

Challenges for Vietnam in protecting South China Sea sovereignty and interests

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ABSTRACT

The sovereignty disputes between Vietnam and various claimant states in the South China Sea has long posed a threat to Vietnam's territorial integrity and national interests. Despite having ample historical evidence and legal basis to assert its sovereignty over the Paracel and Spratly Archipelagos, Vietnam inevitably faces challenges in safeguarding its sovereignty and national interests in these waters. What are these challenges, and how can they be addressed? Through comprehensive analysis, the research identifies five challenges for Vietnam: pressure from China on Vietnam, deadlock in the Code of Conduct negotiations between ASEAN and China, the involvement of major powers, anti-China sentiment in Vietnam, and Vietnam's limited maritime governance capacity. Consequently, the study suggests several solutions to proactively protect Vietnam's sovereignty and interests in the South China Sea, including the urgent need for Vietnam to develop and perfect its protest laws.

ARTICLE HISTORY

Received 8 November 2023
Revised 26 August 2024
Accepted 2 September 2024

KEYWORDS

Territorial dispute;
Vietnamese foreign
policy; national defense
policy; nine-dash line;
ASEAN solidarity

SUBJECTS

International Politics;
International Relations;
Security Studies – Pol &
Intl Relns; Asian Politics

Introduction

The South China Sea is an area with numerous overlapping sovereignty claims by several nations in the region over the Paracel Archipelagos, Spratly Archipelagos and Scarborough Shoal. Since the beginning of the 21st century, sovereignty disputes in the South China Sea have become increasingly tense, with China intensifying its legal activities, apprehending fishermen from neighboring countries, and militarizing disputed areas in the South China Sea. These actions have not only deeply concerned countries in the region but have also drawn in various interested parties into the conflict in the South China Sea. With a consistent commitment to peaceful dispute resolution, Vietnam has made significant efforts in effectively applying the 1982 United Nations Convention on the Law of the Sea (UNCLOS) to resolve maritime disputes with neighboring countries, in which the principle of fairness is always upheld to find reasonable solutions. However, Vietnam still faces many challenges from both internal and external sources in protecting its sovereignty and national interests in the context of the South China Sea becoming one of the security hotspots in the Asia-Pacific region.

There have been various books, research works, and articles in both domestic and international scientific journals discussing Vietnam's sovereignty in the South China Sea. Notably, scholar Monique Chemillier-Gendreau affirmed that the Paracel and Spratly Archipelagos are entirely under the sovereignty of Vietnam from both international law and historical perspectives (Chemillier-Gendreau, 2000). Lê Quý Quỳnh and Trần Thị Phương Thảo pointed out four aspects of violation in China's land reclamation and modification of geographical features: (i) Vietnam's sovereignty over two island groups; (ii) China's commitment to the DOC signed with ASEAN in 2002; (iii) international environmental regulations; (iv) the exercise of the freedom of navigation by countries within and outside the region. Faced with these challenges, the Vietnamese Communist Party and the State have taken political, diplomatic, and on-site measures to protect their sovereignty over the Spratly and Paracel Archipelagos, such as engaging in dialogue

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with China, submitting a communication to the United Nations, and enhancing the capabilities of law enforcement forces at sea (Quỳnh & Thảo, 2015). In a study conducted by author Phuong Hoang, anti-China protests in Vietnam due to tensions between the two countries in the South China Sea from 2007 to 2017 were analyzed to explain the impact of these protests on Vietnam's foreign policy toward China. The study concluded that Vietnam continues to pursue a strategy of 'cooperation and struggle' in its foreign policy with China, even during significant protests in 2014 (Hoang, 2019).

Up to now, numerous studies have been conducted by scholars both within and outside of Vietnam on the issue of sovereignty and national interests of Vietnam in the South China Sea, as well as the impact of China's actions in the South China Sea on Vietnam. However, in most studies, Vietnam's sovereignty and national interests in the South China Sea have been established as a premise for analyzing China's actions in the South China Sea and subsequently focusing on potential solutions. Therefore, providing a comprehensive and specific analysis of the challenges faced by Vietnam in protecting its maritime sovereignty, especially when addressing the internal societal challenges, is crucial. Therefore, the study will focus on analyzing to more fully explain the challenges that Vietnam is facing.

This research focuses on answering the research question: "What are the primary challenges faced by Vietnam in protecting its sovereignty and interests in the South China Sea, and how can Vietnam address these challenges?". The research first clarifies the challenges to Vietnam in protecting sovereignty and national interests in the South China Sea, after which, the author comes to assess the impacts and suggest some solutions in the current context.

Research methodology

This study employs a qualitative research design to explore Vietnam's complex challenges in safeguarding its sovereignty and interests in the South China Sea. The research methodology incorporates several vital approaches. First, document analysis is conducted through a comprehensive literature review, including academic articles, government reports, policy papers, and online data from reputable organizations and agencies. This approach integrates diverse perspectives from Vietnamese scholars to capture Vietnam's challenges in protecting its rights and national interests. Additionally, relevant case studies of maritime disputes and conflict resolution processes are examined to draw parallels and derive insights applicable to Vietnam's situation. The analysis-synthesis method is applied to interpret the research problem, drawing on studies by both Vietnamese and international scholars, joint statements from diplomatic visits, and official speeches by senior leaders. The systemic approach situates Vietnam's sovereignty disputes within the broader context of international relations regionally and globally.

Furthermore, the historical-logical method is used to understand the issue's nature, essence, and development process. Specific encounters between Vietnam and China in the South China Sea are analyzed using the case study method to identify Vietnam's challenges. Additionally, Constructivism theory is employed to explore how anti-China sentiment in Vietnam influences its policies regarding the South China Sea disputes. The findings from these analyses are synthesized to offer a nuanced and multi-dimensional understanding of the challenges Vietnam faces. However, the study acknowledges limitations in the generalizability of findings due to its qualitative nature and potential constraints in accessing sensitive or classified information, which may affect the depth of analysis in certain strategic or diplomatic aspects.

By providing a nuanced analysis of Vietnam's specific interests in the South China Sea, the article enriches the academic discourse with a country-specific perspective that is essential for understanding the broader regional dynamics. The focused study on Vietnam's interests also affects broader discussions on maritime sovereignty, conflict resolution, and international diplomacy. It helps external stakeholders understand Vietnam's perspective and promotes a more informed and balanced view of regional tensions. The article may suggest alternative strategies or improvements, contributing to policy-making by offering grounded recommendations that are informed by a deep understanding of the issue.

Challenges in the South China Sea

For a long time, the Vietnamese people have discovered the Hoang Sa (Paracel) and Truong Sa (Spratly) Archipelagos, which at that time were named "Cat Vang" (yellow sand). The oldest Vietnamese

documentation of formal exercise of authority over the Paracel and Spratly Islands is the “Thien Nam Tu Chi Lo Do Thu” (Route Map from the Capital to the Four Directions) by Do Ba, written in the 17th century. In this book, Do Ba clearly indicated that the Paracel and Spratly Islands were under the control of the Nguyen family and confirmed that the Nguyen Dynasty established the Hoang Sa Company to exploit those islands as far back as the early 17th century (Vietnam, 1975). Meanwhile, some historical records of China mention the Paracel and Spratly Archipelagos, but the Chinese dynasties did not establish sovereignty over these islands (Joyner, 1998). This omission was confirmed in a map of Kwangtung (Guangdong) Province and a description of the Quiongzhou Prefecture published in 1731, which do not mention either the Paracels or the Spratlys as part of China (Chemillier-Gendreau, 2000). During the French colonial period, as the representative of Vietnam’s interests in foreign relations and the protection of sovereignty and territorial integrity of Vietnam under the Treaty of Huế (Protectorate Treaty), France continued to exercise sovereignty over the Spratly and Paracel Archipelagos (Vietnam, 1975).

Since its establishment, the Socialist Republic of Vietnam has issued many important legal documents on the sea and the two archipelagos such as the Statement on the Territorial Sea, the Contiguous Zone, the Exclusive Economic Zone and the Continental Shelf of 12 May 1977; the Statement of 12 November 1982 by the Government of the Socialist Republic of Viet Nam on the Territorial Sea Baseline of Viet Nam; the 1992 Constitution of the SRV; the 1994 Resolution of the Ninth National Assembly, fifth session, on the Ratification of the 1982 United Nations Convention on the Law of the Sea; the 2003 Law on National Borders of Vietnam; the 2012 Law of the Sea of Vietnam.

The State of Vietnam has repeatedly published “White Papers” (in 1979, 1981, 1988) on Vietnam’s sovereignty over the two archipelagos, affirming that the Paracel and Spratly Islands are an inseparable part of the territory of Vietnam, and Vietnam has full sovereignty over these two archipelagos based on several factors, including historical evidence, economic development, effective administration, and international recognition, in accordance with the provisions of the law and international practice.

Regarding Vietnam’s security interests in the South China Sea, with more than 3,000 kilometers of coastline and more than 3,000 large and small islands, sea defense is always of strategic significance to Vietnam. The archipelagos of Paracel and Spratly are the forward positions protecting the eastern flank of the country, advantageous for deploying forces to form an island-sea-coast defensive arc for the homeland (Trúc, 2012). Along with that, the central location of the Paracel and Spratly Archipelagos in the South China Sea will facilitate the positioning of communication stations, air traffic control, maritime, stopover, and refueling stations for ships, boats, etc., on this maritime route. This is a particularly significant factor in national defense, protecting the homeland from the sea direction of Vietnam.

Regarding economic benefits, the South China Sea is a place that contains many rare marine resources, including oil and gas – the leading and dominant resources of Vietnam’s sea area. The total geological reserve estimate for oil and gas on the entire continental shelf of Vietnam reaches approximately 10 billion tons of oil equivalent, with about 2 billion tons of exploitable reserves and about 1000 billion cubic meters of forecasted gas (Lê, 2019). Currently, Vietnam has discovered dozens of oil and gas fields with industrial exploitation reserves, of which nearly ten fields have been put into exploitation, annually providing tens of millions of tons of oil and billions of cubic meters of gas for economic development and people’s livelihood. Moreover, the sea areas of the Paracel and Spratly Archipelagos contain frozen gas hydrates, considered as an alternative energy source to oil and gas in the near future.

Especially, the sea and coastal areas of Vietnam lie on the strategic maritime and air transport routes between the Indian Ocean and the Pacific Ocean, between Europe, the Middle East with China, Japan, and countries in the region. Therefore, the South China Sea is an important bridge for Vietnam to engage in economic exchange, integration, and cooperation with the world, especially with the countries in the Asia-Pacific region. The formation of the seaport network along with the coastal highways, railways, and connections to the inland areas (especially the Trans – Asian routes) will allow the sea and coastal areas of Vietnam to have the ability to transfer imported goods to every part of the Homeland as well as to countries in the region and the world (Cường, 2023a; Khải, 2020).

Given the significant role of the South China Sea in the construction and defense of the homeland, Vietnam remains steadfast in its goal of protecting its sovereignty and national interests in the South China Sea. Accordingly, the 13th National Congress of the Communist Party of Vietnam affirmed: “Resolutely and persistently struggle to firmly protect the Fatherland’s independence, sovereignty, unity

and territory integrity; protect the Party, the State, the People and the socialist regime” (Nam, 2021). Meanwhile, Vietnam’s 2019 National Defense White Paper stated: “Despite some recent positive developments in the East Sea situation, factors that potentially cause instability and tension still exist and evolve in a complex manner. This reality is posing new challenges to the protection of sovereignty, territory, peace, and stability of Viet Nam” (Defense, 2019). So, what are these challenges?

Pressure from China

In May 2009, China submitted a note verbale to the Secretary-General of the United Nations, asserting its indisputable sovereignty over the “islands in the South China Sea and the adjacent waters” identified according to the “nine-dash line” map. Of particular concern is China’s declaration of “sovereign rights and jurisdiction” over maritime areas that overlap with those of many countries surrounding the South China Sea, including Vietnam. Vietnam’s maritime sovereignty is seriously threatened by China’s strategies to expand and control the region, with specific manifestations, as follows:

In terms of economy, China has arbitrarily imposed an annual fishing ban in the waters north of 12 degrees north latitude in the South China Sea since 1999. The prohibited area for fishing vessels (excluding trolling vessels) includes the Paracel Islands and a part of the Gulf of Tonkin (Martinson, 2021). As the ban begins, the Chinese Coast Guard (CCG) would regularly deploy monitoring vessels at strategic points in the Paracel and Spratly Islands, and around the “nine-dash line” such as the Scarborough Shoal, the Luconia Shoals, the Tu Chinh (Vanguard) Bank. China’s enforcement of the ban is said “to promote sustainable marine fishery development and improve marine ecology” (Daily, 2022), as fish stocks in the South China Sea have been sharply declining since the 1950s (Poling, 2019).

However, the nature of the ban is a sophisticated measure for China to propagate its sovereignty claims in the South China Sea, creating a pretext for the CCG to chase and attack fishing vessels of other countries operating in the South China Sea. Empowered with this ban, the CCG vessels do not hesitate to attack fishing boats from other countries in the region, often involving the sinking of fishing vessels, confiscation of seafood and fishing equipment, and even the detention of fishermen (Chi, 2020). For example, during the 2020 fishing moratorium, a CCG patrol vessel and a speedboat chased, rammed and damaged a fishing boat owned by a Vietnamese fisherman near Lincoln Island in the Paracel Archipelagos. After damaging the fishing boat, personnel from the Chinese patrol vessel then took away the fishing equipment and stolen one ton of seafood, causing a total losses of around VND500 million (\$21,500) (Tuan, 2020).

The obstructive actions of China, backed by similar military pressure as described above, have instilled fear in Vietnamese fishermen. Many Vietnamese fishermen have been forced to leave their traditional fishing grounds and enter the waters of other countries to fish illegally, especially in the waters of Indonesia and Malaysia. This is the deep-rooted cause for the increase in Vietnam’s illegal, unreported, and unregulated (IUU) fishing activities in the South China Sea. According to statistics from the Vietnam Coast Guard, from 2017 to early 2020, more than 1,000 Vietnamese fishing vessels were detained by the authorities of other countries for illegally fishing in foreign waters (Uyên, 2022). This situation is one of the reasons the European Union has issued a “yellow card” to Vietnam’s seafood products for IUU fishing, adversely impacting Vietnam’s seafood exports to the European market. This has also led to fractures in the relations between Vietnam and Indonesia, Malaysia as an increasing number of Vietnamese fishing vessels are detained, and in some cases, destroyed by these countries’ maritime law enforcement forces (Cao, 2020). More dangerously, direct confrontations between Vietnamese fishing vessels and the Coast Guard ships of these countries have also resulted in loss of human lives. A notable example is a collision between a Malaysian Maritime Enforcement Agency vessel and a Vietnamese fishing boat operating illegally in Malaysian waters in 2020, resulting in the death of a Vietnamese fisherman (Times, 2020).

China has also exerted pressure to force international oil and gas companies to cease operations in Vietnam and has attempted to incorporate into the Code of Conduct negotiation documents a provision that coastal nations must conduct all economic activities in the South China Sea on their own, including oil and gas exploration, and not cooperate with companies from countries outside the region (Thayer, 2018b). The tactic that China employs in the South China Sea involves using their research vessels and accompanying fleets to disrupt the oil and gas development activities of other claimants, forcing them

to reconsider or abandon their projects. China often deploys a number of survey ships, as well as an escort fleet comprising law enforcement vessels and maritime militia, to the oil and gas blocks of claimant countries to prevent them from accessing these waters.

Due to pressure and threats from China, Vietnam has had to suspend several oil and gas exploration and extraction plans in the South China Sea. In 2018, China is believed to have pressured Vietnam to cancel contracts with foreign companies for oil and gas exploration at block 136/3 and block 07/03 with Repsol, an international energy company based in Spain (Pearson & Gloystein, 2018). The Vietnam Oil and Gas Group (PetroVietnam or PVN) also cancelled a drilling contract with the Noble Corporation, an offshore drilling contractor based in London. As a result, the Noble Clyde Boudreaux drilling rig was not deployed to nearby block 06-01 for an exploratory drilling operation as initially planned. In both cases, PVN incurred significant financial losses due to compensation to Repsol and Noble, while also causing a sharp decline in Vietnam's crude oil output and revenue (Hiep, 2020).

Similar to previous actions, in 2019, the Chinese survey vessel group Haiyang Dizhi 8 (HD8) engaged in activities that violated Vietnam's exclusive economic zone and continental shelf in the Vanguard Bank area, located in the southern part of the South China Sea. This area is in fact part of Vietnam's exclusive economic zone and continental shelf, not a disputed zone (Chaudhury, 2019). Starting from July 3, 2019, the HD8, belonging to the China Geological Survey (a governmental agency under China's Ministry of Natural Resources), was dispatched to survey the seabed, monitored and hindered Vietnamese oil and gas operations within Vietnam's exclusive economic zone and continental shelf. Based on the timing of the survey, China seemed to be sending a message of disagreement with Vietnam's deal with Rosneft, Russia's largest oil company, to conduct drilling at Block 06-01 within Vietnam's exclusive economic zone (AMTI, 2019).

To ensure that the HD8's operations were unimpeded, China deployed a large number of escort vessels, including CCG and maritime militia (PAFMM) ships. In fact, the deployment of the PAFMM to create "gray" zones, supported by the CCG, is a tactic that China has been using over the years in the South China Sea (Fillingham, 2023). Vietnamese authorities have utilized all measures to demand that China cease its activities. On the ground, Vietnamese law enforcement forces have used various means and equipment, including loudspeakers broadcasting in Vietnamese, Chinese, and English to declare China's actions as violations of the law and infringements on Vietnam's sovereignty and jurisdiction, but these were blatantly ignored by the Chinese side (Giang & Khánh, 2019).

On the military front, China is actively employing the concept of "Three Warfares" (San Zhong Zhanfa). The Central Military Commission (CMC) of the People's Republic of China first introduced this concept in its 2003 publication of "Political Work Guidelines of the People's Liberation Army." "Three Warfares" encompasses (i) psychological warfare aimed at undermining an adversary's combat capabilities; (ii) media manipulation to influence domestic and international opinions related to ongoing disputes affecting China's interests (Baocun & Fei, 1995); (iii) the exploitation of legal systems at home and abroad to constrain the actions of adversaries, confuse legal precedents, and maximize China's advantages in situations related to its core interests (Nathan & Scobell, 2012). The core objective of this concept is to achieve China's goals without the need for or with minimal actual combat.

In the first aspect, China has recently increased its military presence, island reclamation, and infrastructure upgrades at seven occupied features in the Spratly Archipelagos. Admiral John Aquilino, commander of the U.S. Indo-Pacific Command, shared with the Associated Press on March 22, 2022, that China has "completed militarization" of at least three entities in the South China Sea, including Fiery Cross Reef, Subi Reef, and Mischief Reef, which are part of Vietnam's Spratly Archipelagos. He mentioned that China has deployed missile storage facilities, aircraft hangars, radar systems, and other military installations on these illegally constructed artificial islands (Press, 2022). After completing the construction of these illegal artificial islands, China's focus in the South China Sea shifted towards using these outposts to assert de facto control over activities in the region (Heydarian, 2018). The deployment of Chinese naval, coast guard, and maritime militia units to the artificial islands began in late 2018. In 2019, China moved into a phase of utilizing some artificial islands for military training and exercises purposes. Notably, China upgraded the wharf at Mischief Reef into a logistics and military supply port. China also repeatedly dispatched military transport aircraft to Fiery Cross Reef, installed advanced jamming

equipment on Fiery Cross Reef and Mischief Reef, and deployed anti-air and anti-ship cruise missiles on several illegal artificial islands in both the Paracel and Spratly Archipelagos (N. T. Minh, 2020).

Moreover, the People's Republic of China deploys maritime militia forces across the area to solidify its claims, causing confusion as opposing naval forces are uncertain about the correct response (Erickson & Kennedy, 2016). According to satellite images collected by the Asia Maritime Transparency Initiative (AMTI), these fishing vessels are not primarily engaged in fishing activities but often congregate around islands claimed by others in the Spratly Islands, especially those within the Union Banks (AMTI, 2022). These ships are on average about 50 meters in length and weigh approximately 550 tons, significantly larger than the fishing vessels of neighboring countries, demonstrating China's rapid modernization pace (K. Anh, 2021). A case in point is on March 7, 2021, when around 220 Chinese steel-hulled fishing vessels were anchored at Whitsun Reef. Despite China's claims that these vessels are privately owned and unarmed, according to expert Andrew Erickson from the U.S. Naval War College, with their sturdy hulls and high-pressure water cannons, these vessels are capable of attacking civilian ships or coast guard vessels of other countries (Anh, 2021).

The use of Coast Guard forces, nominally under civilian control, as tools to protect territories claimed by China, while conducting peacetime patrols over disputed maritime territories, blurs the line between "law enforcement" and "defense" duties (Morris, 2017). Additionally, China employs a "cabbage strategy" around contested areas. This involves arranging the PAFMM, CGC, and naval ships in layers from the closest to the furthest from the conflict zone to prevent escalation while maintaining their presence (Himmelman, 2013).

In the second aspect, China's media manipulation activities include the use of the internet, media platforms, and propaganda mechanisms against countries in the region to justify its territorial claims or to uphold a moral authority for its actions. Internationally, China's approach involves discrediting and responding to the sovereignty claims of other nations with stakes in the South China Sea, including Vietnam. Chinese media often labels Vietnam as a "troublemaker" frequently engaging in "provocative" actions in the South China Sea. A 2012 article in China's Global Times claimed that Vietnam's actions weakened the consensus of the Declaration on the Conduct of Parties in the South China Sea (DOC), signed by China and ASEAN countries in 2002 (Shicun, 2012).

During the mid-2014 incident involving the Chinese oil rig Haiyang Shiyou 981, which violated Vietnam's exclusive economic zone, China's English-language state media published numerous articles promoting its sovereignty over the Spratly and Paracel Islands and tarnishing Vietnam's image among Chinese citizens. For instance, countering the information Vietnam released to the global media about China deploying a large number of coast guard and military vessels to protect the Haiyang 981 rig, engaging in ramming and using water cannons causing severe material damage and threatening the lives of Vietnamese law enforcement personnel, on May 17, 2014, the English-language China Daily published an article titled "Vietnam rams ships 100s of times", blatantly accusing Vietnamese ships of ramming Chinese vessels over 100 times, without providing any photographic evidence (Yunbi, 2014). Meanwhile, China's aggressive actions were exposed when Vietnam ultimately decided to display a sunken Vietnamese vessel at the site of the Haiyang Shiyou 981 standoff, along with a video clip recorded by fishermen showing a Chinese ship ramming into the Vietnamese vessel (Đông, 2019).

Similarly, during the 2019 Vanguard Bank incident, Chinese media continued to put forth arguments supporting its actions and spread propaganda detrimental to Vietnam. Although official Chinese media did not heavily cover the event, several news outlets claimed that Vietnam violated China's "sovereignty" and was the aggressor, provoking conflict beforehand. An article on a Chinese blog even claimed that the conflict could end without bloodshed due to China's "concession" and decision to remove the survey ship from Vanguard Bank (Wang, 2022).

In the third aspect, China has issued maritime laws to affirm administrative control over disputed waters in the South China Sea since 1992. China passed the 1992 Law on the Territorial Sea and the Contiguous Zone of the People's Republic of China, laying claim to the entire South China Sea based on historical rights dating back to the Xia dynasty, ruling from the 21st to the 16th century BCE. This law caused dissatisfaction among countries worldwide, especially those whose interests were harmed by Article 6: "To enter the territorial sea of the People's Republic of China, foreign military ships must obtain permission from the Government of the People's Republic of China" (United Nations, 1992). The law also

violated the UNCLOS provisions regarding the determination of baseline from which the territorial sea and other maritime zones are measured. As of September 2021, China continued to attract international attention by requiring “foreign operators of submersibles, nuclear vessels, ships carrying radioactive materials and ships carrying bulk oil, chemicals, liquefied gas and other toxic and harmful substances to provide detailed information including the vessel name, call sign, current position, cargo, port of call and estimated time of arrival upon their visits to Chinese territorial waters” in the new Maritime Traffic Safety Law (MTSL) (Madjar, 2021). This followed China’s enactment of a law in February allowing the China Coast Guard (CCG) to “take all necessary measures, including the use of weapons when national sovereignty, sovereign rights, and jurisdiction are being illegally infringed upon by foreign organisations or individuals at sea” (Xinhua News Agency, 2021). All these laws violate UNCLOS provisions granting coastal states the right of innocent passage without the need for permission from coastal governments.

Another aspect of China’s legal approach is the ambiguity of its provisions, allowing China to interpret the laws in ways that benefit its interests. Article 74, Chapter 11 of the Coast Guard Law defines the “waters under China’s jurisdiction” to include “other waters,” a term that could refer to disputed waters and those China declared sovereignty over in the 1992 Maritime Law (Okada, 2021). According to Professor Carlyle Thayer at the Australian Defense Force Academy, China’s delimitation of its territorial sea is also unclear. For example, China has not officially declared any baseline around its artificial islands in the South China Sea. In other words, China has not officially demarcated its territorial sea boundaries (V. Anh, 2021). Therefore, Vietnam and other nations may face the risk of China arbitrarily imposing its national laws. In the future, it is not unlikely that China will continue to develop laws to gradually legitimize their actions based on strength, bullying, and coercion.

Deadlock in the COC negotiations between ASEAN and China

The concept of the COC (Code of Conduct) actually originated in 1996 at the 29th ASEAN Foreign Ministers’ Meeting (AMM 29) held in Jakarta, Indonesia (Huy, 2023). However, the negotiation process faced numerous challenges, mainly due to existing conflicts over sovereignty claims among the parties in the South China Sea. Therefore, at the 35th ASEAN Ministerial Meeting in 2002, Malaysia proposed the formation of a Declaration on the Conduct of Parties in the South China Sea (DOC) as a temporary measure to bind the parties to a lower level of commitment while waiting for the COC negotiations (Nguyen, 2023). However, it took nearly 10 years after the signing of the DOC for China and ASEAN to produce a set of guidelines for its implementation. Although these points of the DOC guidelines remained quite general, they contributed to temporarily de-escalating the tense situation in the South China Sea and maintaining the unity of ASEAN. But afterward, the situation in the South China Sea became increasingly complex, and the DOC was not effective enough to maintain peace and stability in the region.

After decades of deadlock related to the South China Sea issue, ASEAN and China embarked on discussions in September 2013 to establish a Code of Conduct in the South China Sea. In 2017, the two sides announced a draft COC framework, followed by a single negotiating text of over 19 pages in 2018, and a first draft (SDNT) of 20 pages in 2019 (Huy, 2023). Although ASEAN member countries and China completed the first reading of the draft COC negotiation document ahead of schedule in 2019, it was not until August 2021 that the parties agreed to commence the second reading and reached an initial consensus on the COC foreword (China, T P S R 2021). This was indeed too long a period for an agreement that should have been concluded much earlier to contribute to regional stability. To date, the negotiation and bargaining process has not yielded results due to many structural challenges. These encompass the undefined geographic boundaries of the South China Sea, differing opinions on mechanisms for resolving disputes, varied strategies for managing conflicts, and the undefined legal status of the COC (Quang, 2019).

Since becoming a member of ASEAN, Vietnam has made efforts to cooperate with other member countries and China within the framework of ASEAN – China dialogues and at security mechanisms founded by ASEAN to prevent unnecessary and rapid escalation of the South China Sea issue. Vietnam also favors managing the dispute through an ASEAN-led approach and seeks to establish a legally-binding COC (Vu, 2023). However, Vietnam is currently facing difficulties in mobilizing consensus and maintaining a strong ASEAN response to China’s actions in the South China Sea. In that context, Vietnam’s national

interests are seriously threatened by weak consensus among ASEAN member states and China's tactics in the COC negotiations.

Internal contradictions within ASEAN

The negotiation of the Code of Conduct in the South China Sea (COC) with China has witnessed a fragmented ASEAN. This situation is rooted in the internal divisions that stem from conflicting sovereignty claims among ASEAN member countries. Additionally, differences exist in national interests and perceptions of the threat among Southeast Asian nations. Ralf Emmers of the S. Rajaratnam School of International Studies at Nanyang Technological University, Singapore, commented: "The Southeast Asian states will continue to have varying threat perceptions on the rise of China and what it means for the stability of the region in the coming years. At one end of the spectrum will be Vietnam and the Philippines which have vast overlapping claims with China over the South China Sea and have indicated their readiness to internationalize and legalize the issue" (Emmers, 2014). Scholar Leticia Simões made similar observations in her research, "The Role of ASEAN in the South China Sea Disputes," noting that only some ASEAN members have sovereignty claims, while China has economic and political influence over all ASEAN countries (Simões, 2022). Consequently, ASEAN faces challenges in unifying a common stance for addressing sovereignty disputes in the South China Sea as a bloc.

The divisions among ASEAN member states have become a vulnerability that China exploits, leveraging political and economic pressure. China has successfully courted several ASEAN member countries, including Laos, Myanmar, and Cambodia, to support its South China Sea policies. From 2016 to the present, China has successfully implemented numerous projects in these countries, particularly notable projects such as the Cambodian seaport and the high-speed rail linking Laos's capital, Vientiane, with China's Yunnan province. China has become the largest investment partner for Laos and Cambodia (Son). Furthermore, in 2017, China provided Cambodia with \$4.2 billion in both in grants and soft loans (Kunmakara, 2017). Prime Minister Hun Sen has repeatedly emphasized that China is Cambodia's "most reliable friend" (Phea, 2022). Similarly, the China-Laos cooperation has been continuously expanded by the governments of both countries through a variety of mega-projects in sectors such as transportation, agriculture, exports, commodities, and tourism. These investment projects have solidified China's presence in Laos, Myanmar, and Cambodia, increasing China's capacity to influence and shape the policies of these countries. Specific examples include:

In the context of the South China Sea dispute, Laos has declared a policy of neutrality and claims to maintain a non-aligned stance regarding the issue. However, in reality, Laos' South China Sea policy aligns with some aspects of China's policies. Firstly, Laos opposes the internationalization and multilateralization of the South China Sea issue, expressing concerns about turning the South China Sea into an arena for great power competition and influencing the stability of Southeast Asia and the ASEAN integration process. Additionally, Laos asserts that the South China Sea issue is a bilateral matter and rejects the stance of countries like the Philippines and Vietnam, which aim to include the issue on ASEAN's agenda. According to Lao leaders, the South China Sea disputes concern only the directly involved parties, not the entire ASEAN vis-à-vis China (Lan, 2017).

Myanmar, as a country heavily influenced by China on South China Sea issues, tends to downplay the demands of other ASEAN member states within the bloc to support China's South China Sea policy by default, despite being an ASEAN member (Simões, 2022). Cambodia, while often claiming to maintain neutrality on the South China Sea issue, has at times openly shown its support for China. This was evident when Cambodia held the ASEAN Chairmanship in 2012. During its tenure, Cambodia hindered the efforts of other ASEAN members to include criticism of China's provocative actions in the South China Sea in the ASEAN joint communiqué (Thayer, 2012). Cambodia's position aligns with China's longstanding view that disputes should be resolved through bilateral dialogues (Bower, 2012).

Vietnam has also faced challenges in creating a united front with the Philippines, which is a country with significant claims in the South China Sea dispute and also under significant pressure from China. In the past, the Philippines was willing to break the united front in ASEAN against provocative actions in the South China Sea in exchange for economic benefits from cooperating with China (Koga, 2017). It is because the President has a significant influence on foreign policy of the Philippines (including setting

diplomatic priorities). As a result, a change in the Philippine government could lead to significant shifts in the country's stance on the South China Sea issue (Baviera, 2015).

For example, the fundamental stance of President Benigno Aquino III's term (2010 - 2016) was confrontation with China and strengthening alliances with the US. In 2013, Aquino instituted arbitral proceedings against the People's Republic of China under Annex VII to the UNCLOS after a standoff between ships of the two countries at Scarborough Shoal in April 2012. After Mr. Aquino had left office, the court ruled in favor of the Philippines, declaring China's territorial claims in the South China Sea as violating international law in July 2016 (Arbitration, 2013). However, Philippine policy was reversed under the administration of his successor, President Rodrigo Duterte. Not only did Duterte disregard the 2016 arbitral tribunal ruling but he also pursued talks on joint development of oil and gas resources with China (Batongbacal, 2018). In 2017, while China's assertive actions increased tensions in the South China Sea, as the ASEAN Chair in 2017, the Philippines avoided including condemnations of China's reclamation and militarization activities in the South China Sea in its Chairman's Statement of the 30th ASEAN Summit (Koga, 2017).

The issue of the South China Sea has highlighted the institutional shortcomings of ASEAN, particularly its consensus-driven decision-making process, which often results in deadlocks. The objection of even a single member can prevent the organization from making a unified statement (Thu, 2018). In the history of the Association, there have been numerous occasions where the South China Sea issue has caused internal divisions within ASEAN. The most frequently mentioned instance is Cambodia's hindrance of the ASEAN joint communique in 2012 during its tenure as the ASEAN Chair (Bower, 2012). Similarly, the Special ASEAN-China Foreign Ministers' Meeting in Kunming, China, in June 2016 witnessed the ASEAN-China joint statement being withdrawn under Chinese pressure (Sim, 2016). In July 2016, the ASEAN-China Ministerial Meeting in Laos managed to produce a joint statement after much tension and effort, but internal differences among ASEAN members emerged (Mogato et al., 2016). These events have clarified that China's 'divide and conquer' strategy has been effective in resulting in a divided ASEAN over the South China Sea issue (Quang, 2019). This presents the reality that Vietnam may find itself in the minority in its endeavor to protect its legitimate territorial and national interests in the South China Sea.

China's tactics in the COC negotiations

The process of the COC negotiations shows that preventing the internationalization of the South China Sea issue has been one of the main drivers for China's participation with ASEAN. In all matters related to the sovereignty disputes in the South China Sea, China has always expressed a desire for "peaceful negotiation", but on a bilateral basis with the countries involved, rather than multilateral dialogue (Hong, 2018). Particularly, China has demanded that the exploration and exploitation of oil and gas in disputed areas should be conducted by countries which share the South China Sea without cooperation with foreign companies (VOV, 2022). Additionally, during the COC negotiations in 2018, China proposed that parties to the COC may not conduct military exercises with foreign countries, unless all ASEAN countries and China are informed and do not object (Thayer, 2018a).

In its efforts to prevent the multilateralization of the South China Sea issue, China also directs criticism towards the presence of the United States and its allies, alleging they harm regional security. China's argument is that the US is the factor "disrupting the peaceful and stable situation" and "militarizing" the South China Sea, suggesting that it is the US that seeks to dominate the region through the pretext of enforcing freedom of navigation (Bing, 2021). In this way, China seeks to convince ASEAN countries that the COC negotiation process has been hindered by the interference of external factors, especially the U.S.

However, based on what China has done in reality, the COC negotiation process has been prolonged and fraught with difficulties, not because of third-party intervention but due to China's own actions. In 2013, coinciding with its initiation of artificial island construction, the People's Republic of China started to delay the negotiations for a formal Code. However, following the Arbitration Tribunal's ruling on the case between the Philippines and China in 2016, China actively promoted the COC negotiation process with ASEAN with an aim to mitigating the impacts of the ruling (Staff, 2022). As a result, the foreign ministers of ASEAN and China endorsed the framework for the COC one year after that (Dancel, 2017). Since then, however, China has prolonged finalizing the exact language of the code. While trying to slow down the negotiation process of the COC, China has aggressively accelerated comprehensive and

large-scale militarization activities in the South China Sea to control and impose illegal sovereignty in this maritime area. China has also exploited the overwhelming presence of its fleet to carry out obstructive and disruptive activities against the ships of neighboring claimant countries. Meanwhile, the drawn-out and fruitless talks concerning the COC have steered regional focus away from the significant consequences of China's destabilizing maneuvers in the South China Sea (Thu, 2018).

Therefore, the concern with this delaying tactic is that by the time the COC is reached, China may have gained a dominant advantage in the South China Sea over other claimant countries, solidifying a new status quo favorable to China. In other words, the longer the COC negotiations are delayed, the more advantageous it is for China to expand its control over the South China Sea (Thu, 2018). According to estimates, from the time the idea for the formation of the COC was conceived in the 1990s, until 2022, China has reclaimed more than 1,200 hectares of land, approximately 19 times the total land area reclaimed by all other claimants combined (Staff, 2022). As a result, Former Indonesian Foreign Minister Marty Natalegawa once warned: "There is real risk that developments on the ground – or more precisely at sea – are far outpacing the COC's progress thereby possibly rendering it irrelevant" (Tanakasempipat & Wongcha-Um, 2019). This assessment is based on the reality that China became more active in pushing for COC negotiations coinciding with the time it essentially completed the construction of islands in the South China Sea. In 2018, Chinese Premier Li Keqiang declared during the China-ASEAN Summit in Singapore that his country hoped to complete talks on the COC in the South China Sea within three years (Xinhua, 2018). In reality, three years later marks the time when China had fully militarized at least three of the artificial islands it had illegally built in the South China Sea (Press, 2022).

The involvement of external factors in the South China Sea issue

Vietnam's critical geographical location makes it susceptible to becoming an obstacle or a platform for major powers to expand their influence or counterbalance each other (Hải, 2015). The South China Sea, rich in valuable natural resources that are essential for the livelihood and economic development of the surrounding nations, is also a hub for important international maritime routes. Consequently, sovereignty disputes in the South China Sea attract the participation of countries outside the region that have interests in the area (Nguyễn et al., 2024).

The United States

In 2010, the Obama administration marked a significant shift by directly involving the United States in the South China Sea. The U.S. Secretary of State publicly stated that the U.S. has "national interest" in the region. Subsequently, the U.S. escalated its military presence around the South China Sea, conducted joint military exercises with regional allies, strengthened military alliances and mutual military support, and increased military deterrence. One prominent expression of U.S. involvement in the South China Sea is the Freedom of Navigation Operations (FONOP) program. Its fundamental objective is to assert the U.S. perspective on China's territorial claims in the South China Sea "without compromising the operational security of U.S. military forces" (Defense, 2015). By carrying out these operations, the U.S. aimed to demonstrate that these waters are not part of China's legitimate territorial claims and that China's straight baselines assertion for the Paracel Archipelagos is inconsistent with international law.

During the Obama administration, the U.S. conducted four FONOP operations in the South China Sea (one in 2015 and three in 2016). Under President Trump's administration, the quantity and quality of FONOP operations significantly increased. Based on publicly available information, the U.S. conducted 28 FONOP operations during the Trump administration's term (four in 2017, six in 2018, eight in 2019, and ten in 2020) (Service, 2023). Both the Trump and Biden administrations organized numerous bilateral and multilateral military exercises in the South China Sea and the broader Indo-Pacific region, such as The Cooperation Afloat Readiness and Training (Exercise CARAT)¹ involving countries such as Brunei, Indonesia, Malaysia, the Philippines, Singapore, and Thailand; annual military drills with the Philippines known as Balikatan; as well as the Rim of the Pacific Exercise (RIMPAC)²(Cường, 2023a).

Building upon its core interests and alliances, on July 14, 2020, U.S. Secretary of State Mike Pompeo delivered the message: "The world will not allow Beijing to treat the South China Sea as its maritime

empire. America stands with our Southeast Asian allies and partners in protecting their sovereign rights to offshore resources, consistent with their rights and obligations under international law” (Pompeo, 2020). Presently, under President Biden’s leadership, the U.S. continues to oppose China’s ambitions in the South China Sea. President Biden has outlined specific U.S. policies in Asia-Pacific, especially in the South China Sea. He recognizes the necessity of forging a united front among countries to counter challenges and international law violations by China in the South China Sea. The U.S. is also repositioning its global military bases with a focus on the Asia-Pacific, creating defense lines to deter China’s aspiration to become a maritime superpower.

India

Despite not having direct territorial claims or sovereignty declarations related to the South China Sea, India has shown a growing interest in the region and has frequently engaged in military and security activities with countries in the area. India’s position on the South China Sea issue was highlighted in the Vision Statement of ASEAN-India Commemorative Summit, which emphasized India’s role in ensuring peace and stability in the region. India committed to enhancing cooperation with ASEAN to ensure maritime security and freedom of navigation, and safety of sea lanes of communication for unfettered movement of trade in accordance with international law, including UNCLOS (Association of Southeast Asian Nations, 2012).

India has conducted naval activities in the South China Sea, including bilateral exercises and visits to friendly nations and transit through these sea regions. A notable example is that on May 18, 2016, four Indian Navy ships from the Eastern Fleet were deployed to the South China Sea and the Western Pacific to strengthen military-diplomatic relations and enhance interaction with other naval forces. The Indian warships made port calls at Cam Ranh Bay in Vietnam, Subic Bay in the Philippines, Sasebo in Japan, Busan in South Korea, Vladivostok in Russia, and Port Klang in Malaysia (Gady, 2016). To counter China’s assertive actions in the South China Sea, India has also conducted bilateral (e.g., SIMBEX naval exercise with Singapore) and multilateral (e.g., MILAN)³ naval exercises in the region. These actions have brought the Indian Navy into the disputed waters of the South China Sea.

Other countries

Japan has also actively engaged with the South China Sea, linking the region closely to both the East China Sea and the entire Indo-Pacific region. Japan has carried out various activities to maintain its military presence in the South China Sea through joint exercises, port visits, and legal capacity-building support to coastal states (俊二, 2020). Japan has consistently opposed China’s military activities on the islands in the South China Sea, supported international arbitration rulings, and opposed China’s unlawful actions against coastal states (Kishida, 2016). Countries like Canada, the United Kingdom, and Australia have shown interest in the South China Sea by participating in naval exercises and deploying naval assets to the region to safeguard freedom of navigation, demonstrate support for allies and partners (Graham, 2015).

The involvement of these countries has contributed to increasing the region’s attention to the South China Sea issue, promoting the dialogue process at regional and international forums, creating a more balanced situation in the peaceful resolution of disputes (Hiệp, 2014). Over the years, these countries have also strengthened support for the disputing parties in ASEAN, including Vietnam, to enhance maritime law enforcement capabilities and the ability to monitor military and quasi-military activities of China.⁴ They have also repeatedly spoken out against China’s militarization of the islands in the South China Sea, supported the rulings of the Arbitral Tribunal, and opposed China’s illegal actions against the coastal countries.

However, the involvement of major powers in the South China Sea could add pressure and potentially escalate tensions in the region, especially as territorial disputes between regional countries are already causing increased friction. This engagement may negatively affect Vietnam in some key ways.

Firstly, the military exercises and activities of the military forces in the South China Sea could increase tensions and threats to regional security and stability. Recent developments in the South China Sea show that the more China demonstrates its determination to monopolize the South China Sea, the more the

United States and other countries outside the region intensify their involvement. This could provoke a reaction from China, providing a pretext for the country to increase its military strength, escalating the risk of the use of force and armed conflict in the South China Sea. This will certainly escalate the disputes related to sovereignty over islands and reefs, adding pressure on Vietnam in protecting its sovereignty and national interests.

Secondly, in the whirlpool of competition in the South China Sea, both the United States and China want to attract Vietnam to follow their strategic intentions. Pressure from both the United States and China could cause Vietnam to face difficulties in promoting comprehensive relations with both countries, and even face pressure to navigate between the two. This poses challenges to Vietnam's foreign policy of independence, self-reliance, and diversification of foreign relations. If not handled carefully and harmoniously, Vietnam might face the dilemma of choosing a side, potentially leading to a "strategic deadlock" (Chi, 2020).

Besides, although these countries have interests in the South China Sea, they all do not want to engage in a direct confrontation with China, thereby limiting their choices and the extent of their involvement in the South China Sea issue. Additionally, conflicts in other regions (such as the Middle East for the United States and the East China Sea for Japan) – which are higher priorities in these countries' foreign policies, may cause these countries to neglect cooperation with Vietnam (Group, 2021).

Anti-China sentiment in Vietnam

Constructivism argues that state behavior is not only driven by material forces but also by identities, social norms, and historical experiences (Wendt, 1992). In the context of Vietnam, anti-China sentiment is based on historical memories of invasions by the Chinese dynasties in the past: Every Chinese dynasty since Qin Shi Huang attempted to invade Vietnam (Chiến, 2014). Memories of wars with China – including the Northern border war in 1979 and the naval clash in the Spratly Islands in 1988 – remain vivid in the public's mind (Luc, 2018). Over the years, incidents where Chinese ships fired on Vietnamese fishing vessels, conducting illegal activities in the Paracel and Spratly Islands have contributed to stronger group solidarity within Vietnam, united against what is perceived as external aggression. The repeated incidents in the South China Sea reinforce this perception, portraying China as an aggressor undermining Vietnamese sovereignty and rights. Moreover, over the years, several Chinese companies and enterprises investing in Vietnam have caused serious incidents, impacting the environment and the livelihoods of the Vietnamese people (Dũng, 2022), resulting in a sense of frustration and concern among the citizens regarding the influence of China in Vietnam. This is often reflected in increased nationalistic sentiments and public support for the government's stance against China, demanding stronger actions to protect national sovereignty.

As a result, according to a 2014 Pew Research survey, only 16% of Vietnamese held a favorable view of China, compared to 26% of Filipinos and 30% of Indonesians (Research, 2014). Moreover, according to the annual survey and assessment by the ISEAS – Yusof Ishak Institute in Singapore in 2023, nearly 80% of Vietnamese participants responded that they have little or no trust in China's contributions to peace, security, prosperity, and global governance. Among those Vietnamese who chose "little or no trust in China," 65.4% believe that China's economic and military power could threaten the interests and sovereignty of Vietnam – the highest percentage among ASEAN countries surveyed (ISEAS, 2023).

The anti-China reaction first manifested in 2011 after Chinese patrol ships attacked a Vietnamese oil exploration vessel off the coast of Vietnam. As a result, anti-China protests occurred weekly in Hanoi and Ho Chi Minh City during two months (Press, 2012). The situation escalated in 2014 when protests erupted in several provinces over China's illegal deployment of the HD-981 oil rig in Vietnamese waters. The protests began on May 10 when 100 people gathered outside the Chinese Consulate in Ho Chi Minh City under the watch of security forces (AP, 2014). Within a short period, thousands of protesters assembled in cities across Vietnam. Additionally, on May 12, 7,000 footwear and garment workers protested in front of Chinese businesses in the industrial zones of Binh Duong and Dong Nai provinces in southern Vietnam. However, the protest escalated into riots, with demonstrators burning factories and foreign-owned businesses believed to be linked to China or employing Chinese staff, causing damage not only to Chinese companies but also to businesses owned by Taiwan, Japan, South Korea, and Singapore (Tiezzi,

2014). Reports indicated that the protests resulted in 20 deaths and nearly 100 injuries (Staff, 2014). Following the death of Chinese citizens in the protests, China suspended some bilateral exchange plans with Vietnam and requested compensation for the damages (The Straits Times, 2014).

By 2018, numerous anti-China protests continued in Vietnam against the draft law on new Special Economic Zones (SEZs) that would allow foreign investors to lease land for up to 99 years in three economic zones including Van Don in Quang Ninh province, Bac Van Phong in Khanh Hoa province, and Phu Quoc in Kien Giang province. Although the proposal did not specifically mention China, protesters were concerned that the law would be dominated by Chinese investors (Reuters, 2018). Security was tightened to prevent protests in major cities, but thousands of people still gathered in cities nationwide. Many carried banners saying “No leasing land to Chinese communists for even one day”. The protests were mostly peaceful but turned violent in Binh Thuan province, where China was accused of assaulting fishermen, polluting land, and deforesting for mineral exploitation primarily exported to China (Petty, 2018). In response to the negative public reaction, the National Assembly of Vietnam voted to postpone the review and passage of the Draft Law to the next session to allow more time for research and refinement, with 85.63% of deputies in agreement (Hoàng, 2018).

To sum up, it can be argued that the South China Sea issue serves as a unifying factor among the Vietnamese people, igniting their patriotism. However, if not handled properly, the anti-China sentiments in Vietnam could complicate and make it more challenging to seek a peaceful resolution to the sovereignty disputes in the South China Sea. On the other hand, Vietnam also finds itself in a difficult position when attempting to appease nationalist sentiments without provoking retaliation from China.

Limited maritime governance capacity

Over recent years, Vietnam has made efforts to strengthen maritime security and modernize its naval forces (Chang, 2019). Vietnam’s defense budget is expected to reach \$8.5 billion by 2027, with an acquisition budget of \$1.8 billion earmarked for 2023–2027. This budget will prioritize the procurement of frigates, patrol vessels, and other equipment to strengthen its maritime capabilities (Data, 2022). However, financial constraints pose a significant barrier in the context of Vietnam being a developing nation with limited financial resources. The defense budget shortfall not only affects the navy’s modernization and the procurement of strategic equipment like warships and patrol boats but also impedes the development of advanced maritime surveillance systems. Consequently, Vietnam’s maritime domain awareness is not fully equipped to monitor its extensive coastline and territorial waters, potentially leaving gaps in surveillance and response to threats such as illegal fishing, smuggling, and other illicit activities (Anh, 2024).

Investment in marine science and technology research and the training of maritime human resources in Vietnam has also not been adequately prioritized for development. As highlighted by the United Nations Development Programme (UNDP), Vietnam’s limitations in marine science and technology capabilities are evident in various areas, such as weak and insufficient marine resource survey and exploration; the capacity for producing traditional equipment for marine economic development, such as shipbuilding and port construction, is lacking; research institutions and R&D personnel in marine-related economic fields are few (UNDP, 2022).

Furthermore, Vietnam’s remote sensing technology has not yet achieved the necessary development to effectively support the management and protection of fishery resources and maritime security (Poling, 2021). Additionally, although the policy system has been supplemented and gradually improved, overlapping responsibilities among maritime security agencies may render the resolution of maritime challenges less effective (Dung & Son, 2023). Meanwhile, the situation concerning territorial sovereignty disputes in the South China Sea has remained complex over the years, with foreign actions infringing on sovereignty, obstructing oil and gas exploitation, and exploiting marine resources within Vietnam’s exclusive economic zone.

What Vietnam needs to do

Vietnam’s South China Sea policy has been relatively consistent over the years, with the goal of safeguarding independence, sovereignty, territorial integrity, promoting maritime economic development,

and enhancing the nation's position. The 13th National Congress of the Communist Party of Vietnam also emphasized the importance of protecting territorial sovereignty and leveraging a peaceful and stable environment for economic development in the South China Sea. Based on the analysis of the challenges regarding sovereignty and interests in the South China Sea, some key insights can be drawn:

Firstly, the involvement of major powers in the South China Sea dispute can contribute positively to the protection of the legitimate rights and interests of both Vietnam and several other Southeast Asian countries involved in the dispute. Therefore, Vietnam should take advantage of opportunities for cooperation with major countries in maritime security through bilateral security dialogues such as the India-Vietnam Maritime Security Dialogue. Vietnam should also enhance consultation channels and encourage military visits to the region to gain experience from the naval of other countries and to enhance its own maritime management capabilities. In particular, to compensate for its budgetary constraints in defense and the lack of modern maritime surveillance technology, Vietnam needs to actively engage in maritime security cooperation through bilateral security assistance initiatives. These are essential financial supports for Vietnam to improve efficiency in maritime management and the capabilities of its maritime forces, thereby effectively protecting national sovereignty in the South China Sea.

However, Vietnam must understand that when major powers get involved in the South China Sea issue, they also bring their strategic calculations to serve their national interests. Therefore, Vietnam also needs to be cautious about the ways and levels of cooperation with major countries, continue to pursue the "Four No's" foreign policy, and actively implement the most "neutral" policies to avoid being put in a situation of having to choose sides. To do this, Vietnam needs to focus on enhancing its capability to manage and protect the sea and islands, while also expanding defense cooperation with foreign countries (Long, 2021). Especially, in the medium and long term, the Vietnamese military needs to promote technology transfer processes, mastering the technology to produce essential military equipment to minimize dependence on foreign technologies and equipment (most of the Vietnamese Coast Guard and Fisheries Surveillance ships are assembled at domestic shipyards, however, larger and more complex ships still require the use of foreign designs and components). This is a necessary step to prevent major countries from using the military equipment deficit as a bargaining chip in case of conflict (Đ. H. Minh, 2020).

In particular, Vietnam-U.S. cooperation on the South China Sea issue has brought many practical benefits and has much potential for development. Notably, from fiscal years 2017 to 2021, Vietnam received about 60 million USD in bilateral security support funded by the U.S. Department of State through the Foreign Military Financing (FMF) program, and more than 20 million USD through the Southeast Asia Maritime Security Initiative (SAMSI) under the FMF's regional program by the U.S. Department of State (Vietnam, 2021). Therefore, Vietnam should work with the U.S. to establish an annual high-level security forum to discuss and address emerging issues related to the South China Sea. The two countries can also promote training, joint exercises, exchange information related to the South China Sea, cooperate in scientific research, marine environmental protection, counter-terrorism, piracy, disaster relief, etc. These forms of non-traditional security cooperation, although not combat-oriented, can still provide important skills for the Vietnamese armed forces (Grossman, 2021). Additionally, Vietnam needs to demonstrate a strong commitment to the principles of freedom of navigation and international law to facilitate more active U.S. involvement in the South China Sea issue. In this process, it is crucial to be open and transparent about cooperation and actively share information and connect with regional countries to alleviate concerns and garner various resources and support from the international and regional community.

Secondly, Vietnam needs to promote diplomatic efforts, exchanging diplomatic notes and documents at the United Nations to reinforce its position in the South China Sea dispute, while opposing sovereignty claims and legal documents of China that contradict international law including UNCLOS, violating Vietnam's sovereignty and jurisdiction rights (Cường, 2023b; Diep, 2020). This is a way to have significant influence on the international stage in asserting Vietnam's legitimate sovereignty in the South China Sea (Bautista, 2021). In addition to the efforts at the United Nations, Vietnam also needs to enhance propaganda work, mobilize public opinion, and gain international community support through various forms and means to rally consensus on requiring disputing parties to adhere to international law and the United Nations Convention on the Law of the Sea.

However, Vietnam also needs to build trust with China, avoiding a situation where China perceives Vietnam as being anti-China (Thuy, 2018). To achieve this, Vietnam needs to emphasize the importance of high-level visits to China, where the South China Sea issue is one of the main topics of discussion. Through high-level exchanges, Vietnam and China can foster mutual trust, cooperation, and minimize the risk of miscalculation by both parties. Vietnam also needs to maintain the negotiation mechanisms on maritime issues already established with China (namely the Working Group on the waters outside the mouth of the Gulf of Tonkin; the Working Group on less sensitive sea-related fields, and the Working Group for consultation on cooperation for mutual development at sea) to maintain regular dialogue and gradually build trust between the two countries. It is necessary to affirm to China that Vietnam always values the traditional and friendly relations between Vietnam and China, but regarding issues of principle, Vietnam will not compromise and is ready to take firm measures to protect its independence and territorial integrity (Cường, 2023a; Tuân, 2019).

Thirdly, to mobilize consensus within ASEAN on the South China Sea dispute, it is crucial to reconcile the interests among ASEAN member countries. Initially, ASEAN countries with sovereignty disputes in the South China Sea need to agree on the scope of maritime zones and continental shelves that fall under the sovereignty, sovereign rights, and jurisdiction of the countries at sea. Following this, Vietnam needs to show greater determination in finalizing maritime boundaries with claimant countries within ASEAN and restart negotiations with China on the Code of Conduct in the South China Sea. Most importantly, Vietnam needs to actively promote the development of ASEAN towards independence and self-reliance, avoiding being influenced by external countries.

In the event that ASEAN does not fully promote consensus, Vietnam should also cooperate with other disputing parties within ASEAN to build trust and reduce tensions. Vietnam has made some achievements in resolving maritime boundaries with China in the Gulf of Tonkin and the continental shelf boundary with Indonesia. More importantly, Vietnam has carried out numerous joint projects on fishing, coastal protection, hydrocarbon development, and marine science research with China, the Philippines, and Malaysia. Vietnam and other disputing countries should leverage these experiences to propose new initiatives aimed at enhancing cooperation in areas of mutual interest, such as scientific research and law enforcement.

Similar to the Memorandum of Understanding (MoU) signed in 2012 between the Government of the Republic of Indonesia and the Government of Malaysia in respect of the common guidelines concerning treatment of fishermen by maritime law enforcement agencies of Malaysia and Indonesia⁵, Vietnam should also negotiate with countries in the region on measures to handle situations where foreign law enforcement agencies detain Vietnamese fishing vessels operating in their exclusive economic zones, as well as in cases of unexpected collisions at sea to minimize regional tensions. Secondly, Vietnam should consider the possibility of starting joint patrols with the coast guards of other countries. Given how China's activities are also impacting Indonesia, Malaysia, and the Philippines, these countries should consider coordinating patrol activities in the South China Sea, as well as improving their information-sharing systems to mitigate the impact of China's activities (Cao, 2020).

Fourthly, concerning public diplomacy, Vietnam needs to mobilize societal resources to serve the national interest by raising awareness about the law and the situation of the seas among the public. Especially, it is crucial to encourage fishermen to confidently work at sea, marking their presence and affirming sovereignty over Vietnam's maritime zones and islands. Following the events of 2014, Vietnam should plan to develop a specific set of laws to regulate citizens' right to protest. The legal framework on protesting should include comprehensive and clear provisions about the rights and responsibilities, as well as the obligations of the protesters. In practice, Vietnamese citizens have protested to express their patriotic spirit and reflect their demands and desires on societal issues. However, due to the lack of a directly regulating legal framework, protests have not been conducted effectively. Therefore, a protest law needs to be issued by the State of Vietnam firstly to ensure the right to protest of citizens, while also ensuring that protests do not disrupt public security and order. Discussing the necessity and significance of enacting a Protest Law in Vietnam, Associate Professor Dr. Vu Hong Anh from the Legislative Research Institute (2015) also argues that this will provide a legal basis for the Party and the State of Vietnam to counter distortions about democracy and human rights in Vietnam by hostile forces (Anh, 2015). Parallel to developing the protest law, it is necessary to complete related legal documents,

including both administrative and criminal laws, to manage the country while promoting democracy among the people (Duy, 2015).

Conclusion

The South China Sea is an area filled with conflicts among nations with sovereignty claims and strategic interests in this maritime region. Over the years, China has engaged in various actions across economic, military, legal, and diplomatic domains to realize its “nine-dash line” claims in the South China Sea. These actions have severely infringed upon Vietnam’s sovereignty, sovereign rights, and jurisdiction and have negatively impacted the interests of many other countries.

Consequently, since the second decade of the 21st century, external powers, particularly the United States, India and Japan, have increased their military presence in the South China Sea, opposing China’s claims and cooperating with Southeast Asian nations to influence the situation in the region. While the participation of these extra-regional countries has brought several positive influences, it has also added complexity to the dispute in the South China Sea. This situation demands that Vietnam handle matters delicately, seeking a “balance point” in its relations with the involved parties, especially in its dealings with the two leading world powers, the US and China.

The escalating tensions in the South China Sea over recent years have created an urgent need for an effective COC between ASEAN and China in the region. However, China has employed delaying tactics in the negotiations of the COC, while aggressively militarizing the artificial islands it has constructed to create a *fait accompli* situation in the South China Sea. Additionally, Vietnam’s efforts to unify ASEAN’s stance in resolving the South China Sea disputes in general, and in the COC negotiations with China in particular, have encountered significant challenges due to divergences and differences in interests among the member countries within the bloc. Internal conflicts within ASEAN arise partly from the sovereignty claims of the member states themselves and partly from China’s strategy of engaging individual ASEAN member countries to support China’s policies regarding the South China Sea issue.

In this context, Vietnam’s search for solutions to the sovereignty disputes in the South China Sea without inciting anti-China reactions from the domestic population presents a significant challenge to the leadership of the Communist Party of Vietnam. Additionally, Vietnam must overcome financial and institutional barriers if it wishes to modernize its naval capabilities and enhance maritime awareness to robustly protect the country’s sovereignty over its seas.

To mitigate the negative impacts of the challenges mentioned above, Vietnam needs to involve a close integration of political, diplomatic, legal, and defense measures in managing and protecting the sovereignty of its seas and islands. While adhering to the “Four No’s” defense policy, Vietnam should pursue a flexible foreign policy that is diversified and multilateral to benefit from cooperation, especially in the security-defense sector (such as technology transfers, military equipment transfers, maritime capacity building, and joint patrols) with major powers outside the region. This strategy aims to balance the disputes in the South China Sea and compensate for Vietnam’s maritime capability deficiencies.

In relations with China, it is crucial for Vietnam to build political trust among the high-level leadership of both countries and gradually resolve sovereignty disputes based on principles set by their leaders. To achieve an effective COC for managing the South China Sea disputes, Vietnam first needs to resolve existing conflicts among ASEAN member countries to create a unified front in negotiations with external nations. Beyond ASEAN’s multilateral mechanisms, Vietnam should initiate maritime security initiatives and negotiate with Malaysia, the Philippines, and Indonesia in areas of common interest to enhance mutual understanding and build strategic trust.

Particularly, Vietnam needs to effectively control the domestic political and social situation to prevent impacts on the country and the relationship between Vietnam and China due to the South China Sea issue. Therefore, establishing a specific legal framework directly regulating issues related to protests is currently a pressing requirement for Vietnamese authorities.

This research was conducted in an environment with few foreign scholars directly addressing the impact of the anti-China sentiment on Vietnam’s policies in resolving South China Sea disputes. The scarcity of data was due to a lack of surveys to assess the anti-China sentiment of the Vietnamese people. For this reason, the research could not consolidate the viewpoints of foreign scholars and

researchers or provide specific data on this issue. Given these limitations, future research can employ additional data collection methods and expand the scope of research to various subjects to provide the most accurate insight into the perspectives and reactions of the Vietnamese people regarding China's actions in the South China Sea.

Notes

1. The Cooperation Afloat Readiness and Training (Exercise CARAT) is an annual series of bilateral military exercises conducted by the United States Navy in cooperation with various Southeast Asian and South Asian nations. These exercises are designed to enhance maritime security and cooperation in the region, improve interoperability between the participating navies, and strengthen the overall relationship between the United States and the partner countries. CARAT exercises have been conducted with various countries in the Indo-Pacific region, including the Philippines, Thailand, Malaysia, Singapore, Indonesia, Brunei, Bangladesh, Sri Lanka.
2. RIMPAC, or Rim of the Pacific Exercise, is an annual multinational military exercise involving countries in the Pacific region. Participating nations include the United States, Canada, Australia, Japan, South Korea, Chile, Peru, Singapore, Brunei, and New Zealand. The exercise focuses on military activities at sea, on land, and in the air and is of a substantial scale, involving thousands of troops, hundreds of warships, and aircraft, and lasting for approximately two months. The primary purpose of the exercise is to enhance interaction and combat readiness among the armed forces of the participating nations, while also promoting stability and security in the Pacific region. RIMPAC is regarded as the world's largest multinational naval military exercise.
3. The MILAN exercise is a multinational military exercise organized annually by the Indian Navy in Visakhapatnam, India. The exercise focuses on training activities and enhancing the combat capabilities of naval forces in diverse confrontation environments. Participating countries include nations from Asia, Africa, and Europe. The MILAN exercise also serves as an opportunity for participating countries to interact and establish military relationships with the others.
4. The Japan International Cooperation Agency (JICA) signed an agreement with the Government of Vietnam for an Official Development Assistance (ODA) loan worth nearly 350 million USD for the project to build 6 patrol boats for the Vietnam Coast Guard. The United States has transferred 24 Metal Shark high-speed patrol boats and 2 Hamilton-class patrol boats to Vietnam through the Excess Defense Articles (EDA) program. In June 2023, India announced the donation of an active missile corvette to Vietnam, marking the first time India has donated an active light frigate to a foreign country.
5. According to the MoU, both countries agreed to assist the traditional vessels that are lost to return to waters of their respective countries and do not catch and make punishment to the traditional fishermen, except for vessels which conduct illegal fishing and use explosive and chemical materials .

Authors' contributions

Author	Role	Contributions
Bách Hiếu Trần	First Author	Collects and analyzes data and write the actual manuscript.
Cường Nguyễn Anh	Corresponding Author	<ul style="list-style-type: none"> Communicates with the journal during the manuscript submission, peer review, and publication process. Prepares a submission-ready manuscript.
Yến Nhi Đình Trần	Co-author	<ul style="list-style-type: none"> Performs data collection, analysis and interpretation. Writes and revises the draft of the article.

Disclosure statement

There are no relevant financial or non-financial competing interests

Ethical considerations

In preparing this manuscript, the following ethical guidelines were adhered to:

1. All information presented in this article has been carefully verified for accuracy and reliability. The data and historical facts have been sourced from credible academic journals, books, and reputable media outlets. The interpretations and conclusions drawn are based on thorough analysis and unbiased evaluation.
2. The arguments presented are solely intended to contribute to academic discourse and understanding of the subject matter.
3. The article discusses sensitive geopolitical issues with respect and sensitivity towards all parties involved. It does not endorse or promote hostility but rather seeks to highlight the importance of dialogue, legal frameworks, and diplomatic efforts in resolving disputes.

- Any potential conflicts of interest, including funding sources or affiliations of the authors, have been fully disclosed and do not undermine the objectivity of the findings.

By adhering to these principles, this article contributes responsibly to the scholarly discussion on an issue of significant international concern and relevance. This statement aims to reinforce the ethical backbone of the article while ensuring transparency and integrity in discussing a complex and sensitive topic.

Funding

This research paper is solely funded by VNU University of Social Sciences and Humanities, Hanoi, under project number USSH-2024.06

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Data availability statement

The data that support the findings of this study are available from the corresponding author, [NAC], upon reasonable request.

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