

9th Berlin Conference on Asian Security (BCAS)

***International Dimensions of National (In)Security
Concepts, Challenges and Ways Forward***

Berlin, June 14-16, 2015

*A conference jointly organized by Stiftung Wissenschaft und Politik (SWP), Berlin
and Konrad-Adenauer-Stiftung (KAS), Berlin*

Discussion Paper
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Session II: Maritime Security

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Balancing over the Sea of Trouble: Vietnam's Maritime Security Challenges and Responses

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The South China Sea issues continue to be number one security and development challenge for Vietnam. In Hanoi's view, situation in the South China Sea relate to almost all aspects of national security and development: protecting territorial integrity and national sovereignty; promoting maritime economic development; maintaining an external peaceful environment and particularly peaceful relationships with China and other claimants; and safeguarding regime legitimacy and internal stability. This paper examines the current situation in the South China Sea with a highlighted focus on the interactions among key players and analyses Vietnam's responses to achieve its main objectives.

The Challenges

There are at least five issues that Vietnam has to tackle in the South China Sea disputes: (i) sovereignty claim over "land features" in the Spratlys; (ii) sovereignty claim over "land features" in the Paracels; (iii) sovereignty rights and jurisdiction within Vietnam's exclusive economic zone and continental shelf, including management and utilization of hydrocarbon, mineral resources, and other living resources, especially fishing; (iv) protecting the fishermen and their vessels operating in the overlapping areas of claims, particularly around the Paracel island.¹

Creeping and Diversified Challenges

Although Vietnam has overlapping claims in the South China Sea with five other parties (China, Taiwan, Malaysia, Brunei and the Philippines), ASEAN claimants have implicitly reached a common understanding in maintaining the status-quo of occupation, settling disputes by peaceful means and refraining from activities that can negatively affect interests of other members.² Taiwan's activities have mainly

¹ Tran Truong Thuy & Nguyen Minh Ngoc, Vietnam's Security Challenges: Priorities, Policy Implications and Prospects for Regional Cooperation, in "Security Outlook of the Asia Pacific Countries and Its Implications for the Defense Sector", edited by National Institute for Defense Studies (Tokyo: National Institute for Defense Studies, 2013), p.96, http://www.nids.go.jp/english/publication/joint_research/series9/pdf/08.pdf

² In addition to the Agreement with China on the Delimitation of the Tonkin Gulf and on Fishery Cooperation on December 25, 2000, Vietnam has signed the Agreement with Thailand on Maritime Delimitation on August 9, 1997 and the Agreement with Indonesia on the Delimitation

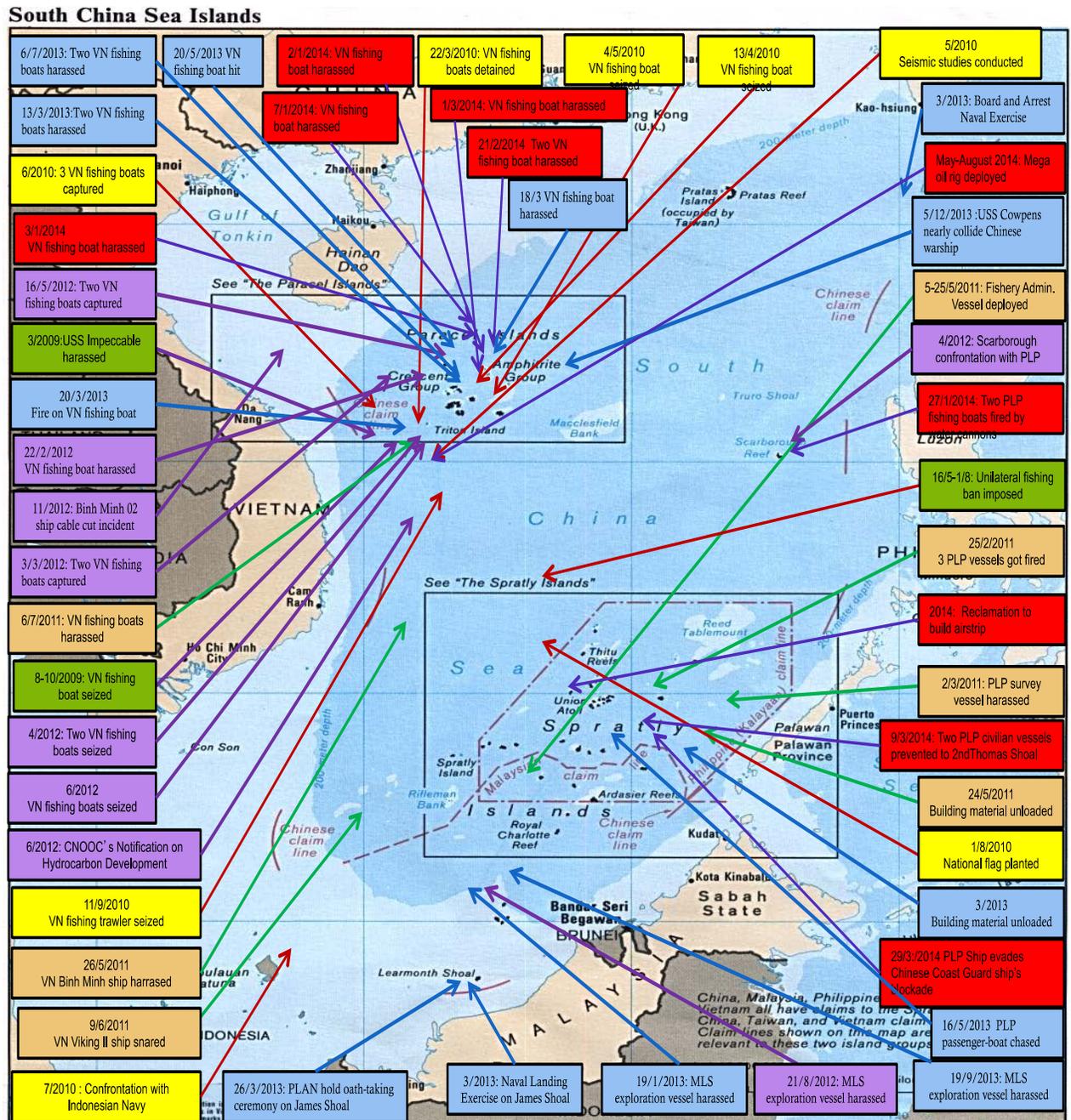
concentrated on its occupied-island Itu-Aba, the largest feature of the Spratlys, and therefore did not directly threaten Vietnam's security in the South China Sea. On contrary, China's renewed assertiveness in the South China Sea since 2007 have been widely perceived within Vietnam as encroachment on its sovereignty and maritime interests. China's assertiveness with its comprehensive approach, expanding not only military but also paramilitary and civilian activities, have raised the frequency of occurrence of incidents in the overlapping area between the so-called "U-shaped line" covering about 80% of waters in the South China Sea and Vietnam's exclusive economic zone and continental shelf.

Resource exploitation (hydrocarbon and fish) in the South China Sea becomes the most frequent source of tensions between China and Vietnam. During the period of its unilaterally declared fishing ban between May and August (imposed annually since 1999), Chinese maritime security forces have repeatedly detained Vietnamese fishermen, confiscated fishing boats and charged fines for their release. This kind of incidents becomes more frequently in the Paracels islands as Vietnamese fishermen continue catching fish in their "traditional fishing ground".

Besides activities at sea, a number of steps adopted by China was considered by Vietnam as aiming to extend the legal basis for China on land features and maritime zones in the South China Sea and as encroachment on Vietnam's sovereignty and jurisdiction, which led to diplomatic protest by Vietnam's side. For example, in November 2012 Hainan provincial government announced new regulations allowing law enforcement vessels to board, inspect, detain, expel or confiscate foreign ships conducting "illegal" activities within so-called "Chinese waters."

of Continental Shelf on June 26, 2003. Vietnam is currently involved in negotiations the delimitation of Exclusive Economic Zone with Indonesia. On cooperation with neighboring countries, in 1992, Vietnam signed with Malaysia the MOU for the cooperation in exploration and exploitation of petroleum in a defined area of the continental shelf involving the two countries in the Gulf of Thailand, which has been effectively implemented, and is currently engaged in negotiations with Thailand and Malaysia on cooperation in Tripartite Overlapping Continental Shelf Claim Area. In early May 2009, Vietnam in cooperation with Malaysia submitted to the United Nations the Submission on the Limits of the Continental Shelf beyond 200nm in the Southern part of the South China Sea. See, The Ministry of Foreign Affairs, "Vietnam – a responsible party of UNCLOS Convention", <http://english.vov.vn/Politics/East-Sea/Vietnam-a-responsible-party-of-UNCLOS-Convention/251426.vov>

Map: Approximate Locations of Incidents between China and other Countries in the South China Sea during 2009-2014.³



During 2014-2015, China continued to embrace its multi-directional expansionism in the South China Sea. Two recent developments - Chinese conduct of reclamation activities in the Spratlys and the deployment of the Chinese oil rig HYSY 981 in the area claimed by Vietnam - attracted high attention from the international community

³ Compiled by author bases on press's reports (VN: Vietnam; PLP: Philippines; MLS: Malaysia)

and are regarded by Vietnam as the most vivid and worrisome signs of China's increasing assertiveness in the South China Sea.

Reclamation in the Spratly⁴

Since the beginning of 2014, the international press has widely reported that China is conducting reclamation on all of its seven occupied features in the Spratlys in the South China Sea, transforming the submerged reefs and small rocks into full-pledged islands with airstrips, harbors and other military and civilian structures. There were several reports that China has already reclaimed of some 2,000 acres from the South China Sea over the past 18 months and building military facilities on them. Once reclamation works are completed, Fiery Cross Reef alone will be at least two square kilometres in size – as large as all other islands in the Spratlys are combined.⁵

Chinese unprecedented large-scale land reclamation works, once finished, will tremendously impact major powers' competition and the dynamics of the claimants' contest in the South China Sea.

Chinese fishing squads, which already enjoy financial, technical, and administrative support from central and local governments,⁶ can utilize facilities on the enlarged islands to extend the duration and scope of their fishing activities, which will most likely stoke tensions with other claimants as they intrude into the exclusive economic zones of Vietnam, the Philippines, Malaysia, Brunei, and Indonesia and court confrontation with those countries' fishermen and law enforcement forces.

The enlarged islands with airstrips and harbors could arguably strengthen Chinese coercive capabilities, allowing China to quickly and extensively deploy its military, paramilitary and pseudo-civilian vessels and aircrafts to the central and southern parts of the South China Sea in case of confrontation with other claimants.

Jane's Defence Weekly considers Chinese facilities on the enlarged islands as "purpose-built to coerce other claimants into relinquishing their claims and possessions."⁷ It is unlikely that other claimants will ever relinquish their claims and possessions in the Spratlys; nevertheless, those facilities could arguably enhance

⁴ This session derives partly from Tran Truong Thuy, "Land Reclamation: A South China Sea Game Changer," <http://amti.csis.org/land-reclamation-a-south-china-sea-game-changer/>

⁵ "Fiery Cross Reef now largest of Spratlys after PLA land reclamation", <http://www.wantchinatimes.com/news-subclass-cnt.aspx?cid=1101&MainCatID=11&id=20141021000087>

⁶ "Satellites and seafood: China keeps fishing fleet connected in disputed waters", <http://www.reuters.com/article/2014/07/28/us-southchinasea-china-fishing-insight-idUSKBN0FW0QP20140728>

⁷ "China building airstrip-capable island on Fiery Cross Reef", <http://www.janes.com/article/46083/china-building-airstrip-capable-island-on-fiery-cross-reef>

Chinese capabilities to block the supply routes of Vietnam, Philippines to their controlled islands and rocks there. China's attempts to block Philippine supplying routes to the Second Thomas Shoal in the first half of 2014 well illustrate this point.⁸

Different from other claimants' presence on the Spratlys, which is aimed at demonstrating effective administration of their currently controlled islands by maintaining airstrips that can assist in supplying those islands, China's expanded military presence there could serve to enhance Chinese power projection capability in, if not control of, the South China Sea. The web of Chinese military bases in the South China Sea, connecting Sanya (in Hainan Island) in the north to Woody Island in the Paracels in the west to new unsinkable aircraft carriers in Fiery Cross, Johnson South, Cuateron and Gaven Reefs in the Spratlys in the center and the south, and possible bases in the Mischief Reef and Scarborough Shoal in the east,⁹ will enhance Chinese capability to enforce an air defense identification zone above the South China Sea if and when established, harass U.S. military activities in and above the sea, hunt for American submarines, place Australia within Chinese strategic bombers' range for the first time,¹⁰ and control or at least send a deterrent message of Chinese capability in blocking the critical energy supply routes from the Middle East to Japan, South Korea, and Taiwan.

From an international law perspective, Robert Beckman has already highlighted that China's reclamation works constitutes a breach of international agreements, which require all parties to exercise restraint and not undertake unilateral actions that would permanently change the status quo regarding the disputed areas.¹¹ Insofar as Chinese dredging and constructing activities are damaging the coral system in the Spratlys,¹² they are also indicative of China's disregard for 'duty to cooperate' with other environmentally affected States. Furthermore, these activities are inconsistent with the 2002 ASEAN-China Declaration on the Conduct of Parties in the South China Sea, which calls on all parties to refrain from activities that would complicate or escalate the disputes. In presenting others states with a new "fait accompli" during the negotiation for an ASEAN-China Code of Conduct in the South China Sea – one

⁸ "Second Thomas Shoal Tensions Intensify", <http://thediplomat.com/2014/03/second-thomas-shoal-tensions-intensify/>

⁹ http://csis.org/files/attachments/140807_Koda.pdf

¹⁰ "Construction of an airfield on the disputed Spratly Islands puts Australia in reach of China's strategic bombers: Reports", <http://www.news.com.au/technology/innovation/construction-of-an-airfield-on-the-disputed-spratly-islands-puts-australia-in-reach-of-chinas-strategic-bombers-reports/story-fnpjxnk-1227133763994>

¹¹ Robert Beckman, "Large Scale Reclamation Projects in the South China Sea: China and International Law", <http://cil.nus.edu.sg/wp/wp-content/uploads/2010/12/Beckman-RSIS-Commentary-of-Reclamation-in-SCS-CO14213-29Oct2014.pdf>

¹² "Victims Under the South China Sea", <http://www.bloombergview.com/articles/2014-11-27/victims-under-the-south-china-sea>

of the main purposes of which is to keep the status quo of the South China Sea, China is dashing any hope for a meaningful document that can help govern this troubled maritime area.

Unsurprisingly, many countries, including Vietnam,¹³ the Philippines¹⁴ and the United States¹⁵, and other multilateral gatherings, including ASEAN¹⁶ and G7¹⁷, have voiced concern and protested China's reclamation activities, but clearly diplomatic protests alone have little impact on China's will and calculations. Yi Xianliang, deputy head of the Chinese Foreign Ministry's Boundary and Ocean Affairs Departments, has stated that China can carry out whatever construction in the reefs that are within its "sovereignty."¹⁸

Despite the enormous strategic implications of China's excessive land reclamation work in the Spratlys for Vietnam (and other countries), the leadership in Hanoi (and other capitals) seems to have no choice but to live with this new reality from now on.

Oil Rig Crisis

Before 2014, China had, on the one hand, accused Vietnam of extracting "China's oil" in the SCS and, on the other hand, tried to prevent Vietnam from developing the resources in the overlapping areas between China's U-shaped line and Vietnam's continental shelf. Notably, the level of China's protests incrementally escalated with time. During the 2007-2010 period, China limited its protest to sending diplomatic notes directly to the Vietnamese government, issuing statements by the Chinese Ministry of Foreign Affairs spokesperson, and verbally threatening international oil and gas companies to cease joint offshore exploration operations with PetroVietnam. In the 2011-2013 period, China escalated its protest and adopted more aggressive tactics, using law enforcement vessels (from Maritime Surveillance Agency) and/or

¹³ "Land reclamation further complicates East Sea issue, Vietnam says", <http://www.thanhniennews.com/politics/land-reclamation-further-complicates-east-sea-issue-vietnam-says-33996.html>

¹⁴ "PH files diplomatic protest vs China airstrip", <http://globalnation.inquirer.net/114825/ph-files-diplomatic-protest-vs-china-airstrip/>

¹⁵ US. State Department: Jeff Rathke, Director, Press Office, Daily Press Briefing, Washington, DC, November 24, 2014, <http://www.state.gov/r/pa/prs/dpb/2014/11/234366.htm#.VHfwzQ62LWU.twitter>

¹⁶ Asean's strongest rebuke to China on reclamation", <http://www.straitstimes.com/news/opinion/more-opinion-stories/story/aseans-strongest-rebuke-china-reclamation-20150501>

¹⁷ G-7 Leaders' Declaration adopted at Schloss Elmau, Germany on June 8, 2015, stated "We strongly oppose the use of intimidation, coercion or force, as well as any unilateral actions that seek to change the status quo, such as large scale land reclamation." <https://www.whitehouse.gov/the-press-office/2015/06/08/g-7-leaders-declaration>

¹⁸ "China says can build what it wants on South China Sea isles", <http://www.reuters.com/article/2014/08/04/us-china-southchinasea-idUSKBN0G40UI20140804>

fishing boats to harass and cut the seismic cables of commercial oil exploration vessels operating within Vietnam's EEZ.

From May to July 2014, in a move that surprised not only Hanoi but also many international observers and that is widely considered as signaling China's more "proactive assertive" South China Sea approach,, Chinese state oil company CNPC stationed the huge oil rig Haiyang Shiyou 981 (HYSY 981) (the building cost of which is approximately US\$ 1 billion) for deep-sea drilling in the area just 120 nautical miles off the coast of Vietnam. The location is claimed by Vietnam as within its own EEZ and is internationally considered as within a disputed maritime area. China also deployed more than one hundred ships, including law enforcement and military vessels, along with aircrafts to protect the rig. Tension quickly intensified when Chinese vessels rammed, fired water cannons and chased away Vietnamese law enforcement vessels and fishing boats operating in nearby waters.¹⁹ This episode also led to a two-and-a-half month diplomatic crisis and reduced the China-Vietnam bilateral relationship to the lowest level since normalization in the 1990s.

Other developments related to the oil rig crisis have ushered in a new dimension in the Vietnamese leadership's thinking of handling maritime issues – the implication of maritime disputes for economic development. For the first time, the oil rig incident not only inflamed anti-China sentiments among the Vietnamese population but also provoked large scale anti-China riots in various Vietnamese cities. On May 13 and 14, some unsanctioned anti-China protests in Vietnam escalated into riots, causing damages to a number of foreign companies belong to foreign investors not only from mainland China but also from other Chinese speaking territories and from other countries (due to the protesters' confusion with those companies' origins). The possibility of the skirmish between Chinese and Vietnamese vessels in the SCS escalating into full-scale conflict and resulting riots deteriorated the business environment in Vietnam, which until the crisis unfolded was widely considered as one of the safest and stable in the region. The crisis also impacted heavily on the Vietnamese tourism industry and stock market. On May 8, 2014, VN-Index, Vietnam's benchmark stock index plunged to 5.91%, which marked its biggest drop since 2001.²⁰ A small-scale survey of 18 of Vietnam's total 640 hotels shows that these hotels lost over US\$ 1.8 million - or 14,945 room night cancellations - in July

¹⁹ "Chinese vessels deliberately ram Vietnam's ships in Vietnamese waters: officials", <http://tuoitrenews.vn/society/19513/chinese-vessels-deliberately-rammed-into-vietnamese-boats>

²⁰ "Chúng khoán giảm cực mạnh vì biển Đông", <http://vnmoney.nld.com.vn/vnmoney/chung-khoan-giam-cuc-manh-vi-bien-dong-20140508152840735.htm>

2014.²¹ According to one statistic, Chinese accounted for about a quarter of the nearly 4.3 million foreign visitors to Vietnam in the first six months of 2014. But in June 2014, arrivals from the Chinese mainland to Vietnam fell by about 30 percent and those from Hong Kong fell by 72 percent, compared to May 2014.²²

Vietnam's Responses

Since Doi Moi (Renovation) in 1986, Hanoi believed that peaceful and favorable international environment was indispensable for economic development, and consequently, one of the main objectives of foreign policy is to “create a favorable international environment and conducive conditions to serve the cause of national construction and defense.”²³ In dealing with the South China Sea issues, the foreign policy principle of “maintaining peaceful environment” has been also reflected in the strategy of solving territorial and maritime disputes with other countries exclusively by peaceful means. Any confrontation with other countries relating to the disputed issues will inevitably be detrimental to the top foreign policy objective of maintaining peaceful environment. The White Paper published in 2009 by the Ministry of Defense also reaffirms that “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.”²⁴

Operationally, in response to perceived China’s increasing encroachments on its maritime interests in the South China Sea, Vietnam applies the policy of a weaker party in an asymmetric relationship to defend its national interests while seeking to preserve peaceful relationship with China. This policy is a combination of engagement and (soft and hard) balancing towards China. It is relatively comprehensive and combines several directions: (i) *Direct engagement* including high-level exchange, agency to agency interactions and direct negotiations with China on maritime issues to defuse tensions and settle remaining bilateral issues. (ii) *Indirect engagement* by working with other members of ASEAN to engage China in DOC

²¹ “Struggling businesses urge Vietnam to expand visa waiver to lure back tourists”, <http://www.thanhniennews.com/business/struggling-businesses-urge-vietnam-to-expand-visa-waiver-to-lure-back-tourists-27177.html>

²² “China Tensions Choke Off Tourism to Vietnam”, http://www.nytimes.com/2014/07/22/business/international/china-tensions-choke-off-tourism-to-vietnam.html?_r=0

²³ See Text of the 13th Politburo Resolution, May 1988; Nguyen Co Thach’s Interview with Journal of International Relations Studies, January 1990, Movements in the World and Our New Perspective; reprinted in Nguyen Vu Tung, Vietnam’s Foreign Policy 1975-2006, Institute of International Relations, Hanoi, 2007, p. 42.

²⁴ Defence White Paper 2009, p19, <http://admm.org.vn/sites/eng/Pages/vietnamnationaldefence%28vietnamwhitepapers-nd-14440.html?cid=236>

implementation and head towards a new code of conduct (COC). *Soft balancing* consisted of (iv) bringing up the South China Sea issues in regional forums (particularly ASEAN-related forums); (v) engaging the participation of other external powers in the South China Sea issues; and (vi) using international law, especially the UNCLOS 1982, to defend its maritime claims. *Hard balancing* is for deterrent purpose, namely (vii) improving military capacity, especially modernizing navy, and strengthening law enforcement capability (the Coast Guard and Fishing Patrol Agency).

Direct Engagement

Regarding *direct engagement* component of its policy, Vietnam emphasizes the exchange of high level visits with China and the South China Sea issues become one of the main topics of discussion among leaders. In addition to high-level exchanges, Vietnam and China also established the Steering Committee on Vietnam-China Bilateral Cooperation (since 2006), and a network of engagement with China through party-to-party and agency-to-agency cooperation channels. These include cooperative measures between agencies directly and indirectly relating to the handling of maritime issues, such as militaries (exchanged visits, hot line, strategic dialogue, port call, joint naval patrol,...), agencies responsible for fishery cooperation, combat of transnational crimes and border provinces. Vietnam and China have also conducted direct negotiations on unresolved maritime issues. In October 2011, during the visit of Vietnam Communist Party's Secretary General Nguyen Phu Trong to Beijing, Vietnam and China signed the Agreement on the Basic Principles Guiding the Resolution of Maritime Issues, in which two sides pledged to address maritime issues incrementally and speed up the demarcation and cooperation in waters off the Tonkin Gulf and foster cooperation in less sensitive fields including marine environmental protection, marine science research, search and rescue operations and natural disaster mitigation and prevention.²⁵

Some Vietnamese analysts believe that by bringing up the South China Sea issues into high-level discussions, these issues can be elevated to a higher level of priority in China's foreign policy, encouraging Chinese leaders to put the issues in a broader picture of bilateral and regional relations and better manage the competition among various interest groups within China – one of the main sources of tensions in recent years. These engagements are also expected to promote mutual trust, cooperation and

²⁵ "Vietnam-China agree on basic principles to resolve maritime issues", <http://en.nhandan.org.vn/en/politics/external-relations/item/1808602-vietnam-china-agree-on-basic-principles-to-resolve-maritime-issues.html>

minimize misunderstanding among interest groups of both sides. On the other hand, cooperative mechanisms among agencies directly dealing with maritime issues can arguably help both sides prevent incidents from happening or/and to deescalate tensions. However, it should be noted that the main competition between Vietnam and China in the South China Sea in recent years is between law enforcements agencies for protecting (and preventing development) of resources (hydrocarbon and fish), but both sides have not yet established any cooperative and dialogue mechanisms between their Coast Guards. Recently, despite of Vietnam's continuous efforts of using high-level meetings, hot-line and "more than fifty" diplomatic communications with China to resolve the crisis relating to placement of China's HYSY 981 oil rig during May-July 2014, the relatively long duration of crisis indicated the limit of bilateral direct engagement in deescalating tension. China withdrew the oil rig one month before planned time but it is arguably not as a result of bilateral Vietnam-China direct engagement.

Bilateral Vietnam-China direct engagement proves to become more helpful in restoring the damaged relationship once the crisis was over. On August 26-27, 2014, Vietnam sent special envoy, Politburo member Le Hong Anh, to visit China to meet with Chinese leaders, and during the meeting with Chinese President Xi Jinping both sides agreed to take measures to restore and develop bilateral relations that have been undermined over China's deployment of the oil rig.²⁶ Le Hong Anh's visit was followed by a number of significant visits and meetings by other leaders and high-ranking officials from both sides to renormalize the relationships and promote practical cooperation. At the end of 2014, China sent Yu Zhengsheng, chairman of the National Committee of the Chinese People's Political Consultative Conference (CPPCC), who ranks fourth in the Communist Party leadership, to Vietnam for a three-day visit. The main purpose of Yu's three-day stay in Hanoi, as the ranking Chinese official said, was "to consolidate political trust and beef up cooperation and exchanges between the two Parties and States." The visit of a strong delegation led by the head of Vietnam Communist Party Nguyen Phu Trong to China in April 2015,²⁷ during which he was warmly received by almost all Chinese top leaders, have brought the bilateral relationship back to the new normal.

²⁶ "Vietnam, China agree to restore ties after oil rig rift", <http://tuoitrenews.vn/politics/21978/vietnam-china-agree-to-act-to-restore-ties-after-oil-rig-incident>

²⁷ "China, Vietnam pledge peaceful resolution for sea dispute", <http://www.reuters.com/article/2015/04/08/us-china-vietnam-idUSKBN0MZ12W20150408>

Indirect Engagement

Regarding *indirect engagement*, Vietnam tried to work with other ASEAN members to collectively engage China in multilateral discussion of the South China Sea within the framework of ASEAN-China dialogue and in DOC implementation and head towards a new code of conduct (COC). This indirect engagement is widely considered as one of the most important components of Vietnam's overall strategy toward the South China Sea issues.

Hanoi understands the internal and external dynamics of ASEAN. Due to divergent interests and external pressures, ASEAN countries have different viewpoints regarding the South China Sea issues. While acknowledging that ASEAN countries have divergent interests on the South China Sea, Vietnam has made continuous efforts to work with member states to maintain at least minimum denominators on this issue. In fact, all ten ASEAN member states participated in negotiation and signed the Declaration of Conduct (DOC) in 2002 and all had also reached consensus to promote the negotiation of the Code of Conduct (COC) with China in order to effectively manage the disputes and enhance peace and cooperation in the region.²⁸ While working toward the COC, Vietnam sees the DOC 2002 still remains one of the most important documents (in addition to UNCLOS 1982) to regulate behaviors of parties in the South China Sea, despite the fact that it is a political document and not legally binding. Though some DOC's provisions are ambiguous and open for parties to criticize each others for its violations, the more clearly stated provisions, such as no use of force of no new inhabitation on unoccupied islands/rocks in the South China Sea, to a certain extent, have helped prevent China from conducting adventurist activities. The process of DOC implementation and negotiation on COC arguably has facilitated China's engagement with discussing the South China Sea issue within ASEAN-China framework.

ASEAN, after the failure to release the joint communiqué at AMM45 in Phnom Penh in 2012, realized the importance of maintaining consensus on the South China Sea issues so that it will not negatively affect its credibility and centrality in the evolving regional security architecture. Almost in all important meetings within ASEAN and between ASEAN and its partners (AMM, Summit, ARF, EAS meetings) in 2013 and 2014 under the chairmanship of Brunei and Myanmar, the South China Sea issue was brought up, discussed and reflected in concluding documents without

²⁸ In July 2012, ASEAN foreign ministers had reached consensus and adopted the "proposed elements" of the COC and tasked the ASEAN senior officials meet with the senior official from China to negotiate for the code. Michael Lipin, "Cambodia Says ASEAN Ministers Agree to 'Key Elements' of Sea Code," Voice of America, July 9, 2012. http://www.voanews.com/content/cambodia_asean_ministers_agree_to_key_elements_of_sea_code/1381574.html

any incident.²⁹ During the oil rig crisis between China and Vietnam, with some diplomatic pushes by Vietnam, ASEAN Foreign Ministers for the first time since 1992 consensually released a statement particularly to address the South China Sea issues, in which they “expressed their serious concerns over the on-going developments in the South China Sea, which have increased tensions in the area” and “urged all parties concerned, in accordance with the universally recognised principles of international law, including the 1982 UN Convention on the Law of the Sea (UNCLOS), to exercise self-restraint and avoid actions which could undermine peace and stability in the area; and to resolve disputes by peaceful means without resorting to threat or use of force” (emphasis added). Although the ASEAN Foreign Ministers did not explicitly mention China and the oil rig incident by name to avoid negative reactions from Beijing, the phrase “on-going development in the South China Sea” was carefully selected to point to the oil rig incident. Gradually, ASEAN members now share common views and interests, which include, among others, protecting freedom of navigation and regional stability, respecting of international law and maintaining ASEAN’s solidarity and centrality in the evolving regional security (and economic) architecture.

At the same time, Vietnam understands the limits of indirect engagement with China through ASEAN framework as it requires not only consensus within ASEAN but also, more importantly, the political will from Beijing to accept some common understanding on the issue of South China Sea. The three-level game of negotiation (internal within one country, within ASEAN, and between ASEAN and China) explains why the process of concluding any document is so protracted. For example, ASEAN took more than seven years to engage China in negotiating the DOC, which was signed in 2002,³⁰ and almost nine years to complete the symbolic Guidelines for the implementation of the DOC, which was agreed in July 2011.³¹ Similarly, the future of ongoing negotiations/consultation on the Code of Conduct remains uncertain and possibly protracted as ASEAN hopes to engage China in accepting a binding agreement that will, among others, regulate China’s behaviors in the South China Sea. Nevertheless, for ASEAN, the process of engagement with China is equally important as the results.

²⁹ See related documents on ASEAN website at <http://www.asean.org>

³⁰ Declaration on the Conduct of Parties in the South China Sea, ASEAN website, <http://www.asean.org/asean/external-relations/china/item/declaration-on-the-conduct-of-parties-in-the-south-china-sea>

³¹ “Guidelines for the Implementation of the DOC,” ASEAN website, <http://www.asean.org/documents/20185-DOC.pdf>.

Soft and Hard Balancing

As discussed above, although direct engagement and indirect engagement through ASEAN provides useful channels for Vietnam in dealing with China on the South China Sea issues, it is not sufficient to prevent China from advancing its claim there. Therefore, Vietnam has to rely also on soft and hard balancing elements of its strategy. Its soft balancing consisted of bringing up the South China Sea issues in regional forums, particularly in ASEAN-related forums; engaging the participation of other major powers in the South China Sea; and using international law, especially the UNCLOS 1982, to defend its maritime claims and settle the disputes by peaceful means.

Major Powers Engagement

Since 1990s, Vietnam adopted a foreign policy of diversification and multilateralisation of external relations, in which major powers play very important roles in strengthening its autonomy, security and development. Some Vietnamese analysts see one of the positive implications of that process in intertwining of interests of major powers in the country, and consequently, Vietnam's possible competitors have to take into account the interests of these major powers as well. In these circumstances, the possibility of using military actions to solve the territorial disputes can be narrowed.³²

Specifically, highlighting the South China Sea issues in regional forums with participation of other countries, who also share the converged concerns and interests, could become a feasible approach to influence on China's calculation. When the issues would become one of the main concerns in China's external relations, forcing China to contemplate its other interests in relations with major powers and, thus adjust its approach in the South China Sea. As a result, the South China Sea issue is elevated to priority of China's foreign policy decision-making process, and, consequently, competition between and independent activities of China's interest groups - one of the main reasons of renewed tension since 2007 - become manageable.³³

³² Interview with author

³³ In March 2013, China announced plans to restructure the country's top oceanic administration by bringing China's maritime law enforcement forces, currently scattered in different ministries, under the unified management of one single administration, to "enhance maritime law enforcement and better protect and use its oceanic resources". See: "China to restructure oceanic administration, enhance maritime law enforcement", Xinhuanet, October 10, 2013, at http://news.xinhuanet.com/english/china/2013-03/10/c_132221768.htm

On other aspect, one important component of Doi Moi's economic policy has been concentrating on attracting direct foreign investment into Vietnam, including in maritime and coastal areas. The 8th National Party Congress of the VCP in June 1996 stated: "The maritime and coastal areas, which are strategically important in terms of economy, security and defense. These areas have advantages for economic development and serve as the gate for the country to connect with the world and main attraction for foreign investments."³⁴ As a result, oil and gas companies from almost all major powers (except from China) have invested heavily into exploration and exploitation projects in Vietnam's exclusive economic zone, which have resulted in an established web of intertwining of economic interests of major powers.

Among major powers, the US is considered as one of the most important partners to Vietnam. The economic reforms since 1986 have integrated the country into the global economy and transformed Vietnam into an export-oriented economy. The US becomes one of the leading sources of foreign direct investment (FDI) in Vietnam, mainly from high-tech corporations, as well as Vietnam's largest export market. Two-way trade increased dramatically to reach almost US \$24,5 billion in 2012 from US \$1,5 billion in 2001 when both sides signed a bilateral trade agreement. It is worth noting that the trade surplus Vietnam enjoys in trading relation with the US almost equally compensates the deficit Vietnam has with China (almost \$16 billion in 2012).³⁵ Vietnam and the US are participants in negotiations of the Trans-Pacific Partnership agreement, which once concluded is expected to boost two-way trade and investment from the US, thus deepening not only bilateral and US-led multilateral economic integration but also strategic congruence between Hanoi and Washington.³⁶ Strategically, both countries seemingly have shared interests in maintaining the current regional order, China's peaceful rise, and ASEAN's central role in the regional security architecture. On the South China Sea issues Hanoi and Washington also have convergent interests, which include, among others, peaceful settlement of disputes according to international law, particularly the UNCLOS 1982, freedom of navigation and overflight, and unimpeded lawful commercial activities.

³⁴ Dang Cong san Viet Nam, Van kien Dai hoi Dai bieu Toan quoc lan thu VIII, (VCP, Documents of the VIII-th National Party Congress), National Political Publisher, Hanoi, 1996, p.211.

³⁵ Vietnam's export-led growth model is relatively similar to Chinese model and its main export products facing difficulty in entering Chinese market due to competitiveness. On contrary, Vietnam's economy structure is compliment to those of the US and its main export products (including textiles and garments, seafood, farm and forest products, wooden furniture and footwear) are low-priced, high-quality which are highly demandable to US market.

³⁶ American economist Samuel Rines estimated that "by 2025, Vietnam would stand to gain nearly \$96 billion, or 28 percent of its GDP. This is largely due to exports increasing an estimated 37 percent,". See, Samuel Rines , "Trans-Pacific Partnership: Geopolitics, Not Growth" at <http://nationalinterest.org/commentary/trans-pacific-partnership-geopolitics-not-growth-10157>

Some Vietnamese analysts believed that although the US conduct its activities according to its own interests, US involvement has increased leverages for Vietnam in relation with China, making China soften its assertive approach and less willing to use force to solve the territorial disputes. In addition, US's policy has spill-over effect on the positions of other countries, especially countries that have close relationships with Washington, encouraging these stakeholders (such as Japan, Australia, India, and some European countries) to express concerns about developments in the South China Sea at many multilateral mechanisms (ARF, EAS, ADMM+, ASEM, G7, etc.).

The US, after a long engagement in the Middle East and Afghanistan in the war against terrorism, has “pivoted to Asia” to cope with a rising China.³⁷ The South China Sea becomes one of the main focal point of “Asia’s rebalancing” strategy adopted by Obama’s administration. The shift in US policy is relatively comprehensive. In terms of politics and diplomacy, the US has engaged more deeply in the Asia Pacific through an increasing number of visits of the President, State Secretary and Defense Secretary and other high-ranking officials to the region. In the economic realm, after ratifying the Free Trade Agreement with South Korea, the US has concentrated on the Trans-Pacific Partnership Agreement (TPP). TPP has a strategic component of strengthening US relations with other countries to counterbalance current China-centric multilateral economic mechanisms such as CAFTA and ASEAN+3. In the military term, the US have increased its presence in Asia-Pacific with a new “rotating base” in Australia, rebalancing the deployment of warship with 60% would be based in the Pacific by 2020.³⁸ In recent years, the US have also enhanced military and maritime cooperation with China’s competitors in maritime domains, such as Japan and the Philippines. The US strengthened access and readiness level in the South China Sea by signing with Philippines the “Enhanced Defense Cooperation Agreement” in April, 2014, which covers the full range of defense cooperation, including deployment of US “rotational troop” on Philippine territory, developing maritime security and maritime domain awareness.³⁹

US high-ranking officials also referred to the South China Sea issue more often in their official speeches, especially within multilateral diplomatic meetings. For example, at the 17th ASEAN Regional Forum in 2010, the then US Secretary of State Hillary Clinton declared its “national interests” in the South China Sea for the first time; among which were freedom of navigation, peaceful settlement of disputes, and

³⁷ Hillary Clinton, “America’s Pacific Century”, *Foreign Policy*, October 11, 2011, http://www.foreignpolicy.com/articles/2011/10/11/americas_pacific_century

³⁸ Leon Panetta, “The US Rebalance Towards the Asia-Pacific”, <http://www.iiss.org/conferences/the-shangri-la-dialogue/shangri-la-dialogue-2012/speeches/first-plenary-session/leon-panetta/>

³⁹ “Q&A on the Enhanced Defense Cooperation Agreement”, <http://www.gov.ph/2014/04/28/qna-on-the-enhanced-defense-cooperation-agreement/>

unimpeded commerce. The US also rejected the China's U-shaped line when then State Secretary Hillary Clinton said at a hearing of the US Senate Committee on Foreign Relations that "China's claims in the South China Sea exceed what is permitted by the UNCLOS".⁴⁰ In February, 2014, Assistant State Secretary Daniel Russel, while testifying before the US Congress stated that "China's lack of clarity with regard to its South China Sea claims has created uncertainty, insecurity and instability in the region... Any use of the "nine-dash line" by China to claim maritime rights not based on claimed land features would be inconsistent with international law."⁴¹ Most recently, Secretary of Defense Ash Carter directly condemned China that "with its actions in the South China Sea, China is out of step with both international norms that underscore the Asia-Pacific's security architecture".⁴²

Noticeably, the oil rig incident between China and Vietnam has paved the way for a closer relationship between Vietnam and the US. By lending verbal support to Vietnam and condemn China's actions, the US have greatly endeared itself to the Vietnamese public.⁴³ Immediately after the incident happened, the U.S. Department of State declared that it was monitoring events closely and urged restraint from all parties.⁴⁴ Speaking at the Shangri-La security conference in Singapore in 2014, then Defense Secretary Chuck Hagel condemned China of undertaking "destabilizing, unilateral actions asserting its claims in the South China Sea." He also listed systematic activities undertaken by China to expand its presence and bolster its claim in the SCS, including "restrict[ing] access to the Scarborough Reef, put[ing] pressure on the long-standing Philippine presence at the Second Thomas Shoal, beg[inning] land reclamation activities at multiple locations, and mov[ing] an oil rig into disputed waters near the Paracel Islands."⁴⁵ At the 21st ASEAN Regional Forum held in

⁴⁰ "China's Sea Claims Excessive, Says US", <http://www.mb.com.ph/articles/360386/chinas-sea-claims-excessive-says-us>

⁴¹ Maritime Disputes in East Asia, Testimony by Daniel R. Russel, Assistant Secretary, Bureau of East Asian and Pacific Affairs, before the House Committee on Foreign Affairs Subcommittee on Asia and the Pacific, Washington, DC, February 5, 2014, <http://www.state.gov/p/eap/rls/rm/2014/02/221293.htm>

⁴² ISS Shangri-La Dialogue: "A Regional Security Architecture Where Everyone Rises", as Delivered by Secretary of Defense Ash Carter, Singapore, Saturday, May 30, 2015, <http://www.defense.gov/Speeches/Speech.aspx?SpeechID=1945>

⁴³ Proportion of Vietnamese with favourable/unfavourable view of US in 2014 according to Pew Research survey: 76%/18%, while the view of China is approximately opposite with 16%/78%. See at <http://www.pewglobal.org/database/indicator/1/> and <http://www.pewglobal.org/database/indicator/24/>

⁴⁴ "White House urges dialogue, not intimidation in China rig dispute", <http://www.reuters.com/article/2014/05/14/us-usa-china-sea-idUSBREA4D0K020140514>

⁴⁵ Speech at IISS Shangri-La Dialogue, As Delivered by Secretary of Defense Chuck Hagel, Singapore, Saturday, May 31, 2014, <http://www.defense.gov/Speeches/Speech.aspx?SpeechID=1857>

Myanmar in August 2014, in a move indicating a new level of US engagement on the South China Sea issues, US Secretary of State John Kerry proposed the idea of a “freeze,” asking SCS claimants to voluntarily refrain from actions altering the status-quo, including a moratorium on the reclamation work on occupied features.⁴⁶ All of this was welcomed, quietly or bilaterally, by Vietnam and some other ASEAN’s members.

However, some Vietnam analysts see the limits of the US-Vietnam relationship in the triangle US-Vietnam-China. While acknowledging that the US is still the predominant superpower in the world, some Vietnam analysts see the future as increasingly uncertain as China is keeping its steady rise and the balance of power may change in favor of China. Officially, Vietnam Communist Party forecasts that “the multi-polar world is taking shape more clearly.”⁴⁷ Therefore, Vietnam is also concerned over perceived US’ relative decline and the durability of the US’ commitments with rebalancing strategy to Asia-Pacific, and, not without consequences, the possibility that the US will cooperate with China and compromise on Vietnam’s national interests. Lessons from recent history seemingly prove to the Vietnamese that even treaty allies can abandon their commitments if their national interests are endangered, as clearly demonstrated in the case of the US in relation with South Vietnam in 1974 when Beijing used force to attack the Saigon’s troops in the Paracel islands. Or in the case of Moscow towards Hanoi during the brief war between China and Vietnam in 1979 on land and military confrontation in 1988 in Spratly islands. Moreover, Hanoi views the relationships between the US and China as containing both elements of “cooperation and competition”. While both are strategic competitors, Washington still needs to work with Beijing on issues of convergent interests: from the conflicts in Korean peninsula to Middle East to economic cooperation to climate change. Therefore, some fear that in certain circumstances, Washington may trade off for Beijing’s cooperation on issues of convergent interests in exchange of softening the US’s position toward issues critical for China such as the South China Sea issue. In an opposite scenario, Vietnam does not want to be forced to “take side” and tries to avoid the possibility of being dragged into the US-China strategic competition, thus jeopardizing its independence and narrowing the room for strategic maneuver. Within the limits of “three no’s” policy - no military alliances, no alignment with one country against third parties, no foreign military bases in its territory - Vietnam is also careful not to allow the developments

⁴⁶ “US Official on Kerry’s Trip to ASEAN Regional Forum,” US Department of State, August 4, 2014,

<http://translations.state.gov/st/english/texttrans/2014/08/20140806305185.html#ixzz3J3hnrB00>.

⁴⁷ Resolution of the 11th Party National Congress. <http://en.vietnamplus.vn/Home/Resolution-of-the-11th-Party-National-Congress/2011/15543.vnplus>

in its relations with the US to provoke China and inadvertently deteriorate bilateral relationship with its biggest neighbor.⁴⁸ Unless China pursues a comprehensive aggressive policy towards Vietnam, Hanoi, while continuing to promote cooperation with the US, will definitely not become Washington's ally. In this context, the dispute in the South China Sea and China's contesting strategy towards Vietnam will be a determining factor for Vietnam's policy in maintaining the balance between China and the US.

In addition to the concerns about US' commitment and durability in the region due to global overreach, perceived power decline and real military budget cuts, there are also other aspects of limitations of US's involvement in the South China Sea. That the US has yet joined 1982 UN Convention on the Law of the Sea is reducing its legitimacy to criticize other countries, particularly China, for not respecting the maritime law. The increasing presence of the US' naval forces does not have significant impact on the contest for control of resources in the South China Sea, which is mainly among law enforcement vessels from claimant countries. If China continues with using nonmilitary measures on the sea and applying economic and diplomatic measures to influence ASEAN countries' policies, the US cannot interfere and influence on the settlement of South China Sea issues.

Among *other major powers*, Japan is emerging as one of the most important partners to Vietnam not just in terms of economic cooperation but also in the field of maritime cooperation and strategic concerns over China's long-term intention. Russia is the main arms provider for Vietnam and invests heavily on oil and gas exploration in the South China Sea. Both sides upgraded relations to comprehensive strategic partnership level in 2013. However, Russia's main focus is on its immediate neighbors of former republics – particularly recent turmoil in Ukraine. Southeast Asia is secondary in the list of priorities of Moscow's foreign policy in comparison with European, Middle East and Northeast Asia. Russia is also a "comprehensive strategic partner" and currently enjoys "the best relationship ever" with China,⁴⁹ and strongly needs Beijing's support, or at least neutrality, in the Ukraine crisis. In addition, Russian position that the South China Sea disputes should be resolved through bilateral negotiations, and Moscow's mounting reactions to some serious incidents, particularly relating to China's deployment of oil drilling rig HYSY 981 within Vietnam's EEZ in the South China Sea, all of this did not meet the expectation of

⁴⁸ Keynote Address Nguyen Tan Dung, Prime Minister, Vietnam, "Building Strategic Trust for Peace, Cooperation and Prosperity in the Asia-Pacific Region", Shangri-La Dialogue 201, <http://www.iiss.org/en/events/shangri%20la%20dialogue/archive/shangri-la-dialogue-2013-c890/opening-remarks-and-keynote-address-2f46/keynote-address-d176>

⁴⁹ Author's interview with senior researchers of the Diplomatic Academy of Russia, Moscow, January, 2014

Vietnamese counterparts. India is also involving in oil and gas exploration in the South China Sea, improving military cooperation with Vietnam and also has territorial disputes with China, but it seems that Indian “Act East” capacity has not yet met its “Look East” aspiration.

International law

On other aspect of soft balancing, Vietnam has increasingly relied on international law, particularly UNCLOS 1982, to defend its maritime claims and settle the disputes by peaceful means. By compliance by and reliance on international law, Vietnam expects to deal with China on more equal and less asymmetric basic. Vietnam has criticized the legal basis, if any, of China’s territorial and maritime claims and its assertive moves in the South China Sea and gained moral support from international community. So far, Vietnam has not resorted to the third party arbitration for settlement of maritime territorial disputes in relation with China. The possibilities of economic retaliation from China and deterioration of bilateral relations, the difficulties in getting China seriously involved in UNCLOS’s dispute settlement mechanism, the uncertainty of possible decisions by the arbitrators, and the lack of enforcement mechanism of international arbitration all explains the up-to-date reluctance of Vietnam in choosing this path. However, as discussed above about the limitations of direct engagement, if other soft balancing acts and also of hard balancing components cannot help Vietnam in deterring China from encroachment on its maritime interests, Hanoi might seriously consider using legal means as the last peaceful resort. In fact, Vietnam supports the Philippine move in bring the Philippines’ dispute with China to an arbitration established under Annex VII of the 1982 UNCLOS. On December 11, 2014, Vietnam submitted a statement to the Arbitration panel and its foreign ministry also rejected China’s position paper, which was released days before laying out Beijing’s legal objections to the arbitration.⁵⁰ According to The South China Morning Post, Vietnam’s statement to the Arbitration Panel made three main claims in opposition to China’s stand. First, it recognised the court's jurisdiction over the case brought by the Philippines, directly contradicting China's position that the court had no such authority. Second, it asked the court to give "due regard" to its legal rights and interests in the Spratlys, the Paracels and in its exclusive economic zone and continental shelf when deciding on the merits of the case. Third and lastly, it rejected China’s nine-dash line claim as being “without legal

⁵⁰ “Vietnam dismisses China’s position paper on East Sea claims”, <http://www.thanhniennews.com/politics/vietnam-dismisses-chinas-position-paper-on-east-sea-claims-35200.html>

basis.”⁵¹ By recognizing the court's jurisdiction over the case and rejecting the nine-dotted line, Vietnam’s statement arguably has implicitly supported Philippines in the case.

During the crisis ignited by the deployment of the Chinese mega oil rig in Vietnam’s EEZ in May-July 2014, the Vietnamese government did consider various "defense options" against China, including legal actions.⁵² Prime Minister Nguyen Tan Dung ordered relevant agencies to prepare documents for legal proceedings against China for “illegally placing a drilling rig in Vietnam’s waters.”⁵³ Whether or not to undertake this strategic move, of course, would be a subject of careful consideration by the Vietnamese Communist Party’s Politburo.

Hard Balancing

Regarding hard balancing, although Vietnam considers diplomacy as “the first line of defense” and using peaceful means to resolve the disputes, rising competition in the South China Sea has induced Hanoi to invest in improving its “deterrent” capacity, with more attention given to naval and air forces. Vietnam’s success in economic renovation has provided additional resources for expanding defense budget. However, as aforementioned, Vietnam since Doi Moi follows guidance of “strong economy, just-enough national defense capability, and expanded external relations”, and, therefore, has to strike a good balance between security and development objectives within its government expenditure, which mirrors real growth in GDP. While defense budget has been increasing in absolute term, reached US \$3.397 billion in 2012, its rise is lower than that of economic growth, and its share of GDP remains between 2-2.5% - in the middle level in comparison with other countries around East Asia (see charts below). Prime Minister Nguyen Tan Dung told the press that “we modernize our armed forces when the economic conditions allow, and that is normal.” He also stressed that “Vietnam has a long coast and large maritime zone, which requires protection. Therefore, armed forces modernization is not a matter of contingency or arms race.”⁵⁴

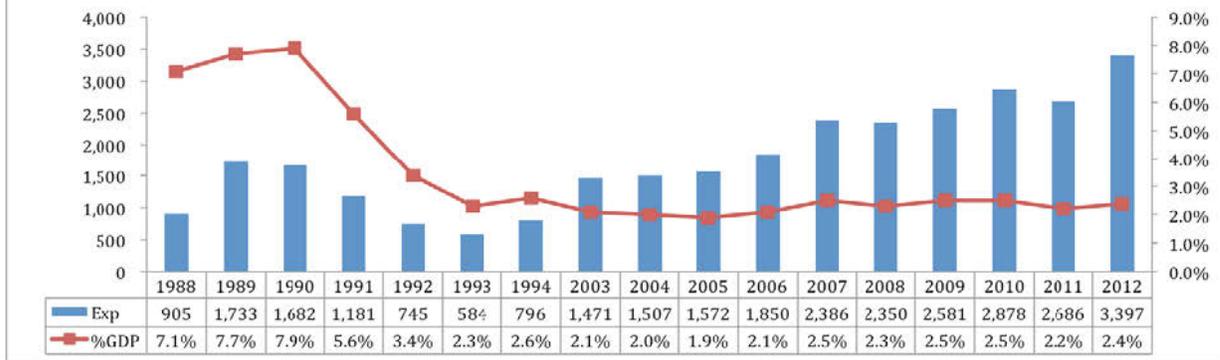
⁵¹ “Beijing rejects Hanoi's legal challenge on Spratly, Paracel islands disputes”, <http://www.scmp.com/news/china/article/1661364/china-rejects-vietnam-claims-arbitration-submission-over-south-china-sea>

⁵² Exclusive: Vietnam PM says considering legal action against China over disputed waters, <http://www.reuters.com/article/2014/05/21/us-vietnam-china-idUSBREA4K1AK20140521>

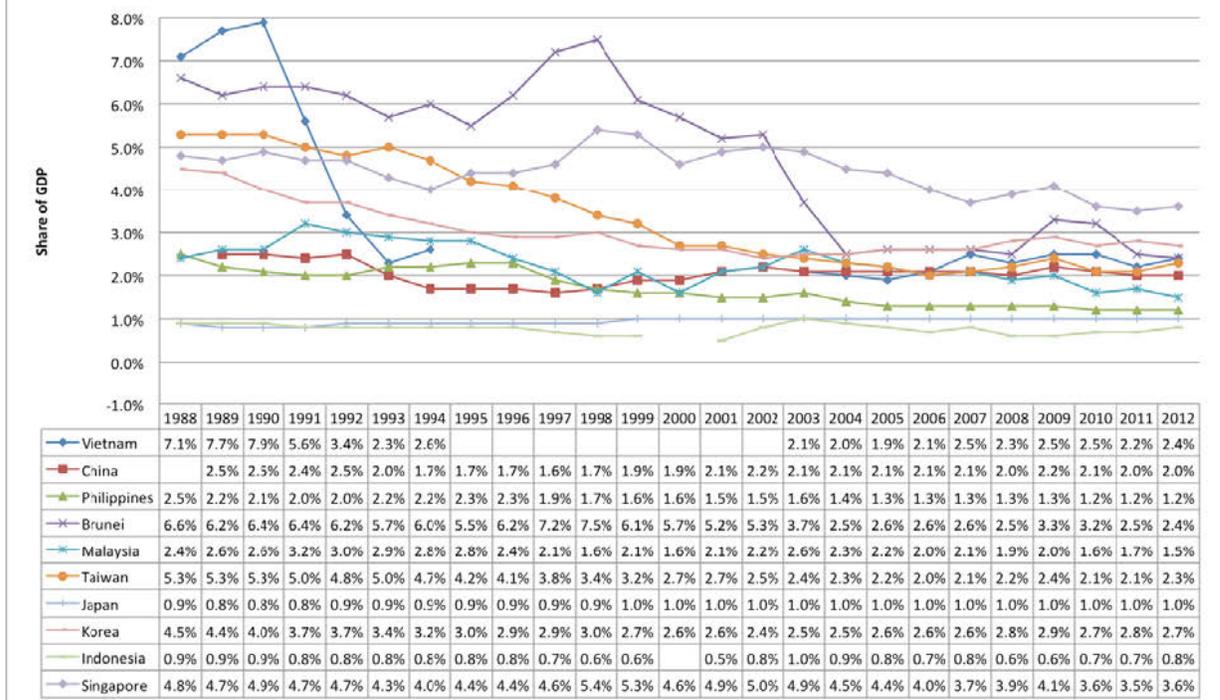
⁵³ “Vietnam's PM calls for preparation of lawsuit against China,” <http://www.thanhniennews.com/politics/vietnams-prime-minister-calls-for-preparation-of-lawsuit-against-china-27986.html>

⁵⁴ Quoted in Nguyen Vu Tung, “Vietnam’s Security Challenges: Ha Noi’s New Approach to National Security and Implications to Defense and Foreign Policies”, in *Asia Pacific Countries’ Security Outlook and Its Implications for the Defense Sector*, edited by National Institute for

Vietnam's Military Expenditure and its share of GDP (1988 - 2012)



Military Expenditure: Share of GDP (1988 - 2012)



Source: SIPRI Military Expenditure Database

After about a decade of inadequate investment, Vietnam is modernizing its deterrent capability through upgrading naval, air and electronic-warfare capabilities. For instance, it was widely reported that Vietnam signed contracts with Russia to buy six submarines Project 636 Kilo-Class with a value of up to US\$ 1.8 billion. The first and

Defense Studies (Tokyo: National Institute for Defense Studies, 2010), p. 121, available at http://www.nids.go.jp/english/publication/joint_research/series5/pdf/5-8.pdf

second Kilo-Class submarines were transferred to Vietnam by Russia in December 2013 and in March 2014 respectively, and the sixth is scheduled to be delivered in 2016.⁵⁵ The amount of submarines and the budget expensed for this procurement - almost equals one year defense budget - demonstrate the seriousness that Vietnamese leaders consider the security and sovereignty in the maritime areas. Vietnam also ordered Russia four Gepard-class light frigates, specially equipped for anti-submarine warfare, and in 2011 deployed its first two. In 2012 Vietnam also finalized a contract to purchase four Sigma-class corvettes from the Netherlands. To provide air cover to its naval fleet, Vietnam is acquiring at least 20 Russian-made Su-30MK2 multi-role fighter aircrafts in addition to about a dozen relatively modern SU-27s and MiG aircrafts.⁵⁶ In August, 2013, Vietnam had signed a contract with Russia for the purchase of an additional twelve Sukhoi Su-30MK2 multirole jet aircraft armed with anti-ship missiles in a deal valued at US\$450 million.⁵⁷ To improve naval surveillance and patrol, Vietnam has procured six amphibious aircrafts DHC-6 Twin Otter from Canada.⁵⁸ Vietnam's new submarine force, combined with anti-submarine warfare capability, naval surveillance and patrol, and additional Su-30s is believed to enhance its anti-access/area-denial capability for protecting the country's sovereignty and interests in the South China Sea.

At the same time, Vietnam has also strengthened bilateral and multilateral defense cooperation with other powers to deal with national security challenges. The complex nature of security threats, not just in the South China Sea, has demanded Vietnam to "expand defense diplomacy and actively participate in defense and security cooperation in the regional and international community."⁵⁹ The 2009 Defense White Paper said: "defense cooperation is one of the most important factors to maintain peace and stability in the region and the world, and it is also an important factor to achieve Vietnam's defense goals."⁶⁰

⁵⁵ However, it takes time for Vietnamese Navy in building a full-fledged submarine capability as it requires not only machines itself, but also concerted effort in investing in infrastructure, maritime aerial surveillance, proficient crews, submarines rescue capabilities and international cooperation with regional navies. See, Koh Swee Lean Collin, "Vietnam's New Kilo-class Submarines: Game-changer in Regional Naval Balance?", <http://www.rsis.edu.sg/publications/Perspective/RSIS1622012.pdf>

⁵⁶ "Vietnam builds naval muscle", The Asia Times, March 29, 2012, http://www.atimes.com/atimes/Southeast_Asia/NC29Ae01.html;

⁵⁷ Carl Thayer, "With Russia's Help, Vietnam Adopts A2/AD Strategy", The Diplomat, October 08, 2013, <http://thediplomat.com/2013/10/with-russias-help-vietnam-adopts-a2ad-strategy/>

⁵⁸ For information on Vietnam's Major Defence Acquisitions since 1995, see, Le Hong Hiep, "Vietnam's Hedging Strategy against China since Normalization", Contemporary Southeast Asia, Vol. 35, No. 3, pp. 354-355.

⁵⁹ Vietnam Defence White Paper 2009, p. 24

⁶⁰ Ibid.

Vietnam's defense diplomacy actively contributes to "maintaining a peaceful and stable environment" and promoting regional cooperation. Alongside Vietnam's policy to tackling the challenges in the South China Sea by bringing up issues of common concerns in international and regional forums to engage China and other countries to collectively find the solutions, Vietnam's defense sector also raises these issues in defense-related forums and participates in confidence-building process, such as ADMM and ADMM+. Bilaterally, Vietnam "wishes to widen defense relations with all countries" and the range of prioritized activities includes "exchange of military delegations, information and sharing experience, cooperation in training and education, and solving humanitarian issues."⁶¹ Significantly, Vietnam has established its defense relations with 65 countries "spanning Asia-Pacific, Australia, Europe, North America, the Middle East, South America and Africa."⁶²

The other aspect of hard balancing is *improvement of law enforcement capability*. Vietnam considers that the military confrontation is unlikely in the near future and the main competition in the South China Sea is between law enforcement forces. In 2013, the Marine Police, established since 1998, was restructured, renamed as "Coast Guard" and placed under direct command of one Member of Cabinet, Minister of Defense, instead of an agency under the Ministry of Defense. These restructure aims at avoiding any blame for using military vessels for law enforcement purposes and for expanding international cooperation with the Coast Guards of other countries. In 2013 Vietnam also established Vietnam Fisheries Resources Surveillance (under Vietnam Directorate of Fisheries) with a view to better protecting the country's sovereign rights relating to fisheries within its exclusive economic zones.⁶³ Law enforcement vessels are prioritized to deploy in the contested area during confrontations to serve two purposes: demonstrating the country's sovereignty right and jurisdiction and avoiding possible escalation or even military clash if using naval vessels. For example, in May-August 2014, during the skirmish around placement of mega oil rig HYSY 981 within its exclusive economic zone, Vietnam deployed more than thirty government's ships from Coast Guard and Fisheries Resources Surveillance to confront Chinese craft (while naval assets was keeping in far distance).⁶⁴

Vietnam is also expanding international cooperation to improve its law enforcement capability with major countries which shares concerns about China's

⁶¹ Ibid.

⁶² Carlyle A. Thayer, "Vietnam People's Army: Development and Modernization", Research Monograph, 30 April 2009, p.26

⁶³ "Ra mắt lực lượng Kiểm ngư Việt Nam" (Launching Vietnam Fisheries Resources Surveillance force, Government's Website), <http://baodientu.chinhphu.vn/Hoat-dong-cua-lanh-dao-Dang-Nha-nuoc/Ra-mat-luc-luong-Kiem-ngu-Viet-Nam/197269.vgp>

⁶⁴ "Chinese vessels deliberately ram Vietnam's ships in Vietnamese waters: officials", <http://tuoitrenews.vn/society/19513/chinese-vessels-deliberately-rammed-into-vietnamese-boats>

maritime expansion. For example, in 2013, Vietnam and Japan reached an agreement in which Tokyo would transfer patrol vessels to Vietnam to help strengthen maritime security capability.⁶⁵ On August 1, 2014, Japanese Foreign Minister Fumio Kishida announced during his visit to Hanoi that Japan would provide Vietnam with six used vessels to boost maritime patrolling capability of Vietnam Coast Guard and Fishery Surveillance Force.⁶⁶ During the visit to Vietnam in December 2013, US Secretary of State John Kerry also announced US decision to provide assistance for maritime security capability to Vietnam with amount up to \$18 million (within an additional \$32.5 million to help Southeast Asian nations), including five fast patrol-boats to the Vietnam Coast Guard.⁶⁷ In April 2014, amid rising China's assertiveness in the South China Sea, the US and Japan jointly declared their intention in collaboration to assist ASEAN's littoral states "in building maritime domain awareness and other capacities for maritime safety and security so that they can better enforce law, combat illicit trafficking and weapons proliferation, and protect marine resources".⁶⁸

Conclusion

Vietnam's policy of combining engagement and (soft and hard) balancing in dealing with China's assertive strategy in the South China Sea is still widely considered as the most effective strategy to defend Vietnam's national interests while simultaneously preserving a non-confrontational and peaceful relationship with China, enhancing Vietnam's role within ASEAN, and promoting cooperation with other major powers including the US, Japan and other SCS stakeholders. Vietnam's strategic room for maneuver has not yet reached its limits, particularly with regards to two specific directions: using the international law channel and promoting cooperation with other stakeholders. If other soft balancing acts and also hard balancing measures cannot help Vietnam deter Chinese encroachment on its national interests, Hanoi might seriously consider using legal means as the last peaceful resort. On other aspects, walking a delicate balance between China and the US, Vietnam will develop its relationships with the US to the extent that such development do not court

⁶⁵ "Japan Coast Guard vessels and equipment in high demand in S.E. Asia, Africa", the Asahi Shimbun, September 30, 2013, http://ajw.asahi.com/article/asia/around_asia/AJ201309300001

⁶⁶ Japan to supply six ships to Vietnam, intended for patrolling: sources, <http://www.japantimes.co.jp/news/2014/08/01/national/japan-supply-six-ships-vietnam-intended-patrolling-sources/#.VGYZwigp-fQ>

⁶⁷ "US boosts maritime security aid to Vietnam", AP, <http://news.yahoo.com/us-boosts-maritime-security-aid-vietnam-082842052--politics.html>

⁶⁸ "U.S.-Japan Joint Statement: The United States and Japan: Shaping the Future of the Asia-Pacific and Beyond", <http://www.whitehouse.gov/the-press-office/2014/04/25/us-japan-joint-statement-united-states-and-japan-shaping-future-asia-pac>

confrontation with China. Unless China pursues a comprehensive aggressive policy towards Vietnam, Hanoi would definitely not become Washington's ally even as Vietnam continues to promote "comprehensive" cooperation with the US. China's policy towards Vietnam at in the SCS will be a determining factor for Vietnam's policy of maintaining an appropriate balance between nurturing bonds with the US and keeping ties with China.