A Condominium in the South China Sea?

Nengye Liu & Michelle Lim, Singapore, 15 January 2019
What is a Condominium?

- Two or more states exercise joint sovereignty over a territory

- Tenancy in common – can have unequal shares

- Right to possession of whole property

- No exclusive possession to any part

- Colonial practice / temporary for dispute settlement
Why? Law and Policy basis

SDG 14

UNCLOS
  – Article 63 – Shared fish stocks
  – Article 123 – Cooperate in coordination management, conservation, exploration and exploitation of living resources of semi-enclosed sea.
  – Article 192 – General Obligation to protect marine environment
  – Article 194 – Measures to prevent, reduce and control pollution
Why? Generating political will

- From joint development to joint conservation

- Condominium is a device that could be used to resolve disputes among several States and not only when the dispute involves two States
Recent Positive Signs

- China-Philippines Joint Statement (2016)
  - Commitment to Declaration on Conduct
  - Early conclusion of a code of conduct
China-Malaysia Joint Statement 2018

Photo credit: Xinhua
Why? Successful practice

- Antarctic Treaty System
Why? Successful practice

• 2018 Convention on the Legal Status of Caspian Sea
How? The Boundary
How? Institution

Arctic Model

• South China Sea Council/Commission

• From rotary to permanent Secretariat: Singapore? Hong Kong? Or Darwin?

• Voting powers: SCS coastal States only

• Observers without voting rights: United States, EU, Japan, South Korea, India and Australia
How? ecosystem approach?

• Seeks to implement the 3 objectives of CBD (1992)
  – Conservation
  – Sustainable use
  – Fair and equitable sharing of benefits

• All SCS states are parties (ascension/ratification)

• Advances sustainability

• Combined science and governance tools