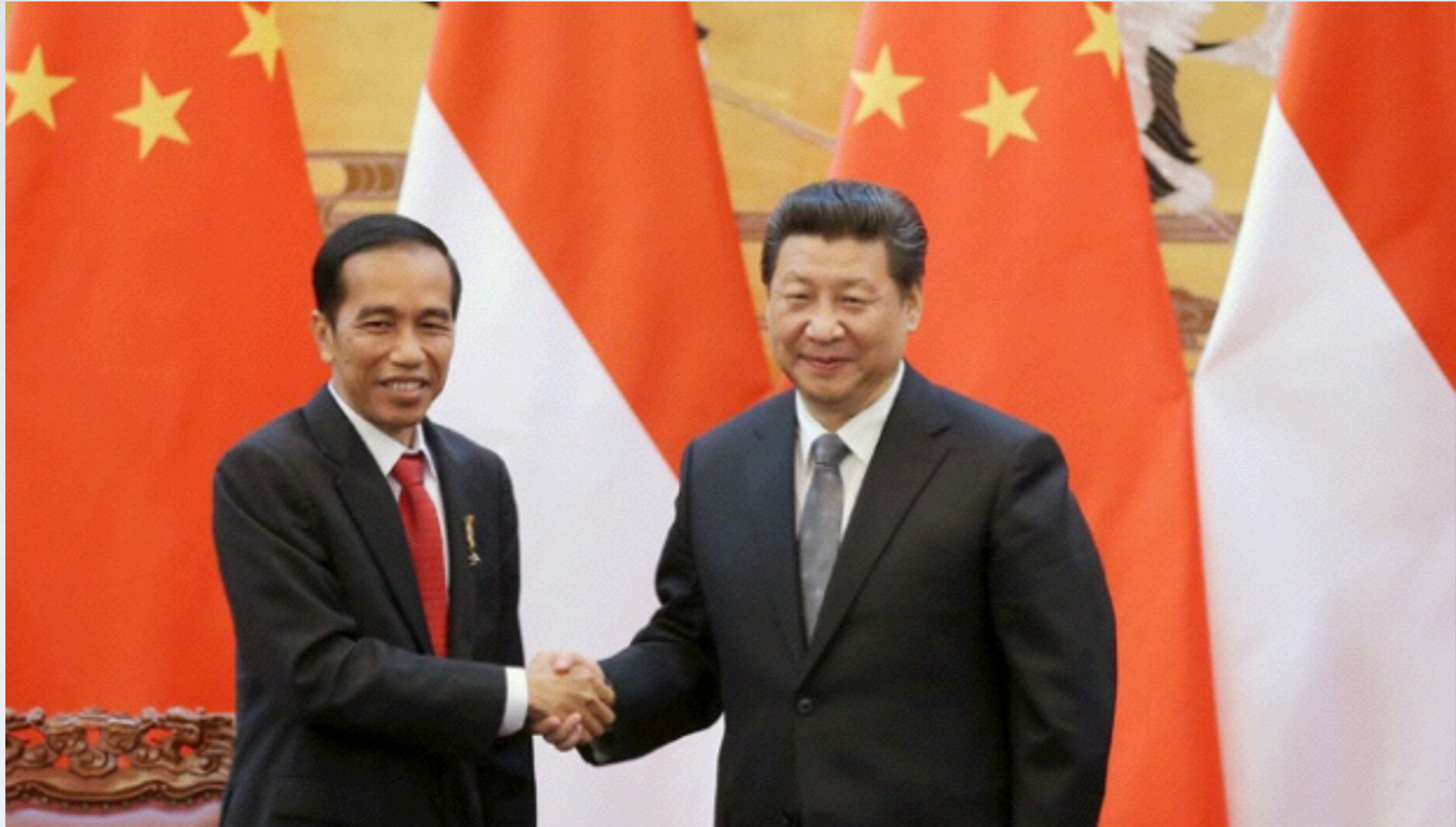


STRATEGIC PARTNERSHIP OF ASEAN AND CHINA: SOUTH CHINA SEA



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OUTLINE



I. Background

- About the Project

II. Policy Recommendations

- Legal Principles
- Confidence-Building Measures
- Preventive Diplomacy
- Crisis Management

I. Background

About the Project

NHSCS 中国南海研究院
National Institute for South China Sea Studies



Objectives:

- To provide a Track 1.5 venue to forge common understanding between ASEAN and China on the importance of maritime security and good order at sea
- To generate ideas on managing maritime challenges through implementing the ASEAN-China cooperation agenda, in managing the South China Sea

I. Background

About the Project



First Conference: September 14-15, 2015 at Jakarta, Indonesia.



Second Conference: January 18-19, 2016 at Haikou, China.



Third Conference: July 21-22, 2016 at Singapore.

II. Policy Recommendations



Legal Principles



Confidence-building measures



Preventive Diplomacy



Crisis Management

II. Policy Recommendations



Legal Principles

I. General duty to cooperate in South China Sea

- A. Duty to exercise self-restraint (Paragraph 5, DOC)
- B. Peaceful uses of the ocean (Article 301, UNCLOS)
- C. Good faith and non-abuse of rights (Article 300, UNCLOS)
- D. Cooperation among States bordering semi-enclosed seas (Article 123, UNCLOS)

2. Principles to be applied in all disputes (Article 74(3) & 83(3), UNCLOS)

- A. Duty to make every effort into provisional arrangement of a practical nature
- B. Duty not to jeopardize or hamper the reaching of final resolution of disputes



3. Any arrangement based on principle of “without prejudice”

- A. No prejudice to the status of any and all claims by the Parties

4. Practical measures

- A. Refrain from interfering with the navigation of vessels and aircraft
(**SOLAS & COLREGS**)
- B. Not to assert control over the airspace above the features occupied or controlled
- C. Not to navigate or fly within a certain distance of features occupied or controlled by others
- D. To ensure vessels flying their flag or nationals not engaging in destructive methods
- E. To inform others of their planned activities in their features
- F. To allow repair of submarine cables based on prior notification
- G. Joint or coordinated moratorium period for fishing activities

II. Policy Recommendations



Confidence-building measures

Proposals based on **Paragraph 4, 5, & 6 of DOC**

- A. Start the process of negotiating functional rules of conduct, such as on fisheries, marine conservation, and law enforcement activities
- B. Prevent activities that are provocative and escalate tension such as construction and use of facilities that demonstrate militarization and unilateral assertion of jurisdiction
- C. Pursue multilateral joint exercises such as search-and-rescue, humanitarian assistance, disaster relief, and navigation safety under ADMM Plus & ARF

II. Policy Recommendations



Preventive Diplomacy

Measures implemented using the **ASEAN-China Maritime Fund**

- A. Considering the possibility of extending CUES for civilian maritime law enforcement agencies or construct a separate code of conduct for them
- B. Building the capacity of operational agencies: CUES and English training
- C. Developing an early warning system to prevent conflict escalation, i.e. sharing the intention of respective parties
- D. Applied first to ASEAN and China and can be open to other stakeholders

II. Policy Recommendations



Crisis Management

I. Identifying a crisis

- A. More efficient information exchange at the multilateral level
- B. Set the boundaries on the type of information shared and parties involved

2. Responding to a crisis

- A. Improving communication channels between policy makers
- B. Hotlines between claimant countries
- C. Early mediation by a third party (exception: sovereignty-related matters)
- D. Using Track II platforms to see the bigger picture beyond national interests



3. Ending a crisis

- A. Reducing maritime security vessels in a crisis
- B. Having a pool of 'old-hands' available to mediate and end the crisis in a face-saving manner
- C. Encouraging ASEAN, especially the Secretary-General and ASEAN Chair, to play a bigger role in crisis-mediation

4. Managing the next crisis better

- A. Promoting crisis management awareness through empathy
- B. Using Track II to promote mutual understanding based on lessons learned
- C. Organizing simulation exercises for crisis management
- D. Building people-to-people and military-to-military confidence

**THANK
YOU**

