

## **Vietnam and the South China Sea Dispute: Sovereign Claim, Energy Security and Joint Development Agreement**

Min Van Pham

Lecturer of International Studies, Vietnam National University, Vietnam

### **Abstract**

Sovereign claims, energy security concerns and joint development agreements (JDAs) play a central role in the South China Sea (SCS) dispute. Publications have often treated these factors separately instead of studying how one claimant state's calculation of these factors could affect that state's strategy in the dispute. Selecting Vietnam as a case study, the present paper investigates this key claimant's calculation of sovereignty, energy security and JDAs. On the basis of primary sources (especially interviews with governmental officials), it demonstrates that Vietnam has displayed a relatively consistent path to resolving maritime disputes, and the pressure to achieve energy security may encourage Vietnam to adopt a flexible approach towards the issue of sovereignty in the SCS dispute. Vietnam supports JDAs as a viable option for settling this dispute. As Vietnam is one of the key claimants in the SCS dispute, an understanding of the country's calculation of sovereign claims, energy security concerns and JDAs is essential in order to seek viable peaceful solutions to the SCS dispute.

### **Keywords**

South China Sea, Vietnam, energy security, sovereignty, joint development agreement

Territorial and maritime disputes, which have existed since ancient societies, have been exacerbated in the post-modern era (Kim, 2014). The South China Sea (SCS) dispute has appeared in recent years as one of the most seemingly intractable disputes. The SCS plays a critical role in international navigation, maritime safety, environmental protection and natural resource exploitation. Unfortunately, the SCS dispute remains as a potential flashpoint that could lead to regional instability and affect international freedom of navigation in the Asia-Pacific region. Concerned states, including Brunei, China, Malaysia, the Philippines, Taiwan and Vietnam, have made efforts to stabilize the situation and to seek peaceful solutions to the dispute. However, recent developments such as the current naval arm race among regional actors and China's 'act of state piracy' (Till, 2012; Thayer, 2014) indicate that such solutions seem still to be out of reach.

Central to the SCS dispute are the sovereign claims by claimant states. These countries claim various groups of islands in the SCS either in whole or in part. Sovereignty and territorial integrity is the base concern of any state, especially East Asian states for which the state-building process is still on going. Several studies have demonstrated that sovereignty and territorial integrity are vital to the legitimacy of ruling regimes, particularly in China and Vietnam (Sutherland, 2008; Heberer & Schubert, 2009; Nguyen, 2010). Consequently, claimants appear to be insistent on their sovereign claims in any discussions or negotiations towards possible solutions to the dispute. Sovereignty claims make the SCS dispute seem intractable.

The reserve of seabed energy resources is often cited as a key driver that incentivizes littoral states to insist on their strong positions (Owen & Schofield, 2012). Energy resources in the SCS become important in the context that most littoral states are now facing national compelling energy demands and energy security has become a pressing issue in the region. China and some ASEAN countries have undergone a profound period of economic growth and rapid urbanization. Despite the recent economic recession, the region is expected to continue its economic growth and rapid industrialization of which energy is the life-blood. For instance, China commenced its maritime oil imports in 2006 and imported 239 million tons of oil in 2010. China's oil imports have increased from 28 percent in 2001 to 50 percent in 2008 and 55 percent in 2010, which exceeded the globally recognized energy security alert level of 50 percent (H. Zhao, 2011, p. 41; L. Zou, 2011). Similarly, ASEAN is faced with the maturity of existing oil and gas fields and the region's oil imports are projected to be four million barrels per day by 2030 (H. Zhao, 2011). Fossil fuels will continue to dominate energy demands for decades to come. In such circumstances, the reserve of energy resources in the SCS is expected to compensate imported energy and enable claimant states to secure energy

security. The soaring energy demands intensify littoral states' incentives to develop seabed energy resources in the SCS (Wu & Zou, 2009; Perlez, 2012).

Research on territorial and maritime disputes has often investigated energy resources in the SCS as both triggers for conflicts and potential resolutions to the SCS dispute. On the one hand, the fear is that China and other claimants may encounter military conflicts in the SCS due to the pressure from economic recovery, rapid growth and energy demand resurgence (Hughes, 2011). On the other hand, an optimistic view is that energy resources in the SCS could encourage concerned states to cooperate in oil and gas exploration and exploitation, of which joint development agreements (JDAs) seem to be viable options.

The idea of JDAs as viable options for settling overlapping maritime claims is not new to Asia. Joint development is often understood as when two or more countries agree to pool any right they may have over a given area in order to jointly explore and exploit offshore minerals (Gault, 1988). Southeast Asian and Northeast Asian states have used JDAs to deal with their overlapping maritime claims. Southeast Asian countries, including Brunei, Cambodia, East Timor, Indonesia, Malaysia, Thailand and Vietnam, and all three Northeast Asian countries (China, Japan and South Korea) have been party to at least one JDA (Davenport, 2012). In fact, China proposed joint development projects in the SCS as early as 1991. The failure of its initial proposal was mainly due to China's principle that other countries have to admit its sovereignty over the SCS. Contestant states' insistence on sovereignty claims in the SCS has greatly contributed to the failure of the proposed JDA.

Sovereign claims, energy security concerns and JDAs, among others, are the key influential factors in the SCS dispute. While there is no shortage of discussion, both popular and academic, on the dispute, scholarship has often treated these factors separately, while the question of how they are calculated within one claimant state has been left unexamined. Moreover, the study of the SCS dispute has so far focused mainly on data and information from public sources such as state-led media or press releases and government announcements. Such sources of information contribute to understanding states' perception of the SCS dispute officially but often insufficiently. The aim of this paper is to fill this gap by using Vietnam as a case study and interviews with governmental officials as the primary source of data to examine how a state calculates these influential factors.

This paper first gives a brief overview of Vietnam's sovereign claims over the SCS. It then discusses Vietnam's energy security issues and the role of energy resources in the SCS in this regard. Finally, it analyses Vietnam's perspective of JDAs as a potential solution to the SCS dispute. The paper demonstrates that Vietnam has pursued a relatively consistent path to discussions and negotiations towards

resolutions for maritime disputes and that the pressure to achieve energy security may encourage it to adopt a flexible approach to the issue of sovereignty in the SCS dispute. Vietnam is one of the key claimants in the SCS, and is willing and prepared to use JDAs as viable options for resolution. Thus, the investigation of how Vietnam calculates sovereignty claims, energy security concerns and JDAs in the dispute could shed light on its attitude towards possible discussions and negotiations on the dispute. It could also help maintain peace and stability in the region and seek long-term solutions in the SCS.

To explore Vietnam's calculation of sovereignty, energy security concerns and JDAs, this article draws primarily from research interviews with ministerial officials from the Minister of Foreign Affairs (MOFA) and the Ministry of Industry and Trade (MOIT), which is in charge of the energy sector in Vietnam. The research is also based on interviews with some senior staff at PetroVietnam (PVN)—a state-owned company under the authority of MOIT, which is both the operator and regulator of the oil and gas sectors. Oil production in Vietnam is operated by the PVN's upstream subsidiary—PetroVietnam Exploration and Production (PVEP). PVN is also involved with the downstream oil sector through its subsidiaries such as PetroVietnam Oil Processing and Distribution Company (PV Oil).

The author conducted 14 semi-structured interviews, of which seven were conducted with MOFA officials and the rest with MOIT officials, between March and April 2013 in Hanoi. Though research participants differed in terms of their education, age, gender and position, and they were strategically selected to hold middle and upper management positions in their respective institutions. The semi-structured interview approach was chosen because it is formal enough to ask the same set of questions but also flexible enough to conduct the interviews in a conversational flow. The author encouraged participants to give their own explanations and was able to follow up by asking additional questions. In this way, the author had the ability to get more complete information than formal interviews and survey questionnaires. The interviewees were guaranteed confidentiality and anonymity to encourage them to express their ideas and opinions in an open and honest manner. Furthermore, in order to provide a more comprehensive answer to the research question, the paper also relies on supplemental sources of information such as government documents and policies.

### **Vietnam's Sovereignty Claims over the SCS**

As a maritime country situated on the eastern coast of the Indochinese Peninsula, Vietnam has a long coastline of 2,828 nautical miles (nm). The country has sys-

tematically claimed sovereignty over both the Paracel archipelago (Hoang Sa in Vietnamese) and the Spratly archipelago (Truong Sa in Vietnamese) in the SCS (or East Sea in Vietnamese). Vietnam published the 'Government Statement on the Territorial Sea, the Zone Contiguous, the Economic Exclusive Zone, and the Continental Shelf of Vietnam' on 12 May 1977. This established a 200 nm exclusive economic zone (EEZ) from the breadth used to measure Vietnam's territorial sea. Subsequently, on 12 November 1982, Vietnam issued the 'Government Statement on the Baselines of Vietnam' for implementing paragraph one of the 1977 Statement (Division for Ocean Affairs and the Law of the Sea, 2012). These two documents outlined Vietnam's claims to the maritime areas in the SCS. Accordingly, Vietnam claimed an EEZ of 200 nm and the adjacent shelf in the SCS.

Vietnam ratified the 1982 United Nations' Convention on the Law of the Sea (UNCLOS) in 1994. In addition, Vietnam's National Assembly 'reiterates Vietnam's sovereignty over the Hoang Sa and Truong Sa archipelagos ... and of the sovereign rights and jurisdiction of the coastal states over their respective continental shelves and exclusive economic zones' (Division for Ocean Affairs and the Law of the Sea, 2012). On 6 May 2009, Malaysia and Vietnam submitted the Joint Submission on the outer limits of continental shelves in connection with the two countries to the UN Commission on the Limits of the Continental Shelf (CLCS). On the following day, Vietnam submitted its National Submission on its Outer Limits of the Continental Shelf beyond 200 nm from the Vietnamese baselines to the CLCS. Most recently, Vietnam's National Assembly adopted the 'Law of the Sea of Vietnam' on 21 June 2012, which came into force on 1 January 2013, and substantiated its sovereignty claims through international law, that is, the 1982 UNCLOS. Article 2 of the newly-adopted Law of the Sea of Vietnam clearly states that 'in case there are differences between the provisions of this Law and those of an international treaty to which the Socialist Republic of Vietnam is a party, the provisions of the international treaty shall prevail' (Vietnam News, 2012).

Vietnam's sovereign claims over the SCS are based on historical records, discovery, maps and the succession of title from France during pre-colonial and French colonial times, as well as through effective occupation and control. It reiterates that the feudal Vietnamese state had effectively controlled the Paracel and Spratly archipelagos since the seventeenth century. Vietnam's sovereign claim over the Spratly archipelago is based on the succession of title from France, which occupied some islets in the area and made declarations of sovereignty over them (Nguyen & Amer, 2007). Vietnam's control over features in the archipelago has increased from seven features with permanent troop garrisons in the mid-1970s to current reports that it controls 27 features including reefs, shoals, cays and islands (Global Security, 2013). However, despite its claim over the whole Paracel group,

Vietnam does not currently occupy or physically control any islets in it. The archipelago has been fully under Chinese control since 1974 when the Chinese Navy took control over it from the then-Republic of Vietnam (South Vietnam).

Sovereignty and territorial integrity is sacred to Vietnam due to its unique centenary history of external invasion and colonial dominance. Top leaders of the Vietnamese government and state have publicly stated that Vietnam's sovereignty over the SCS is indisputable and it is always prepared to safeguard its sovereignty under any circumstances (Thanh Nien Daily, 2013; Vietnam's Sovereign Boundaries, 2013). However, research participants held a more flexible understanding of sovereignty in the SCS. All participants re-affirmed that sovereignty is of profound importance to Vietnam if not the most important issue with regard to the SCS dispute. Due to its long coastline exposing Vietnam to military vulnerabilities, all 14 participants reiterated that sovereignty over the SCS is vital because it enables Vietnam to guarantee its national defense. Yet, the same interviewees agreed that the overemphasis on sovereignty runs the risk of preventing stakeholders of the SCS dispute from seeking possible resolutions. In order to pave the way for negotiations and discussions, some participants suggested that disputant countries should admit that sovereignty over the SCS is *disputed* (original emphasis) and that one claimant should not require the acknowledgement of its own sovereignty from others as the top condition for negotiating possible solutions. One respondent from MOIT even emphasized that since the SCS is a contested area, the understanding of sovereignty over it should be 'flexible.' Governments should then inform their citizens implicitly or explicitly that the Sea is contested and the better solution is to negotiate with other disputants. This approach is difficult, those participants admitted, because the government that takes the first step in doing so may face domestic frustrations.

There is a popular argument that the SCS dispute is a good excuse for the Chinese government to redirect their public's attention away from domestic problems such as the increasing poor-rich gap and the Tibet and Xinjiang social unrests (Paterno, 2012). The case is different for Vietnam. As a MOFA participant commented, the SCS dispute has become a source of political disparity and public-government contradiction. Government forces had dispersed public protests against Chinese aggression in the SCS in 2011 and 2012. The public blamed the government for not having done enough to protest against Chinese harassment and violations of Vietnamese sovereignty. In addition to national defense, research participants agreed that the SCS is significant to Vietnam's energy security; the importance of the SCS to Vietnam's energy security comes second just after national defense.

## Vietnam's Energy Security and the Role of the SCS

Energy security is a multi-dimensional concept defined differently in various contexts. However, the 'security of energy supply' is used interchangeably with 'energy security', as it seems to be the ultimate goal of the energy policy of any state (Luft, Korin, & Gupta, 2011; Winzer, 2011). Although the Vietnamese government has highlighted environmental and sustainable development in its energy security strategy (Vietnam Ministry of Justice, 2007), all research participants agreed that the most compelling concern of Vietnam is the security of energy supply. This does not mean that they do not recognize the importance of other dimensions. One respondent from PVN explained that while the environment and sustainable development are of course important, since Vietnam is aiming to become an industrialised economy by 2020, economic development is the top priority, for which security of energy supply is the life-blood.

The reserve of seabed energy resources in the SCS plays a critical role in Vietnam's energy security. Vietnam has generally been an energy-sufficient country but indigenous energy resources are likely to be unable to meet the increasing domestic demand in the near future. The country has recorded its real gross domestic product (GDP) growth at about 7.2 percent during the past decade along with the rise of energy consumption of which more than one-third comes from oil and natural gas (U.S Energy Information Administration, 2012). The total demand for primary energy in Vietnam has increased annually by up to five percent, from 24.3 MTOE (million tons of oil equivalent) in 1990 to 55.6 MTOE in 2007 (Do & Sharma, 2011). A report by the Japan International Cooperation Agency (2008) projected that Vietnam's total primary energy demand would continue to increase by 5.5 percent annually up to the year 2025 in order for it to achieve its economic growth target of eight percent.

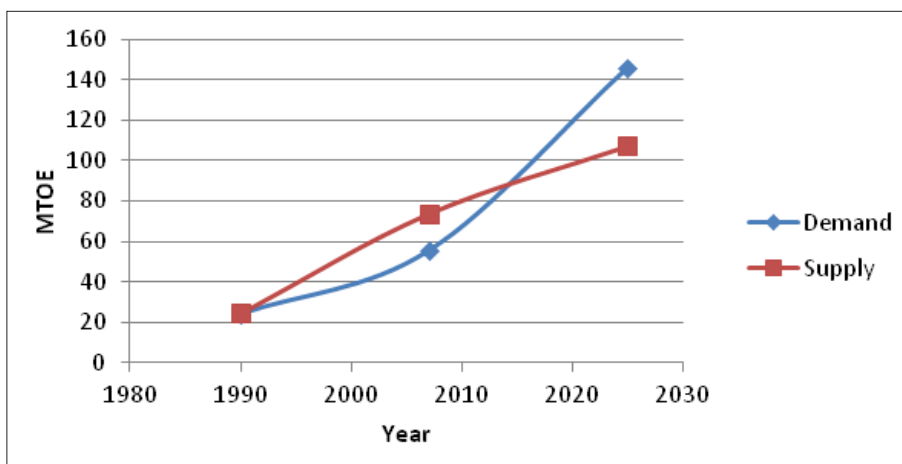
To meet this demand, Vietnam is seeking to develop all its natural resources. The country is endowed with several energy resources including hydro, renewable, oil, gas and coal but, as mentioned above, more than one-third of its primary energy demand comes from oil and natural gas. Due to industrialization and the expanding wealth of the growing middle class, this proportion will continue to escalate and put pressure on oil and gas exploration and exploitation.

Vietnam is currently a net exporter of crude oil but a net importer of oil products. It is also currently gas self-sufficient. However, this will not remain a long-term trend. Vietnam's oil production peaked in 2004 with above 400,000 barrels per day (bbl/d) but since then it has slowly decreased. A correspondent from PVN told the author that PVN supplied 30 percent of domestic product demand in 2012 and it is striving to meet between 50 and 60 percent by 2015. Yet

oil demand is projected to more than double from around 375,000 bbl/d in 2011 up to 830,000 bbl/d by 2030 (U.S. Energy Information Administration, 2012). This will be a big challenge for PVN. The natural gas situation is similar. As of January 2012, Vietnam is estimated to hold 24.7 trillion cubic feet (Tcf) of proven natural gas (US Energy Information Administration, 2012). Though gas production has steadily increased and met domestic needs, PVGas—an entity under the PVN—projected that the demand will outstrip supply, making a negative balance of 1.3 Bcf/d by 2025 (PetroVietnam Gas Joint Stock Corporation, 2012). For the time being, most natural gas production is processed and supplied to the Southern part of Vietnam. PVGas has been constructing gas storages in Thi Vai (Ba Ria Vung Tau province) and Son My (Binh Thuan province). It also plans to develop infrastructure to expand the gas markets to the central and northern parts of the country. Vietnam will become more dependent on natural gas.

Other energy resources have increased their share in Vietnam's total energy structure but the future projection is in a state of flux. According to the US Energy Information Administration (2012), coal, hydroelectric power and biomass occupied two-thirds of total energy consumption in Vietnam in 2010. Nevertheless, biomass, accounting for 36 percent of total energy consumption, is mostly consumed by households rather than commerce or industry. Though Vietnam has an abundance of hydro potential, this source of energy is highly dependent upon rainfall that is increasingly being affected by global warming. Other energy resources such as wind and solar power are unlikely to reach commercial exploitability in the years to come due to the investment and technology required. In

Figure 1 Vietnam's Primary Energy Balance



Source: Compiled from Do and Sharma (2011), Z. Hong (2011) and U.S. EIA (2012)



the area of coal exploitation, the situation is the same. Vietnam currently exports coal to China, Korea and Japan. In 2012, Vietnam National Coal and Mineral Industrial Holding Corporation Limited (Vinacomin) produced 44.5 million tons of coal, of which domestic consumption was 24.8 million tons and exports were 14.4 million tons (Thanh Nien Online, 2013). Ironically, Vietnam's Deputy Prime Minister stated that the country would have to import six million tons of coal by 2015 and 36 million tons by 2025 (Thanh Nien Online, 2013). Vietnam will likely run out of its most abundant indigenous energy resource.

Figure 1 illustrates the overall projection of Vietnam's energy security, in which the concern about increasing dependence is visible. The decrease of indigenous energy resources contributes to realizing this concern by 2015. Do and Sharma (2011, p. 5771) estimate that Vietnam's energy demand will be 146.0 MTOE by 2025 but it can only supply 107.3 MTOE, making a negative balance of 40.7 MTOE. The lack of stockpiling makes Vietnam more vulnerable to energy market changes or oil disruptions due to geopolitical incidents. In the context of compelling energy demand, while oil and gas comprises more than one-third of the total energy demand and continues to rise, Vietnam has to rely heavily on the reserve of seabed energy resources in the SCS to secure its energy security.

Regarding the SCS, all research respondents stated that the importance of the SCS in Vietnam's energy security is two-fold: reserve and transportation. The SCS is believed to contain significant reserves of oil and gas. The most recent report from the US Energy Information Administration (2013) estimates that the SCS contains approximately 11 billion barrels of oil and 190 Tcf of natural gas in proved and probable reserves. Chinese newspapers and national oil companies tend to give higher estimates (Wang, 1997; Q. Zhao, 1997). The levels of oil and gas reserves in the SCS are unclear, and the various estimates of them are speculative and change over time. The significance of these estimates lies in the fact that they would function as compensation for claimant states' energy reserves and imports. For Vietnam, oil and gas in the SCS have supplied domestic energy demand. Oil exploitation in the SCS enables Vietnam to remain an oil exporter (H. Zhao, 2010). The revenue from oil exports contributes greatly to its GDP—almost 30 percent in 2012 (Petrotimes, 2012). This revenue has become more important in the context of an economic recession.

The SCS as the main transportation route for Vietnam is less significant than that of energy resource reserves, according to research participants. The SCS is the key transportation route through which both Vietnam's oil imports and exports traverse. Non-traditional threats such as piracy, terrorism and natural disasters are obvious in the SCS but disruptions from geopolitical conflicts are not a main concern. One commentator detailed that oil and gas transportation to and from Viet-

nam goes through international and Vietnamese waters, and some great powers are interested in keeping the freedom of navigation in the region. The most sensitive chokepoint is the Malacca Strait, but this is the common ground where great powers and regional states' interests converge. Therefore, energy supply disruptions due to geopolitical conflicts are not an urgent concern for Vietnam's energy security.

Despite recognizing the SCS's significance as a plentiful fishery resource to the Vietnamese, all research participants agreed that for the time being energy resources are far more important. Along the long coastline, millions of Vietnamese people rely on fish in the Sea as a source of income. According to the UN Food and Agriculture Organization (2008), Vietnam is one of the top five seafood exporters in the world, with an annual growth rate of seafood exports of 15 percent between 2001 and 2010. Seafood exports made up only 3.74 percent of GDP in 2010 in comparison with 25-30 percent of GDP from oil exports. The majority of research respondents commented that the SCS fishery resources are important in terms of social security because they provide jobs for millions of Vietnamese people. Yet when asked to compare energy and fishery resources, all participants replied that the former is of greater importance. One participant from the MOIT Department of Energy deliberately argued that:

if there is no seafood industry, millions of people would be affected but if there is no energy resources, the number of affected people would be multiple. In addition, the revenue from seafood export is just a bit more than one-tenth of oil exports.

Interestingly, one MOFA respondent commented that both energy and fishery resources enable Vietnam's human security. This comment is in line with the trend that Vietnam has gradually moved away from an emphasis on traditional national security towards a focus on human security in the SCS dispute since the 1990s (Tonnesson, 2000). The result is the tendency towards a more regional-level and less nationalist approach to resolve the dispute. Should this be the case, Vietnam would view energy resource reserves as a problem-solver rather than a problem-trigger.

Gaining access to energy resources and securing energy supply can generate both competition and cooperation. Many commentators believe that competition is the norm and energy security is a zero-sum game. Nevertheless, one common agreement is that energy resources play a 'neutral' role in the SCS dispute (Schofield & Storey, 2006). The Vietnamese perception of energy resources revealed an interesting story. Since the adoption of the Foreign Investment Law in 1987, Vietnam has signed dozens of contracts with foreign companies for energy exploration and

exploitation in the SCS. The strategy of Vietnam is to continue diversifying international companies to invest in oil exploration and exploitation. PVN is mandated to form partnerships with international petroleum companies. The number of international companies investing in Vietnam has expanded, including ExxonMobil, Chevron, BHP Billiton, Korea National Oil Corporation (KNOC), Total, India's ONGC, Malaysia's Petronas, Nippon Oil of Japan, Talisman, Thailand's PTTEP, Premier Oil, SOCO International and Neon Energy. This strategy mainly serves three key objectives: technology, capital and human resource training. These international companies bring advanced technology and huge capital investment into Vietnam and help Vietnam to train its own labor forces in the field.

In addition, the majority of research participants agreed that the strategy of partnership diversification is to create interdependence in the SCS in order to resolve the dispute cooperatively. A respondent from MOFA Department of Southeast Asian Affairs provided that the case of the Indian state-owned petroleum company, ONGC Videsh Ltd. is a good example of the success of Vietnam's strategy. ONGC Videsh Ltd accepted Vietnam's invitation to explore oil and gas in Blocks 127 and 128, ignoring the Chinese warning to stay away from the SCS. Following some small incidents between China and India in the SCS, Indian Navy Chief Admiral D. K. Joshi said that the Indian Navy is ready to protect its economic interests in the SCS (Pubby, 2012). Notably, the SCS tension is seemingly parallel with the emergence of energy demand among claimant states. One existing assumption is that energy resource reserves are in fact a trigger to the dispute (Owen & Schofield, 2012; Perlez, 2012). However, for Vietnam, they should be utilized as a potential problem-solver. Most research participants suggested that JDAs among concerned parties could be viable options.

## **Vietnam's JDA Experience and SCS**

The SCS is not the only dispute to which Vietnam has been a party. Due to its history and geographical position, Vietnam has both land and maritime border disputes with most of the countries in the region, including China, Cambodia, Laos, Thailand, Malaysia, Indonesia, Taiwan and the Philippines. As early as May 1977, Vietnam adopted the position that it shall 'together with the concerned countries through negotiations on the basis of mutual respect of independence and sovereignty, in compliance with international law and practices, resolve the issues relating to the maritime zones and the continental shelf of each side' (Nong, 2012, p. 139). Besides the most seemingly intractable SCS dispute, Vietnam started resolving disputes with its neighbors since the 1980s and had made substantial progress

during the 1990s.

Vietnam has indicated such a position in resolutions of maritime disputes with regional countries. On 7 July 1982, Vietnam and the People's Republic of Kampuchea signed an agreement on 'historic waters.' Subsequently, both countries agreed on the Treaty on the Settlement of Border Problems between Cambodia and Vietnam in Phnom Penh in 1983, and the Treaty on Delimitation of Vietnam-Kampuchea Frontier on 27 December 1985. The Voice of Vietnam (2006) reported that the Supplementary Treaty to the 1985 Treaty signed by the Vietnamese and Cambodian Prime Ministers in Hanoi on 10 October 2005 'created a legal foundation for a definite and sustainable resolution to borderline issues between the two states.'

Vietnam's withdrawal from Cambodia in 1991 paved the way for more negotiations between Vietnam and its neighbors. Vietnam and Malaysia reached an agreement to jointly develop the overlapping areas in the Gulf of Thailand on 5 June 1992. The Vietnam-Malaysia Joint Development is 'viewed as a great success and vindication of the Malaysian-Vietnamese model of joint development in the Gulf' (Nguyen, 1999, p. 84). Only a half-decade later, negotiations between Vietnam and Thailand resulted in an agreement to delimit their continental shelf and EEZ boundaries in the contested area in the Gulf of Thailand on 9 August 1997. The agreements between Vietnam and Malaysia, and Vietnam and Thailand had paved the way for the tripartite negotiations concerning the overlapping area claimed by all three countries.

Another significant event that needs attention is the Vietnamese-Philippine discussion on a 'nine-point code of conduct' to be observed in the SCS in 1995 in Hanoi (Dzurek, 1996). On 25 December 2000, Vietnam and China signed the agreement on the Delimitation of the Territorial Waters, Exclusive Economic Zones and Continental Shelves in the Gulf of Tonkin to the northeast of Vietnam and the southeast of China. On 11 June 2003, Vietnam and Indonesia signed an agreement on the delimitation of their continental shelf boundary in an area to the north of the Natuna Islands. Evidently, Vietnam made enormous progresses in maritime negotiations and resolutions with its neighboring countries in the 1990s and early 2000s. Vietnam's negotiations and resolutions of maritime disputes with other concerned countries revealed that these disputes were both bilateral and multilateral and that resolutions were various including demarcations and JDAs.

There have been optimistic views that JDAs would be potential resolutions to the SCS contention (British Institute of International and Comparative Law, 1989; Leszek & Sazlan, 2007). In the late 1970s, Deng Xiaoping stated that China was willing to resolve disputes with its neighbouring countries with the pattern of 'putting aside disputes and pursuing common development' (Huang, 2005,

para. 2). Chinese Premier Li Peng promised in Singapore in 1990 that China would concentrate on the possibility of joint development in the SCS. Vietnam's then Prime Minister Vo Van Kiet welcomed his Chinese counterpart's view (Amer, 2002, p. 17). Accordingly, the idea of joint development in the SCS was initially discussed in the 1980s and proposed by both China and Vietnam in 1990 (McElroy & Mills, 1992; K. Zou, 2006). Nevertheless, with one exception being the Vietnam-China agreement in the Tonkin Gulf, joint development proposals have not brought about any positive developments in the Paracel and Spratly archipelagos where tensions have been increasing recently. Comments from research participants shed light on the failure of these proposals.

Although Vietnam welcomed the Chinese proposal for joint development in the SCS, it was highly suspicious of Chinese intentions. Vietnam anticipated that with the advantages in capital, technology and human resources, China would gradually dominate and take over disputed areas. This distrust was justified through the long history of Chinese dominance and the contradictions between Chinese words and deeds. For instance, Chinese President Yang Shangkun restated the message of 'putting aside disputes and pursuing common developments' during his visit to Thailand and Indonesia in 1992. Yet, on 25 February 1992, China passed the Territorial Waters Law of which Article 2 claims the four groups of islands in the SCS (China Military Online, 1992). Indonesia hosted a series of workshops on 'Managing Potential Conflicts in the South China Sea' with financial support from Canada. China sent representatives to participate in the workshop from 29 June to 2 July 1992 in Yogyakarta, Indonesia. Almost immediately, the Chinese naval force occupied Vietnam-claimed Da La Reef (Storey & Ji, 2004).

The joint tripartite agreement between China, the Philippines and Vietnam in 2005 was evidence for the Vietnamese suspicion that China would always propose joint development in its 'neighbors' gardens.' The national oil companies of China and the Philippines reached an agreement in September 2004 to conduct pre-exploration studies for oil and gas in the Spratly islands. Vietnam initially protested but finally agreed to participate in the tripartite agreement, in which the national oil companies of the three countries signed the Joint Maritime Seismic Undertaking (JMSU). Nevertheless, when the Philippine government declared that it would not extend the tripartite agreement in 2008, Vietnam delivered no response. The Chinese strategy is to make 'undisputed' areas 'disputed' so that it can get a share. Consequently, Vietnam viewed China's joint development proposal as a 'trap.' The Chinese government acknowledged that though Vietnam, the Philippines, Malaysia and Brunei had agreed orally to its joint development proposals, they did not proceed in practice (K. Zou, 2006). However, half of all the research participants said that Vietnam overemphasized sovereignty and missed a good opportunity

to negotiate with China for possible JDAs in the SCS. They also suggested that Vietnam should bear a *flexible understanding* of sovereignty in the case of the SCS contention (original emphasis). Obstinate emphasis on sovereignty will prevent a state's political will to engage in discussions and negotiations towards resolutions of the dispute.

One MOFA senior official who held a key position in maritime negotiations with Malaysia and Thailand admitted that the SCS is far more complicated than the dispute between Vietnam, Thailand and Malaysia. He stressed that the SCS dispute is heavily dependent upon the political will of concerned states. In 1991, Malaysia announced that it had discovered gas reserves in the overlapping area with Vietnam. Vietnam protested by sending a diplomatic message to the Malaysian Ministry of Foreign Affairs. The diplomatic message stated that unilaterally granting a third party the right to explore and exploit for petroleum in the overlapping areas would violate the friendly and cooperative spirit between the two countries (Nguyen, 1999, p. 81). The two countries expressed their willingness to negotiate and define the overlapping area. Only a year later, both sides reached an agreement for a joint development area. Such a political will does not exist in the SCS.

The lack of political will also makes claimant states either exacerbate or misunderstand other claimants' intentions. China has several times accused other contesting states of complicating the SCS dispute and therefore of violating the spirit of the 2002 Declaration on the Conduct of Parties in the SCS (DOC) signed by ASEAN states and China in Phnom Penh, Cambodia. Most recently, China has accused the Philippines of complicating the situation and violating the DOC spirit by submitting the Scarborough Shoal dispute between the two countries to an arbitration tribunal under the UNCLOS (Wa & Zhang, 2013). China also accused Vietnam of internationalizing the SCS dispute by involving the US, Japan, Russia and India.

Vietnam responded that it used to pursue both bilateral and multilateral approaches to deal with the SCS dispute. Half of the research respondents commented that Vietnam held the view that bilateral and multilateral disputes should be discussed through bilateral and multilateral negotiations, respectively. However, the increasing Chinese aggression in the SCS dispute makes it less possible for Vietnam to follow bilateral negotiations to deal with bilateral disputes with China such as the Paracel dispute. Therefore, Vietnam has been insistent on including the dispute over the Paracel archipelago into every ASEAN declaration and document about the SCS dispute (Thayer, 2012). Vietnam's insistence complicates the ASEAN view on the SCS contention. Vietnam continues to see JDAs as viable options to deal with the SCS dispute, though its distrust towards China remains static.

To reduce the distrust and keep JDAs as a key strategy in resolving the dis-

pute, Vietnam suggested involving third parties to bilateral negotiations, which both disputants could invite to negotiate in JDAs. The third party would not only provide exploration and exploitation technology and capital but also function as the arbitrator in the event of disagreement. The third party is also expected to provide legal expertise in international trade and commercial laws to ensure fair shares among concerned parties. The multilateral dispute in the SCS seems to be more complicated but in reality, Vietnam views it as an advantage to negotiate and cooperate in joint development projects, especially with the involvement of the third parties.

With its experience in maritime negotiations and JDAs, Vietnam is more interested in JDAs as viable and potential solutions to the SCS dispute. One participant from the MOIT disclosed on the strict condition of anonymity that the MOIT has been mandated to draft joint development proposals in the SCS. Claimant states' agreement on JDAs in the SCS would provide a secure investment framework for international petroleum companies. More importantly for East Asian states who emphasize heavily sovereignty claims, joint development projects will not compromise the claims or positions of concerned states and give time for more negotiations towards sustainable resolutions to the SCS dispute. Research participants from MOFA highlighted that the SCS dispute is the thorniest problem between China and Vietnam. Vietnam's approach to the dispute is that the less complicated problems should be resolved first, while utilizing JDAs as a viable mechanism to ease tensions in the SCS.

## Conclusions

The SCS dispute is extremely complex due to the high stakes and the abundance of overlapping claims over various maritime features. One would be naïve to be too optimistic about peaceful solutions to the high-profile dispute in the near future. However, the findings of this paper have important implications that merit attention. First, what research participants made clear is that reducing suspicion is important in dealing with the SCS dispute. Regional efforts at mutual trust building since the early 1990s seem to be relatively productive, while the recently increasing aggressiveness of the Chinese and the division within ASEAN escalates the distrust among regional claimant states. Together with other efforts, claimant governments should focus on measures to build mutual trust.

Second, sovereignty is sacred to regional states and often cited as the factor that makes the SCS dispute seemingly intractable. Interestingly, the comments from research participants revealed that Vietnam is more likely to view the issue

of sovereignty over the SCS in such a way that could promote cooperative activities between claimant states. This opens windows for discussions and negotiations towards peaceful resolutions to the dispute.

Third, energy resource reserves are significant to the nature of the SCS dispute. A commonly shared view is that they serve as a trigger encouraging littoral states to the SCS claims, but Vietnam views energy resource reserves as potentials for regional cooperation to resolve the SCS dispute. Energy security has become a pressing issue for regional claimant states. Prolonged contention would prevent them from exploring and exploiting energy reserves in the SCS.

Fourth, Vietnam is ready and prepared for JDAs as the most viable option in resolving the SCS dispute. To avoid domestic social unrest, Vietnam prefers JDAs as resolutions to the contention since they would not compromise its claims and positions and would stabilize the region. The country appears to have a strong desire to resolve the dispute in order to strengthen its domestic politics and energy security. Of course, it is important to point out that this paper has drawn from personal interviews in which bias is unavoidable. However, all interviewees in this research currently hold important positions in charge of foreign affairs and the energy sector. Their views are significant to the policy-making process in Vietnam. More research on the SCS dispute should focus on other claimant states' real approaches and what channels could be used to exchange views in efforts to resolve the contention. Though limited, there are reasons to hope for a peaceful and stable SCS region.

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