been noted that foreign vessels conducting IUU Fishing in Indonesian territory so far are ships originating from Vietnam, Malaysia, Thailand and China [9]. Based on water surveillance 2018 through a 17-day operation carried out by the Directorate of Maritime and Fisheries Resources Supervision [7], it found out that around 118 Vietnamese-flagged vessels and 9 Malaysian-flagged vessels carrying out operations in Indonesia.

These violations have caused Indonesia to tighten and increase supervision in its maritime territory. It is these actions taken by Indonesia that then potential to be misinterpreted so that it can pose threats to perpetuity of neighbors. When viewed from statistical data, the number of arrests made by the Indonesian government from 2014-2018 was 3598 arrests, with the highest number of arrests towards Vietnamese fishermen totaling 1768, meanwhile the lowest number of arrests was Malaysian fishing boats totaling 29 times arrest [7].

Not only arresting, Indonesia also applying sinking ships policy toward indicated violator of IUU fishing in Indonesia's waters. This policy has been implemented by Indonesia over the past few years and it is noted that the number of ships sinking tends to increase from year to year. In 2018 alone, Indonesia sank 22 ships from Malaysia, 15 ships with Philippine flags, 83 vessels from Vietnam and 1 ship from Thailand [10]. There are also other ships that commit violations in Indonesian sea areas other than those mentioned above, such as China, Papua New Guinea and several African countries.

From the description above it can be seen that Indonesia has maritime security issues with several neighboring countries. The sinking ship policy contained in Law No.45 / 2009 on Fisheries [11] does not always generate a positive response from neighboring countries. For example, Malaysia believes that Indonesia should open a dialogue forum to resolve this problem peacefully [12]. This sinking is interpreted as a crackdown against fellow ASEAN countries, while ASEAN member countries have committed to resolve all problems in the region in a peaceful manner. Treaty of Amity and Cooperation

in Southeast Asia in 1976 in article two stated that settlement of any conflicts that occur between ASEAN countries will be resolved in a peaceful manner [13]. The issue of maritime security like this can be a problem for ASEAN in the future because it can cause mutual distrust among fellow ASEAN countries. Yet at the same time, this regional grouping are trying to form a more integrated and solid regional group so that the vision to produce a more solid region is threatened.

Overlapping claim in the South China Sea

In addition to the problems related to IUU fishing that have plagued ASEAN countries, there is also another problem related to sea area that occur in the South China Sea. The South China Sea is a clear example of overlapping claims among several countries. The South China Sea is home to 30,000 small islands and reefs spread over three islands [14]. Among the islands are inhabited Spratly and Paracel which conceived natural resources with an estimated of around 11.2 barrels of oil and 190 Tcf of gas [14]. In addition to its natural wealth, this sea area is also a strategic trade transportation line.

Because of its strategic position, it is reasonable that the SCS become a battleground for several countries. Call it the Paracel Islands that claimed by China, Taiwan and Vietnam; then the Spratly Islands were claimed by China, Taiwan, Malaysia, the Philippines, Vietnam and Brunei Darussalam. Meanwhile Schaborough Shoal, located in the western part of the Philippines, is claimed by the Philippines, China and Taiwan; the debates over Tonkin Bay between China and Vietnam [15]. In more detail, overlapping claims that occur in the SCS region can be described as follows; First, China is a country that claims the entire SCS region for historical reasons. China's facts and historical documents told that the SCS region was its sovereign territory [16]. This Chinese claim is known as the nine dashed line, which shows a dotted line on a U-shaped map.

Furthermore, Vietnam claims 2 large islands, namely the Spratly Islands and the Paracel Islands with a total of 21 small islands [17]. The Philippines claimed Scarborough Shoal in 2013 under UNCLOS which stated the islands belonged to the Philippines [18], the Spratly Islands (such as Mischief Reef), and 8 islands in the SCS [17]. Furthermore, Malaysia is the fourth country to be involved in a dispute by claiming a portion of the Spratly archipelago consisting of 11 islands and rocks [19]. The next claiming country is Brunei Darussalam, which claims Louisa Reef and Riflement [20]. Finally, there is Taiwan that claims the whole area in SCS. From this description it can be seen that ASEAN countries are the majority countries involved. There are areas claimed by several ASEAN countries by involving other countries such as China and Taiwan, meanwhile, there are also areas that become bilateral conflicts that also involve one ASEAN country.

Overlapping of claims provides room for various conflicts between claimant countries. Examples of conflicts in the SCS include when China built an oil drilling base in the western Paracel Islands, which was strengthened by 80 ships. As a result, there were clashes with Vietnamese ships who believed that the area was their sovereignty [15]. Next example is in May 2014, the Maritime Safety Authority (MSA) from China announced that oil drilling would be carried out by the China National Offshore Oil Corporation at a distance of 120nm off the coast of Vietnam, which is the ZEE region of Vietnam [21]. This phenomenon could trigger tension because China is increasing its fleet of ships.

Another case noted from overlapping claims is the confrontation between the Philippines and China. Some tensions are indicated by the efforts of the Philippines to protect Mischief Reef when China occupied the region. The Chinese action was then responded by the Philippines by building a wall as high as 27.33 meters, as a signal that the area was the territory of its country [22]. Subsequently, the Philippines changed the name of the sea around the Spratly Islands from the South China Sea to the West Philippine Sea in 2011, which again is an attempt to emphasize that the region is its territory. Another tension was noted when the Chinese military intercepted the Philippine military who wanted to arrest eight Chinese-flagged fishing vessels carrying out fishing activities in the Scarborough Reef [23].

Tensions between the Philippines and China do not end with the description above. Concrete efforts to defend this territory were also carried out by the Philippines, such as bringing the case to the International Arbitration Court on January 22, 2013. The lawsuit filed by the Philippines is that the Spratly Islands and Scarborough Reefs are their administrative territories, because their location is only 400 miles from EEZ

Philippines, which is a shorter distance compared to the distance from China to that location which is around 1652 nautical miles [24]. In addition to the lawsuit, the Philippines also requested that the International tribunal to investigate the activities carried out by China in the disputed territory, because the Philippines felt disturbed by Chinese interference and intervention in the region.

Although later the decision issued by the Arbitration Court sided with the Philippines, but what happened next was not a satisfactory result, so this dispute has still not been completed to this day. In 2016, the International Arbitration Court issued a ruling that the territories around the Spratly Islands and Scarborough Shoal were the sovereign territory of the Philippines, so China was asked to immediately withdraw from the region and stop all forms of activities that threatened resources and were prohibited from continuing disputes with the Philippines [25]. This decision was not followed by China, because China believed that the International Arbitration Court did not have the authority to resolve the issue [26].

The various excerpts of the conflict above are only a handful of the many cases that occurred in the South China Sea. These events imply that there are serious maritime problems in the ASEAN sea area, which in this paper are specific to the SCS region. IUU Fishing experienced by Indonesia is certainly not the only case of IUU Fishing that occurred. Likewise with the territorial ownership dispute in SCS highlighted above, it is not the whole picture of the problem that occurred. There are still many incidents carried out by the parties in dispute which increase the alert and threat to each party. So if these conditions continue it will become a threat to ASEAN countries and also ASEAN's biggest trading partner countries, namely China.

c. Maritime Security Cooperation Activities that have been carried out by ASEAN

The agenda of maritime cooperation has long been a discussion in ASEAN forums. It was noted that the initiation of maritime cooperation has been initiated since the inception of ASEAN in 1967 with the establishment of the Southeast Asia Fisheries Development Center (SEAFDEC) [27]. Furthermore, discussion on maritime issues was also a concern by including it in the Declaration on ASEAN Concord (Bali Concord) in 2003, ASEAN Political Security Community Blueprint (2009-2015) and ASEAN 2025 Forging Ahead Together; which emphasizes that maritime issues are cross-border issues, so hopefully ASEAN countries can increase mutual understanding and promote cooperation through ASEAN forums [27]. Furthermore, in 2010, the ASEAN Maritime Forum was formed which aims to support the vision of the APSC and 3 years later the Expanded ASEAN Maritime Forum (EAMF) was formed as a forum that was initiated to enhance dialogue related to maritime issues by involving countries that are members of the East Asia Summit [28]. Currently there are 10 maritime issues discussed by 12 ASEAN sector bodies namely: maritime security issues, maritime safety, transnational crime, humanitarian assistance and disaster relief, search and rescue, marine environment, conservation, marine resources, maritime connectivity and others. [27]. AMF results are not something that has legal ties, but AMF can issue recommendations regarding maritime issues that are developing [26]. Meanwhile EAMF is a dialogue forum with expanded membership that covers the United States, Australia, China, India, Japan, South Korea, Russia and New Zealand. In this forum it is possible to discuss matters relating to the South China Sea dispute.

However, the implementation of these two forums is not without gaps. Muhibat [28] noted that the EAMF which was originally planned as one of the agenda of the East ASEAN Summit in 2016 in Brunei Darussalam was not held without any reasons. Furthermore Muhibat [28] assumes that phenomenon like in Brunei could occur because member countries feel that these activities are of no use.

From the above explanation it can be concluded that ASEAN as a regional organization has actually been thinking about various issues that will disrupt regional security, including maritime issues by the establishment of various dialogue forums to increase mutual trust between ASEAN countries and other countries that are related to the region ASEAN sea. However, there are crucial issues regarding the usefulness of the forum. Perhaps because of the nature of this forum which only produces recommendations without being able to bind, this forum was deemed unsatisfactory, so that its implementation did not receive the most attention from the countries involved. This means that ASEAN needs to think of a mechanism that is felt to be more binding so that the activities carried out are not considered as activities that waste time and energy.

The above explanation has identified maritime problems that exist in the Southeast Asian region. By referring to the framework provided by Bueger and Edmund in relation to the definition of maritime security, it can be seen several problems arise in this region, such as issues related to IUU Fishing and

territorial disputes. The article is limited at the two points above not because of other maritime security issues mentioned by Bueger and Edmund are not exist in this area, but to focus more on these two issues. ASEAN has a vision to create a peaceful region, so that the integration that has been carried out can run smoothly. To support the dream of creating peaceful region, ASEAN has also initiated various tools to ensure that the vision can be realized. The tool intended here is the formation of various forums, such as the most recent forum, AMF and EAMF. Unfortunately the forum which was formed with very good intentions has not been able to become a dreamed forum; it is not legal binding, making this forum just a discussion forum that is not taken seriously.

If we look at the conflict described above, IUU Fishing that occurs between several countries can be dangerous if not resolved immediately. It can be seen that the efforts made by Indonesia to eradicate fish theft from its territory have received different reactions from neighboring countries. For example, Malaysia gave a negative response to Indonesia's actions. It will be very difficult to get a united ASEAN if each member country has a dissatisfaction with the other countries. In addition, the issue of the South China Sea also gives a sense of tension to ASEAN countries. This long-running conflict has shown that the mechanism adopted by ASEAN has so far not been successful in finding solutions to resolve differences of opinion regarding borders in this sea area.

This article suggests that ASEAN formulates a legal binding procedure, so that decisions made through various dialogue forums can be legal binding. By increasing the status of the decisions taken, member countries will be more serious in participating in each forum and also seriously in applying the decisions that have been taken. In addition, it is necessary to have a strong initiation from one ASEAN member to encourage the creation of a more binding procedure to create shared awareness that ASEAN indeed needs serious and binding discussions regarding threats in this maritime region. Activities suggested by Bueger and Edmund such as coordination and meetings between actors, conducting maritime cooperation such as joint military operations and transfer of knowledge are examples of activities that have been carried out but still require increased intensity.

CONCLUSION

This article has explained two threats in maritime security that occurred in the Southeast Asia region, namely issues related to IUU Fishing and problems related to overlapping claims in the South China Sea region. By only highlighting two issues, we can see that maritime security threats are real in the South China Sea. This maritime security threat occurs in a variety of patterns, both bilateral and multilateral dispute. This indication gives a signal that there is a time bomb in relations between these countries, which requires more intense handling of ASEAN, to realize the vision of ASEAN 2025. This article believes that the establishment of a more legal binding forum related to the two issues above is urgently needed so that member countries can be more serious in following every dialogue initiative carried out. In addition, it still needs one or a group of countries that are willing to voluntarily become the motor of initiative every dialogue to reach an agreement regarding the establishment of the forum above.

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