

# **Vietnam's Aim in the South China Sea:**

## **National or Regional Security?**

Paper presented at the 4<sup>th</sup> Euroviet conference in Passau, Germany, 16–18 September, 1999.<sup>1</sup>

By Stein Tønnesson, Centre for Development and the Environment, University of Oslo, Norway. E-mail: stein.tonnesson@sum.uio.no

### **Abstract**

Vietnam has conflicting claims to maritime zones with most of the other states around the South China Sea. In addition, Vietnam claims sovereignty to the Paracel islands, which have been fully occupied by China since 1974, and to all the islets in the Spratly area, where not only Vietnam, but also China, Taiwan, the Philippines and Malaysia keep garrisons on some of the isles. The multi-national disputes in the South China Sea form a clear threat to regional security, thus also to Vietnam's integration into ASEAN and to further improvement of the Sino-Vietnamese relationship. Vietnam's approach to the South China Sea disputes may therefore have a significant impact on the regional role that Vietnam will play in the next decade.

Vietnam's interests in the South China Sea may be divided into: a) traditional national security interests, and; b) interests linked to the broader category of human security.

Under the first category should be reckoned aims such as to defend the long s-shaped coast against invasions, defend sovereignty to the Paracels (Hoang Sa) and Spratlys (Truong Sa), gain exclusive control of resources in the seabed under Vietnam's continental shelf as well as living resources in the sea out to 200 nautical miles, collect customs, and suppress smuggling, piracy and other illegal activities within Vietnam's 12 nautical miles territorial waters. All of these interests tend to generate conflicts between Vietnam and the other nations around the South China Sea.

Under the second category belongs aims such as to defend the population against damage from typhoons, secure stocks of fish and other species for future generations, prevent pollution, face the eventuality of major oil spills, build modern, secure ports, maintain open communications, secure regional peace, attract reliable oil companies to explore for oil and gas, and provide for international trade and investments. These interests tend to generate a need for regional and international co-operation.

The means used to pursue the traditional security interests are not necessarily effective in achieving human security. National security may be pursued by maintaining a high military capability, entering into alliances with other powers, and

---

<sup>1</sup> This paper is a preliminary draft. All comments and corrections are welcome. The abstract was slightly revised before publication on the website (<http://www.sum.uio.no/southchinasea/>) on 29 September 1999.

conducting nationalist propaganda domestically and internationally. These means, however, are costly and can deteriorate relations with neighbouring states, thus endangering human security. In pursuing human security for its population, the Vietnamese government has found other means more useful, such as bilateral and multilateral diplomacy, international co-operation in resource management and environmental protection, and activities to develop a legal regime in the region, built on the United Nations Convention on the Law of the Sea (UNCLOS). All states with claims in the Spratly area have now ratified the Convention.

This paper examines how Vietnam has perceived and weighed its interests in the South China Sea, what means the government has employed to realise its basic aims, and presents a hypothesis that there is currently a trend away from a narrow focus on national security to a more broad-based concern for human security. This is connected with a trend towards a more regional, less nationalist approach. These trends in Vietnamese foreign policy may give Hanoi a key role in managing the disputes in the South China Sea, not only within ASEAN, but also between the ASEAN countries, China and Taiwan.

## Introduction

The multi-national disputes in the South China Sea form a permanent threat to Vietnam's national security, to its integration into ASEAN, and to further improvements in its relationship to China.<sup>2</sup> The disputes also threaten regional security, and the interests of the populations around the South China Sea, who need to be reassured against pollution, overfishing, piracy and war. The way Hanoi handles the situation in the South China Sea may have a significant impact on Vietnam's regional role during the next few decades.

Vietnam's aims in the South China Sea may be divided into: a) traditional national security aims, and b) aims linked to the broader category of human and regional security.

Under the first category should be reckoned aims such as to defend the long s-shaped coast against invasions, to defend sovereignty to the Paracels (Hoang Sa) and the Spratlys (Truong Sa), to gain exclusive control of resources on and under Vietnam's continental shelf as well as living resources in the sea out to 200 nautical miles, to collect customs, and to suppress smuggling, piracy and other illegal activities within Vietnam's 12 nautical mile territorial waters.<sup>3</sup> As long as no formal

---

<sup>2</sup> For the record of improvement, with intermittent crises, in the Sino-Vietnamese relationship 1991–97, see Ramses Amer, "The Territorial Disputes between China and Vietnam and Regional Stability," *Contemporary Southeast Asia*, vol. 19, no. 1, June 1997, pp. 86–113.

<sup>3</sup> A new Vietnamese governmental decree was issued on 9 June and took effect on 24 June 1999, outlining the legal action to be taken against anyone who violates Vietnamese territorial waters (12 nautical miles from the baselines), and also authorising actions to defend Vietnam's prerogatives on its

agreements have been reached on the delimitation of maritime boundaries, attempts to pursue these aims tend to generate conflicts between Vietnam and the other nations around the South China Sea.

Under the second category belongs aims such as to defend the population against damage from typhoons, secure stocks of fish and other species for future generations, prevent pollution, face the eventuality of major oil spills, build modern, secure ports, maintain open communications, secure regional peace, attract serious oil companies to explore for oil and gas, and provide for international trade and investments. These aims tend to generate a need for regional and international co-operation.

The means used to pursue the traditional national security interests are not necessarily effective in achieving human and regional security. National security may be pursued by maintaining a high military capability, entering into alliances with other powers, and conducting nationalist propaganda domestically and internationally. These means are costly and can deteriorate relations with neighbouring states, thus endangering human security. In pursuing human security for its population, the Vietnamese government is finding other means more useful, such as bilateral and multilateral diplomacy, international co-operation in resource management and environmental protection, and activities to further develop an internationally recognised legal regime, on the basis of the United Nations Convention on the Law of the Sea (UNCLOS). UNCLOS was signed in 1982 and entered into force in November 1994, one year after the sixtieth state had ratified it. All states with claims in the Spratly area have now ratified the Convention (except Taiwan, who is not a member of the United Nations).

This paper will examine how Vietnam has perceived and weighed its interests in the South China Sea, what means the government has employed to realise its aims, and test a hypothesis to the effect that there is an ongoing, gradual movement away from a narrow focus on national security to a more broad-based concern for human security. If this is so, there must also be a tendency towards a more regional, less nationalist approach. This could, if Hanoi wants and is able to realise its opportunities, give Vietnam a key role in managing, and eventually resolving, the disputes in the

---

continental shelf and within its 200 nautical mile Exclusive Economic Zone. *South China Morning Post*, 12.6.99.

South China Sea, not only among the ASEAN claimants, but also between the ASEAN countries on the one side, China and Taiwan on the other.

### **The Disputed Zones and Isles**

Vietnam's claim to a continental shelf and a 200 nautical mile Exclusive Economic Zone overlaps with rival claims from Cambodia, Malaysia, Indonesia, Brunei, the Philippines, China and Taiwan, thus all the states around the South China Sea, except Singapore and Thailand.<sup>4</sup> Thailand is the only state with which Vietnam has reached a final agreement on the delimitation of maritime zones, and this happened as late as August 1997. Since 1994, Vietnam and China have been actively engaged in negotiations to delimitate their maritime border in the Gulf of Tonkin, and the two governments have declared their intention to reach an agreement before the end of 2000.

Vietnam's disputes over maritime zone delimitation in the central part of the South China Sea—or the *Eastern Sea* as the Vietnamese call it—are complicated by rival sovereignty claims to the Paracel islands (east of central Vietnam and southeast of Hainan), and to the many islets in a vast area between southern Vietnam, East Malaysia, Brunei and Palawan, which on European maps used to be called "Dangerous Grounds". Nowadays it is commonly referred to as the "Spratlys", but traditionally "Spratly" was the English name only for one island, which is situated in the western part of that area, and which the Vietnamese call Truong Sa Island. This island is under Vietnamese occupation. Not only Vietnam, however, but also Taiwan, China, the Philippines and Malaysia keep garrisons on some of the isles in the larger Spratly area. The Paracel islands, to which Vietnam claims sovereignty, have been fully occupied by China since 1974.

### **National Security**

The Socialist Republic of Vietnam (SRV) is a highly security-conscious state, with an acute sense of vulnerability due to its long coast, the difficulty of keeping north and south together, the history of national independence struggles, and the lack of a hinterland. The People's Republic of China, although it does have a huge hinterland, and was never fully colonised, has a similar sense of a vulnerable, national security.

---

<sup>4</sup> See Ramses Amer, "Vietnam and Its Neighbours: The Border Dispute Dimension." *Contemporary Southeast Asia*, vol. 17, no. 3, December 1995, pp. 298–318.

China envies Vietnam its long coast, and feels that it is being unjustly deprived of "maritime territory" by the presence of foreign insular and peninsular states along its coast: the Koreans, Japan with the Ryukuyus, the Philippines, and Vietnam. In addition the Chinese "province Taiwan" is not under Beijing's control.

The People's Republic of China and the Socialist Republic of Vietnam have tended to see their disputes in the South China Sea as a rival quest for islands, "maritime territory", and oil. Both have established a national mythology around the two "island groups" Paracels and Spratlys, which the Chinese call Xisha and Nansha, and the Vietnamese Hoang Sa and Truong Sa. Both pretend, particularly China, that the Spratly area has tremendous reservoirs of oil and gas. In actual fact the so-called Spratlys are tiny islets which have never sustained permanent human habitation. Still they are portrayed both by Vietnam and China as inviolable parts of the sacred national soil since time immemorial. In addition both China and Vietnam tend to approach the delimitation of sea boundaries as a question of delimiting "maritime territory". The sea is perceived as almost completely analogous to land, and the delimitation of maritime zones is thus discussed with the same terms as those used for border delimitation on land. The two states have tended not to use the law of the sea as a tool in the delimitation of equitable maritime zones, but instead just as a source of arguments in their quest for defending national sovereignty.

From the perspective of traditional national security stems a tendency to put emphasis on the military occupation of islets, the buildup of naval forces, the establishment of military bases on artificial islands constructed on reefs and atolls, the utilisation of fishing fleets for national aims, and the mobilisation of national sentiments around sovereignty claims. Since the mid-1970s, when China seized the western half of the Paracels from South Vietnam (who had received them from France), and the new Socialist Republic of Vietnam took over the South Vietnamese positions in the Spratly area, a war of words has raged between Hanoi and Beijing. This war has been manifested in several white books, which all follow the same argumentative pattern: reproduction of historical records and establishment of historical chronologies to document that the Paracels and Spratlys have belonged to one or the other nation since long before there was such a thing as a concept of national sovereignty at all, followed by accusations against the other for violating one's own national domain. The war of words reached its first crescendo during the Sino-Vietnamese war in 1979, and a second one in 1988, when more than 70



Vietnamese sailors died in an attempt to prevent Chinese forces from occupying reefs in the Spratlys.<sup>5</sup>

During the cold war, Vietnam and China were both weak naval powers, but allied themselves with each of the world's two superpowers. Vietnam offered facilities to the Soviet Navy in the former French, Japanese and American base in Cam Ranh Bay, and China entered a de facto alliance with the USA, as well as the countries of the Association of Southeast Asian Nations (ASEAN), in an effort to isolate Vietnam after its occupation of Cambodia in 1978–79. This alliance pattern contributed to freezing down the dispute in the South China Sea, where the Soviet and the US 7<sup>th</sup> Fleet dominated.

After the end of the cold war the situation changed, opening up new opportunities: The Russian fleet withdrew almost completely, although it still keeps a modest presence in Cam Ranh Bay, and the position of the US Navy was temporarily weakened by the closure in 1992 of the base at Subic Bay in the Philippines. The US naval demonstration in the Taiwan Strait in 1996, in the face of Chinese missile tests to scare Taiwan in its runup to democratic elections, marked the return of US forces to the power balance. Since then the US 7<sup>th</sup> fleet has consciously demonstrated its strength to representatives of the local governments, getting a new visiting forces agreement with the Philippines, being promised access to new base facilities in Singapore, and the US Secretary of Defence has made firm declarations on the US determination to defend the freedom of navigation.

Since the mid-eighties, China has improved its power and influence in the region considerably, due to impressive economic achievements, a much improved standard on its diplomacy, and a naval buildup. Since the Sino-Vietnamese clash in 1988, however, China has not acted in a confrontational manner. Even the military constructions on Mischief Reef in 1995 and 1998 were not probably meant to provoke a confrontation. Mischief Reef is close to the Philippines, but it was unoccupied when the Chinese forces arrived.

---

<sup>5</sup> *Vietnam's Sovereignty over the Hoang Sa and Truong Sa Archipelagoes*. Information and Press Department, Ministry of Foreign Affairs, Socialist Republic of Vietnam, 1979 (60 pp.). *The Hoang Sa and Truong Sa Archipelagoes and International Law*. Ministry of Foreign Affairs, Socialist Republic of Vietnam, Hanoi, April 1988 (54 pp.). In 1996, the retired head of Vietnam's Border Commission, Luu Van Loi, published *The Sino-Vietnamese Difference on the Hoàng Sa and Trường Sa Archipelagoes*. (The Gioi, Hanoi, 1996). This book follows the same argumentative pattern as the earlier whitebooks, but is more nuanced, and aims for negotiations on the basis of international law rather than national confrontation.

Hanoi has utilised the 1990s to significantly improve its relations both with Beijing, Tokyo, Washington, and the ASEAN and European Union capitals. Vietnam has agreed with Malaysia to establish a joint development zone in the Gulf of Thailand and, as mentioned, has signed and ratified a treaty of maritime delimitation with Thailand. It will be interesting to see if Vietnam and China can live up to their promise of reaching an agreement on the delimitation of the Tonkin Gulf before the end of 2000. In a climate of improved bilateral relations between many of the states in the region, it has been possible also to launch multilateral dialogues about various kinds of maritime problems. Discussions have been organised within the framework of the ASEAN Regional Forum, which in 1993 established The Council for Security Cooperation in the Asia Pacific (CSCAP), to which a number of think tanks and scholarly institutions now belong. This came in addition to a semi-official "track 2" workshop process which has been managed by Indonesia with Canadian support. Annual workshops have been conducted in Indonesia, and a number of specialised working groups have met in other countries of the region. Vietnam has taken active part in the workshop process, has much improved its competence in maritime affairs and the law of the sea, and has allowed its academics and officials to engage in international networks of experts.

The question now is if these changes are the first steps in a transformation from a pattern of irreconcilable national security conflicts to a new pattern where a shared concern for human and regional security can take precedence and form a framework for conflict management. The question is further what role Vietnam might play in such a transformation.

### **Human Security**

In the international security discourse there has been a tendency in the 1990s to move away from a narrow emphasis on traditional national security to a wider perception of human security in a globalised world. This has led to a growing number of conferences, declarations and programmes over concepts such as food security, environmental security, energy security, and navigational safety. The Indonesian-led workshops, which have consistently defused attention from sovereignty disputes and tried to approach shared concerns in order to initiate co-operative measures, is part of this overall tendency. From a human security perspective, the "enemy" will not normally be the neighbouring state, but typhoons, El Nino or La Nina, polluting

industries, reckless ship captains letting out oil, pirates, overfishing, navies destroying reefs and atolls, shrimp farmers cutting down mangrove forests, and so on.

Three problems have to be overcome before a transition to a new security agenda can be said to be successful: First, governments must be convinced that it is not dangerous from a national security perspective to engage in multilateral efforts to address human security concerns; this may require generational change. Second, co-operative regimes must be established among states with shared concerns, such as the states around the South China Sea. Third, governments must be willing to spend substantial resources on efforts to promote human security, also when such efforts run counter to the urge for rapid, but shortsighted economic growth. The recent acceleration in the competition between nations for economic growth is ambiguous as far as human security is concerned. On the one hand, the emphasis on economic growth has shifted attention away from narrow national security concerns and promoted openness in international relations. On the other hand, the urge for catching up economically has created enormous environmental problems, and thus a strong need for stricter regulation both domestically, regionally and internationally.

The process of globalisation in the 1990s has brought one further important change: National laws have been subjected to a new wave of standardisation in order to facilitate international trade, investments and communications, and international law has been gaining in importance. It may or may not be significant that the states around the South China Sea have all signed, and all (except Cambodia and Thailand) ratified the United Nations Convention on the Law of the Sea.

### **The Law of the Sea**

The United Nations Convention on the Law of the Sea (UNCLOS) constitutes an independent body within international law. This is in itself significant. It does not only regulate inter-state relations as far as maritime matters are concerned, but defines the obligations of the states to safeguard global human interests, such as the freedom of navigation, and preservation of resources. The right defined in UNCLOS to continental shelves, and to 200 nautical mile Exclusive Economic Zones (EEZs) should not be seen as a right to sovereignty, but as a right to exploit resources on and under the seabed (the continental shelf) and in the water (EEZ), and also an *obligation* to manage these resources in a responsible way. Full national sovereignty (full national jurisdiction) only applies in internal waters, i.e., inside the baselines that



states draw along their coasts as a starting point for measuring their claims to maritime zones. A more limited national sovereignty (with right to innocent passage) applies within the 12 nautical mile territorial zone, and an even more limited sovereignty within the additional 12 mile contiguous zone. Resources under the seabed outside of national continental shelves, and living resources outside of the 200 nautical mile EEZs belong to the global community. A loyal interpretation of UNCLOS thus requires considerable concern for such matters that are understood under the concept human security.

The importance of UNCLOS in the context of the South China Sea resides partly in its provisions for resolving disputes over the delimitation of national maritime zones, partly in its guidelines for how to manage resources in EEZs, international waters (the high seas), and semi-enclosed seas.<sup>6</sup> A problem with UNCLOS, which may sometimes be an advantage, is its vagueness. Its provisions are frequently being re-interpreted. The law of the sea is constantly evolving, and many of the UNCLOS provisions have not yet become customary international law, although they are of course legally binding on the states who have ratified the convention.

The former South Vietnam participated in the elaboration of UNCLOS until Vietnam was unified in 1975, and from 1977, when the Socialist Republic of Vietnam (SRV) gained UN membership, Vietnam took active part in the negotiating process, and was among the initial signatories in 1982.<sup>7</sup> Five years earlier, on 12 May 1977, just before entering the negotiating process, the SRV had claimed for itself the whole range of maritime zones which were going to be authorised in UNCLOS: a 12 nautical mile territorial sea, a 12 mile contiguous zone, and a 200 mile Exclusive Economic Zone. In July 1982, the same year that UNCLOS was signed, Vietnam and the regime it controlled in Cambodia agreed to jointly administer their common "historic waters" in the Gulf of Thailand, and on 12 November 1982, Vietnam claimed the western half of the Tonkin Gulf as "historical waters", and established a system of straight baselines from a point outside the border with Cambodia to the

---

<sup>6</sup> UNCLOS requires all contracting states to protect and preserve rare or fragile ecosystems and the habitat of endangered species. However, UNCLOS gives prime responsibility to the industrialised countries for such protective measures. Developing nations are just expected to contribute to the best of their ability.

<sup>7</sup> The following is based on Epsy Cooke Farrell. *The Socialist Republic of Vietnam and the Law of the Sea. An Analysis of Vietnamese Behavior within the Emerging International Oceans Regime.* The

beginning of the Tonkin Gulf.<sup>8</sup> In this period, Vietnam also held the opinion that the archipelagoes it claimed in the South China Sea had a right to 200 nautical mile zones.<sup>9</sup>

Basically, a coastal state like Vietnam can choose two main approaches to UNCLOS: It can seek to bend all its rules in order to maximise national interests, or it can take the convention seriously and try to realise national interests within the confines of a justifiable interpretation of the text itself, and of customary international law. The advantage of the first approach is that it can maximise the endowment of natural resources (if other states do not protest or react). The advantage of the second approach is that it heightens a state's international prestige, and makes it a reliable partner in bilateral and multilateral relations.

For a long time, Vietnam followed the first approach (as did many other states). Vietnam considered the Hoang Sa (Paracel) and Truong Sa (Spratly) archipelagoes as two distinct territories rather than agglomerations of individual insular features,<sup>10</sup> and claimed that they, as island groups, had a right to continental shelves and 200 nautical mile Exclusive Economic Zones.<sup>11</sup> However, if we proceed from the law of the sea, it is neither evident that the Paracels and Spratlys form two distinct archipelagoes, nor that any of their insular features have a right to a shelf or an Exclusive Economic Zone.<sup>12</sup> The Paracels could consist of two distinct groups, the Crescent and the Amphitrite. And the Spratly island is just one of a great number of small islets, reefs and atolls spread over a huge area which does not seem to form a natural group or archipelago. Some islets could be under one state's sovereignty, others under another, depending on its proximity to the claimant state, or its history of effective occupation. If the Spratly area were considered to be one archipelago, this would naturally lead to the assumption that one state must have sovereignty to it all, and that the same state should control the seabed underneath and the waters between

---

Hague: Martinus Nijhoff, 1998. (Although this book was published in 1998, it was completed in 1991, and does not include developments after 1991.)

<sup>8</sup> In the context of an ongoing thesis work, Mr. Johan Henrik Nossu, a student of law at the University of Oslo, has tried to find a legal basis in UNCLOS for the Vietnamese straight baseline system, but has found little to be said in its defense.

<sup>9</sup> Mark J. Valencia and Jon M. Van Dyke, "Vietnam's National Interest and the Law of the Sea." *Ocean Development and International Law*, vol. 25, 1994, pp. 217–250 (p. 221).

<sup>10</sup> Truong Sa (the Spratlys) is considered a district of Khanh Hoa province.

<sup>11</sup> Statement on the Territorial Sea, the Contiguous Zone, the Exclusive Economic Zone, and the Continental Shelf of Vietnam, 12 May 1977, paragraph 5. Appendix 3 in E. C. Farrell, *The Socialist Republic of Vietnam and the Law of the Sea*.

the isles. This assumption does not seem defensible if one proceeds from the law of the sea, or has regional security in mind.

In 1982, Vietnam also bended UNCLOS by drawing straight baselines along its coast, from one island to another, thus subsuming huge areas of sea as internal waters where other nations' ships would have no right to innocent passage. And Vietnam advanced the claim that the waters outside Vietnam and Cambodia in the Gulf of Thailand belonged to the two countries as "historical waters" so a straight baseline could be drawn far out at sea. In Vietnam's view, the huge Tonkin Gulf was also Vietnamese and Chinese historical waters, so that, after its delimitation, each country would have full jurisdiction in its half. Vietnam chose this position despite of the fact that the strait between Hainan and the Liaochow peninsula, if following UNCLOS, should be defined as an international strait.

Paradoxically, this radical Vietnamese approach, meant to maximise its national interests, instead proved counter-productive since it contributed to legitimising China's and other claimants' similar bending of UNCLOS. If the Paracels is considered as one island group, then the Chinese claim, based on effective occupation of one half since 1956 and the other since 1974, may be difficult to contest. If the Spratlys form one archipelago, then China could conceivably take possession of it all, basing its claim on Taiwan's long-standing occupation of Itu Aba (the largest island), and claim the whole seabed and an enormous amount of water, referring to the UNCLOS provisions for continental shelves and economic zones. Vietnam's use of a radical straight baseline system provided a precedent for China in 1996, when it drew its own straight baselines from Hainan northeastwards to the mainland coast, and even drew a separate line around the whole of the Paracels. In addition, Vietnam's claim to "historical waters" in the Thailand and Tonkin Gulf might form a precedent for a Chinese and Taiwanese claim to the whole of the South China Sea, within the so-called nine-dotted line, as Chinese "historical waters".<sup>13</sup> The claim that the Tonkin Gulf is Vietnamese and Chinese historical waters deprives Vietnam of the right for its ships to innocent passage on the sea-lane between Hong

---

<sup>12</sup> And if any of them are given a right to an EEZ, then their weight in delimiting boundaries between their zones and those of the opposite mainland coasts would probably be limited.

<sup>13</sup> It remains uncertain if the Chinese claim to all of the South China Sea within the nine-dotted line is meant as a "historical waters" claim. In the law of the sea, "historical waters", which are only recognised under very particular circumstances, are considered as internal waters, where the sovereign state has full jurisdiction. If the South China Sea were Chinese "historical waters", China would not

Kong and Haiphong, where several Vietnamese ships have been seized by China in the past.<sup>14</sup>

These dangers seem to have been understood by Vietnamese legal experts in the late 1980s and early 1990s, when Vietnamese government officials started to backtrack and take the provisions in UNCLOS more seriously. Now they adopted the view that the islets in the Spratly area do not have a right to more than 12 mile territorial zones.<sup>15</sup> Vietnam's Hoang Sa and Truong Sa rhetoric has continued in the 1990s, but has not been as much accentuated as in the past. Instead Vietnam seems to have used its improved expertise in the law of the sea, its participation in the Indonesian-led workshop process, and not the least its membership in ASEAN, to discretely develop a new approach to the law of the sea, more in consonance with a textual interpretation of UNCLOS. The Vietnamese government seems to have discovered that the costs of respecting the law of the sea may be smaller than the risks involved in radically bending it. This new realisation has also no doubt helped Vietnam to resolve its differences with Malaysia and Thailand, and to advance its negotiations with China concerning delimitation of the Tonkin Gulf.<sup>16</sup>

In the second half of the 1990s, while there have seen several incidents and loud quarrels between China and the Philippines, related both to Mischief Reef and Scarborough Reef further north, the Sino-Vietnamese relationship has continued to improve. There have been intermittent crises, related to the awarding of oil concessions, or attempts to drill for oil, on contested territory, but somehow these crises have been overcome without causing any lasting damage to the bilateral relationship. This places Vietnam in a new and interesting position between China and the rest of ASEAN, as position that could give Vietnam a key role in developing a multilateral approach to managing the disputes and problems in the South China Sea. This requires, however, that Hanoi stays on good terms with Beijing, Manila and the other Southeast Asian capitals.

---

actually need the baselines it drew in 1996. The baselines should then be drawn around the historical waters, i.e., the nine-dotted line.

<sup>14</sup> In September 1992, Vietnam announced that nearly twenty Vietnamese ships transporting goods from Hong Kong had been seized by China since June that year. R. Amer, "The territorial disputes...", p. 89.

<sup>15</sup> See Valencia, Van Dyke and Ludwig, *Sharing the Resources of the South China Sea*, pp. 41–45.

<sup>16</sup> It will be exciting to see if China and Vietnam agree to consider the Tonkin Gulf as historical (internal) waters with a closing line from the Vietnamese coast to Hainan, or if they follow UNCLOS and use normal baselines as point of departure for delimitating a maritime boundary.

Vietnam's position as a Southeast Asian nation bordering China, and sharing many of China's cultural traits, may even bring attempts to overcome the artificial, regional borderline between Southeast and Northeast Asia.

### **Is There a South China Sea Region?**

A human security approach to maritime affairs makes it less natural to see the South China Sea as divisive, a "maritime territory" waiting to be carved up, or a venue for threats, incursions and invasions. It becomes more natural to look at the sea as a source of animal protein and energy, a regional maritime bridge and an international thoroughfare. From such a perspective the sea is a major resource, shared by all the peoples living around it, both Chinese and Southeast Asian, and with an important role to play as a transport route for all the world's merchant fleets—and some navies.

In the pre-colonial and most of the colonial period, Europeans used to speak of the whole region from India to Japan as "the Far East", but since the Second World War, the convention has been to distinguish between on the one hand Southeast Asia, today consisting of ten states who are all members of ASEAN, and on the other hand East or Northeast Asia, encompassing China with Taiwan, the two Koreas, and Japan. This convention has been reflected also in academic research, where Asianists define themselves as either Southeast-Asianists, Sinologists or Japanologists, and only some study Pacific Asia (or Eastern Asia) as a whole. This is unfortunate for research on the South China Sea, since an unbiased approach to the sea and its problems demands a perspective where the water is at the core of a region encompassing the surrounding lands, regardless of whether they are Southeast Asian or Chinese.

The northern part of the South China Sea region is constituted by the islands Hainan and Taiwan, the mainland Chinese provinces Guangxi, Guandong and Fujian, and the Special Administrative Region Hong Kong. This is the area from which most Chinese immigrants to Southeast Asia originally came. The eastern part of the region is constituted by the Philippine islands Luzon, Mindoro and Palawan. The southern part consists of the two Malaysian states Sabah and Sarawak, Brunei, the Indonesian archipelago around Natuna island, and Singapore. The western part of the region runs from Singapore up the east coast of West Malaysia, through the Gulf of Thailand with Thailand and Cambodia, and along the long Vietnamese coast up to the Tonkin Gulf. All these territories could be seen as parts of "the South China Sea region", which thus joins together much of Southeast Asia and southern China. The principal



commercial ports in the region are Hong Kong and Singapore, but a range of other ports also play a significant role in regional trade. The region also includes important naval harbours at Changi, Cam Ranh Bay, Zhanjiang, Yulin and Kaohsiung. Subic Bay was a US military base until the Americans left it in 1992, and the Philippines is now trying, with Taiwanese investments, to make it into a major commercial port.

As a semi-enclosed sea, the South China Sea has a double role. On the one hand it forms a core of a region, a "sea bridge" between the surrounding states. On the other hand, it is an international thorough-fare, with tremendously important shipping routes from the Indian Ocean to the Pacific, running through some of the most trafficked straits in the world. Also from a conflict perspective there are thus two dividing lines. The first goes between all the regional states who compete for islets, maritime zones and resources. The second goes between the coastal states and the world's main shipping nations and naval powers, as well as those states in Northeast Asia who depend on open sea-lanes for their provisions of oil and other commodities. When, or if, the states around the South China Sea manage to establish co-operative regimes for resource management, they will also need to reassure outside powers that the freedom of navigation will not be threatened.

Vietnam used to be a source of regional conflict. In the 1950s–60s, Chinese support to the Viet Minh and North Vietnam provoked a fear in Southeast Asia and the West that Vietnam was a pawn in the hands of an expansionist Red China. After the end of the Second Indochina War in 1975, the Sino-Vietnamese conflict transformed Vietnam into a perceived threat both to the other Southeast Asian countries and to China. This threat perception provoked an improvement in the relationship between China and the ASEAN countries. However, Vietnam's geographic location and its strong traditional ties both with China and Southeast Asian countries, could at another historical juncture give it a constructive role as a bridge-builder between ASEAN and China, between Southeast and Northeast Asia. The normalization of Sino-Vietnamese relations in 1991, and Vietnam's membership in ASEAN from 1995, has provided Hanoi with an opportunity to realise its potential, but it will demand a change of outlook, for which the Hanoi leaders have not been well prepared. They still show a tendency to view foreign relations mainly in terms of likely foreign threats to national independence and political stability. Thus they stick to a reactive foreign policy rather than utilising their potential for playing an active, regional role. As mentioned, a number of changes have occurred in the region, which

all seem to enhance Vietnam's possibility for conducting a more active foreign policy: A more pragmatic China; a crisis of leadership in ASEAN after the fall of Suharto in May 1998; agreements on maritime delimitation in the Gulf of Thailand; closer relations between Vietnam and the Philippines; close contacts with Chinese experts on the law of the sea through negotiations over maritime delimitation in the Gulf of Tonkin.

In this situation, a more self-conscious Vietnamese leadership could engage its diplomacy in a major, long-term effort for managing the disputes in the South China Sea, aiming for an overall delimitation of maritime zones. China and Vietnam will need to settle their dispute over sovereignty to the Paracels,<sup>17</sup> and some of the islands in that group are probably big enough to generate claims for Exclusive Economic Zones under the provisions of UNCLOS, paragraph 121 (1) and 121 (3).<sup>18</sup> In the Spratly area, however, a compromise solution could most easily be based on a multilateral agreement that none of the Spratly islets satisfy the conditions established in the law of the sea for generating more than 12 nautical mile territorial zones.<sup>19</sup> This would make it possible for the various claimant states to continue the occupation of their respective isles, without this having any effect on the delimitation of maritime zones. The dispute over the so-called Spratlys would then not need to be resolved. It would simply fuse out, and the central parts of the South China Sea could be divided equitably into national economic zones through bilateral and multilateral negotiations. A remaining zone in the middle might then be subjected to joint management by a Sino-ASEAN regional authority, with Taiwanese and international representation.<sup>20</sup> This may seem utopian, but the search for compromises can sometimes need inspiration from utopian long-range goals.

---

<sup>17</sup> A discussion of the sovereignty dispute in the Paracels, which is not favourable to the Vietnamese claim, can be found in: Greg Austin. *China's Ocean Frontier: International Law, Military Force and National Development*. St. Leonards: Allen & Unwin, 1998.

<sup>18</sup> UNCLOS 121 (1) defines an island as "a naturally-formed area of land, surrounded by water, which is above water at high tide", and adds, in article 121 (3), that "Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf."

<sup>19</sup> A law student at the University of Oslo, Mr. Marius Gjetnes, who is associated with the "Energy and Security in the South China Sea" project at the Centre for Development and the Environment, University of Oslo, is currently undertaking a study where he discusses whether or not there are islands in the Spratlys satisfying the conditions for generating continental shelves and EEZs.

## **From National to Regional Security?**

Has there been a move in the region from a concern for traditional national security to an emphasis on regional, human security? The answer is a modest yes. Many of the preconditions for such a transformation are present, such as a shift from focus on military force to a quest for economic performance, and a tremendous improvement of relations between the regional states. These basic changes have not, however, translated into decisive efforts to manage the dispute in the South China Sea, or to establish co-operative regimes within specific domains. The most hesitant of the claimant states has been the People's Republic of China, who is hampered by its nationalist competition with Taiwan in making vast claims for "maritime territory", and by its need to demonstrate resolve to its own population.<sup>21</sup>

In this situation, Vietnam can choose between two main strategies, with a different emphasis:

The first continues to see the main task as defending sovereignty to maritime territory and the two archipelagoes. This requires stronger military force, nationalist mobilisation, and renewed attempts to find allies abroad to represent a counter-balance to China.

The second defines the main aim as keeping and promoting regional peace, and enhancing human security. This requires increased regional and international trade, and co-operation within a number of sectors, driven by science and expertise in international law.

The two strategies are not in absolute conflict, since it is necessary, of course, to defend national security also if the second strategy is chosen. The difference is one of emphasis. There are two basic problems with the first strategy: First, Vietnam remains poor and can hardly afford to build naval forces that stand any chance of matching Chinese naval power. And second, the membership in ASEAN does not represent a counter-balance to China. ASEAN is not a military power, only a loose association of states. The only possible counter-balance to China is the USA, so the condition for pursuing the first strategy successfully would be a further deterioration

---

<sup>20</sup> A major source of creative thinking about how to resolve the legal disputes in the South China Sea is: Mark J. Valencia, John M. Van Dyke and Noel A. Ludwig. *Sharing the Resources of the South China Sea*. The Hague: Martinus Nijhoff, 1997.

<sup>21</sup> The claim to all territory within the so-called "nine-dotted line" (which originally had eleven dots) was first made on a map issued by Chiang Kai-shek's government during the civil war, and later taken over by the People's Republic of China, and formalised in its Law on the Territorial Sea and the Contiguous Zone, adopted as late as 1992. Taiwan makes the same claim on behalf of "China".

of the Sino-American relationship, and also probably the implementation of domestic reforms in Vietnam to satisfy the American liberal agenda. In a more long-term perspective, Japan could perhaps constitute an alternative counter-balance to China, but this will take a long time, and will be impopular in many places.

Thus it seems logical for Vietnam to either apply a passive, reactive foreign policy, or choose the second strategy and engage actively in the new global discourse of human security.

