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Bleak chances of progress on ASEAN-China on Code of Conduct in 2021: Implications for Vietnam

March 24, 2021, 2:49 PM IST / SD Pradhan in Chanakya Code, World, TOI

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SD Pradhan

S D Pradhan has served as chairman of India's Joint Intelligence Committee. He has also been the country's deputy national security adviser. He was ...an of the Task ...MORE

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The Indian Foreign Minister in the East Asia Conference in November 2020, stated that 'the Code of Conduct (CoC) negotiations should not be prejudicial to legitimate interests of third parties and should be fully consistent with UNCLOS'.

He was hoping that in the coming period there would be substantial progress on this issue. Echoing the same optimism, the Chairman's statement at the 37th

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ASEAN observed the "continuously improving cooperation between ASEAN and China" on the issue.

It further added that they "were encouraged by the progress of the substantive negotiations towards the early conclusion of an effective and substantive Code of Conduct in the South China Sea (COC) consistent with international law, including the 1982 UNCLOS within a mutually-agreed timeline".

In this context the second reading of the Single Draft COC Negotiating Text (SDNT) was mentioned as the sign of progress.

It is difficult to fathom the reasons for their optimism, perhaps the second reading of SDNT. The Chinese aggressiveness had not only continued unabated during the pandemic that included sinking of the Vietnamese boats and encroachment into the EEZs of Vietnam, Indonesia, Malaysia and the Philippines but also took steps to assert its control over all the claim area in the SCS.

In April, 2020 the People's Liberation Army on its website mentioned that two administrative units were created under the Sansha city. The "Nansha District" to cover Spratly Islands (the Nansha Islands and its waters with government located

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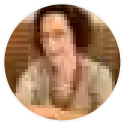
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in the Yongshu Isles) and the "Xisha District" to cover the Paracel Islands (the Xisha and Zhongsha islands and surrounding waters with government located in Yongxing Island).

This was accompanied by high voltage propaganda to assert its claim in the nine-dashed-line that included novel means of using scientific journals and tourist T-shirts.

An in-depth analysis of the facts presents a gloomy picture for any substantial progress towards the finalisation of the CoC this year. The SDNT that contains contentious issues needs to be discussed in a serious manner. At present it appears that any agreed CoC would face several serious hurdles as China and other claimants have not shown that they are prepared to move away from their entrenched positions. On the part of ASEAN, a strong leadership that can keep all the members unified is needed to have negotiations from the position of strength.

This would be problematic. Last year, the pandemic did not allow holding of two ASEAN-China Joint Working Group meetings, though at the 36th ASEAN Summit, under the Chair of Vietnam the statement issued showed the unified approach of ASEAN, which was a significant achievement. In the current

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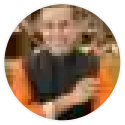

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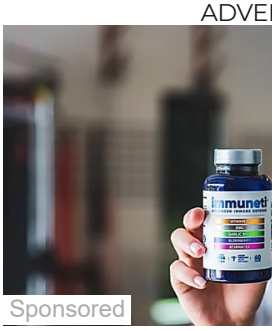

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year the situation is different as the strong leadership with commitment chairing ASEAN is absent.

This year the chair of ASEAN is held by Brunei, a tiny sultanate nation which has also conflicting claim but its capability and commitment to finalise the CoC is far less than those of Vietnam.

It is known as the “silent claimant”- a term used for its general silence on the issue, though it projects as a trustworthy member of the ASEAN. It also accepts the Chinese investments and has strong economic relations with China. In September 2020, Sultan Hassanal Bolkiah met with Chinese State Councillor and Defence Minister Wei Fenghe and discussed ways for deepening military ties and cooperation in the defence sphere.

On the whole, it can be said that Brunei may not be able to pressurise China on the issue of finalisation of CoC, notwithstanding its projection as a committed member of the ASEAN. It is doubtful if Brunei has the ability and influence to keep the ASEAN united against Chinese views on CoC.

The progress on this issue even in the year 2022 can hardly be accepted. Then Cambodia would be chairing the ASEAN, which is known for its pro-Chinese leanings. China had used Cambodia in

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the past to keep ASEAN divided.

Cambodia is also a non-claimant member of ASEAN. Last year reports revealed that Cambodia had agreed to give access to the Chinese military at Ream naval base and that Tianjin Union- a Chinese company, which controls this part of the coastline with a 99-year lease- was planning to constructing an international airport in Dara Sakor as also a deep-water seaport in the coastal area of Cambodia. Any expectation of progress on CoC under the chair of Cambodia would be unrealistic.

The positive side is that the external powers may take active interest in the SCS. The actualisation of Quadrilateral Security Dialogue (Quad) is the direct consequence of the Chinese belligerence. It has shown interests in the SCS and ECS and its concern over the Chinese coercion of the neighbouring countries. The March 12 Quad Summit demonstrated to the world their commitment for 'the shared vision of a free, open, and inclusive region anchored by universal values and unconstrained by coercive power'. The leaders pledged to work with ASEAN, affirming their strong support for its centrality and unity, as well as for the ASEAN Outlook on the Indo-Pacific.

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In the US-Japan 2 plus 2 meeting on 16th March, both sides reiterated their

objections to China's unlawful maritime claims and activities in the SCS and recalled that the July 2016 award of the Philippines-China arbitral tribunal, constituted under the 1982 Law of the Sea Convention, is final and legally binding on the parties.

Later, in the first dialogue between the US and China at Alaska, the two sides exchanged sharp rebukes. In a blunt opening statement before the talks in private US Secretary of State Blinken averred that the US would discuss its "deep concerns with actions by China, including in Xinjiang, Hong Kong, Taiwan, cyber-attacks on the United States, economic coercion of our allies". The Chines side accused the US of inciting countries "to attack China".

The above reflects that while the Quad partners are committed to check the Chinese aggressiveness, they would find it difficult to engage with China and to nudge it to finalise the CoC.

In any case, even with external support without unified approach with committed leadership in ASEAN, progress on the CoC would be a pipe-dream given the complexities of the conflicting views and the Chinese ability and intent to cause disunity in the group. External pressure on the CoC would be projected by China as the interference in the

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relations with its neighbour and would avoid the meetings on this subject.

The options for the ASEAN are limited. ASEAN members need to unitedly formulate a strategy to deal with this intractable issue in coordination with the Quad. They should keep in mind that the status quo helps China to assert its claims and change the geographical features to support its claims. China can be contained up to some extent by a combination of robust external pressure and unity and strong resolve of ASEAN.

The game between China and the Quad has just begun to foster credible deterrence against China by “promoting a free, open rules-based order, rooted in international law to advance security and prosperity and counter threats to both in the Indo-Pacific and beyond” as well as supporting “the rule of law, freedom of navigation and overflight, peaceful resolution of disputes, democratic values, and territorial integrity”. ASEAN would do well to calibrate its plan of action to achieve its objective in the SCS in accordance with ASEAN Outlook for Indo-Pacific. Vietnam, which has emerged as the de-facto leader of ASEAN due to its singleness of purpose on this issue, has earned the goodwill of other ASEAN member for its support to them during the pandemic, and has

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excellent relations with the Quad members, needs to take a lead role in this context.

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