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Background Briefing: Draft ASEAN Statement on South China Sea: Has Vietnam Been Isolated?

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Here is the latest draft (August 4) of the ASEAN Ministers' Joint Communiqué. Vietnam seems to be pushing for stronger language on the South China Sea but it seems that it is now the isolated voice.

What is your assessment of the contentions over the language? Why is Vietnam pushing for stronger language? With the Philippines now warming up to China and the other ASEAN states fearful of offending Beijing, what is at stake for Vietnam that makes it push for stronger language in the communiqué?

Below are the South China Sea paragraphs

South China Sea

190. We discussed extensively the matters relating to the South China Sea and reaffirmed the importance of maintaining and promoting peace, security, stability, safety and freedom of navigation in and over-flight above the South China Sea. (We reiterated our shared (VN; MY, PH to get back) commitments to upholding the agreed principles on the South China Sea issue, as reflected in previous documents of ASEAN as well as those between ASEAN and its partners(VN; CA to delete; PH, CA to get back) to make the South China Sea a sea of peace, stability, friendship and cooperation.

191. We acknowledged the positive developments on the South China Sea between ASEAN and China since last year. We welcomed the conclusion and looked forward to the adoption of the framework of a Code of Conduct in the South China Sea (COC) by the Foreign Ministers of ASEAN Member States and China at the Post Ministerial Conference Plus One Session with China. In view of this positive momentum and in this context, we reaffirmed ASEAN's readiness to begin negotiations on the COC, and tasked our Senior Officials to work with their counterparts from China to start the negotiation for an effective and substantive [and legally binding (VN to retain; CA, SG, MY to delete; BD, MM, ID, TH are flexible)] COC as soon as possible.

192. We took note of serious concerns expressed by some Ministers over recent developments in the area, [such as extended construction (VN) and presence of military assets (MY) including those by non-claimant nations, (PH, ID to delete)] (PH, CA to delete) that escalate tensions, which have eroded trust and confidence, and may undermine peace, security and stability

in the region, and in this regard we reaffirmed the importance of [non-militarisation] (CA to get back) and self-restraint in the conduct of all activities that could further complicate the situation in the South China Sea.

193. We further reaffirmed the importance of enhancing mutual trust and confidence, exercising self-restraint in the conduct of activities, pursuing mutually agreed practical maritime cooperation, avoiding actions that may further complicate the situation, and resolving disputes by peaceful means, without resorting to the threat or use of force, and in accordance with the universally recognised principles of international law including the 1982 United Nations Convention on the Law of the Sea (UNCLOS), [with full respect for legal and diplomatic processes,(VN; CA, PH to delete)] (this is also introduced under the ASEAN Community Building section) [to transform South China Sea into a sea of peace, stability [and sustainable development](TH proposal; PH, CA, ID, BD, MM, MY, SG to delete; LA to move to another section).

ANALYSYS: Please refer to the table below that lists each ASEAN member and the stand they took on each of the four paragraphs in the South China Sea draft statement.

The table clearly shows that Vietnam is the one country that has pressed for stronger language in underlined wording in the draft joint statement across all four paragraphs. Malaysia comes a distant second with its support for the inclusion of military assets in the third paragraph. The Philippines and Cambodia are clearly supporters of deleting and watering down strong language and references that could be construed as referring to or critical of China.

Vietnam has always been a supporter of stronger language because it views ASEAN as one layer of insulation, however thin, against pressures from China. A strong ASEAN statement provides Vietnam with diplomatic cover to approach outside countries like the United States to weigh in on the South China Sea dispute.

Vietnam is pushing for stronger language now because of China's recent diplomatic demarche to stop drilling in Block 136-03. Stronger language is also viewed as leverage in forthcoming consultations on a Code of Conduct with China. Since ASEAN works on the basis of consensus Vietnam knows that even if its views are not reflected in the joint statement other ASEAN members will have to take Vietnam's concerns into account.

First paragraph (190): The section that is crossed out includes new language in its reference to previous ASEAN documents and documents between ASEAN and its partners (read China). The vague language suggests that this is coded wording for past statements by ASEAN with stronger language. It is notable that Vietnam supported language in the two sections that are highlighted (underlined wording and the wording that has been struck out). Vietnam did not receive support. Cambodia, China's surrogate, predictably moved to delete the offending words.

Second paragraph (191): again Vietnam is the odd country out in supporting a legally binding Code of Conduct. This issue here is that the legal nature of the COC has yet to be negotiated. Leaving Cambodia aside, it is significant that Malaysia and Singapore weighed in presumably to keep this option open during formal negotiation. The flexibility of Brunei, Myanmar, Indonesia and Thailand appears to back up this point –

the legal nature of the COC is still on the table as far as ASEAN members are concerned.

Third paragraph (192): This expression brings back “serious concerns expressed by some Ministers” that was watered down once the Philippines became ASEAN Chair. The references proposed by Vietnam (extended construction) and Malaysia (military assets) is new and reflects their concerns over Chinese activities this year.

The expression “non-claimant nations” is new. When coupled with military assets this could refer to Japan and the United States or even Indonesia which regards itself as a non-claimant. A Philippines official recently claimed that China wasn’t the only country to build artificial islands. Once again Cambodia, which has no direct material interests in the dispute, weighs in to delete wording that could be viewed as critical of China.

Fourth paragraph (193): Over a year ago ASEAN ministers took the phrase “full respect for legal and diplomatic processes” out of the South China Sea section of their joint statement and elevated it to the first section in order to underscore the importance of the international arbitration process. This year Vietnam has tried to stiffen the joint statement by reinserting this expression in the South China Sea section.

As noted, this is also included in the ASEAN Community Building section. “Partners in crime,” Cambodia and the Philippines have once again joined up to delete language they perceive might upset China.

In this paragraph, we see a Thai initiative to add “sustainable development” as one of the future goals. Sustainable development may be viewed as controversial because it touches on disputed resources – fish stock and hydrocarbons – and could imply joint development as well delimitation of maritime zones from rocks (that is accepting the findings of the Arbitral Tribunal that there are no islands in the Spratlys, and that some occupied features are not even rocks but low tide elevations). This may account for why seven ASEAN members moved to delete this wording. It is common “ASEAN speak” to refer to the South China Sea as a sea of peace, cooperation and development. Laos deserves credit for suggesting this reference be moved to another section.

What is at stake? In past years Vietnam was able to conduct its foreign policy by balancing its relations with the major powers and count on the Philippines to take the point on the South China Sea dispute. Now, the strategic uncertainty surrounding the intentions of the Trump Administration, the renewed pressure if not threats from China, and Duterte’s pivot towards China have left Vietnam more exposed than it has been. Getting support from ASEAN for stronger wording on the South China sea would strengthen – if only marginally – Vietnam’s diplomatic hand in dealing with China. Without such support Vietnam will be even more vulnerable to pressures from Beijing. It is notable that Vietnam’s defense minister is scheduled to have a face-to-face meeting with U.S. Defense Secretary James Mattis sometime between 7-10 August.

**ASEAN Members' Response to
Draft Text of South China Sea Section of Joint Statement**

Country/Text	Paragraph 190	Paragraph 191	Paragraph 192	Paragraph 193
Brunei		Flexible		Delete
Cambodia	Delete underline Get back on cross out	Delete bold face	Delete underline Get back on non-militarisation	Delete Delete
Indonesia		Flexible	Delete non-claimant nations	Delete
Laos				Move to another section
Malaysia	Get back on underline	Delete bold face	Retain military assets*	Delete
Myanmar		Flexible		Delete
Philippines	Get back on underline Get back on cross out		Delete non-claimant nations Delete underline	Delete Delete
Singapore		Delete bold face		Delete
Thailand		Flexible		Retain
Vietnam	Support/retain Support/retain	Retain	Retain extended construction*	Retain

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