

Conflict among ASEAN members over the South China Sea issue

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ASEAN did not announce its position on the South China Sea issue at the ASEAN Foreign Ministers' Meeting or at its related meetings held from July 9 to 13, 2012, because each member country has its own stance on relations with China and conflicts of interest arose on how to deal with the South China Sea issue. The conflicts of interest remained unsettled, and ASEAN decided not to announce the joint communiqué of its Foreign Ministers' Meeting for the first time in its history. Furthermore, ASEAN shelved the announcement of the policy on principles to be incorporated into the code of conduct in the South China Sea.

Some ASEAN members, including the Philippines and Vietnam, have territorial disputes with China over the Spratly Islands and the Paracel Islands. Because abundant natural resources are supposed to exist in the South China Sea, contesting countries claim territorial rights by formulating various domestic measures to secure their marine interests. Seizure of fishing boats and face-offs between patrol ships and the navies occur intermittently nowadays between China and the Philippines and between China and Vietnam.

The ASEAN members and China jointly published the Declaration of the Conduct of Parties in the South China Sea (DOC) in 2002 for peaceful settlement of the issue. The DOC presents two aspects for peaceful settlement. One is the confirmation of peaceful resolution of territorial disputes and self-restraint of hostile attitudes. The other is the enhancement of confidence building through mutual exchange of military personnel and cooperation in environmental research. To cope with the intensifying conflicts, the ASEAN members and China agreed to formulate a more binding code of conduct by developing the DOC. However, a conflict of opinion over the nature of this code of conduct exists among ASEAN members as well as between ASEAN and China. The point of dispute concerns which of the two aspects of the DOC should be emphasized more in formulating the code of conduct.

The Philippines and Vietnam placed more importance on the first aspect of the DOC. That is, they insisted on incorporating dispute settlement procedures based on the United Nations Convention on the Law of the Sea (UNCLOS) into the code of conduct. By contrast, China emphasized the second aspect, insisting on confidence building through cooperative environmental research and the joint resource development. Cambodia and Thailand, which do not have direct interests in this issue, sided with China.

The Philippines insisted that, in the joint communiqué of the Foreign Ministers' Meeting, ASEAN members should specify the region at stake, such as Scarborough Reef, and express the concerns over China's hostile actions. Vietnam insisted that respect for the exclusive economic zone (EEZ) prescribed in UNCLOS should be mentioned in the communiqué. Some member countries, including Indonesia, agreed with these two assertions, but Cambodia, which chaired the Foreign Ministers' Meeting, opposed them and supported China. Because of the objection by Cambodia, no agreement was reached on the sentences on the South China Sea issue to be incorporated into the joint communiqué.

ASEAN members have been discussing principles to be incorporated into the code of conduct in Senior Officials' Meetings since the end of 2011. They include utilizing the dispute settlement procedures of UNCLOS, constructing a monitoring system, and emphasizing respect for the EEZ in consideration of the assertions of the Philippines and Vietnam. Use of the dispute settlement procedures of UNCLOS is consistent with the articles of the ASEAN Charter, which prescribes the utilization of an international approach to settling disputes among ASEAN members.

In line with the above policy, the ASEAN members attempted to hold discussions with China and formulate a code of conduct before the end of 2012. At this Foreign Ministers' Meeting, however, China opposed ASEAN's policy and insisted on restarting discussions from the very beginning. China argued that territorial disputes should be settled bilaterally by the countries concerned, and it does not want them to be settled through multinational frameworks or in accordance with the procedures of UNCLOS. Because Cambodia and Thailand supported China's position, the ASEAN foreign ministers decided not to announce ASEAN's policy.

With regard to the second aspect of the DOC, the foreign ministers announced the Guidelines for the Implementation of the DOC in July 2011. The guidelines stipulate the procedures and principles that contesting countries should follow when jointly engaged in environmental surveys and the development of resources. China agreed to the guidelines. At the Foreign Ministers' Meeting in July 2012, it proposed the establishment of a marine cooperation fund for resource development and for survey and rescue activities, to which it would contribute 3 billion yuan. China insisted that a code of conduct be established for confidence building, not for a method of dispute settlement, although it was not against the idea of incorporating the principle of self-restraint of hostile actions (non-use of force) into the code.

China and the ASEAN members agreed to continue discussions on formulating a code of conduct, and talks will resume after September. However, the starting point of talks is undecided because of the above disagreement, and it is highly unlikely that China will agree to principles on the code of conduct prepared by ASEAN. A more serious concern is that there is no consensus among ASEAN members on how to respond to China's attitude. Accordingly, it will be hard to formulate a code of conduct before the end of 2012 and to formulate the code to meet the expectations of the Philippines.

The ASEAN members have formed various agreements by compromise, despite conflicting interests. In particular, they have usually declared a uniform position, as ASEAN, toward countries outside the region, even on issues that involve only some of them, such as the South China Sea issue. In this regard, the outcome of the Foreign Ministers' Meeting in 2012 is worthy of attention. The failure to announce the joint communiqué is associated with the conflicting interests among member states and the fact that host nation Cambodia, which places greater emphasis on its relations with China, had little previous experience in the chair. Although Indonesia and the Philippines offered a compromise, no agreement was reached because of Cambodia's objections. In ASEAN, the outcome of its meetings is affected by the interests and attitudes of the chair country because drafting a declaration is finally entrusted to that country. If a dispute exists, a member country inexperienced in hosting meetings often finds it difficult to utilize measures such as prior consultation and the offer of a compromise, resulting in an unsuccessful adjustment of interests. In 2014, Myanmar will assume the chair for the first time. It remains to be seen if ASEAN members can declare a united position under an inexperienced chair.

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