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China-Vietnam Relations on Maritime Borders

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Executive summary

Vietnam's tolerance of the recent series of anti-China protests in Hanoi marked another chapter in the on-going dispute between the two countries over maritime borders in the South China Sea. Vietnam used the protests to signal its discontent to China, but was careful not to unduly provoke its towering neighbour.

The South China Sea and its resources are under claim by all surrounding countries, with China asserting rights to over 80 % of the area. Growing Chinese assertiveness in the South China Sea and ASEAN over the past few years, combined with increasing domestic tensions within Vietnam, resulted in strained relations between the two countries in the middle of 2011. Following a shift by China to a more conciliatory approach, including the signing of Guidelines on the South China Sea with ASEAN, tensions between the two countries have dissipated somewhat. Vietnam and China are currently participating in both multilateral discussions through ASEAN, and separate bilateral talks.

Vietnam and China's relationship is based in a long history of asymmetric interaction and careful management by Vietnam. While Vietnam needs to manage domestic antipathy against China, overall political and military relations are robust, largely due to an extensive network of people-to-people contacts, particularly between the two communist parties. Economic links are also considerable, but largely in China's favour, contributing to Vietnamese resentment. The South China Sea dispute and the significant trade inbalance are the primary political irritants in the relationship.

The prognosis for the current border disputes is reasonably positive. Limited armed conflict through accidental or minor provocation is possible, given that both countries are boosting their naval capabilities and presence in the South China Sea. The most likely outcome, however, is some kind of negotiated agreement, either on territory or joint resources management. Vietnam and China's negotiation of their land border serves as a hopeful precedent. It is also feasible that China and ASEAN will agree on a binding code of conduct for claimants to the South China Sea ahead of next year's ASEAN Regional Forum, although the agreement may be largely ceremonial.

The international community has key strategic interests in ensuring the security of maritime routes in the South China Sea, given the large proportion of the world's trade that passes through the region. The United States is the key international player on the maritime borders dispute and has urged the parties to move forward through collaborative, diplomatic processes. Vietnam and other ASEAN states support the use of the law of the sea as a basis for resolving the dispute, but China has been reluctant to clarify its claims according to system of maritime zones set out in the 1982 UN Convention of the Law of the Sea.

Over the next five years, Vietnam and China are likely to maintain a relatively robust political relationship, albeit with cycles of inflamed tensions and conciliatory measures. Economic integration is also liable to increase. On external relations, Vietnam is likely to seek to strengthen its position on the South China Sea vis a vis China by further drawing in ASEAN and key international players.

While the European Union has limited influence on the South China Sea dispute and in the region, it could play a supporting role in maintaining attention on the dispute and encouraging the parties to reach agreement, although this should be balanced against the need to maintain good relations with China.

Main points

- In allowing the recent series of anti-China protests to continue for some time, Vietnam signalled its discontent to China over the South China Sea dispute, but was careful not to unduly provoke its neighbour.
- Relations between Vietnam and China were strained in the middle of this year, due to growing Chinese assertiveness in the South China Sea and increasing domestic tensions within Vietnam. Dynamics have now improved following a shift by China to a more conciliatory approach.
- The South China Sea dispute and the significant trade inbalance in China's favour are key political irritants, but the overall political relationship between Vietnam and China is robust. The relationship between the two countries is based in a long history of asymmetric interaction and careful management by Vietnam.
- The prognosis for the current border disputes is reasonably positive. There is potential for limited armed conflict, most likely through accidental or minor provocation, but the most likely outcome is some kind of negotiated agreement. A binding code of conduct within 2012 is also feasible.
- The international community has key strategic interests in ensuring the security of maritime routes in the South China Sea. It should maintain attention on the dispute and encourage the parties to reach agreement. Vietnam and other ASEAN states support the use of the law of the sea as a basis for resolving the dispute, but China has been reluctant to clarify its claims on this basis.
- Over the next five years, Vietnam and China are likely to maintain a relatively robust political relationship and increase economic integration.
- The European Union has limited influence on the South China Sea dispute, but could play a supporting role in urging resolution of the dispute.

1. Introduction: the recent protests regarding maritime borders

Protests are an unusual occurrence in Vietnam's controlled political environment. By allowing the recent series of anti-Chinese protests in Hanoi to continue for some time, Vietnam was sending a strong signal to China about its determination to stick firmly to its claims over the South China Sea maritime border dispute.

The weekly protests took place in Hanoi from early June to mid-August. They were initially held close to the Chinese Embassy, and then moved to around Hanoi's central lake, Hoan Kiem, after the area around the Embassy was blocked off. The numbers were not large (generally only fifty to hundred people), but gradually shifted from being primarily students to a more diverse group of intellectuals, dissidents and religious leaders. The messages were nationalistic, focusing on China's alleged violations of Vietnamese territorial waters and harassment of Vietnamese boats and fishermen. While the protests were closely monitored

to ensure they did not morph into broader anti-government displays, they provided an opportunity for the state to allow disaffected groups in Vietnam to 'let off steam' in a relatively controlled manner. Two larger anti-Chinese protests in June in Ho Chi Minh City, involving over 1000people, were quickly shut down by state authorities.

China was well aware of the protests and privately urged Vietnam to end them. Vietnam only closed the protests down after a wider range of disparate groups starting uniting behind the anti-Chinese banners, and following further high-level discussions with China. Several protestors were arrested and detained briefly, but additional action by the authorities against those involved was limited. Momentum seems to have abated among activists on this issue, and it is unlikely that protests will resume without significant negative developments in the on-going maritime borders dispute.

2. Vietnam and China's dispute over maritime borders: background and current status

In addition to Vietnam and China's multiple clashes over the South China Sea, parts of the area are also claimed by the Philippines, Malaysia, Brunei and Taiwan. As well as including crucial maritime trade routes and significant fish stocks, the South China Sea is believed to contain large oil and gas reserves. The two main sets of islands in dispute (along with their - territorial waters) are the Paracels in the north and the Spratlys in the south. China controls the Paracels after seizing them from Vietnam in 1974, although Vietnam and Taiwan continue to assert claims to these islands. China, Taiwan and Vietnam claim the Spratly Islands, with Brunei, Malaysia and the Philippines claiming parts of the islands. Overall, China claims over 80 per cent of the South China Sea, within a 'nine-dashed lines' map submitted to the UN Commission on the Limits of the Continental Shelf in 2009, see Figure 1 for the Chinese claim lines.

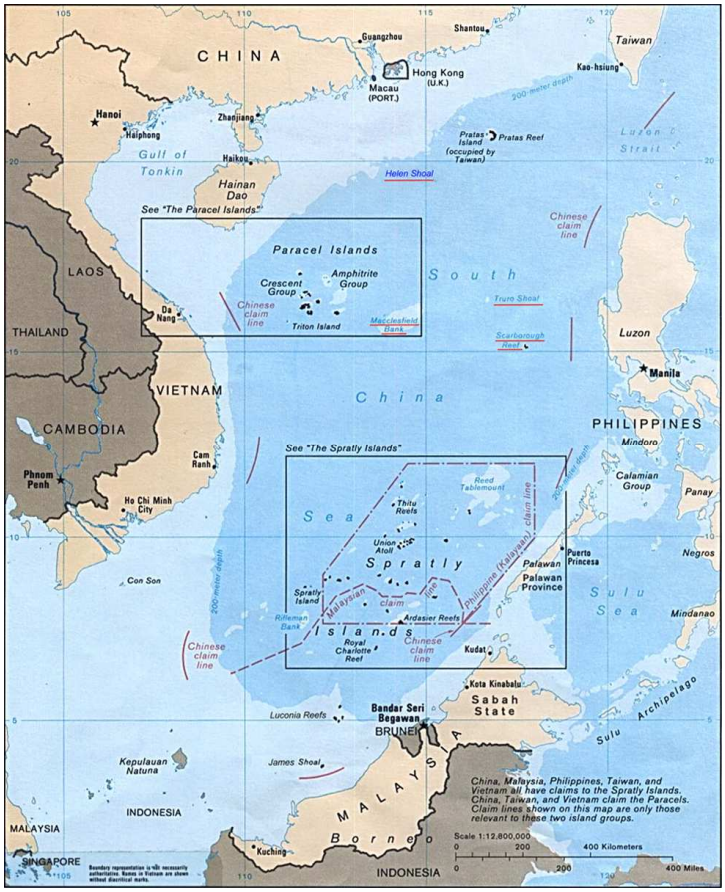

Figure 1: Map of the South China Sea, Asia Maps – Perry-Castañeda Map Collection

2.1 Increasing tensions

The most recent cycle of heightened tensions between Vietnam and China over the South China Sea began in 2009. States parties to the 1982 United Nations Convention on the Law of the Sea (UNCLOS) were required to lodge submissions to the UN Commission on the Limits of the Continental Shelf in 2009 on claims to the continental shelf that extended beyond 200 nautical miles. China protested Vietnam's claim and tabled its 'nine-dashed lines' map in response. China also increased its assertiveness in patrolling and claiming sovereignty over the disputed waters, including pressuring international extractive companies including BP and ConocoPhillips to pull out of projects with Vietnam in disputed areas by threatening retaliatory action against their interests in China.

At the same time, domestic pressure grew in Vietnam for increased state proactiveness on the South China Sea, including criticism in Vietnamese social media that Vietnam had not been defending its claims forcefully enough. Anti-Chinese sentiment was exacerbated by China's regular harassment and detention of Vietnamese fishermen working in disputed waters. In addition, Vietnam finalised its difficult and lengthy land border demarcation negotiations with China at the end of 2008, allowing the state to shift its attention to the maritime dispute.

The concerns of Vietnam and other regional states over China's increasing assertiveness in the South China Sea were magnified by China's on-going military expansion and efforts to increase its leverage in Southeast Asia more generally. To counter this, Vietnam and other

ASEAN states strengthened their strategic relationships with the United States (US), and made it clear they would welcome the US's involvement in the South China Sea dispute. Vietnam also pushed for regional states to combine forces in multilateral discussions on the South China Sea through ASEAN, rather than engage in the uneven bilateral discussions preferred by China.

Highlighting the deterioration in relations, Vietnam publicly accused Chinese boats of harassing Vietnamese fleets in the South China Sea at the end of May this year, including cutting the exploration cables of a seismic survey ship.

2.2 China's shift in approach

In response to this growing regional concern, China shifted to a more conciliatory approach on the South China Sea to maintain its relationships and influence in the region, particularly in relation to the US. In July, China and ASEAN states agreed on non-binding 'Guidelines for the Implementation of the Declaration' at the ASEAN Regional Forum (ARF).

The Guidelines reaffirmed the parties' commitment to the 2002 'Declaration of the Conduct of Parties in the South China Sea' between China and ASEAN states, which outlined the parties' agreement to seek peaceful solutions and exercise self-restraint in relation to the disputed territories, and to work towards the adoption of a Code of Conduct. While the Guidelines are general and non-binding, they were seen as a positive diplomatic outcome that improved the political dynamics between China and concerned ASEAN states including Vietnam, and a key step towards a binding code of conduct for parties with a claim to the area.

2.3 Vietnam-China talks

Vietnam currently has a two-track approach to negotiations with China on the South China Sea. As well as participating in the multilateral negotiations between ASEAN and China on the Spratly Islands and general principles on the South China Sea, it is undertaking bilateral negotiations with China. The bilateral talks were not made public until the start of 2011 and are assumed to be on the Paracel Islands.

3. The current status of relations between Vietnam and China

3.1 Political relationship

Vietnam's long history with China has given it much experience in managing China and their asymmetric relationship. Vietnam focuses significant attention on China, and works hard to maintain its interests on key issues, such as the South China Sea, without souring the broader bilateral relationship. Vietnam's response to the recent protests was a good example –Vietnam was careful not to overly provoke China, while sending a clear message about its level of discontent. In maintaining good relations with China, Vietnam needs to manage domestic tensions. There are high levels of anti-China racism within Vietnam, based on significant resentment over perceived political and economic interventions in Vietnam and a long history of Chinese dominance.

On its side, China has a strong interest in avoiding direct conflict with Vietnam to maintain its claim to be a peacefully rising nation in the region, particularly given that Vietnam is an emerging strategic player in the region, and a stronger and more robust player internationally.

Overall the relationship is healthy, and Vietnam and China publicly characterise their relationship in strongly positive terms such as comrades, neighbours and partners. A key factor underlying this is the very close behind-the-scenes relations that allow many issues to be resolved at an early stage. Vietnam and China have extensive party-to-party, state-to-state and military-to-military people-to-people links across the political, economic and military spheres, involving hundreds of senior and working level visits each year. Vietnam uses these well-established liaison mechanisms and access to press their case on political issues involving China.

3.2 Economic relationship

In addition to maritime borders, the other key political irritant in the Vietnam-China relationship is the significant trade inbalance in China's favour. China is Vietnam's largest overall trading partner. Over the last decade, Chinese imports into Vietnam have grown exponentially compared to Vietnamese exports to China. In conjunction with an increase in two-way trade from USD 3024 million in 2001 to USD 31,770 million in 2010, Vietnam's trade deficit with China ballooned from USD 189 million in 2001 to USD 19,096 million in 2010. Further details of the trading relationship over the last decade are in Table 1.

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Imports from China	1606.20	2158.80	3138.60	4595.10	5899.70	7391.30	12710.00	15973.60	16441.00	25433.27
Exports to China	1417.40	1518.30	1883.10	2899.10	3228.10	3242.80	3646.10	4850.10	4909.00	6337.21
Two-way trade	3023.60	3677.10	5021.70	7494.20	9127.80	10634.10	16356.10	20823.70	21350.00	31770.48
Trade deficit	188.80	640.50	1255.50	1696.00	2671.60	4148.50	9063.90	11123.50	11532.00	19096.06

Table 1: Vietnam's trade with China (US Dollars, Millions)
Source: IMF, Direction of Trade Statistics, September 2011

The large trade deficit exacerbates Vietnamese resentment against Chinese dominance and is regularly mentioned in Vietnamese media. To offset the deficit and boost the economy, Vietnam has urged China to increase investment in Vietnam for some years. Public opinion in Vietnam, however, opposes increased Chinese investment and its side effects, including the influx of Chinese labourers, the bad environmental record of Chinese companies, particularly in resource extraction, and the potential for Vietnam to become overly economically dependent on China. This was highlighted by domestic resistance to Chinese bauxite mining in Vietnam's Central Highlands, approved by the state in 2009.

3.3 Military links

While Vietnam's military links with China are not as extensive as their political relations, they are in good shape. The two countries have regular high-level military delegations, annual defence security consultations, military training exchanges, ship visits and joint naval patrols in the Gulf of Tonkin. In recent talks, during the Vietnam-China Strategic Defence and Security Dialogue held in August in Beijing, Vietnam and China agreed to expand bilateral defence cooperation to new fields, including increased communication between the defence ministries.

4. How the current border disputes might play out

While limited armed conflict is possible, the most likely outcome in the South China Sea dispute is some kind of negotiated agreement, due to the strategic interests of both states in avoiding conflict.

4.1 Military conflict

Given the reduced tensions, all-out naval engagement is unlikely, although it remains possible. China has significantly increased its naval capabilities, and is reluctant to compromise on territorial disputes. Vietnam is a determined adversary, and while vastly outpowered by China, has boosted its naval powers through orders for submarines, military frigates and anti-ship missiles.

Both sides, however, would have much to lose from military conflict. China would forfeit any claim to be a peacefully rising player in the region, and would push regional states towards the US. Vietnam would likely suffer significant loss to both its military power and the disputed territory.

4.2 Accidental provocation

Vietnam, China, and other interested states have built up their navy and presence in the South China Sea to bolster their claims to the area. The rapid growth in naval activities may lead to limited conflict through accidental or minor provocations. Continued Chinese harassment of Vietnamese fishermen or seismic survey vessels by local authorities could also result in an escalated response by Vietnam.

4.3 Negotiated agreement

While much of their diplomatic relations happen behind-the-scenes, it appears that Vietnam-China relations over the South China Sea have improved since the heightened tensions earlier this year, and that bilateral discussions between Vietnam and China are moving forward, albeit slowly. Both countries have been keen to emphasise publicly that the dispute will be dealt with in a constructive way through continued dialogue. China and Vietnam's land border agreement in 2008 is a hopeful precedent for the ability of the two countries to reach a negotiated outcome, as it was also a sensitive issue domestically for both states. Following 15 years of secret negotiations, the demarcation of the land border resulted in a reasonably fair deal for Vietnam, and major confidence-building between the two countries.

Even with improved dynamics, negotiations over the South China Sea are likely to be long and difficult, as the dispute is more sensitive and more players are involved. China will need to back down from its current claim to the majority of the area. Vietnam may also feel it can push harder, using its status as a stronger player regionally and internationally.

One possibility is that Vietnam and China will maintain their existing territorial claims, and instead reach an agreement on joint resources management. There is some precedent for this, including a previous agreement in 2005 (now expired) between the national oil companies of China, Vietnam and the Philippines for joint seismic testing.

4.4 Binding code of conduct

Given the pressure for a binding code of conduct between ASEAN and China, it is possible that a code will be agreed on by the 2012 ARF for the 10th anniversary of the 2002 Declaration. Whether such a code is effective or performs primarily a ceremonial function remains to be seen, given the likely difficulties in implementing effective monitoring and enforcement mechanisms.

5. The role of the international community

A large proportion of the world's trade passes through the South China Sea. While maritime routes have not yet been affected by the dispute, the international community has a strategic interest in ensuring the on-going security of sea lanes.

As with broader East Asian security dynamics, the United States is the key international player on the South China Sea dispute. At the 2010 ARF in Hanoi, following diplomatic requests from regional states, Hillary Clinton sent a strong message to China by stating that the United States considered South China Sea to be a matter of national interest, and declaring support for a 'collaborative diplomatic process by all claimants for resolving the various territorial disputes without coercion,' implying that China was unfairly pressuring ASEAN states. Not surprisingly, China accused the United States of meddling in regional issues, but this statement helped to push China towards a more conciliatory approach on South China Sea issues. Since then the US has maintained attention on the issue, but has been careful to urge on-going dialogue, rather than indicate support for Vietnam and other ASEAN countries against China in the dispute.

Utilising the lessons from this, the international community can play an important supporting role by maintaining attention on the dispute, and continuing to encourage the parties to reach agreement. To avert China's efforts to wholly control the South China Sea by pressuring individual states, the international community could support ASEAN to maintain a unified front, and encourage the use of the law of the sea as the primary mechanism for resolving the dispute. The international community could also support ASEAN in steering the ARF to move beyond confidence-building measures on maritime disputes to discussing practical measures and promoting preventive diplomacy. The key players should tread carefully to promote on-going dialogue without unnecessarily provoking China.

5.1 The role for the law of the sea

Apart from Taiwan, all claimants to the South China Sea are parties to UNCLOS, including China. While the recently-agreed Guidelines do not mention the law of the sea, they reaffirm the 2002 Declaration, in which parties outlined their commitment to resolve territorial disputes in accordance with universally recognised principles of international law, including UNCLOS.

Under UNCLOS, states can claim the sovereign rights to resources in their maritime zones – the exclusive economic zone of 200 nautical miles from the coast, and the continental shelf which can extend to 350 nautical miles or beyond. As UNCLOS does not have any provisions on territorial sovereignty, claims to sovereignty over the disputed islands (and the corresponding maritime zones) would need to be determined under customary international law.

Vietnam and other ASEAN states support the use of UNCLOS as a basis for resolving the dispute, particularly the provision that any claim to sovereign rights must be made on the basis of maritime zones derived from claims to land features. The Philippines has urged the competing claimants to take the matter before the International Tribunal for the Law of the Sea, but recognises it is unlikely that China will agree to this, particularly since China has exercised its right to opt out of the dispute settlement system for matters relating to maritime boundary delimitation.

In order for the competing claims to be assessed under UNCLOS, China would need to clarify its claims according to the UNCLOS system of maritime zones, rather than its current unsupported claims to sovereignty over all areas within the 'nine-dashed lines' map. While this is likely to reduce the coverage of China's claim and would be domestically unpopular, China also has strong interests in not overly threatening the law of the sea regime, given its growing dependence on secure international shipping routes for trade and energy resources.

6. The future relationship between Vietnam and China over the next five years

Politically, the broad relationship between Vietnam and China is likely to remain relatively robust, albeit with on-going cycles of inflamed tensions followed by conciliatory measures. The strong people-to-people links will play a significant role in ensuring on-going dialogue.

Vietnam is likely to increasingly use ASEAN to strengthen its regional clout, and as a useful counterbalance to China's influence. ASEAN solidarity, however, should not be taken for granted. China is likely to be able to weaken multilateral discussions through pressuring individual states, particularly those with no real interest in the South China Sea. In addition, if Vietnam considers it is able to get a better deal on South China Sea issues outside ASEAN, then it is likely to operate bilaterally.

Vietnam is likely to seek to further internationalise the maritime dispute by encouraging other key states to increase their security role in Southeast Asia, including Japan, Russia,

Australia, South Korea and India, as well as the US. Vietnam will need to balance this carefully against exacerbating tensions with China.

Economically, Vietnam is likely to become increasingly economically integrated with China through investment and trade, given its geography, investment needs, and the increasing regional infrastructure in the Greater Mekong Sub-region. As Vietnam is unlikely to be able to overcome its trade inbalance with China through investment, it will need to expand its export access to the US, EU and Japanese markets to offset the deficit.

On the military side, it is likely that China and Vietnam will continue to strengthen military cooperation, given China's desire to continue to expand its influence in the region relative to the US.

7. Conclusion and policy recommendations

The European Union (EU) does not have significant influence in East Asia, and its engagement on the maritime borders dispute is minimal – the EU was not represented at the ARF this year and it has not made any public statements on the South China Sea since the mid-1990s.

Starting from this low base, the EU should consider boosting its role on the issue, as a member of the ARF and a neutral party, given that the trade routes for some of the EU's most important trading partners – namely China, Japan and South Korea – pass through the South China Sea. The EU could assist the United States in maintaining attention on the dispute and encouraging the parties to reach agreement. If the situation deteriorates again, the EU could also consider offering its good offices to help facilitate the dispute, such an offer would be less provocative to China than a similar offer by the US. As the US is not a party to UNCLOS, the EU is also in a better position to urge the use of the law of the sea as a basis for resolving the dispute.

In considering potential initiatives, the EU should remain aware of China's sensitivities on the issue, and the lack of impact of the dispute on trading routes thus far. Soft encouragement of the on-going multilateral and bilateral negotiations may provide the best balance between ensuring the stability of trade routes and conserving good relations with China.