Recent Developments in the South China Sea and Evolution of Vietnam’s Claims and Positions

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Content

- Recent Developments in the South China Sea
- Vietnam’s Interests in the SCS
- Vietnam’s Claims to Territories and Maritimes Zones
- Vietnam’s Positions on Settlement and Management of the SCS Issues
Golden Time Passed


- Limits of DOC (No cooperative activities; unable to effectively manage the situation)

Increasing Tension
Intent: Control the SCS, Strategically and Economically

Strategy: 3 No

- No Clarification of Claim (Take advantage of ambiguity, lack of legal foundation)
- No Multilateralization: Prevent discussion about SCS in regional and international forums; (Divide and Rule ASEAN – target: non-claimants: Myanmar, Laos, Cambodia, Thailand)
- No Internationalization: Prevent extra-regional powers (especially the US) from involvement; no third party settlements

Chinese Bilateralism: Not for dispute resolution, but for joint development (sovereignty is mine)

Policy: Multi-Dimensional policy: to de-factor control the SCS
Military

- **Control “Near Seas”:**
  Anti-Access/Area Denial
  First and Second Islands Chains
  Impeccable Incident

- **Navy Modernization,**
  Military Exercise in the Disputes Water: to demonstrate strength:
  “Win without Fighting”
Resources Control

- **Three Directions Tactics:**
  - **Unilateral Actions:**
    - Dividing Oil and Gas Blocks within U-shaped Line
    - 30 bil. USD Investment in Energy Development in the SCS;
    - Enhancing Deep Sea Drilling Capacity (3500 m)
    - Unilaterally declare fishing ban in the disputed area
  - “Shelving dispute and joint development” within the U-Shaped Claim on principle
    - “what is mine is mine, what is yours is mine and we are willing to share”
  - Law Enforcement: Arrest fishermen, vessel; Harass oil and gas exploration taken by other countries within the U-shape Line
Other Claimants

- The Philippines amended archipelagic baselines; plan to develop disputed island into a tourist spot; congressmen visited Spratly.
- Navy modernization: Seeking 1 submarine
- Malaysian PM inspected Layang Layang. Malaysia bought 2 French-built Scorpene-class submarines.
- Vietnam is modernizing navy: signed contracts to buy 6 Kilo-class submarines, 12 Sukhoi Fighter Jets and other military hardware from Russia.
- Outer Continental Shelf Submissions
## Implications of Outer Continental Shelf Submissions

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<td>Minimize the area of dispute</td>
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**Implications for ASEAN (fishing activities), for US and other Powers (mil. activities in EEZ)**

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[Map of the South China Sea showing territorial claims and disputed areas]
Recent developments

**Involvement of non-claimants**

- **US:**
  - has a national interest in freedom of navigation, open access to Asia’s maritime commons, and respect for international law in the SCS;
  - supports a collaborative diplomatic process, supports the 2002 ASEAN-China DOC, encourages the parties to reach agreement on a COC,

- **Indonesia:**
  - The nine dotted line map clearly lacks international legal basis and is tantamount to upset the UNCLOS 1982
  - Is buying 2 submarines this year

- **Singapore** requested China to clarify the U-Shape Line

- **Australia, Japan, India…:** Freedom of Navigation, Peaceful resolution of dispute
Implication of Recent Developments

- Violation of sovereignty rights of other claimants under international law of the sea
- Rising Nationalism
- Risks of escalation from small incidents to military clashes or arms conflict => Military build up/ arm race
- Implications to overall relationships, decreasing political trust between China and other ASEAN claimants

=> Complicating the negotiation process for CBMs and cooperative activities
- More clarifications of claims => less rooms for finding acceptable area for cooperation.

2 obstacles: U-shaped Line and “regime of island”
Vietnam's Interests in the South China Sea

- **Territorial Sovereignty over Paracel and Spratly**
- **Geostrategic Interests**
  - (Protect national security from a sea-based attack, sea lanes of communication)
- **Economic Interests**
  - (living and nonliving resources: Fish, oil and gas, minerals,..)
- **Nontraditional security** (Environment, Sea Level Rise, Transnational crimes, Piracy,..)
- **Domestic Stability, Regime Survival**
Vietnam’s Claims in the South China Sea

- Vietnam has sovereignty over land features of the Paracel and Spratly Islands
- Continuous activities to exercise sovereignty over the Paracel and Spratly by the Nguyen Dynasty, the French protectorate and the Republic of Vietnam, and Socialist Republic of Vietnam
Vietnam Claims in the SCS

- Distinguish the settlement of disputes over the Paracels and Spratlys with the issue of defense of maritime areas and continental shelf generated from the mainland.
Vietnam claimed the whole range of maritime zones from baselines:
- 12-nautical mile territorial sea,
- 12-mile contiguous zone,
- 200-mile Exclusive Economic Zone.
- Continental Self and Extended Continental Shelf
As an obligation to meet the deadlines set by UNCLOS

Vietnam Position on “regime of features” in the SCS:

Features are Rocks: incapable for EEZ or continental shelf

⇒ Minimize the area of dispute
Vietnam Position on Settlements of SCS Issues: Bilateral, Multilateral and International

**MOFA Spokesperson Press Conference on June 10th, 2011:** *There are many types of issues within the East Sea issue.*

- **Issues related only to two countries**, such as the issues between Vietnam and China like the entrance of the Gulf of Tonkin, the Hoàng Sa archipelago – the Paracel, shall be settled bilaterally between the countries directly concerned.

- **Issues related to countries and other parties concerned**, such as the issue of Trường Sa archipelago - the Spratly, shall be settled between the parties concerned.

- **Issues not only related to the East Sea coastal countries but also related to the countries outside the region**, such as security and safety of navigation, etc shall be settled with the participation of parties concerned.
**Question**: Is there a role to be played by the United States or other countries that do not have a claim to any territory in the Sea, or international bodies, in helping resolve disputes?

**Answer**: Maintaining peace, stability, security, maritime safety in the East Sea is the common interest of the countries inside and outside the region. Therefore, every effort by the international community in maintaining peace and stability in the East Sea is welcome.
Agreement on Basic Principles Guiding the Settlement of Sea-Related Issues between China and Vietnam

- 8 rounds of negotiation
- 6 Points Agreement

**Point 3:**

“For sea-related disputes between Vietnam and China, the two sides shall solve them through friendly talks and negotiations. Disputes relating to other countries shall be settled through negotiations with other concerned parties.”
Vietnam’s Position on Managements of Disputes

Signed and Call for full implementation of DOC 2002 (including all components)

- Basic Norms (Resolve disputes by peaceful means, without resorting to the threat or use of force; friendly consultations and negotiations)
- Prohibited activities (exercise self-restraint in the conduct of activities, no new occupation)
- Encouraging activities (Confidence-building measures; Cooperative activities)

Supports idea of clarification of non-disputed and disputed maritime zones to shape potential area for joint cooperation. (Philippine ZoPFF/C)

Develop a binding code of conduct (COC) within ASEAN => with China
Vietnam and Joint Development

- Supports in Principle
- In Practice:
  - Fishery Cooperation with China in the Gulf of Tonkin 2000
  - Joint Development of Energy with China in the Gulf of Tonkin 2000
  - Joint Development of Energy with Malaysia in the Gulf of Thailand
  - Tripartite Agreement with Malaysia and Thailand
  - Tripartite Agreement with Philippine, China (JMSU 2005)
- Join Development only in the really disputed areas according to UNCLOS 1982
Thank you!