

Empowering ASEAN Regional Integration Through the European Union Model Under International Law: A South China Sea Case Study

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Abstract

Regional integration in ASEAN remains a delicate and continuing process. Its development is constrained by the ASEAN Way, particularly the principle of non-interference, which preserves an intergovernmental rather than supranational institutional structure. The South China Sea dispute illustrates the limits of this arrangement in responding collectively to regional security threats affecting several member states. This study employs normative legal research, combining statutory and comparative approaches to examine international and regional legal instruments relevant to ASEAN security cooperation and to assess selected features of the European Union model as a reference. The analysis shows that ASEAN-EU relations have deepened and that ASEAN possesses legal and institutional foundations that could be strengthened without fully reproducing EU-style supranationalism. Amendments and clearer implementation of existing instruments, accompanied by stronger institutional coordination and limited delegation of authority, could improve ASEAN's capacity to manage regional security challenges, including the protracted South China Sea dispute.

Keywords: South China Sea, ASEAN, Regional Integration, European Union, International Law

Abstrak

Integrasi regional ASEAN masih merupakan proses yang rumit dan terus berkembang. Perkembangannya dibatasi oleh ASEAN Way, terutama prinsip non-intervensi, yang mempertahankan struktur kelembagaan antarpemerintah alih-alih supranasional. Sengketa Laut Cina Selatan memperlihatkan keterbatasan pengaturan tersebut dalam membentuk respons kolektif terhadap ancaman keamanan regional yang memengaruhi sejumlah negara anggota. Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan perbandingan untuk menelaah instrumen hukum internasional dan regional yang berkaitan dengan kerja sama keamanan ASEAN serta menilai unsur-unsur tertentu dari model Uni Eropa sebagai rujukan. Analisis menunjukkan bahwa hubungan ASEAN-Uni Eropa semakin berkembang dan ASEAN telah memiliki

landasan hukum serta kelembagaan yang dapat diperkuat tanpa harus sepenuhnya meniru supranasionalisme Uni Eropa. Perubahan dan pelaksanaan yang lebih jelas terhadap instrumen yang ada, disertai koordinasi kelembagaan yang lebih kuat dan pendelegasian kewenangan secara terbatas, dapat meningkatkan kapasitas ASEAN dalam menangani tantangan keamanan regional, termasuk sengketa Laut Cina Selatan yang berkepanjangan.

Kata-kata kunci: Laut Cina Selatan, ASEAN, Integrasi Regional, Uni Eropa, Hukum Internasional

INTRODUCTION

The South China Sea dispute involves numerous stakeholders and intersects with political, security, economic, and socio-cultural interests. The diversity of national positions, together with the involvement of non-state actors, has complicated efforts to reach a comprehensive settlement (Benarrivo & Pramadya, 2020). The dispute has intensified over time as Brunei, Vietnam, and the Philippines have challenged China's expansive nine-dash line claim, while China has defended its position through its own interpretation of the law of the sea. Negotiations have continued, but they have not yet produced a durable settlement.

The South China Sea is also strategically important because of its natural resources and commercial routes. Indonesia, Vietnam, the Philippines, China, Taiwan, Brunei, and Malaysia are the principal coastal actors, while companies from the United States, the United Kingdom, Canada, India, Russia, and Australia also have commercial interests in the area (Rustandi, 2016). These actors may be grouped into three broad categories: East Asian states, with China as the predominant actor; Southeast Asian states with overlapping claims or interests; and multinational corporations engaged in resource and commercial activities (Benarrivo & Pramadya, 2020).

Three developments after June 2016 significantly shaped the dispute: the arbitral award of 12 July 2016 under Annex VII of UNCLOS, the beginning of Rodrigo Duterte's presidency in the Philippines, and the inauguration of Donald Trump as President of the United States in January 2017 (Robert, 2017). These developments altered relations between the Philippines and China and created new pressures on ASEAN's efforts to maintain regional stability. Within ASEAN, the ASEAN Political-Security Community provides an institutional platform for addressing security challenges, although its effectiveness remains constrained by intergovernmental decision-making and divergent member-state interests (Benarrivo & Pramadya, 2020). The EU is therefore relevant not as a model to be copied wholesale, but as a comparative reference for considering how stronger common institutions might support ASEAN's response.

Against this background, this article asks whether ASEAN's legal and institutional framework can be strengthened by selectively adapting elements of the EU model to improve ASEAN's response to the South China Sea dispute. It argues that full EU-style supranationalism is neither immediately feasible nor necessarily desirable. Nevertheless, clearer delegation, stronger institutional coordination, and more effective use of existing legal instruments could enhance ASEAN's collective

capacity while preserving the central role of member states. The article first clarifies regional integration and its relationship with international law, then compares EU and ASEAN institutional development, and finally assesses legal and practical pathways for strengthening ASEAN's role in the South China Sea.

LITERATURE REVIEW

Regional Integration and International Law

Regional integration combines two closely related concepts: regionalism and integration. Regionalism refers to the beliefs, principles, policies, and institutional projects through which actors organize a particular geographic and social space (Badie et al., 2011). Katzenstein describes regionalism as a set of institutionalized practices (Katzenstein, 2006), while Fawcett treats it as a policy or project (Fawcett, 2004). Munakata further emphasizes institutions created by governments to foster regional economic integration, while noting that member states may display different levels of commitment (Munakata, 2006).

Integration is the process of bringing separate elements, parts, or policy fields into a more unified system or organization (Schonewille, 2010). It may develop across economic, political, legal, security, and cultural dimensions. The degree of integration depends not only on formal treaties but also on the authority delegated to common institutions, the enforceability of regional rules, and the willingness of member states to accept collective decisions.

METHOD

This study employs normative legal research through statutory and comparative approaches. It examines international and regional legal instruments relevant to ASEAN security cooperation, including the 1982 United Nations Convention on the Law of the Sea, the ASEAN Charter, the Treaty of Amity and Cooperation, the Code of Conduct process, and the ASEAN Political-Security Community framework. These instruments are compared with selected features of the European Union's supranational legal and institutional arrangements. The analysis assesses whether elements of the EU model can be adapted within international law to strengthen ASEAN's capacity to manage regional security disputes, particularly the South China Sea dispute.

RESULT AND DISCUSSION

The South China Sea Case

The South China Sea, located in the Western Pacific Ocean, is bordered by mainland China, the Indochinese Peninsula, Kalimantan, Palawan, Luzon, and Taiwan. According to the International Hydrographic Organization, it spans approximately 3.5 million square kilometers (1.4 million square miles) and comprises over 250 small islands, atolls, reefs, and sandbars, mostly formed by coral reefs. These features are categorized into four archipelagos: the Xisha Islands (Paracel Islands), Dongsha Islands (Pratas Islands), Zhongsha Islands (including Macclesfield Bank and Scarborough Shoal), and Nansha Islands (Spratly Islands) (Villamizar Lamus, 2020).

The South China Sea island disputes are widely seen as difficult to resolve. Six parties—China, Taiwan, Brunei, Malaysia, the Philippines, and Vietnam—claim ownership of at least one islet, with some claimed by up to five states (Hayton, 2022). What matters most is not who has control over the various landforms in the South China Sea, such as islands, atolls, cays, shoals, reefs, or sandbars. Instead, the focus should be on the disagreements between the involved parties regarding the legal grounds for maritime rights and entitlements, the status of specific geographic features, and the legality of China's actions in the area (Permanent Court of Arbitration, 2016). Its strategic position renders it one of the most crucial global travel routes. In 2019, the economic value generated from using the South China Sea as a distribution channel was USD 5.3 trillion (Bangun, 2021). Furthermore, the South China Sea is believed to contain a total of 11 billion barrels of oil and 190 trillion cubic feet (or 57.9 trillion cubic meters) of natural gas (Bangun, 2021). Moreover, the economic importance of the South China Sea will grow if the fishing industry is considered.

The People's Republic of China's unilateral claims have escalated conflict in the region, with its military actions threatening security and stability in the South China Sea. These moves indicate China's intent to assert dominance over the area. Consequently, ASEAN nations are feeling pressured to bolster their military capabilities in anticipation of heightened tensions and potential conflict in the region (Wardhana, 2021).

ASEAN nations face significant tension regarding regional security, particularly in their interactions with China, notably evident in disputes over territories like the Spratly and Paracel islands. Vietnam claims ownership based on historical records, though China disputes this claim (Truong & Knio, 2016). The statement from the Vietnamese defense ministry addresses the threats and aggressive actions by China that endanger regional stability, exacerbating the escalating tensions in the conflict (Viray, 2018).

The EU as a Model for Regional Integration

The EU, known for its structured integration, expanded to 25 member states in May 2004. Several other European nations either plan to join soon or have acceded into the union. Alongside this expansion, the Union aims to be the world's most competitive economy since 2010 (Berkofsky, n.d.).

Comparing the EU to other regional integration efforts, the crucial element that stands out is the necessity of political commitment. Any regional organization requires this commitment to break down trade barriers, establish common policies, and create shared institutions. Another crucial aspect is having agreed-upon leadership. In Europe, initially, Germany deferred to French leadership, evolving into a joint Franco-German axis. This consistent leadership, irrespective of the political landscape in Paris and Berlin, was pivotal. Conversely, the absence of such agreed leadership hampers progress in many other regions. For instance, the rivalry between China and Japan and their lack of reconciliation hinder prospects for regional cooperation in Asia (Schuman & Cameron, 2005). Leaders must be open to power-sharing with partners, as seen in the EU's structure favoring smaller states. Agreement on common goals is crucial, as is the sequencing of integration. Factors such as shared ambition, partner diversity, and flexibility matter. Free Trade Areas

(FTAs) lean towards commercial interests and demand less political will, though politics can still influence them (Schuman & Cameron, 2005).

The next phase is a Customs Union (CU), which involves tariffs and quotas, posing challenges in implementation as it requires agreement on a unified external trade policy among involved parties. A CU generates revenue, prompting consideration on how to manage the accumulated funds. Subsequently, the progression moves towards establishing a single market encompassing goods, services, capital, and labor, culminating in an economic union, with or without a shared currency. The EU exemplifies a customs union that has evolved to encompass broader and deeper integration, while the European Free Trade Association (EFTA), initially successful as a Free Trade Area (FTA), has contracted over time. Presently, EFTA includes only Norway, Switzerland, Iceland, and Lichtenstein (Schuman & Cameron, 2005).

Another essential aspect to consider is the establishment of shared institutions. Are member states committed enough to develop and empower such entities? The EU benefited from visionary leaders like Robert Schuman, Aldo de Gasperi, and Jean Monnet in the 1950s, who crafted supranational bodies such as the Commission, Parliament, and Court. While the Council serves as an intergovernmental platform, these institutions foster a common political ethos and manage the diversity among member states. The debate frequently centers on whether convergence precedes integration or results from it. In the EU context, both scenarios are evident. Membership criteria like the Copenhagen criteria and eurozone entry requirements such as those outlined in Maastricht demonstrate pre-integration convergence expectations. Meanwhile, regional policy implementation has fostered increased coherence among member states, showcasing integration-driven convergence. The EU is undergoing changes, particularly after unsuccessful referendums in France and the Netherlands regarding the new constitutional treaty. Various models for its future include options like a la carte (freedom of choice), multi-speed (gradual transitions), variable geometry (core and periphery), and flexible structures (shared foundation, open partnerships). This debate is expected to persist. In summary, the EU's success can be credited to political determination, defining shared goals, gradual progress, ensuring tangible outcomes, and creating robust institutions to handle challenges. As the EU gains coherence, its global influence rises, noted by many third countries. A notable instance was President Bush's 2005 visit to the European Commission, reciprocated by President Barroso visiting the White House the same year. This expanding international role of the EU is crucial in understanding its relationship with other regional organizations (Schuman & Cameron, 2005).

ASEAN and EU Integration in Security Matters

Established in 1967 to coordinate economic and foreign policies among Southeast Asian nations, ASEAN lacks the tools for enforcing binding policies unlike the EU. Operating on the principle of non-interference in member states' internal affairs, as stated in the ASEAN Charter, it significantly restricts ASEAN's influence on policymaking. In contrast, the EU, with its streamlined bureaucracies, excels in managing public law and formal institutions (Schuman & Cameron, 2005).

Since 1990, the creation of the Asia-Europe Meeting (ASEM) has been one of the most important institutional consequences of ASEAN-EC relations. European Business Information Centres were established in Manila in 1993 and subsequently in Kuala Lumpur, Bangkok, Singapore, and Jakarta. An Eminent Persons' Group was also formed to propose new directions for the ASEAN-EU relationship (Rüland, 1996; Lim, 1997; Dreis-Lampen, 1998). The European Commission's policy paper 'Towards a Fresh Asia Strategy,' endorsed by the Essen European Council in 1994 and supported by the European Parliament in 1995, placed ASEAN near the center of Europe's engagement with Asia. In May 2000, the Joint Cooperation Committee adopted the EU-ASEAN Work Programme, although subsequent debate suggested that the EU might increasingly prioritize East Asia and India (Far Eastern Economic Review, 2001).

Despite recurring tensions, the EU continued to function as an external source of cohesion for ASEAN after 1990. ASEAN's access to European Investment Bank financing was eventually approved, subject to projects promoting regional integration, stronger Europe-Asia ties, or environmental benefits (Robles, 2001). Debates over Asian values also contributed to ASEAN's regional identity, although both this discourse and ASEAN solidarity weakened during the Asian financial crisis (Rüland, 1996; Acharya, 1999; Rüland, 2000a).

Some scholars argue that former European colonies in Southeast Asia, including Malaysia and Brunei, remain cautious about deeper political integration based on sovereignty-sharing. Their priority has generally been economic cooperation rather than the transfer of authority in sensitive policy fields. Colonial legal and administrative legacies are also said to have shaped a preference for rule by law rather than the Western European conception of the rule of law. These conditions complicate efforts to develop standardized political integration across Southeast Asia (Acharya, 1999; Rüland, 2000a).

ASEAN-EU Relations and Interregionalism

Our examination of ASEAN-EU interregionalism yields five key findings. Initially, it suggests potential as a component of global governance, yet remains fraught with significant issues. Among these is its tendency, like other interregional partnerships, to primarily serve balancing roles, limiting motivations for enhancing institutional ties. Despite the EU's inclination towards a more formalized approach, its opportunistic policies hinder efforts to institutionalize the relationship effectively (Rüland, 1996). The European Union's approach towards ASEAN lacks clear direction and adapts significantly to shifting power dynamics. This is reflected in its policies both before and after the Asian crisis (Rüland, 2001).

To enhance ASEAN-EU relations and interregionalism's global governance role, greater institutionalization is essential. Without it, the current state of scattered projects and low political engagement will likely persist, hindering progress. Europe's post-Asian crisis strategies highlight the shortcomings of superficial multilateralism, which fails to garner public interest and makes it challenging to justify increased institutional investment in interregional ties (Rüland, 2001).

Euro-Asian interregionalism, through ASEAN-EU ministerial meetings and ASEM, has produced some institutional overlap. ASEM has increasingly assumed functions previously associated with bilateral and bi-regional arrangements, while ASEAN's influence in broader global discussions has remained limited. The older

arrangements have not disappeared, but events such as the Vientiane ministerial meeting indicated their declining significance. Nevertheless, ASEM helped preserve the relationship by providing a framework for managing politically difficult questions, including the so-called Burma conundrum (Bridges, 1999).

The Asian financial crisis exposed the limited capacity of ASEM and APEC and reduced the credibility of interregional and transregional forums. Their limited transparency also weakened legitimacy because national parliaments and civil-society organizations had little influence over official deliberations. Parliamentary and civil-society dialogues remained poorly integrated into the main process, although business forums received more systematic access (Lim, 2000). The Asia-Europe Foundation contributed to people-to-people connections, but its separate institutional track also kept civil society at a distance from the central political dialogue (Bersick, 1999).

ASEM's response to the Asian financial crisis was widely regarded as inadequate, and ASEM-3 did not produce a comprehensive institutional renewal. Asian participants continued to resist deeper formalization, although some leaders supported a more focused political dialogue. Concentrating discussion on a smaller number of strategic issues could allow ASEM to develop stronger common positions in global forums. Parliamentary dialogue also offered a promising avenue, but it required sustained institutional support. At the same time, Europe's growing attention to China, East Asia, and India challenged ASEAN's ability to retain a central position in Euro-Asian relations (Rüland, 2000b; Köllner, 2000).

International Law and the South China Sea Dispute

Regionalism can generate a distinct body of international legal rules and, in highly integrated settings, supranational law. ASEAN has not developed supranational law comparable to that of the EU because its institutions generally lack autonomous law-making and enforcement powers. The EU, by contrast, possesses a legal order that regulates fields such as trade, monetary cooperation, and aspects of security policy through institutions including the European Commission, the European Parliament, and the Court of Justice.

Regarding the South China Sea dispute, international law permits ASEAN to facilitate dialogue, promote peaceful settlement, and coordinate regional responses when member states regard the dispute as a threat to regional stability. The extent of ASEAN action nevertheless depends on the political willingness of its members. The principal legal instruments and institutional platforms relevant to such action include:

1. UNCLOS 1982 (China and all claimant states are parties to the convention)
2. ASEAN Charter
3. ASEAN Treaty and Amity Cooperation (TAC) 1976
4. South China Sea Code of Conduct (CoC)
5. ASEAN Political-Security Community

ASEAN and China have made diplomatic progress toward a Code of Conduct for the South China Sea, but negotiations have remained slow and vulnerable to recurring incidents at sea (Mantong & Blockmans, 2023). The 2016 ASEAN-China agreement sought to advance this process, while the transition from the non-binding Declaration on the Conduct of Parties to a Code of Conduct was

intended to provide a more effective framework (Manurung, 2017; Kembara, 2018). The first reading of the draft began in 2019, but the COVID-19 pandemic delayed the second review stage planned for 2020 (Bangun, 2021).

When Indonesia took on the 2023 ASEAN Chairmanship, it pledged to speed up negotiations. However, as the year ends, the parties have only managed to agree on the "Guidelines to Accelerate Negotiations for the Code of Conduct" and have completed the second reading of the CoC text (Ministry of Foreign Affairs of Indonesia, 2023). This led to an agreement on the simpler sections of the document, such as the introduction and some fundamental principles, including the 1982 United Nations Convention on the Law of the Sea (UNCLOS) (Storey, 2023). While this shared understanding is notable, it was already established in principle before 2023. The limited progress made thus far has led to criticism of ASEAN's decision-making process, which relies on consensus (meaning unanimity). Some analysts have described the bloc as "outdated" and "ineffective" in handling conflicts (Heydarian, 2023; Vatikiotis, 2023).

While some of the criticism may be exaggerated, there is a real intent among ASEAN member states to prevent great power rivals from interfering in the resolution of South China Sea disputes (Paikin et al., 2023). Recent events, such as water cannon attacks, vessel collisions, and the release of China's new map, are unlikely to alter this aspiration (Dela Cruz & Lema, 2023). Despite recent incidents, the Philippines stresses it is not in conflict with China. Southeast Asian governments prioritize Chinese investments and market size for development, especially economic growth and industrial modernization. However, Beijing's actions in the South China Sea pose a significant threat beyond economic benefits. ASEAN nations seek additional international involvement to handle disputes without being forced to pick sides between the US and China.

The analysis of the PCA's arbitral award from July 12, 2016 underscores the insights of scholars like Martti Koskenniemi and Guy Carron de la Charrière. They argue that states often manipulate legal language to justify their actions in international law, seeing it more as a tool for communication and strategy than for enforcing behavior. International law serves primarily to facilitate state relations and frame discourse around global issues, reflecting a social construct shaped by interactions among international actors. It is through these facts that a true philosophy and insight of the rule are born beyond its formal dimension. Understanding its practice and evolution requires considering contextual factors like social, historical, and emotional elements, challenging a purely positivist view. This relational dimension highlights international law's role as a *lingua franca* for international interactions, serving both social and legitimizing functions (Pomès & Coicaud, 2021).

International law primarily seeks to establish guidelines for the behavior of nations within the global community to foster coexistence and cooperation (Onuma, 2017). This aspect of international law enables the gradual shaping of global society by uniting members' shared interests around the values and goals they've established (Allott, 1999). The "legitimizing" function aims to show whether an actor's position aligns with legal norms or if it warrants acceptance based on fairness or justice. This function involves two perspectives:

1. Actors use international law to frame their interests within legal discourse, emphasizing rights over interests. This strategic use demonstrates both the legality and legitimacy of their position.
2. Actors also deconstruct international law or specific norms to challenge them as tools of the powerful.

These functions are evident in the China Sea conflict. International law aims to calm relations among bordering states and assert the rights of each. While many argue that international law, serving as a shared means of communication, helps prevent armed conflicts, it is crucial to note that according to classical Chinese philosophy, which modern scholars also reference, war extends beyond weaponry—it encompasses the periods leading up to and following armed confrontations (Sisci, 2008).

International law functions as a relational tool, reflecting the interests and stances of states while upholding the principles of rule of law and community. These interests and stances, influenced by state sentiments or governmental interpretations, are presented within the framework of legal norms. The flexible nature of international rules necessitates interpretation, thereby unveiling their substance during application (Pomès & Coicaud, 2021).

The function of 'legitimizing' raises the question of how both disputing parties can use the same rule to their advantage. One explanation is that states employ legal arguments to show that the rule supports their position, especially when cases are presented before third parties. Another perspective suggests that the international rule's meaning is not fixed beforehand; it evolves through interpretations in interactions between actors. This view highlights the dynamic nature of law, challenging the idea that rules dictate state behavior. Another perspective draws parallels with the theory of just war, where theologians recognized that both sides could have justifiable causes. Applying this idea suggests that both parties' arguments can be seen as equally legitimate. This ambiguity allows each state to assert its claims, recognizing the fact that International law indirectly contribute to the complexity of disputes like the South China Sea conflict, according to Jacques deLisle (deLisle, 2017).

These two tracks support the critical theories of international law, which argue that power significantly influences legal relations and that multiple legitimate interpretations are possible. Interpretation, the introduction of legal terms, and the creation of new norms are decisions made by states and judges, inherently political. As Koskeniemi notes, interpreting legal terms is a political struggle where states aim to impose their vision, presenting their interpretation as universal (Koskeniemi, 2004). Politics shapes the law's creation and interpretation, and the law's implementation impacts the international environment (both from the inside of the law to the outside and vice versa). Koskeniemi's concept of hegemony helps to understand and analyze states' legal discourse.

The Chinese legal argument is founded on established principles to show compliance with positive law. By doing this, Chinese discourse exploits the ambiguous nature of international rules to conceal its interests and undermine the legal stances of other parties (deLisle, 2017). This fits perfectly into the concept of a strategic utilization of law (Kittrie, 2016). This principle, originating from Anglo-Saxon tradition, appears to us to simply reiterate the argument presented in 1983 by

Guy de Lacharrière in his book *La politique juridique extérieure*, which demonstrated how states incorporate international law into their foreign policy (de Lacharrière, 1983). A thesis supported by Robert Kolb, which introduces an aspect to foreign legal policy designed to enhance the influence of law in global affairs (Kolb, 2015). States' selection of legal avenues can be interpreted as a method to employ legal mechanisms in advancing their territorial agendas. Additionally, it reflects their conviction that adherence to international standards plays a fundamental role in shaping modern international relations.

The resolution of conflicts in the South China Sea serves as a clear example of the emergence of a particular clash between two perspectives on international law and the broader global order: traditional liberalism, which values pluralism and respects state sovereignty, and normative liberalism, which advocates for universal principles.

The initial lesson underscores the importance of considering factors beyond legal frameworks, like history and emotions, in understanding international norms. This prompts the inquiry into the feasibility of a truly universal perspective. To steer clear of nationalist rhetoric, embracing a pragmatic view of international law is proposed. Such an approach would transcend debates between positivism/naturalism and idealism/skepticism, as well as the dichotomy between rules-based and policy-based approaches.

Building upon the insightful teachings of Martti Koskenniemi, it is recognized that international law lacks neutrality and objectivity (Kennedy, 2009; Koskenniemi, 2007). The jurist's objective in such situations is to identify the most suitable resolution given the circumstances of the case. Rather than applying a predetermined rule, the focus is on determining the appropriate action for the present situation. Considering that, according to international law, every legal decision reflects political judgments (Kennedy, 2009; Koskenniemi, 2007). Michael J. Glennon advocates using pragmatism in the interpretation of that law (Glennon, 2010). The concept aims to present a distinct perspective on addressing global issues. According to this writer, most challenges within international relations and law stem from cultural differences, historical contexts, economic factors, and pursuits of power or security. The pragmatic stance seeks to pinpoint realistic, non-ideological resolutions. Consequently, pragmatism advocates for an encompassing, non-prescriptive outlook, while acknowledging the hierarchical nature of the international order and the significance of power dynamics.

In order to accomplish this goal, it is essential to examine contrasting ideas objectively, devoid of moral judgment, aiming to reach a compromise of interests involved by considering the immediate and long-lasting impacts of the proposed resolution. This quest for equilibrium relies on scrutinizing factual evidence, particularly emphasizing intricate causation, within the specific context of the situation (Glennon, 2010). The benefit of pragmatism lies in its focus on problem-solving rather than ideology (Schieder, 2000). Nevertheless, the danger of this perspective is turning international law into a tool for advancing State interests, losing its essence. While acknowledging this risk, it highlights a misunderstanding of pragmatism. Pragmatism, rightly understood, relies on interpretive principles to prevent arbitrariness and fosters a (basic) ethical framework within international law. A pragmatic approach necessitates defining the objectives of actors, the

international order, and universal values/principles (like stability, justice) to guide actions effectively and inclusively (Wells, 2000).

To balance the concerns of nations and safeguard individuals, interpretations should consider how choices affect global security. Post-Cold War dynamics have merged traditional state security, focusing on safeguarding sovereignty against military risks, with human security, emphasizing individual empowerment. This approach offers a pathway to harmonize interests, whether in the South China Sea or elsewhere.

Adapting the EU Model to Strengthen ASEAN in the South China Sea

The EU has addressed the South China Sea issue with several actions, emphasizing adherence to international law in the region and openly criticizing China for its activities in the exclusive economic zones of coastal states. Despite its stance being acknowledged by regional actors, the EU lacks sufficient influence to significantly impact policy outcomes in line with its own interests. To fulfill its Indo-Pacific Strategy, the EU should intensify efforts to tackle challenges hindering international regimes in the South China Sea (SCS) and its broader regional surroundings. The goal is to shift the dynamics from a bipolar scenario defined by China's expansive nine-dash line claim to a more multipolar environment, enabling the EU to have a stronger influence on shaping regulations. To achieve this, the EU should enhance trade, digital, and security ties with ASEAN and other regional players, fostering economic and capacity-building partnerships. This approach allows both the EU and ASEAN to broaden cooperation while avoiding entanglement in the China-US rivalry (Mantong & Blockmans, 2023).

Given the EU's vested interests in trade routes through the South China Sea (SCS) and the importance of stability there, ASEAN should collaborate with the EU to uphold international law, democracy, and free trade in the wider Indo-Pacific region. However, there are limits to this cooperation. ASEAN has observed growing European military presence in the region, notably with French, German, and Dutch frigates visiting ports. Instead of immediately resorting to external military force to change the SCS power dynamics, ASEAN prefers EU-backed capacity-building initiatives. The EU's strategy toward ASEAN currently encompasses several endeavors concerning maritime security (such as CRIMARIO and IORIS), counterterrorism, and cybersecurity. Economically, the EU has introduced the Global Gateway initiative to advance infrastructure projects, fostered collaborations with Thailand and Malaysia, and commenced negotiations for free trade with Indonesia. The EU Fund for Sustainable Development and Team Europe initiatives are poised to play a pivotal role in tackling environmental sustainability and promoting a circular economy agenda within the region (Mantong & Blockmans, 2023).

This agenda may not seem immediately impactful for addressing China's conflicts and may not align with the EU's Indo-Pacific strategy, which requires closer coordination with the US. However, cooperation with the EU offers a third option, independent from China and the US, which ASEAN countries prefer for addressing South China Sea disputes. ASEAN nations see the EU as an alternative for defense supplies, fishing rights, and financial aid for coastal development, environmental protection, and combating transnational crimes. By taking this

action, the EU has the opportunity to formulate a strategy regarding the South China Sea, which aligns with its broader goals of playing a notable role in the Indo-Pacific region. Thus through focusing on a clear South China Sea policy, the EU can strategically enhance cooperation with ASEAN and bolster its members' capabilities to counter China's long-term strategies in the region (Mantong & Blockmans, 2023).

Research summarized by Mantong and Blockmans (2023) indicates that Southeast Asian states tend to trust the EU because they perceive it as emphasizing international norms rather than the containment of China. To maintain that trust, the EU should respond to regional concerns rather than automatically align its policies with those of the United States. Closer transatlantic coordination may support the EU's broader Indo-Pacific posture, but it could also limit the EU's ability to present itself as an autonomous partner in managing competition in the South China Sea.

The EU and ASEAN are unlikely to transform the regional balance of power through a joint security posture. Both organizations face capability constraints and difficulties in coordinating extensive foreign-policy initiatives. They also contain member states with divergent interests and strategies toward China. The regional interviews reported by Mantong and Blockmans (2023) illustrate this fragmentation: the Philippines internationalized its dispute with China without first consulting all ASEAN members, while Indonesia treats ASEAN as only one of several channels for pursuing its regional strategy.

Hence, the EU's practical approach likely involves minimal involvement overall. In the South China Sea, this means a small security role without expecting EU involvement to drastically change the region or EU-ASEAN relations. In the Indo-Pacific, despite closer ties with the US, the EU should clearly define its security role and avoid overextension or appearing as part of efforts to contain China's growth (Mantong & Blockmans, 2023).

Maintaining the EU's independence in the Indo-Pacific, while also supporting its security strategy in the South China Sea (SCS), is challenging. EU's aspiration to act autonomously faces obstacles, notably reluctance from some member states fearing repercussions from the United States due to concerns about Russian aggression and shifting attitudes towards China. The EU must balance its desire for autonomy with political realities, particularly after US support during the Russia-Ukraine crisis. This complicates efforts to establish the EU as an independent player in the region, requiring both capacity-building and navigating internal dissent (Mantong & Blockmans, 2023).

In this context, member states should find a middle ground, easing US worries about China's rise in Europe while also keeping some independence from Washington in the South China Sea (SCS) and Indo-Pacific. This approach would ease both multipolar competition and internal EU tensions, allowing the EU to tackle regional governance concerning SCS without escalating competition. Additionally, improving the effectiveness of EU Foreign and Security Policy (EUFSP) involves both action and restraint (Mantong & Blockmans, 2023).

Adapting selected elements of the EU model remains feasible only if ASEAN member states are willing to delegate limited authority and clarify the scope of the ASEAN Way. Such reforms could make collective action more timely and effective

without requiring ASEAN to reproduce the EU in full (Mantong & Blockmans, 2023).

CONCLUSION

EU-style integration is not a perfect model for Asian integration, particularly Southeast Asia. There is no clear consensus on leadership for integration in Asia, whether within ASEAN, East Asia, or South Asia. Currently, Asian integration focuses largely on economic ties via free trade agreements. Political integration in Asia is minimal, but recent economic initiatives show governments recognize the benefits of economic interdependence.

Integration and cooperation in Southeast Asia's security realm remain limited, though there is optimism about the ASEAN Regional Forum (ARF) gaining influence in shaping regional security dynamics. Despite its flaws, the ARF has successfully engaged China in security discussions, though ASEAN's non-interference principle prevents it from enacting binding security decisions. China, with its growing economic and political stature, is anticipated to play a leading role in the ARF, as evidenced by its move to involve Defense Ministers in meetings, signaling a willingness to engage in multilateral security talks. However, political integration in Southeast Asia faces barriers due to the persistent principle of non-interference in other nations' affairs, hindering deeper sovereignty-sharing.

The South China Sea dispute remains unresolved, but the analysis demonstrates that ASEAN retains an important role in maintaining regional stability and providing a framework for dialogue. Selective adaptation of EU experience could strengthen that role if member states are willing to delegate limited authority, improve institutional coordination, and clarify how the ASEAN Way applies to regional security threats. The objective should not be to transform ASEAN into a replica of the EU, but to develop a more effective rules-based regional organization suited to Southeast Asia's political and legal context.

REFERENCE

- Acharya, A. (1999). Realism, institutionalism and the Asian economic crisis. *Contemporary Southeast Asia*, 21(1), 1-19.
- Allott, P. (1999). The concept of international law. *European Journal of International Law*, 10(1), 31-50.
- Badie, B., Berg-Schlosser, D., & Badie, L. M. (Eds.). (2011). *International encyclopedia of political science*. SAGE.
- Bangun, B. H. (2021). Upaya dan peran ASEAN dalam penyelesaian sengketa Laut China Selatan. *Jurnal Komunikasi Hukum*, 7(1).
- Benarrivo, R., & Pramadya, T. P. (2020). Questioning the existence of ASEAN Political-Security Community in South China Sea conflict. *Global Political Studies Journal*, 4(2), 78-95. <https://doi.org/10.34010/gpsjournal.v4i2>
- Berkofsky, A. (n.d.). *Comparing EU and Asian integration processes: The EU a role model for Asia?* European Policy Centre.
- Bersick, S. (1999). *Interkultureller Dialog: Menschenrechts-NGOs zwischen Europa und Asien*. Paper presented at the annual conference of the Hessische Stiftung für Friedens- und Konfliktforschung.
- Bridges, B. (1999). Europe and the Asian crisis: Coping with contagion. *Asian Survey*, 39(3), 456-467.
- de Lacharrière, G. (1983). *La politique juridique extérieure*. Economica.

- deLisle, J. (2017). China's territorial and maritime disputes in the South and East China Seas. In J. deLisle & A. Goldstein (Eds.), *Cooperation, competition, and influence in the 21st century* (pp. 235-290). Brookings Institution Press.
- Dela Cruz, E., & Lema, K. (2023, October 23). Philippines says Chinese coastguard intentionally collided with its boats. *Reuters*. <http://reut.rs/3QbYNES>
- Dreis-Lampen, B. (1998). *ASEAN und die Europäische Union: Bestandsaufnahme und Neubewertung der interregionalen Beziehungen*. Mitteilungen des Instituts für Asienkunde.
- Far Eastern Economic Review. (2001, July 12). *Far Eastern Economic Review*, 12.
- Fawcett, L. (2004). Exploring regional domains: A comparative history of regionalism. *International Affairs*, 80, 429-446.
- Glennon, M. J. (2010). *The fog of law*. Stanford University Press.
- Hayton, B. (2022). *How to solve the South China Sea disputes* (ISEAS Perspective No. 25). ISEAS-Yusof Ishak Institute.
- Heydarian, R. (2023, August 31). ASEAN's silence amid South China Sea confrontation is deafening. *Nikkei Asia*. <https://asia.nikkei.com/Opinion/ASEAN-s-silence-amid-South-China-Sea-confrontation-is-deafening>
- Katzenstein, P. J. (2006). East Asia: Beyond Japan. In P. J. Katzenstein & T. Shiraishi (Eds.), *Beyond Japan: The dynamics of East Asian regionalism* (pp. 1-33). Cornell University Press.
- Kembara, G. (2018). *Partnership for peace in the South China Sea*. Center for Strategic and International Studies. https://www.csis.or.id/uploaded_file/publications/partnership_for_peace_in_the_south_china_sea.pdf
- Kennedy, D. (2009). *Nouvelles approches de droit international*. Pedone.
- Kittrie, O. F. (2016). *Lawfare: Law as a weapon of war*. Oxford University Press.
- Kolb, R. (2015). *Réflexions sur les politiques juridiques extérieures*. Pedone.
- Köllner, P. (2000). Whither ASEM? Lessons from APEC and the future of transregional cooperation between Asia and Europe. *Südostasien Aktuell, Special Issue*, 9-16.
- Koskenniemi, M. (2004). International law and hegemony: A reconfiguration. *Cambridge Review of International Affairs*, 17(2), 197-218.
- Koskenniemi, M. (2007). *La politique du droit international*. Pedone.
- Lim, P. (1997). ASEAN's policies towards the European Union. In S. Y. Chia & J. L. H. Tan (Eds.), *ASEAN and EU: Forging new linkages and strategic alliances*. Institute of Southeast Asian Studies.
- Lim, P. (2000). *The unfolding Asia-Europe Meeting (ASEM) process*. Asia-Europe Dialogue, Heinrich-Böll-Stiftung.
- Mantong, A. W., & Blockmans, S. (2023). *Playing the long game in the South China Sea: The potential and limits of ASEAN-EU cooperation* (JOINT Brief No. 31). JOINT.
- Manurung, H. (2017). South China Sea territorial dispute: A lesson for Association of Southeast Asian Nations (ASEAN). *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3026333>
- Ministry of Foreign Affairs of Indonesia. (2023, July 13). ASEAN-China agree on guidelines to accelerate negotiations for the Code of Conduct in the South China Sea. <https://kemlu.go.id/portal/en/read/4956/berita/asean-china-agree-on-guidelines-to-accelerate-negotiations-for-the-code-of-conduct-in-the-south-china-sea>
- Munakata, N. (2006). Has politics caught up with markets? In search of East Asian economic regionalism. In P. J. Katzenstein & T. Shiraishi (Eds.), *Beyond Japan: The dynamics of East Asian regionalism* (pp. 130-157). Cornell University Press.
- Onuma, Y. (2017). *International law in a transcivilizational world*. Cambridge University Press.
- Paikin, Z., et al. (2023). *The South China Sea and Indo-Pacific in an era of multipolar competition: A more targeted EU response?* (JOINT Research Paper No. 14). JOINT. <https://www.jointproject.eu/?p=1499>

- Permanent Court of Arbitration. (2016). *The South China Sea arbitration (The Republic of the Philippines v. The People's Republic of China)*, PCA Case No. 2013-19, Award of 12 July 2016. <https://pca-cpa.org/wp-content/uploads/sites/175/2016/07/PH-CN-20160712-Award.pdf>
- Pomès, E., & Coicaud, J.-M. (2021). The emotional backdrop of legal discourses in South China Sea disputes. *Hasanuddin Journal of Social and Political Sciences*, 1(1), 1-16.
- Robert, C. (2017). *The South China Sea: Beijing's challenge to ASEAN and UNCLOS and the necessity of a new multi-tiered approach* (RSIS Working Paper No. 307). RSIS.
- Robles, A. C. (2001). *Interregional cooperation, regional integration and European Union foreign direct investment in ASEAN*. De La Salle University.
- Rosen, M. E. (2014). *Philippine claims in the South China Sea: A legal analysis*. CNA. https://www.cna.org/cna_files/pdf/iop-2014-u-008435.pdf
- Rüland, J. (1996). *The Asia-Europe Meeting (ASEM): Towards a new Euro-Asian relationship?* Universität Rostock.
- Rüland, J. (2000a). ASEAN and the Asian crisis: Theoretical implications and practical consequences for Southeast Asian regionalism. *The Pacific Review*, 13(3), 421-452.
- Rüland, J. (2000b). *Asia-Europe cooperation - The ASEM process: A European view*. Paper presented at the Third ASEM Summer School, Lund, Sweden.
- Rüland, J. (2001). *ASEAN and the European Union: A bumpy interregional relationship* (ZEI Discussion Paper). Center for European Integration Studies.
- Rustandi, A. (2016). *The South China Sea dispute: Opportunities for ASEAN to enhance its policies in order to achieve resolution*. Indo-Pacific Strategic Papers.
- Schieder, S. (2000). Pragmatism as a path towards a discursive and open theory of international law. *European Journal of International Law*, 11(3), 663-698.
- Schonewille, J. P. (2010). Integration process factors and effects. In *Proceedings of the Americas Conference on Information Systems (AMCIS)*.
- Schuman, R., & Cameron, F. (2005). *The EU model of integration: Relevance elsewhere?* (Jean Monnet/Robert Schuman Paper Series, 5[37]). Miami European Union Center.
- Sisci, F. (2008). Sous un même ciel: La vision chinoise d'un nouveau monde. *Diogenes*, 221(1), 100-113.
- Son, N. H. (2011). *The ASEAN Political-Security Community: Challenges and prospects*. International Conference on ASEAN Vision 2015: Moving Towards One Community.
- Storey, I. (2023, July 20). The Code of Conduct for the South China Sea: Movement in lieu of progress. *Fulcrum*. <https://fulcrum.sg/?p=24712>
- Truong, T. D., & Knio, K. (2016). *The South China Sea and Asian regionalism: A critical realist perspective*. Springer.
- Vatikiotis, M. (2023, August 28). ASEAN is quietly coming apart at the seams. *Nikkei Asia*. <https://asia.nikkei.com/Opinion/ASEAN-is-quietly-coming-apart-at-the-seams>
- Villamizar Lamus, F. (2020). The South China Sea arbitration case and the consequences for the legal regime of islands in international law regarding UNCLOS Article 121(3). *Ars Boni et Aequi*, 16, 11-34.
- Viray, P. L. (2018, June 4). Vietnam asks Philippines, China to stop escalating tension in South China Sea. *Philstar Global*. <https://www.philstar.com/headlines/2018/06/04/1821552/vietnam-asks-philippines-china-stop-escalating-tension-south-china-sea>
- Wardhana, R. S. (2021). South China Sea conflict and security cooperation in ASEAN waters. *Indonesian Journal of Peace and Security Studies*, 3(1), 23-38.
- Wells, C. P. (2000). Why pragmatism works for me. *Southern California Law Review*, 74, 347-360.

