

Strategy Research Project International Fellow

Vietnam within East Sea's Debate Envisioned through the Lens of Diplomacy

by

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Abstract

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The East Sea (or South China Sea, SCS) dispute is now the biggest challenge on economy, defense and foreign policy of Vietnam. The dispute has significant impact on the national security and peaceful development of this country. The assessment and resolving of SCS dispute require deepest insights at a strategic level and timeliness of implementation since the situation is becoming increasingly complex and not only related to Vietnam, China, but also other countries in the region and beyond. Economic strength and defense capability are considered the internal resources of a country. The combination of internal resources with effective foreign policy that is being regarded as external power, forming "3D Security Framework", will guarantee national security. Due to limited scope, this paper will only focus on a few of the characteristics of "external means" of diplomacy of Vietnam, namely bilateral and multilateral relations in the region as well as internationally. Vietnam regards these means as one of the powers to best encounter the challenges of the SCS dispute.

Vietnam within East Sea's Debate Envisioned through the Lens of Diplomacy

Overall, the South China Sea (SCS) dispute is taking place in three related and interactive layers. Each layer has significant features that require of strategic leaders careful consideration.

In the core layer, the conflict is a rivalry between China and Southeast Asian countries which have territorial claims in the SCS, including Vietnam, the Philippines, Malaysia, and Brunei. At this layer, Taiwan is also a party to the dispute, but due to the specific relationship between China and Taiwan, as well as signs that China and Taiwan are working together, China and Taiwan should be seen essentially as a single party to the dispute. Among the Southeast Asian countries participating in the dispute, unlike Malaysia and Brunei, Vietnam and the Philippines individually have bilateral disputes with China. While Vietnam has bilateral disputes with China in the Paracel Islands, Scarborough Shoal is an object of bilateral disputes between the Philippines and China. In the core layer of the SCS issue, the two disputes of China against Vietnam and the Philippines take the first place.

Meanwhile, the middle layer of the SCS dispute is related to the confrontation between China and Southeast Asian countries as a block, namely the Association of Southeast Asian Nations (ASEAN).¹ Although not all ASEAN countries are related to the SCS territorial disputes, ASEAN itself has an interest in the settlement of these disputes to ensure peace, security, freedom of navigation in the region, as well as ASEAN's political prestige. The strategic environment in this layer is characterized by multiple complexities when some ASEAN countries that are not directly related to the territorial dispute have a different stance in dealing bilaterally with China. While leaders in

countries such as Indonesia and Singapore are proving to be determined in containment of China's expansion in the region, the leaders in other countries such as Thailand, Myanmar, and especially Cambodia, have been less than decisive in their effort to reach a deal with China. However, in general and as a block, ASEAN is still trying to present a united and engaged role in negotiations with China to build Code of Conduct (COC) in the SCS.

For years, the SCS dispute has taken place mainly in the two mentioned above spheres. However, the development of the situation in the region over time shows the current momentum of the conflict also comes from a newly formed relationship that is the strategic competition between the U.S. and China. The U.S., although are not directly affected by the dispute, is concerned about the excessive ambition of China in the SCS, which threatens the peace and stability of the region. This gives the U.S. a reason to get more involved in the dispute. What the U.S. wants to ensure through their involvement is not only peace or freedom of navigation in the SCS, but more profoundly, the United States seems to use SCS dispute as a case in which the U.S. shows prevention to the rise of China in both regional and global scope.

The multilateral diplomacy of Vietnam with efforts to resolve the dispute in the SCS is correspondingly based on three layers described above, which are: using international legal documentation, in particular the 1982 United Nations Convention on the Law of the Sea (UNCLOS)², in solving disputes between other states in Southeast Asia and with China; raising the issues at regional institutions, such as ASEAN, ASEAN Defense Ministers' Meeting (ADMM)³, ASEAN Regional Forum (ARF)⁴, East Asia Summit (EAS), and Defense Dialogue Shangri-La to find a common voice; and looking

for support from the international community, including the involvement of the United States.

The UNCLOS provides legal definitions to clarify the claims to territorial waters. The proper interpretation and application of the UNCLOS terms will curb and control the threats to maritime security. Being in "the most strategic area"⁵ in the Asia Pacific region, the coastal East Asian countries (China, Japan, South Korea) and Southeast Asian countries (Vietnam, Thailand, The Philippines, Singapore, Indonesia, Brunei, Malaysia) must consider UNCLOS an effective tool to protect their interests and the legal basis of the discussions.

There are many disagreements between Southeast Asian countries and China concerning claims to territorial waters in the SCS. This area of Asia-Pacific Ocean even has three different names given by three countries, such as South China Sea by China, East Sea by Vietnam and Western Sea by the Philippines. For the last decades, Southeast Asian countries and China have tried many times to negotiate their interests in this region, but despite several meetings, summits, discussions, the question of how to "share" this Sea is still unsolved.

Vietnam has always considered the UNCLOS an important international legal document and the fundamental basis for determining territorial sovereignty of the stakeholders as well as for resolving disputes in the SCS. The viewpoints of Vietnam are supported by most of the countries in the region, especially those that have territorial disputes such as the Philippines, and Brunei.

Vietnam supports the implementation of the Declaration on the Conduct of Parties in the South China Sea (DOC) and adoption of the COC as primary

documentation based on UNCLOS. These agreements further peace, stability and security in the region by strengthening the rules of law, supporting freedom of navigation, and agreeing to the joint exploitation of natural resources and economic development of the area.

At the regional level, Vietnam attaches great importance to the role of socio-economic institutions, the regional forums. ASEAN with its security structures like SOM Senior Officials Meeting (SOM), ARF, ADMM, has become a more active partner in finding solutions for the dispute. Most recently, over a four day period (May 23-26, 2012), in Phnom-Penh, Cambodia, the SOM, the ASEAN +3 Meeting (ASEAN, China, Japan and South Korea), EAS and ARF took place. The speakers shared their concerns about regional security with emphasis on maritime security. All participants agreed that the maritime disputes in the SCS must be peacefully resolved on the basis of international law including the UNCLOS1982, and by regional Treaties.⁶ The ADMM is a new step in the framework of defense cooperation. So far, ASEAN countries have established tight bilateral and multilateral channels between their Armed Forces. Maritime security is a special issue that obtains a particular emphasis in the working program of the ADMM.

ADMM+ (plus) is the expanded forum of ADMM which is attended by Defense Ministers of 10 ASEAN countries and 8 ASEAN partnership countries including Australia, China, India, Japan, Korea, New Zealand, Russia and the United States.⁷ ADMM+ provides an important forum for the military leaders in Asia-Pacific region to address several issues that have now become a common concern of all countries involved in this security structure. At the first ADMM+ in Hanoi in 2010, all participating

countries asserted that maritime security issues in the SCS region are of concerns, including not only countries that have sovereignty over the SCS but also countries that have rights for maritime activities, rights for commerce and economic activities in international zones surrounding the SCS. All Ministers agreed at the meeting to solve disagreements in the SCS only by collaboration, peaceful negotiation, non-imposing and non-threatening solutions, and without the use of military forces. In the future, ADMM+ plans to promote dialogue on defense and security cooperation, especially cooperation between ASEAN and its partners within this organization, to open opportunities for all parties in solving the challenges of traditional and non-traditional security.⁸ Many SCS security issues should be better resolved at the ADMM+.

Vietnam has expressed deep concerns about recent developments in the SCS, and Vietnam believes that by strengthening and promoting the role of regional institutions, ASEAN countries and China can ensure peace and stability in the region, enhance security and bring opportunities for development to all nations.

Finally, the support of the international community also helps Vietnam protect its sovereignty over the SCS. In particular, the return to the Asia-Pacific region of the U.S. is viewed by international opinions as a step forward to political stability and military balance in the SCS. Vietnam and the Philippines are both seeking to increase pressure on China by involving outside powers. Vietnam and the Philippines' efforts have focused on expanding and deepening their relations with the U.S. and other countries concerned about China's growing power. A greater U.S. presence could intensify U.S.-China strategic competition but it could also be helpful if used to pressure claimants into developing and resorting to non-threatening measures to mitigate risks. Despite

Chinese resentment, the United States' increased attention to the SCS and the United States' plans to expand military presence in the region,⁹ through the warming of ties between Washington and Hanoi on the one hand, and the strengthening of a longstanding military alliance with Manila on the other, are proof of U.S. efforts to contain China's rise.¹⁰

The competition between the U.S. and China in the Asia-Pacific region will increase and appears to be more directly confrontational. For instance, President Obama's Administration strategically focuses foreign policy to the Asia-Pacific region, advocates to "pursue a stronger role in the region's multilateral architecture, including the ASEAN, the Asia Pacific Economic Cooperation forum, the Trans-Pacific Partnership, and the East Asia Summit."¹¹ In an address to the Australian Parliament in Canberra, Australia on November 17th, 2011 on American foreign policy, President Obama said shrinking the U.S. budget would not diminish the nation's stake in the Asia-Pacific region or its military commitment there.¹² President Barack Obama and Australia's Prime Minister Julia Gillard announced a defense accord to deploy United States Marines on Australian bases in 2012 as the U.S. moves to counter China's regional influence.¹³ Robert Kaplan, a famous American scholar, who was named in "100 Global Thinker in 2011" by Foreign Policy magazine,¹⁴ welcomed the East-oriented strategy of the President Obama's administration. According to Kaplan, "U.S. grand strategy should focus on preserving strength and increasing engagement across the Indo-Pacific region, where the world's most dynamic economies reside."¹⁵ Although the U.S. National Intelligence Council assesses that the "pace of China's economic growth almost certainly will slow, or even recede,"¹⁶ currently, many American political analysts

expressed concern about the emergence of China. The improvements and achievements of mainland China in advanced technologies, including missile's manufacturing technology, also pose a security threat to Taiwan which is an ally of the United States with a long history of relations. The entire factor hurries the U.S. up to make a decision as a response to the China's threats. In the framework of the 11th Asia Security Summit (also known as Defense Dialogue Shangri-La) held in Singapore on June 2nd, 2012, U.S. Defense Secretary Leon Panetta announced the military strategy of the U.S. in the Asia-Pacific, according to which during the next few years America will re-arrange the naval fleet with 60% of the U.S. warships operating in the Asia-Pacific instead of 50% rate today.¹⁷ At the 11th Defense Dialogue Shangri-La, the U.S. had the most powerful delegation to date with the appearance of three military Officials, including Defense Secretary Panetta, Chairman of the U.S. Joint Chiefs of Staff Martin Dempsey and Pacific Commander Samuel Locklear. With the announcement delivered by the top Government Officials at one regional Summit, obviously, the U.S. does not intend to hide a deep interest in this region.

The U.S. Defense Secretary has also called on China and other ASEAN countries to support the system of conventions, including UNCLOS, DOC and COC in order to resolve regional disputes. "Both China as well as the ASEAN nations have to abide by international rules and order, but more importantly have to develop a code of conduct that can help resolve these issues," he said.¹⁸

The U.S. is likely expressing its readiness to play a more active role in resolving the disputes of the SCS particularly and Asia-Pacific generally. On May 23rd, 2012, the U.S. Senate Committee on Foreign Relations held a hearing on The U.S. National

Security and Strategic Imperatives for Ratification of America's UNCLOS participation, chaired by Senator John Kerry, with the participation of Secretary of State Hillary Clinton, Defense Minister Leon Panetta and Chairman of U.S. Joint Chiefs of Staff Martin Dempsey.¹⁹ The U.S. Secretary of State Clinton stated: "Only as a Party to the Convention can the United States best protect the navigational freedoms enshrined in the Convention and exert the level of influence that reflects our status as the world's foremost maritime power."²⁰ Secretary of Defense Panetta said that with longest national coastline and widest continental shelf the U.S. would have the most benefit from participation in the UNCLOS. He also noted that the UNCLOS would create a legal basis for the U.S. to have the freedom of navigation and global reach for both commercial and military ships.²¹ Chairman of U.S. Joint Chiefs of Staff, General Dempsey, affirmed that UNCLOS is an important tool to help the U.S. resolve conflicts while expecting lower escalatory risk. He emphasized that since the U.S. is the only permanent member of the U.N. Security Council and the only Arctic nation that has not yet ratified UNCLOS, there is limited ability for The U.S. "to build coalitions for important international security efforts."²²

Obviously, the current U.S. Administration regards the UNCLOS as an advantage in a claim of maritime interests, especially in the region where Beijing repeatedly seems to "bully" other countries with its hegemonic policy.

Vietnam hopes the United States will soon ratify the UNCLOS and actively participate in the efforts of the international community to resolve the disputes in the SCS. Vietnam would like to see the U.S. ratify UNCLOS to underscore that Washington and ASEAN share a common interest in keeping the region governed by rules and not

by force.²³ Small countries such as Vietnam and the Philippines cannot rival the Chinese military and their voice in handling disputes with China could have greater weight with the backing of the U.S..

Additionally, the U.S. strategic intentions toward China also create favorable conditions for Vietnam. As a smaller country with limited resources when compared to China, Vietnam would gain lots of benefits in its transferring dispute with China from core layer to outside layers in order to neutralize the negative impact of the asymmetric status in power balance between the two countries.

However, the growing involvement of the U.S. in the SCS dispute will certainly affect Vietnam's strategic perspective in dealing with China in the SCS. The adjustment of the U.S. global strategy as well as the growing U.S. involvement in SCS dispute will bring certain risk to Vietnam. If strategic competition between the United States and China becomes more intense, Vietnam as a neighbor of China and as a party to the SCS dispute will encounter more difficulties in maintaining the balance of its two main relationships with the U.S. and China, and Vietnam can be influenced by the confrontation between the two powers.

If the United States sought to strengthen relations with other countries in the region with implications aimed at China, China certainly would not be only watching. For instance, if the United States increased involvement in the SCS and US-Vietnam relations became warmer, China would immediately seek to intimidate Vietnam through economic, military, and diplomatic realms. China's recent restrictions on goods from Vietnam, the stationing of military units in the so-called "Sansha", or the impact on Cambodia at the 45th ASEAN Ministerial Conference should be interpreted as

intentional moves by China in the U.S.-Vietnam-China triangle. That is why U.S.-Vietnam defense cooperation on the whole is still at relatively modest scale and Vietnam is still not interested in an official alliance with the U.S. While pursuing closer military ties with Washington, Hanoi wants to avoid getting too close to one power, adhering to what an expert describes as the “three no’s” policy: no military bases, no alliances and no leaning towards one country.”²⁴

Unlike the previous Cold War era, the extensive economic interdependence between the U.S. and China would make these two countries less apt to enter into a comprehensive and expensive confrontation as was the case between the United States and the former Soviet Union. However, Vietnam will need to be cautious not to become a victim of a new Cold War.

In short, the SCS dispute with three intertwined impulsive layers is gradually bringing a new aspect with the deepening involvement of outside forces, especially that of the United States. This context, on the one hand, can help the SCS dispute be resolved peacefully. On the other hand, it could make the regional conflict more complex if China continues to be tough and would lead the Sino-American strategic rivalry to become more drastic. This situation gives Vietnam both advantages and challenges in the handling SCS disputes.

The Vietnam’s overall present diplomacy still attaches great importance to the maintenance of peaceful and stable external environment. Vietnam will continue the foreign policy of openness, multilateralisation and diversification of international relations, proactively integrating into the rest of the world and participating in the process of regional and international cooperation. An armed conflict with any country,

especially with China, will be detrimental to Vietnam's objectives of maintaining a peaceful environment and creating favorable conditions for the economy. The Vietnam's National Defense White Paper said: "Vietnam always regards the maintenance of peaceful and stable environment for socio-economic development, industrialization and modernization, building the socialism-oriented market economy as the top national interest, and the consistent goal of its national defense policy." ²⁵ In short, any territorial issue, including SCS dispute, should be solved by peaceful means. The White Paper stressed: "Vietnam's consistent policy is to solve both historical and newly emerging disputes over territorial sovereignty in land and at sea through peaceful means on the basis of international laws." ²⁶ In other words, diplomacy must be the first line of defense. Deputy Defense Minister Nguyen Chi Vinh said: "Vietnam is a party among others to the dispute in the Eastern Sea. The policy of the Vietnamese state and that of Vietnamese national defense is consistently trying to solve the dispute through peaceful means while resolutely defending sovereignty and territorial integrity based on international laws and forging greater friendship and understanding between Vietnam and neighboring countries including those concerned to the East Sea." ²⁷

To do that, Vietnam should foster better relationship with China. Historically deep Sino-Vietnamese relations are developing in political, security, defense, and economic and social fields. Today, China and Vietnam have been following the relationship along the line of "good friendship, good comradeship, good partnership, and good neighborliness." ²⁸ In June 2008, the two countries elevated the bilateral relationship into one of "comprehensive strategic co-operative partnership." ²⁹

The history of Sino-Vietnamese relations also shows that territorial disputes could be settled through negotiations. In 2009, China and Vietnam signed a package of three agreements on the demarcation of their 1,300-kilometre land boundary following the land boundary treaty signed in 1999 and the establishment of a joint committee for land border demarcation in 2001. Also in 1999, the two countries signed Tonkin Gulf demarcation treaty.

High level China-Vietnam talks have begun on the SCS issues, and this process ought to be continued. Two sides must try to resolve the tension peacefully in whatever possible way to settle the issues and gradually make the situation become stable, avoid becoming relatively isolated from the general trend toward greater cooperation.

China is too big for Vietnam to engage in an open armed conflict. Vietnam also must rely on international laws (based on UNCLOS) and regional norms (DOC and expected COC) while adhering to the core principles of no use of force or threat to use force, no first use of force, and self-restraint, turning the SCS into a sea of peace, friendship, and development. The complicated situation in the SCS is a matter of concern for Vietnamese national defense. This complexity must not lead to military conflict. The general trend in the region and the world does not favor any armed conflict.

The failure of Vietnam to reduce the risks of conflict by combination of internal economic, military factors and external policy would push all claimants towards more assertive behaviors and lead trends in the SCS in the wrong direction. If not addressed and alleviated, the tensions in the SCS could easily be driven to irreversible levels.

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