

Managing Vietnam's maritime boundary disputes

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Abstract: This article examines the progress made in managing Vietnam's maritime boundary disputes and analyzes the challenges that lie ahead relating to unsettled disputes. The continuity and change in Vietnam's approach to dispute a settlement and the difficulties in managing the unresolved maritime disputes are assessed. Vietnam has made considerable progress in managing its maritime disputes; however, continued efforts are needed to address the unresolved disputes.

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- protest to violation of Vietnam's territorial sovereignty over Truong Sa, Answer to Correspondent by Mr. Le Dzung, The Spokesman of the Vietnamese Ministry of Foreign Affairs on 1st April 2004, from the website of the Ministry of Foreign Affairs of Vietnam, at www.mofa.gov.vn/en/tt_baochi/pbnfn/ns041116144203 (accessed on 3 August 2006) Vietnam officially expressed its displeasure with Taiwanese activities on Itu Aban Island in late December 2005. On 29 December 2005, in response to a question, the spokesperson of Vietnam's Ministry of Foreign Affairs criticized Taiwan and stated that Taiwan's plans to construct a runway on Itu Aban constitutes a violation of Vietnam's sovereignty claims to both the Spratly and Paracel archipelagos. Taiwan's construction of a runway on Ba Binh Island (Itu-Aban) constitutes a severe violation of Vietnam's sovereignty, Answer to Correspondents by Mr. Le Dzung, The Spokesman of the Vietnamese Ministry of Foreign Affairs on 29th December 2005, from the website of the Ministry of Foreign Affairs of Vietnam, at http://www.mofa.gov.vn/en/tt_baochi/pbnfn/ns051229163816 accessed on 3 August 2006 For more detailed analyses of the normalization process and the way in which the territorial disputes were addressed during this process, see: Ramses Amer, *The Sino-Vietnamese Approach to Managing Boundary Disputes*, Maritime Briefing, 3, No. 5 Durham: International Boundaries Research Unit, University of Durham, 2002 Amer, R., *Assessing Sino-Vietnamese Relations through the Management of Contentious Issues* (2004) *Contemporary Southeast Asia*, 26, pp. 327-328
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 50. For details about the actions causing the periods of tension, see Amer, *The Sino-Vietnamese Approach*, supra note 40, pp. 8-26 The twelfth round of talks was held in Hanoi on 8-10 December 2005. See Viet Nam, China to complete landmark demarcation in 2008, from the website of the Ministry of Foreign Affairs of Vietnam, at www.mofa.gov.vn/en/nr040807104143/nr040807105001/ns051212154021 (accessed on 9 January 2006) Thao, supra note 36, at p. 111 For details about the talks and the context in which they took place, see Amer, *The Sino-Vietnamese Approach*, supra note 40, pp. 11-34, 50-58 See also Amer, *Assessing Sino-Vietnamese*, supra note 40, pp. 331-333 The tenth round of talks on sea issues was held in Beijing on 21 and 23 June 2005. Vietnam and Chinese experts hold talks on sea issues, from the website of the Ministry of Foreign Affairs of Vietnam, at www.mofa.gov.vn/en/nr04087104143/nr040807105001/ns050627151155 (accessed on 24 July 2005) Gulf of Tonkin Maritime Boundary Agreement, supra note 23 Vietnam, China exchange documents ratifying Tonkin Gulf demarcation agreement, from the website of Nhan Dan, at www.nhandan.org.vn/english/news/010704/domestic_vietnamchina.htm (accessed on 19 July 2004) See also: Two China-Vietnam Beibu Gulf agreements take effect, from the website of the People's Daily Online (English version), at english.people.com.cn/200407/01/eng20040701_148157.html (accessed on 3 October 2004) Supplementary Protocol to the Fisheries Agreement, supra note 25 The tenth round of government-level talks were held in Hanoi on 9 January 2004. See: Vietnam, China hold border talks and political exchanges, News Bulletin, No. 1500-1501 (10-11 January 2004) (English language bulletin), from the website of Nhan Dan, at www.mofa.gov.vn/en/nr04087104143/nr040807105001/ns050627151155 (accessed on 24 July 2005) Vietnam.China continue fishing co-operation talks, News Bulletin No. 1546 (25 February 2004) (Section on Economy) (English language bulletin), from the website of Nhan Dan, at www.nhandan.org.vn/english/20040225/economy.html (accessed on 15 September 2004) See supra note 30 For details, see: Two China-Vietnam, supra note 47 See also VN - China Gulf Pact to Enhance Relations, *Vietnam Law & Legal Forum*, 10, No. 118 (June 2004), pp. 8-10 Hong Thao, N., *The New Legal Order in the Tonkin Gulf* (2004) *Vietnam Law & Legal Forum*, 10 (119), pp. 9-15, 19. , For an early analysis of the implications of the

entry into force of the two agreements, see, July

51. The legal terminology used in this context is derived from ZouKeyuan, *Maritime Boundary Delimitation in the Gulf of Tonkin*, *Ocean Development and International Law*, 30 (1999), p. 246. Information pertaining to possible impact of Bach Long Vi Island on boundary delimitation is also derived from Keyuan, pp. 245-247Ibid., pp. 245-246, 253Thao, *The Gulf of Tonkin*, supra note 24, pp. 210-213For an argument along similar lines with a parallel being drawn to the Br??vi?? Line drawn in 1939 in the Gulf of Thailand, see Keyuan, supra note 53, pp. 238-240For more detailed analyses, see: Thao, *The Gulf of Tonkin*, supra note 24, pp. 207-214
52. Thao, supra note 23, pp. 25-44and Zou, supra note 23, pp. 13-24For more details, see Thao, supra note 23, pp. 28-30For more details, see *ibid.*, pp. 30-32In January 2005, Vietnam's Ministry of Foreign Affairs issued official statements in reaction to the shooting and killing of Vietnamese fishermen in the Gulf of Tonkin. The first statement was made in response to a question by a journalist on 13 January 2005, Mr. Le Dzung, spokesperson of the Ministry stated that Chinese vessels had shot dead nine Vietnamese fishermen, injured many others, and damaged their equipment. Furthermore, Vietnam had requested China to take active measures to prevent and put an end to such activities, as well as to carry out an investigation and severely punish the killers. Concerning the fact that the Chinese vessels shot to dead Vietnamese Fishermen, from the website of the Ministry of Foreign Affairs of Vietnam, at www.mofa.gov.vn/tt_baochi/pbfnf/ns050120164827 accessed on 22 March 2005www.nhandan.com.vn/englisg/news/200105/china.htm, In another statement by Le Dzung on 20 January, he specified that the incident had occurred on 8 January and that apart from the nine deaths and the injured, China had captured a number of Vietnamese fishermen. He reiterated earlier Vietnamese demands. He also demanded that the Vietnamese who were being held be allowed to return toVietnam, thatVietnamese officials be allowed to visit the injured and detained fishermen, and that a meeting be held by the Sino-Vietnamese Joint Fishery Committee to discuss measures to stabilize the situation. Chinese coast guards' killing of innocent Vietnamese fishermen violates international law, 20 January 2005, from the website of Nhan Dan, at, accessed on 11 March 2005China had a diametrically different view on the course of events. On 18 January, in response to a question relating to the events of 8 January, the spokesperson of China's Ministry for Foreign Affairs, Mr. Kong Quan, stated that several Chinese fishing boats had been robbed and shot at by three unidentified armed ships. This occurred on the Chinese side in the Gulf of Tonkin. When China dispatched police ships, they were shot at and this compelled the Chinese maritime police to take necessary actions, which resulted in the death of several armed robbers-one pirating ship and eight robbers were captured and their weapons confiscated. During interrogations, the captured robbers had disclosed that theywereVietnamese and confessed to carrying out the robberies. Finally, he stated that Chinawas ready to collaboratewithVietnam to both take concretely effectivemeasures and strengthen cooperation iVietnam and China issue joint statement, from the website of the Ministry of Foreign Affairs of Vietnam, at www.mofa.gov.vn/en/nr040807104143/nr040807105001/ns050726144049 (accessed on 26 July 2005)Vietnam, China make first joint navy patrol, from the website of the Communist Party of Vietnam, at http://www.cpv.org.vn/details_e.asp?topic=68&subtopic=167&leader_topic=282&id=BT3040634973 (accessed on 4August 2006)See also Vietnam,China make first joint navy patrol, *Shanghai Daily* (29 April 2006)reproduced on the website of the China Internet Information Center at www.china.org.cn/english/2006/Apr/167254.htm (accessed on 4 August 2006)Vietnam and China hold talks on sea delineation, from the website of Nhan Dan, at http://www.nhandan.com.vn/englisg/news/200106/domestic_vnandchin.htm (accessed on 23 January 2006)and, Viet Nam, China meet for talks on shared sea border, from the website of Vietnam News Agency, at (accessed on 22 January 2006)The most detailed study on the management on the territorial disputes between China and Vietnam is Amer, *The Sino-Vietnamese Approach*, supra note 40See: The Joint Declaration of 27 February 1999, issued in the connection with the visit to China by the then Secretary General of the Communist Party, Le Kha Phieu, reproduced in *Vietnam Law & Legal Forum*, 5, No. 54 (February 1999), p. 13the Joint Statement for comprehensive

cooperation signed on 25 December 2000 by the two Foreign Ministers of the two countries, Joint Viet Nam-China Statement for Comprehensive Cooperation (take two), Vietnam News Agency (VNA) (26 December 2000), from the website of the Vietnam News Agency, at www.vnagency.com.vn/Asp/Redanewse4.asp?FileN=frac2612.004 (accessed on 27 December 2000) and the Joint Communiqué of 8 October 2004, issued in connection with the visit of China's Prime Minister Wen Jiabao to Vietnam, China and Vietnam Issues a Joint Communiqué, 8 October 2004, from the website of the Ministry of Foreign Affairs of the People's Republic of China at www.fmprc.gov.cn/eng/wjb/zzjg/yzs/gjlb/2792/2793/t163759.htm (accessed on 22 March 2005) The Declaration on Conduct is reproduced in Nguyen Hong Thao, The Declaration on the Conduct of Parties in the South China Sea: A Note, *Ocean Development and International Law* 34 2003, pp. 282-285 Thao, N., Declaration on Parties' Conduct in South China Sea (the East Sea) - A Step towards the Establishment of the Code of Conduct for the Region (2002) *Vietnam Law & Legal Forum*, 9 (99), pp. 19-21., November

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54. Signed Agreements to boost Trade and Investment between RP and China, SAF-AGR-524-04 (September 2004), Press Release, Department of Foreign Affairs, from the website of the Department of Foreign Affairs, at www.dfagov.ph/news/pr/pr2004/sep/pr524.htm (accessed on 29 April 2004) Vietnam's reaction to the agreement between China and the Philippines came on 9 September 2004 in response to a question raised by a correspondent of Agence France Press to the spokesperson of the Ministry of Foreign Affairs of Vietnam. Answer to Correspondent by Mr. Le Dzung, The Spokesman of the Vietnamese Ministry of Foreign Affairs on 9th September 2004, from the website of the Ministry of Foreign Affairs of Vietnam, at www.mofa.gov.vn/en/tt_baochi/pbnfn/ns041028222202 (accessed on 29 September 2004) Information derived from DFA-MOAC to host Third Joint Scientific Research Expedition in the South China Sea, SAF-AGR-133-05 (07 March 2005), Press Release, Department for Foreign Affairs, from the website of the Department of Foreign Affairs, at www.dfa.gov.ph/news/pr/pr2005/mar/pr133.htm (accessed on 17 March 2005) The Vietnamese counterpart was the Academy of Science and Technology of Vietnam, see Information on Vietnam-Philippines joint scientific expedition in April 2005 in the East Sea. Answer to Correspondent By Mr. Le Dzung, the Spokesman of the Vietnamese Ministry of Foreign Affairs on 15th March 2005, from the website of the Ministry of Foreign Affairs of Vietnam, at www.mofa.gov.vn/tt_baochi/pbnfn/ns050315170200/ (accessed on 17 March 2005) Information derived from Foreign Ministry Spokesman Kong Quan's Comment on Philippines-Vietnamese Joint Marine Research in the South China Sea, 2005/03/11, from the website of the Ministry of Foreign Affairs of the People's Republic of China, at www.fmprc.gov.cn/eng/xwfw/s2510/t186844.htm (accessed on 11 March 2005) Information derived from: Tripartite Agreement for Joint Marine Seismic Undertaking in the Agreement Area in the South China Sea. Answer to Correspondent By Mr. Le Dzung, the Spokesman of the Vietnamese Ministry of Foreign Affairs on 14th March 2005, from the website of the Ministry of Foreign Affairs of Vietnam, at www.mofa.gov.vn/tt_baochi/pbnfn/ns050314164241/ (accessed on 22 March 2005) For details on the nature of the disputes and talks up to 2000, see Thao, Les delimitations, supra note 21, pp. 56-58 See supra note 26 Vietnam, Cambodia meet on border issues, News Bulletin, No.344 (1 November 2000) (English language bulletin), from the website of Nhan Dan, at www.nhandan.org.vn/english/20001101/index.html and www.nhandan.org.vn/english/20001101/bai-news1.html (accessed on 15 December 2000) and Viet Nam, Cambodia to solve border issue this year, affirms Vietnamese Deputy Prime Minister (3 November 2000), from the website of the Ministry of Foreign Affairs of Vietnam, at For more detailed analyses of the normalization process and the way in which the maritime disputes were addressed during this process, see the references listed in supra note 40 Amer, The Sino-Vietnamese Approach, supra note 40, pp. 45-46 www.mofa.gov.vn/tt_baochi/pbnfn/ns041119160109, The most recent source of tension has been the activities carried out by China in areas of the South China Sea that Vietnam considers to be part of its continental shelf.

According to Vietnam, China dispatched the KANTAN3 and an oil drilling platform to start operation on 19 November 2004. Vietnam officially requested China not to dispatch the oil-drilling platform. Nanhai 215 Vessel has hauled oil drilling platform KANTAN3 of China to the continental shelf of Vietnam, from the website of the Ministry of Foreign Affairs of Vietnam, at, accessed on 22 March 2005. China refuted the Vietnamese request, stating that the oil exploration was taking place within China's territorial waters. China rejects Vietnam's request to cease oil exploration, from the website of the China Daily, at www2.chinadaily.com.cn/english/doc/12004-11/23/content394139.htm (accessed on 10 January 2005). For the few incidents between 1999 and 2003, see: Amer, *Assessing Sino-Vietnamese*, supra note 40, pp. 333-335 and Amer, *The Sino-Vietnamese Approach*, supra note 40, pp. 26-36.