



VIETNAM'S DIFFERENT NEGOTIATIONS WITH CHINA OVER TWO  
ISLANDS DISPUTE: PARACEL AND SPRATLY

BY

MISS LUONG ANH LINH

A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS  
FOR THE DEGREE OF MASTER OF ARTS (ASIA PACIFIC STUDIES)

THAMMASAT INSTITUTE OF AREA STUDIES

THAMMASAT UNIVERSITY

ACADEMIC YEAR 2018

COPY RIGHT OF THAMMASAT UNIVERSITY

VIETNAM'S DIFFERENT NEGOTIATIONS WITH CHINA OVER TWO  
ISLANDS DISPUTE: PARACEL AND SPRATLY

BY

MISS LUONG ANH LINH



A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS  
FOR THE DEGREE OF MASTER OF ARTS (ASIA PACIFIC STUDIES)

THAMMASAT INSTITUTE OF AREA STUDIES

THAMMASAT UNIVERSITY

ACADEMIC YEAR 2018

COPY RIGHT OF THAMMASAT UNIVERSITY

THAMMASAT UNIVERSITY  
THAMMASAT INSTITUTE OF AREA STUDIES

THESIS

BY

MISS LUONG ANH LINH

ENTITLED

VIETNAM'S DIFFERENT NEGOTIATIONS WITH CHINA OVER TWO ISLANDS DISPUTE:  
PARACEL AND SPRATLY

was approved as partial fulfillment of the requirements for  
the degree of Master of Arts (Asia Pacific Studies)

on .....

Chairman

\_\_\_\_\_  
(Lecturer Lasse Schuldt, Ph.D.)

Member and Advisor

\_\_\_\_\_  
(Lecturer Takashi Tsukamoto, Ph.D.)

Member

\_\_\_\_\_  
(Professor Robin Ramcharan, Ph.D.)

Director

\_\_\_\_\_  
(Associate Professor Suphat Suphachalasai, Ph.D.)

Thesis Title	VIETNAM'S DIFFERENT NEGOTIATIONS WITH CHINA OVER TWO ISLANDS DISPUTE: PARACEL AND SPRATLY
Author	Miss Luong Anh Linh
Degree	Master of Arts (Asia Pacific Studies)
Major Field/Faculty/University	Master of Arts (Asia Pacific Studies) Thammasat Institute of Area Studies Thammasat University
Thesis Advisor	Takashi Tsukamoto, Ph.D.
Academic Year	2018

## ABSTRACT

The purpose of this study is to examine Vietnam's both bilateral and multilateral negotiations with China over Paracel and Spratly Islands, and to analyze why the dispute has yet to be negotiated via DOC (Declaration of Conduct) and Code of Conduct (COC). The author argues that the Spratly Islands and the Paracel Islands, both located in the South China Sea (SCS); has become an obstacle in creating multilateral security in the region. This research will also explain Vietnam's preferable negotiation with China over two islands due to the dispute between China and Vietnam in the SCS are mixed with cultural and historical heritage fundamental to the understanding of their respective positions. Ensuring the sovereignty over the islands, for these countries, also means to ensure important economic and geopolitical interests in Asia Pacific.

**Keywords:** Paracel Islands, Spratly Islands, Bilateral Negotiation, Multilateral Negotiation, Vietnam's Perspective.

## ACKNOWLEDGEMENTS

It is always a pleasure to remind me the fine people at MAPS - Thammasat University for their sincere guidance I received to uphold my practical as well as academic skills in Asia – Pacific Studies. Thanks Dr. Suphat Suphachalasai (Director, Thammasat Institute of Area Studies) for giving us precious scholarships and Miss Thanyawee Chuanchuen (MAPS Program Manager) and Mr Md Zaidul Anwar Hj Md Kasim (Researcher, MAPS) have helped us to manage all matters during academic period.

To my parents and sister, Tien, thank you for giving encouragement, enthusiasm and invaluable assistance to me. Without all this, I might not be able to complete this subject properly.

I must thank to Prof. Luu Quy Khuong and Miss Le Phuong Loan (Dean and Vice Dean of Department of International Studies, Da Nang University of foreign languages studies) for giving me the opportunity to undergo training abroad.

Speaking of deepest gratefulness, I must mention that Dr. Takashi Tsukamoto (now professor, Yamanashi Gakuin University) is responsible for me who wrote this paper: first by mentoring me and later by having the patience with me when starting and following with encouragement when it seemed too difficult to be completed. Besides, I would like to thank Dr. Robin, Dr. Lasse Schuldt from Thammasat University, Dr. William Tow (Professor, ANU College of Asia and the Pacific) and Dr. Sueo Sudo (Professor, Nanzan University) for their comments and suggestions.

This is indeed a controversial topic that I challenged myself to study it. Without the officers, researchers and experts (some retired) from Ministry of Foreign Affairs, Ministry of Defense and Paracel Islands Museum in Vietnam, this paper certainly could not finish at all. Special thanks to my friends in Thailand, Izza, Thurein, anh Linh, chi Thuy and em Hang for making academic life much less stressful than it could be.

(3)

A paper is not enough for me to express the support and guidance I received from them almost for all the work I did there. Finally, I apologize all other unnamed who helped me in various ways to have a good training.

Miss Luong Anh Linh



## TABLE OF CONTENTS

	Page
ABSTRACT	(1)
ACKNOWLEDGEMENTS	(2)
TABLE OF CONTENTS	(4)
LIST OF TABLES	(7)
LIST OF FIGURES	(8)
LIST OF ABBREVIATIONS	(9)
CHAPTER 1 INTRODUCTION	1
1.1 Purpose and Significance of the study	1
1.2 Research Question	3
1.3 Research Objectives	3
1.4 Methodology	4
1.5 Conceptual Framework	5
CHAPTER 2 DIFFERENCE DISPUTES IN THE SOUTH CHINA SEA: PARACEL AND SPRATLY ISLANDS	6
2.1 Introduction	6
2.2 The dispute between China and Southeast Asian countries	6
2.2.1 Views on Chinese Hegemony	7
2.2.2 Views on Vietnam's Perception	9

	(5)
2.3 Historical Context of conflicts in the South China Sea – Paracels and Spratlys	11
2.4 Facts of two Islands	12
2.5 China’s Different Ways of Claiming Paracel and Spratly Islands	14
2.5.1 Illegal Nine Dash-line	14
2.5.2 Militarize in the South China Sea	16
2.6 Conclusion	18
 CHAPTER 3 THE PARACEL ISLANDS DISPUTE: BILATERAL NEGOTIATIONS BETWEEN VIETNAM AND CHINA	19
3.1 Introduction	19
3.2 The claims made and their bases	19
3.3 Effectiveness of Negotiations	22
3.4 How did DOC/COC contribute to Vietnam to negotiate with China over Paracel Island	25
3.5 Why Vietnam failed in settling bilaterally the dispute over the Paracel Island with China	28
3.6 Conclusion	30
 CHAPTER 4 THE SPRATLY ISLANDS DISPUTE: MULTILATERAL NEGOTIATIONS WITHIN ASEAN AND WITH CHINA	32
4.1 Introduction	32
4.2 The claims made and their bases	32
4.3 Key actors and their interests	34
4.3.1 Claimant States	34
4.3.2 ASEAN	35
4.4 A brief review of ASEAN involvement in the SCS Dispute	36
4.4.1 Multilateral Talks	36
4.4.2 DOC/COC Negotiations	42



	(6)
4.5 Why Vietnam prefer multilateral negotiations thus far	46
4.5.1 ASEAN Responsibilities in the South China Sea	46
4.5.2 ASEAN Way	48
4.5.3 External factors	50
4.6 Conclusion	52
CHAPTER 5 CONCLUSIONS AND RECOMMENDATIONS	54
5.1 A brief of the South China Sea Dispute	54
5.2 Vietnam’s drivers to the South China Sea Dispute	56
5.3 Role of COC in Vietnam’s negotiation progress in the South China Sea Dispute	57
5.4 How far has COC contributed to diplomatic negotiation’s progress over the SCS dispute	59
5.5 Promoting ASEAN conflict management’s role in the South China Sea	61
REFERENCES	63
APPENDICES	74
APPENDIX A SPRATLY ISLANDS	74
APPENDIX B PARACEL ISLANDS	79
APPENDIX C RELEVANT PROVISIONS FROM 1982 UNCLOS	82
APPENDIX D COC FRAMEWORK	84
BIOGRAPHY	86

## LIST OF TABLES

Tables	Page
2.1 Stand-off in the South China Sea	18
4.1 Comparison the dispute over the Parcel Island and Spratly Islands between China and Vietnam	52



## LIST OF FIGURES

Figures	Page
1.1 Map of Conflicting Territory Claims in the South China Sea	5



## LIST OF ABBREVIATIONS

Symbols/Abbreviations	Terms
AMM	ASEAN Minister Meeting
ADIZ	Air Defense Identification Zone
ASEAN	Association of South East Asian Nations
ARF	Asian Region Forum
CBM's	Confidence-Building Measures
CLCS	Commission on the Limits of the Continental Shelf
COC	Code of Conduct
CPC	Communist Party of China
CUES	Code for Unplanned Encounters at Sea
CSCAP	Council for Security Cooperation in the Asia Pacific
DOC	Declare for Conduct
EAS	East Asia Summit
IMO	International Maritime Organization
MOFA	Ministry of Foreign Affairs
OBOR	One Belt One Road
PRC	The People's Republic of China
ROC	Republic of China (Taiwan)
SCS	The South China Sea
UNCLOS	the United Nations Convention on Law of the Sea
USA	The United States of America
SDNT	Single Draft the South China Sea Code of Conduct Negotiating Text
SOM	ASEAN-China Senior Official Meeting

## CHAPTER 1

### INTRODUCTION

#### 1.1 Purpose and Significance of the study

The South China Sea (SCS) is one of the most significant and most controversial sea lanes of the 21st century, so its dispute has been researched from the past until now. Christian Le Mière and Sarah Raine, researchers at the International Institute for Strategic Studies (IISS) stated in their book “Regional Disorder: The South China Sea disputes” that the South China Sea dispute is about domestic political will to reflect emerging popular nationalism and about international political will to find peace to security structures in Asia. They argue this disputes matter, not because they prove to be a game changer in Asia, but their reflectiveness in changing game in Asia. They also imply the story of South China Sea about claimants and non-claimants, regional power and extra-regional power that involve state actors and non-state actors including oil companies, fishermen, and even pirates (Miere & Raine, 2013).

On the other hand, Bill Hayton, a longtime BBC journalist with his latest work, “The South China Sea: The struggle of Power in Asia” proves that politics, history and mineral resources are China’s ambition on the SCS. He explains China’s claims to one of the world’s major trading routes and its exploration in waters off the Paracel Islands (Hayton, 2014, p.71). Not just that, Nguyen Hong Thao, a second vice chairman of the United Nations International Law Commission demonstrates that the South China Sea is notorious for the protracted sovereignty dispute over the Spratly Islands with the maritime claims of five claimant states (Thao, 2015).

Moreover, Hui-Yi Katherine Tseng, a Research Associate from National University of Singapore indicates from her book “Rethinking South China Sea Disputes: The Untold Dimensions and Great Expectations” that the general perception of the story in the South China Sea began when the Chinese government declared the Nine dash-line in 1947. She pointed out the volume including South

China Sea crises as a routine in a country's political landscape that displays a far more intricate picture. Despite complex political considerations, the essence of the disputes focuses on resource completion (Tseng, 2016). Max Fisher (2016), an American journalist at the New York Times in the field of political science and social science agrees with Tseng that the basic level of this dispute is a conflict between China and a few Southeast Asian claimant nations including some of the most strategic maritime territory. The Nine-dash line of China indeed encircled most of the waters in the South China Sea.

In addition, China claims that “indisputable sovereignty over the islands in the South China Sea and the adjacent waters and jurisdiction over the relevant waters as well as the seabed and subsoil thereof”, with nine-line segments encircling most of the SCS and 2 islands Spratly and Paracel, the so-called “9 dash line”. There is also China's newest law fare approach that claims to a narrower “Four shas (4S)” (Chinese for four sands). Ma Xinhua, the deputy head of the Law Department and the Chinese Foreign Ministry, issued a statement asserting China's sovereignty over “Four Sha” including four island groups: Paracels Islands (Xisha), Spratlys Islands (Nansha), McClesfield Bank (Zhongsha) and Pratas Islands (Dongsha). At the same time, it also required the right to enjoy the vast waters (almost all the SCS) surrounding these four archipelagos. He also emphasized that the area was China's historic waters and was also a part of China's 200 nautical miles EEZ. Beijing claims ownership by asserting that the “Four Sha” is a part of China's extended continental shelf. China's land reclamation activities had protested against several of the interested claimant states, particularly Vietnam, the Philippines, Indonesia, and US. China has created joint development as a provisional measure before settlement of sovereignty disputes (Peace Place Library, n.d; Thao, 2010; Thang, 2013).

Those views explain China's political intrigue that occupies the entire SCS. However, not only the generalization of the dispute over China's irrational Nine-dash line from its political power struggle, the involvement of different claimant nations competing for sovereignty over Paracel and Spratly Island also play a significant role. The differences in content of the sovereignty dispute in the South

China Sea between different Southeast Asian nations with China, most notably Vietnam and the Philippines, deeply reflected China's hegemony.

More than that, most other claimants consider the nine-dash line as the starting point of negotiations for joint development as “the land dominates the sea” (Mahan’s theory) that contracts principle of UNCLOS, so a coastal state can claim maritime zones based only on land over which it has sovereignty (Phuong, 2017). Vietnam is the only nation has both bilateral and multilateral disputes with China over the two islands: Paracel and Spratly long-lasting many centuries.

The scholars assume that multilateral negotiations, which involved multiparty negotiations favored Vietnam, but there is no account that examines how Vietnam used multilateral negotiations to persuade China to compromise over the dispute. Hence, this paper does not attempt to comprehensively study the views of all parties to the dispute and its stakeholders. It also has no ambition to analyze all developments of international law that may affect the competition of sovereignty and rights in the SCS. Vietnam is one of the disputed parties most affected by the SCS conflict thus the paper only examines Vietnam's views on sovereignty disputes over the Paracel and Spratly Islands. The point of view is in terms of what Vietnam has done to achieve agreement with China in the conflict in the two archipelagos.

## **1.2 Research Question**

How have Vietnamese bilateral negotiation not persuaded China to compromise over the South China Sea dispute?

How have Vietnamese multilateral negotiation helped China compromise over the South China Sea dispute?

## **1.3 Research Objectives**

To better understand the explanation of the diplomatic negotiations of island disputes according to the context of geographical locations.

To explain the Vietnam's attitudes on negotiation with China over two islands: Paracel and Spratly.

#### **1.4 Methodology**

This study is qualitative and retrospective in nature through interpreting and discourse-analyzing the accumulated primary data from the Vietnam documents and publications of the bilateral and multilateral negotiation as well as international news; and secondary data from including both Internal Secondary Data consists of reports from past primary research and External Secondary Data consists of government statistics and information from media sources such as academic journals and articles.

First, Chapter 1 will provide brief information on the research background and key issues to be studied. It also set up its scope and limitation, existing theories and methodology then Chapter 2 will go into thorough detail on literature review of terms of analysis for the monolithic views between the claimant nations of South China Sea disputes. Besides, the author supplies the facts of 2 islands with their historical context and how China does in claiming Paracels and Spratlys in a variety of methods. The purpose of this chapter is to review related literature and identify any loophole of the existing literature and how this thesis can shed additional light on the knowledge gap.

Secondly, Chapters 3 and 4 provide historical material on the dispute over the two islands between China and other states in the South China Sea. In addition, it compares the current status quo to pinpoint the role of geography that affects China's behaviour and extent of power in the South China Sea. From the concrete evidence, this chapter outlines the geopolitical theory that is clearly operating through disputes in two islands as a typical example. Finally, Chapter 5 which is the last part of this thesis, will sum up all key points discussed in Chapter 1, 2, 3 and 4. It also sums up the difference negotiations of China on two islands.



## 1.5 Conceptual Framework

The dispute over the Paracels and the waters belonging to them is a bilateral matter between China and Vietnam, and so “bilateral negotiations” should be appropriate. The Spratlys and the waters belonging to them, however, are claimed wholly or partly by Brunei, Malaysia, the Philippines, Vietnam, and China, and this dispute is therefore “multilateral” by definition. As such, resolution of the Spratlys dispute requires a multilateral mechanism involving all the claimants. Besides, ASEAN is one of the three main decisive factors in the SCS. ASEAN and China have reached a milestone in resolving disputes in the SCS by 2017, through the drafting of the Code of Conduct in the South China Sea (COC), the successor to the Declaration on Conduct of the Parties in the South China Sea (DOC). Although this is a step in the right direction, the draft framework did not address the legality of the COC, the scope of application and the mechanism to ensure compliance with the code.

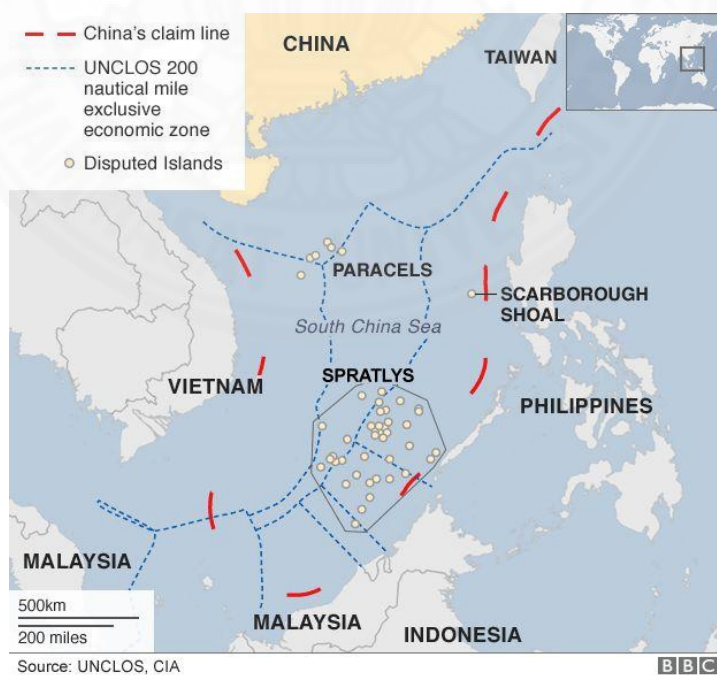


Figure 1.1 Map of Conflicting Territory Claims in the South China Sea.

Note. From <https://www.bbc.com/news/world-asia-pacific-13748349>

## CHAPTER 2

### DIFFERENCE DISPUTES IN THE SOUTH CHINA SEA: PARACEL AND SPRATLY ISLANDS

#### 2.1 Introduction

This chapter covers the review of the literature on the historical contexts of the South China Sea (SCS) dispute. Followed by detailed exploration on understanding the views from Vietnam on compromising with China over Paracel and Spratly Islands. In addition to that is the explanation of China's interest in the South China Sea (SCS).

#### 2.2 The dispute between China and Southeast Asian countries

The SCS conflicts involved a series of disputes over the islands and oceans among states (Hayton, 2014). Supriyanto (2016), an Indonesian Presidential Ph.D. scholar with the Strategic and Defense Studies Centre at the Australian National University, explains the unique character of the SCS issue is well known. Altogether there are six parties that have intensely battled for the acquisition of islands in the SCS. However, China has acquired the largest area according to its infamous nine-dash line. As these four Southeast Asian states: Vietnam, the Philippines, Malaysia and Brunei are located near to the highly criticized line, hence the efforts of seizing the islands are tremendously critical to them. The Indonesian government also includes itself to the dispute due to their claim that their Exclusive Economic Zone (EEZ) is being overlapped by China with 9 dash-line claims. In addition to that, despite being part of China, Taiwan's fight for the islands is a separate battle from the mainland (Supriyanto, 2016).

Joshua Kurlantzick (2012), a senior fellow for Southeast Asia at the Council on Foreign Relations says that the dispute has done serious damage to ASEAN's credibility on handling important regional issues. The Southeast Asian

claimants and China have strengthened their positions by building more physical manifestations of their claims called Sansha City as a Chinese administrative area. Besides, China National Offshore Oil Company has ordered the foreign oil companies to explore potential blocks that are nearby the coast of Vietnam as China has also increasingly utilized the non-military boats to prove their rights.

Bruce Vaughn (Coordinator) analyst and Wayne M. Morrison specialist from Southeast and South Asian Affairs Foreign Affairs, Defense, and Trade Division state that “China was perceived as a threat to its Southeast Asian neighbors in part since its conflicting territorial claims over the South China Sea in 1990”. However, in this 21st century era, China’s “charm offensive” technique is moving from territorial conflicts to focus more on trade relations with Southeast Asian states in favour of expanding political and security links (Vaughn & Morrison, 2006). Despite that, Kurlantzick in 2012 argues that the tension among the claimants are escalating dramatically as China continues to fight over the entire SCS areas and has publicly and forcefully urged its claims. Fast forward to 2018, the claimants are still struggling with political negotiations with China through the force of COC (Reuters, 2018).

### **2.2.1 Views on Chinese Hegemony**

At present, the US remains the dominant driver in Asia, but China is gradually chasing the dominant power as well. Lind (2018) implies that despite the domestic political turmoil and economic crisis, China will remain as hegemon in political, economic and military aspects and supersedes the U.S. It may be tempting to believe that China will be a relatively regional hegemon. However, the types of the superpower that China perceives in maintaining peace in Asia is quite different from its counterpart, the US. This is mostly due to the fact that China does not historically practice the concept of hostile actions or colonialism and has been continuously exercising her “peace-loving cultural tradition”. Thus, many Chinese officials and scholars have rejected the idea of “spheres of influence.” Even so, viewing the conflicts of SCS, the practice and the definition of peaceful cultural tradition is not exactly free from tranquility. Instead, China’s standard of peacefulness is being forced to the other five claimants. This can be seen when the

practice of China's hegemony over the cables incident at the Vietnamese sea as the Chinese officials of Ministry of Foreign Affairs claimed that it occurred due to China's "indisputable sovereignty" on Nansha Islands (Amer, 2011). The incident is basically to prove that the sovereignty right of China is the answer to maintain peace and stability in Asia as well as SCS.

In terms of economic aspect, China's President Xi Jinping proposed Silk Road Initiative in 2013, which aims to build a network of Asia, Europe and East Africa linking to China that covers roads, railways, utility grids and pipelines. This BRI project (Belt and Road Initiative), includes a variety of physical connections. It aims to create the world's largest platform for economic cooperation on trade and financing and excludes social-cultural cooperation (Jinchen, 2016; Scheneider, 2017). Seminal theorist, John Mearsheimer argues that "China's ultimate aim is to be the hegemon- the only great power in the system... to dominate Asia the way the United States dominates the Western Hemisphere." He implies that One Belt, One Road (OBOR) is a mean for China to counterbalance the Obama's Asia Pivot (Zakharow, 2017). However, during the meeting of the belt and Road Forum in Beijing in 2017, Ankit Panda and Prashanth Parasmeswaran argue that OBOR is China's initiative for "Economics" reason. On the same year, Scheneider, disagree with the two diplomats, Panda and Paramewaran as he insisted that the BRI is concerning the political aspect that relates to Chinese hegemony.

As for the military aspect, in 2014, China pursued a further aggressive policy toward its Pacific maritime disputes. It engaged in moving an oil-drilling rig HD-981 to the Paracel Islands and declaring EEZ around the areas where Vietnam has declared its sovereignty. However, a year later, Beijing went quieter. Instead, China was digging in-literally (Board, 2015). In 2017, China expanded and enhanced its military presence in the SCS, seeded the Spratly Islands to fire long-range surface-to-air missiles (Asia-Pacific Journal, 2017).

Moreover, Bill Hayton's "The South China Sea: The Struggle for Power in Asia" states that China's rise has reversed the global power's balance to see the strain is the South China Sea. For decades, tensions have displayed in the region, but today the threat of confrontation is more aggressive (Hayton, 2014, p.71).

Chinese hegemony in the SCS is clearly driven by its own self-interest. The SCS emerged as a key outbreak in the Asia-Pacific region in the second decade of the 21st century, originating from China's two main acts of aggression against Vietnam, starting with the occupation of Paracel archipelago in 1974 and part of the Spratly archipelago in 1988. China's assertion of sovereignty over the disputed Spratlys and Paracels in the South China Sea is historically suspicious, as China has so far failed to provide any convincing and valid explanation. In addition, when China merged with Tibet in 1950, it was considered as the “core interest” of China (Kapila, 2014). Hence, the incident with Tibet could be applied to the situations of Paracels and Spratly as China has been attempting to merge the two islands by force in 1988 (Trung, 2014). Basically, the SCS conflict is a recent plan of China's “core interest” to expand her strategic ambitions for the battle of hegemon title in Asia with the willingness to gamble the two Islands as her winning pawn (Edward, 2015; Woody, 2015). This is in line with the key congress of China's ruling Communist Party of China (CPC) by Mr. Xi Thought on Socialism with Chinese Characteristics for a New Era in which Burkeley in 2018 writes that the new political theory is unveiled with “sea superpower” is being utilized and SCS is China's pawn for hegemony in the region.

### **2.2.2 Views on Vietnam's Perception**

China's conflict in the SCS lies in China's grand strategy of expansion in the Asia Pacific that revolves around three strategic objectives: (1) Emerging as a hegemonic force in the Asia Pacific Western Pacific as the first step, (2) Emerging as a strategic alliance with the United States, and (3) Forcing America's superior military presence out of the Pacific (Simon, 2015). Maritime expansion in the SCS linking the Indian Ocean to the Pacific Ocean and passing through the SCS is a vital sea route as it is not only for economic reasons but also for military purposes in the global context of power competition in Asia. The United States, Japan, South Korea, and the Philippines have the largest interests in the SCS followed by India, Australia, and Russia.

However, the main competition and conflict in the SCS would be limited to China and Vietnam as the original but robbed of the Paracel Islands and the Spratly Islands. China's ability in the best SCS conversion could be called a

“Chinese inland sea” to achieve its grandiose goal by merging the Paracel and Spratly Islands into mainland China (Fumio, 2013).

Dai, a Vietnamese researcher in 2018 states that the conflicts with the two islands of SCS are basically China’s “breakthrough” to “reach the sea” which indicates that the efforts of building the artificial turfs and militarizing the sea are to control the maritime routes. Hence, this is aligned with China’s OBOR initiative in which such plan involves several claimants of the SCS issues and gaining their supports are critical in securing the control of nearby maritime routes. Despite the small size of the Paracel and Spratly Islands, they are becoming part of China’s militarization with enormous traffic densities alongside China’s development of facilities. The military infrastructure on the islands allows China to establish maritime dominance over the entire SCS. The Paracel is now in China’s military control since 1974 after Chinese troops drove Vietnam out of its legal waters in the northwestern part of the SCS. The archipelago is located quite close to China’s large naval base on Hainan Island – home to China’s Sanya nuclear submarine base (BBC News, 2016).

Meanwhile, researcher Nguyen Khac Mai, former head of the Vietnam Research Department of the Central Mobilization Department argues that China has always regarded Nine Dash line as a “living space.” Thus, it is why China is vigorously attempting to own most of the territorial waters of the South China Sea and turning the sea into a “pond” to expand the area of existence as well as to further strengthen their power in the balance of power in Asia-Pacific. China’s encroachments on the SCS are not only aiming for Vietnam’s economic prospects but also to make Vietnam vulnerable to military pressure. As the disagreement over the SCS issues continue and the public statements on peaceful dialogues and negotiations, the bitter relations between China and Vietnam is increasingly prevailing with armed clashes, collisions at sea, tensions and sagging (Mai, 2016).

As mentioned above, there are a number of existing studies of Chinese hegemony towards disputes in territory. The existing literature may tend to look at the disputes in the SCS monolithically as they ignore the diversities and the differences of those disputes.

### 2.3 Historical Context of conflicts in the South China Sea – Paracels and Spratlys

Paracels (Vietnamese: Hoang Sa/ East Sea/Chinese: Xisha) and Spratlys (Vietnamese: Truong Sa, Chinese: Nansha) are two archipelagos located in the center of the South China Sea (Vietnamese: Bien Dong/ East Sea). Sovereignty over the Paracels has been in existence for over a hundred years and for the Spratly archipelago for eighty years. Initially, the sovereignty dispute over the Paracel archipelago was only between the disputed Vietnam and China. But due to the geopolitical change after the end of World War II, the development of science and technology in both the civil and military fields, the oil crisis and the legal order in the sea. Newly established by the law of the sea between the 1970s and 1980s, sovereignty disputes have extended to the Spratly Islands and the waters surrounding these archipelagos (Thao, 2012, p. 01; Roy, 2016, pp. 411-413; Scott, 2012, pp. 1019-1042).

There are also several disputants such as Great Britain and Japan that have claimed for some of the islands but subsequently renounced. Since 1956, new disputes such as the Philippines, Malaysia and Brunei have emerged especially in the late 1970s. After two naval engagements in 1974 and 1988, China occupied the whole of the Paracel Islands and several islands in the Spratly Islands. The Mischief Rebellion of 1995 between China and the Philippines led ASEAN and China to negotiate the Code of Conduct in the South China Sea (COC), the first result of which was the signing of the Declaration on the Conduct of Parties party in the South China Sea (DOC) in Declaration on the Conduct of Parties in the South China Sea between ASEAN and China (8th ASEAN Summit, 2012).

Currently, Vietnam and China (China and Vietnam are considered as a disputing party because of the same views over the Paracel and Spratly disputes) claim the entire Paracel and Spratly Islands, while Brunei, Malaysia and the Philippines claim in part or most of the Spratlys. There are many articles that clarify the views of the parties and propose solutions to the dispute. Several reasons have been put forward to explain the complexity of the South China Sea dispute: the geographical location of the South China Sea; disputes over sovereignty over the

Paracels and Spratly Islands and the waters of the South China Sea; the race for control of natural resources in this area; the lack of clarity of UNCLOS 1982 on the status of islands and islands, and national sentiments (Thao, 2012, pp. 165-211).

Otherwise, after the signing of the DOC, the situation in the SCS has cooled down for several years. However, since 2009, the United Nations has submitted a U-shaped map (nine-dotted line) to the United Nations Commission on the Limits of the Limits (CLCS), statements about China's "core interests" (Thayer, 2010, pp. 1-3) and "US national interests" (ARF 17, 2010) in the SCS, the situation re-emerges and raises deep concern for the international community. The complex dispute history and unsuccessful attempts to find acceptable dispute resolution solutions have made the disputes in the SCS one of the most complex disputes in the map of international politics (Hung & Park, 2009, pp. 1-28).

Thuy (2013), a Vietnamese director of the Center for East Sea (South China Sea) Studies at the Diplomatic Academy of Vietnam (DAV), said that the Spratlys can be characterized as "first come, first build." While China took over islands and rocks Paracels by force in 1974. The first battle took place between the Second World War and the 1970s when Vietnam, the Philippines, Taiwan, the Philippines and then Malaysia occupied the biggest islands within its claimed continental shelf.

## **2.4 Facts of two Islands**

The dispute over territorial sovereignty over Spratly and Paracel archipelagos is in fact a state of territorial disputes created by several countries in the region took advantage of the opportunity and used force to occupy some or all of Vietnam's sovereignty archipelago in the SCS. According to international law, to prove and resolve this type of dispute, the parties concerned, or the international arbitration body have based on the principle of "real possession". It is worth emphasizing that there is no provision in UNCLOS that addresses this principle. UNCLOS is indeed not a legal basis for resolving territorial claims to the Paracels and Spratlys (Dutton, 2011).



The Spratly Islands are about 350 nautical miles away from the Spratly Islands, the nearest is about 500 nautical miles, 305 miles from Vung Tau and 250 nautical miles from Cam Ranh, 240 nautical miles from Phu Quoc. Binh Thuan (Phan Thiet) 270 nautical miles. The islands stretch from 6° 2' B, 102° 8' E, from longitude 112° E, 115° D.4) in the sea area of about 160,000 to 180,000 km<sup>2</sup>. However, the area of islands, rocks, floating beach on the water surface is very little, only a total of 11 km<sup>2</sup> (Nghienquoc, 2010). According to Thao, in 1988, there are 137 islands, rocks, yards (1.5), including 5 undergrounds in the continental shelf of Vietnam. Besides, according to French statistics in 1933, there are 9 main kinds including islands, rocks and adjacent yards. The Philippines lists 53 units of islands and islets in an area of 976 square miles. Based on the map drawn by the General Staff Office of the Socialist Republic of Vietnam in 1979, the Spratly Islands can be divided into nine main clusters from the north to the south.

The Paracel Islands are in a range of about 15,000 km<sup>2</sup>, between the meridians about degrees East to 113 degrees East, about 95 nautical miles (1 nautical mile = 1,853 km), from 17° 05' to 15° 45' north latitude, about 90 nautical miles; The depth is more than 1000m, but between the islands the depth is usually less than 100m. About the distance to the mainland, Paracel archipelago is closer to the mainland of Vietnam than from Triton Island to Ba Ba Village (Cap Batangan: 15 latitude B, 108 degrees 6' D). In Vietnam, the sea is 135 nautical miles away, while the reefs are only 123 nautical miles away, while the closest island to the coast of Hainan is 140 nautical miles (Hoang Sa Pattle: 16 latitude B degrees 6' E and Ling-Sui or Leing Soi: 18 B latitude, 110 E); It is much farther from the mainland of China, at least 235 nautical miles. There are 23 islands named, including 15 islands, 3 beaches, 3 rocks, 1 alcohol, 1 island. The islands are not high, especially Hon island (50 feet), the lowest island is Tri Ton (10 feet). The main islands consist of two groups: Crescent group in the Southwest and an Amphitrite group in the North East (nghienquoc, 2010).

Currently, Vietnam and China (China and Vietnam are considered as a disputing party because of the same views over the Paracel and Spratly disputes) claim the entire Paracel and Spratly Islands, while Brunei, Malaysia and the

Philippines claim in part or most of the Spratlys. There are many articles that clarify the views of the parties and propose solutions to the dispute. Several reasons have been put forward to explain the complexity of the SCS dispute: the geographical location of the SCS; disputes over sovereignty over the Paracels and Spratly Islands and the waters of the SCS; the race for control of natural resources in this area; the lack of clarity of UNCLOS 1982 on the status of islands and islands, and national sentiments (Thao, 2012, pp. 165-211).

## **2.5 China's Different Ways of Claiming Paracel and Spratly Islands**

### **2.5.1 Illegal Nine Dash-line**

China and Taiwan have circulated the SCS map with the nine-dash line in various internal documents and publications since 1948. However, until 2009, China first posted a copy of the nine-dash line in an official international document (United Nations Continental Shelf boundary board). In recent years, China has expanded the presence of the cow's tongue line by using military vessels, law enforcement vessels, civilian vessels, and fishing vessels. At the same time, China has not officially clarified the claim and legal basis for the U-shaped line, leading to many speculations from the academic community on this issue. In 2009, China first officially published a map of the U-shaped line to the international community. Earlier, although China had circulated these maps internally, the country had never made it a claim in international communication with other countries. China's claim to the South China Sea, as mentioned in official documents, in the white paper published in the 1980s and at the official website of the Chinese Ministry of Foreign Affairs in the first decade of the 21st century—only limited to sovereignty over islands, especially Paracels and Spratlys. Soon the reaction of the international community to this unreasonable claim of China (Thuy, 2012). Vietnam now immediately reacts to China by stating: “China's nine-dash line claim in the map attached to the country's note is invalid because it has no real basis. economic, historical and legal”. Indonesia believes that the “nine-dash line that China uses to indicate maritime boundaries has absolutely no basis under international law.” The Philippines also objected “to these

regions (within the nine-dash line), sovereignty, jurisdiction and sovereignty rights belong to archipelagic states and corresponding coastal states.” Singapore, which did not participate in the dispute, also asked China to clarify its claims in the SCS (Hoang, 2018).

The United Nations arbitral tribunal in July 2016 ruled that China has no legal basis for claiming areas within the nine-dash line. One reason China lost in the lawsuit is that it cannot determine that territory correctly. But analysts say it is unlikely that Beijing will soon change its official nine-dash line despite international protests (Chen, 2018). Ian J.Storey (2018), senior researcher in maritime security in Asia-Pacific and China-Southeast Asia relations, Singapore Yusof Isak Institute - Singapore warns of a nine-dash line change can be made danger to stabilize the area. Storey said: “If China points out its claims in the SCS by a continuous line connecting 9 break sections, then this is a complete rejection of the decision of the arbitral tribunal. Storey also commented that the move could “cause deep concerns for countries of Southeast Asia and outside the region.”

The situation in the SCS was hot in 2009, when in March, the US ship *Impeccable* clashed with Chinese ships and in May when China objected to filing jointly the boundary of the Vietnamese-Malaysian continental shelf and the lake. Vietnam's border with the continental shelf before the deadline of May 13, 2009, which the United Nations. The protest statement of the Chinese delegation on May 7, 2009, included a map of the “dotted line” claiming 80% of the SCS area on a so-called historical basis. This is the first time China has taken this map to the international community. After that, China adopted a series of measures to establish the “Nine Dash Line” in practice (Thuy & Ngoc, 2013, pp. 1-20).

China's 9 dash-line is the most controversial issue in the SCS dispute. Although China is constantly referring to this road as its claim, they have never officially stated or clarified the legal basis of this road. There are many different views as well as many possible interpretations of the legal regime of the nine-dash line, but most of these are inconsistent. The international community is still calling on China to clarify its claims.

### 2.5.2 Militarize in the South China Sea

The SCS has been transformed day by day into a barrel of gunpowder with a small safety pin due to China's ongoing steps towards annexation of Vietnam's Paracel and Spratly Islands by force. After their military installations, this was a quasi-chopper move aimed at satisfying the maritime dominance of virtually all the South China Sea area through the rapid development of the navy (Montgomery, 2018).

China has defied all efforts to resolve conflicts on a legal basis and claimed that there was no conflict in the SCS area and the expansion of the sea enclosed by the nine-dotted line was territorial sovereignty and territorial waters. China. China has so far failed to provide accurate coordinates of its nine-dashed line. Two Vietnamese researchers argue that China is not the solution but the most important issue because China's strategic calculations have determined that control over the Paracels and the Spratly Islands is effective dominance in the SCS (Vu & Lan, 2016).

Moreover, prostitution and China's war-cripple policy surrounding the Paracels and the Spratly Islands continued to be untouched to date, as evidenced by provocation with the oil rig. China in the EEZ region of Vietnam in May 2014 and so far, has in turn taken the aircraft warships, military vessels into two archipelagos. Such behavior is not limited to Vietnam but also to the Philippines (Kaiman, 2014).

Besides, conflicts in the Paracel and Spratly Islands in the context of regional and international awareness as a good example of China's tendency in the use of military force to pressure China's claims based on ancient records. In fact, China is not only in conflict with Vietnam over its claims to the SCS over the Spratly and Paracel Islands, but also with the Philippines, which recently had armed confrontations. Other ASEAN countries lying on the coast of the SCS, which are within the scope of the nine-dotted line, are threatening China's maritime claims. China has indeed reached record levels of conflict in the Paracel Islands and the Spratly Islands by China's "intimidation and coercion" strategy with its neighbors, and China's

perception of the threat posed by current events has been well recognized in the Asia-Pacific region (Brahma, 2018).

Nowadays, military control of the Spratly Islands created important military advantages for China on both defensive and offensive strategies in the sense of rapidly deploying naval forces to the waters and its capabilities and motive force. The SCS, if it really belonged to China, would be in its strategic and military advantage to allow US military alliance bottlenecks in the Western Pacific and impact on the forward military presence of the United States in the Western Pacific (Kaplan, 2011, pp. 39-46).

In conclusion, China has developed a vast military infrastructure in the Paracel Islands for China's strategic purpose. The Paracel Islands under the Chinese military occupation allowed China to expand its naval power to the Pacific. It also allows China to take advantage of the SCS corridor lining the western Pacific coast to avoid sprawling Spratly Islands. In relation to Vietnam, China occupied the Paracel Islands with its airports and naval bases allowing China to scour Vietnam's military in any future Chinese-Vietnamese armed conflict. On the other hand, the Spratly Islands, despite their proximity to the coast of China, still have a strategic significance for China, which puts their commanding base in the SCS to a military thrust to control of the vast SCS corridor as well as the dominance of large volumes of shipping across the sea (Watkins, 2015).

Table 2.1

*Stand-off in the South China Sea*

1974	China seized the Paracel Islands from Vietnam, killing more than 70 Vietnamese troops
1988	China and Vietnam clashed in the Spratly Islands, and Vietnam lost with 60 of its sailors killed
2012	China and the Philippines had a lengthy maritime stand-off, accusing each other of intrusions in the Scarborough Shoal
2013	The Philippines took China to a UN tribunal to challenge its claims under the UN Convention on the Laws of the Sea
2014	China sent a drilling rig into waters near the Paracel Islands with Chinese ships

Note. From <https://quanhequocte.org/tranh-chap-o-truong-sa-tat-ca-la-vi-dau/>

## 2.6 Conclusion

Vietnam and China have pledged to resolve disputes through direct negotiations between the two countries. The difference of Paracels and Spratly claims leads to the flexibility in negotiation among claimants, Vietnam and China, ASEAN and China. Regarding the issue of dispute settlement in the SCS, the consistent view of Vietnam is to resolve disputes by peaceful means on the basis of international law, promote existing negotiation and cooperation mechanisms to build trust; persistently resolving disputes in the SCS by peaceful means, in accordance with international law, including the UN Convention on the Law of the Sea in 1982; fully and effectively implementing the “Declaration on the Conduct of Parties in the South China Sea” (DOC), together with ASEAN countries, to promote the process of developing “Code of Conduct in the East Sea” (COC); good control over sea disputes, no action to complicate, expand disputes, maintain peace and stability in the SCS.

## CHAPTER 3

### THE PARACEL ISLANDS DISPUTE: BILATERAL NEGOTIATIONS BETWEEN VIETNAM AND CHINA

#### 3.1 Introduction

This chapter analyzes the benefits of bilateral diplomacy in the Paracel Islands and Vietnam's diplomatic efforts in persuading ASEAN to participate in resolving disputes in the South China Sea (SCS), negotiating with China for claims affirmed sovereignty by international law and other negotiating mechanisms. Then, consider why Vietnam prefers bilateral diplomacy rather than multilateralism. At the end of the chapter, it was argued that bilateral negotiations on the Paracel issue between Vietnam and China did not bring about clear results, however it helped Vietnam to bring Paracels issue to the SCS dispute's negotiation that Paracels is always insisted on belonging to undisputed territory by China.

#### 3.2 The claims made and their bases

The dispute over the Paracels is not as complex as the Spratly dispute since there are only two parties, China and Vietnam (and, technically, Taiwan). However, the dispute over the Paracels has a dramatic history, with an Annamese claim in 1816, rival Chinese, Franco-Annamese and Japanese-Taiwanese claim between 1909 and 1951, simultaneous Japanese-Taiwanese and Franco-Annamese occupation 1938-45, a Sino-French incident in 1947, division of the group between ROC forces (Woody Island and the Amphitrie Group) and Franco-Vietnamese (Pattle Island and the Crescent Group) 1947-50, occupation of the Amphitrite Group by the People's Republic of China (PRC) 1956 (Stein, 2011; Thao & Amser, 2011; Truc, 2014). China seized the Paracel Islands from South Vietnam by force in 1974. Since then, China has been illegally occupying the islands. In July 2012, China established a so-called "Sansha City" with Vietnam's Woody Island in the Paracels as its seat (Anh,

2018). Such a long-lasting conflict, even war happened, I believe bilateral negotiations would be a suitable solution for Vietnam to get compromise from China over Paracel Island's sovereignty dispute.

On June 15, 1996, China ratified the United Nation (UN) Convention on the Law of the Sea in 1982 - UNCLOS 1982 and promulgated the Regulation on the baseline system for calculating the width of the territorial sea, including the Paracel Islands. According to the statement, the baseline adjacent to the Paracel archipelago consists of 28 points connecting the most protruding points of the islands, rocks, and semi-submerged islands of the archipelago. With this baseline statement, Beijing unilaterally expanded its Chinese territorial waters 7 times from 370,000 km<sup>2</sup> to 3 million km<sup>2</sup>, including the Paracel and Spratly Islands, causing deep concern for the area (Thao, 2010; Thang, 2013; Hy, 2013).

The regulation of China's baselines in the Paracel Islands violated two basic principles: a violation of Vietnam's territorial sovereignty and a violation of the provisions of international maritime law on road markings (Thao, 2015). If territorial sovereignty is put aside for technical purposes only, the Chinese baseline marking of Hoang Sa does not respect the spirit and content of the 1982 UN Convention on the Law of the Sea. The straight baseline system here connects the most protruding points of the islands, the semi-submerged beaches of the outer islands (Truc, 2014).

It is clear here that China has applied the archipelagic baseline method only for archipelagic states (Article 47 of the Convention) to trace baselines for islands offshore. Article 47 stipulates that the archipelago nation can trace straight islands' baselines connecting the outermost points of the farthest islands and the semi-submerged rocks of the archipelago, provided that the route of the muscular lines. The facility covers major islands and establishes an area where the ratio of water to land, including the coral belt, must be between the ratio of 1/1 and 9/1. The area that this baseline system of China covers is an area of 17,000 km<sup>2</sup>, while the total area of floating islands of the Paracel Islands is 10 km<sup>2</sup> (Thao, 2013). In addition, most of the rocks and coral reefs that China uses here are not suitable for people to live in or do not have a separate economic life. These islands are more than 24 nautical miles away, with no reason to connect such baselines (Quy, 2013).



Therefore, any maritime area claimed by China to encircle the waters of rocky cliffs is technically contrary to the provisions of UNCLOS 1982. China's ratification of the UNCLOS 1982 and the declaration of the territorial baseline reveal contradictions in its position and actions itself. The accession to the Convention and the provision of baselines indirectly disprove China's unreasonable claim to the so-called "waters adjacent to the Xisha, Nansha territory of China", or to the "region." (Thao, 2018; Hy, 2011). China's historical country "in the South China Sea, as some Chinese scholars have suggested, refers to the indication that the sea area within the "cow's tongue" (broken) 9 segments is often shown on the Chinese map from back in the late 1940s, on the other hand, it was an attempt to find a new, irrational international legal basis to find a way to maintain a maritime claim, in fact, the same in the South China Sea (Thang, 2013).

On July 8, 2010, Indonesia's permanent mission at the UN had a verdict protesting the verdict of July 7, 2009, of the Chinese Standing Mission at the UN on the so-called U-shaped map of requests (or broken lines 9 sections) in the SCS. Indonesia's objection has great meaning because Indonesia is not a claimant of sovereignty over the South China Sea. Indonesia has watched the parties' arguments about the U-shaped line and expressed their views that China has "no clear explanation of the legal basis, the method of drawing as well as the regulation of that broken road." (Nguyen, 2018).

The permission to use uninhabited rock islands, far from the continent and in the middle of the sea as the basis for demanding waters is to compromise the basic principles of the 1982 Convention as well as to violate rights, legitimate of the international community. Indonesia's permanent delegation at the UN concluded that the 9-line section of the 9-line section of the Permanent Mission of the Chinese Mission at the UN had absolutely no international legal basis and went against the rules and provisions of the UNCLOS 1982 (Thao, 2017; Thang, 2013).

### 3.3 Effectiveness of Negotiations

The approach that China requires is a bilateral negotiation. First, discuss the Paracel dispute. Despite insisting on a bilateral approach, China refused to apply that approach to this bilateral issue. Second, talk about the Spratly dispute. Obviously, the bilateral method can hardly bring a solution to this multilateral dispute. Assuming the Philippines and Vietnam negotiate with each other and bilaterally agree on a solution for the Spratly region, will China accept that solution? Third, please consider how China understands “negotiation.” China's policy is not to talk about sovereignty issues. Her policy is that (a) sovereignty belongs to China, (b) the claimants should put the dispute aside, and (c) jointly exploit China. Thus, the word “negotiation” of China only means negotiating temporary arrangements, not negotiating sovereignty issues (Dang, 2011).

These three considerations suggest that China's “bilateral” approach is not about resolving sovereignty disputes. It may even be argued that the refusal to negotiate the sovereignty issue, the rejection of a bilateral approach to the Paracel dispute, and the rejection of the multilateral approach to the Spratly dispute, are prime players. The section aimed to lock the prospect of a solution through the conference table to resolve sovereignty disputes in the SCS.

From a strategic point of view, the absence of a solution to disputes in the SCS will allow China, the most overwhelmingly soft and hard power party, to have the most opportunity to increase their reality and undermine the position of other countries. Another reason for a bilateral approach is that if other countries approach China bilaterally, then they will have a tendency to bow China's superior strength. Another unspoken element in China's approach is to maximize the area of the dispute. China's mysterious U-line, along with their actions, such as harassing the Philippines at Reed Bank and harassing Vietnam in the Dawn 2 and Viking 2 cases, are examples of this trick of them. In a dispute, the dominant party will be able to achieve more goals than the other parties. Therefore, the wider the disputed area, the more likely China will benefit (Thuy & Ngoc, 2013; Truc, 2014).

In term of diplomatic negotiations, The Ministry of Foreign Affairs of China, when approached, did not reject information about negotiations but did not give any further details. However, Wang Han Ling, an expert on maritime security and international law at the Chinese Academy of Social Sciences, said the dispute over the Paracel Islands was “completely solved” because China managed the islands, “China will only negotiate disputes related to Nansha (Spratly Islands).” Wang added: “We encourage joint development in EEZs but never give in” and “We also have the principle of direct negotiation between two parties, not accepting third parties or collective bargaining” (Quang, 2018; Minh, 2018). The Paracel Islands were occupied by China in 1974 after the naval battle with the Republic of Vietnam army. When the Saigon government protested against this at the United Nations, the Hanoi government did not raise its voice, partly because of close alliance with China. However, in recent years, Vietnamese people began to talk more about losing these islands. Vietnam claims its fishermen must be entitled to operate without harassment at the “traditional fishing ground” around Paracel Islands (Quynh, 2011; Dao, 2011; Thu, 2011; Le, 2011).

In November 1999, the member states of ASEAN agreed on a proposal for a “Code of Conduct (COC)” in the SCS to negotiate with China. The main purpose was conflict prevention. All states should agree to abstain from occupying additional rocks or reefs, and all parties should abstain from resorting to violence. One of the problems that had to be resolved by the ASEAN countries before agreeing on the proposal was to define the area concerned. In the first draft, the term “the disputed area” was used (Nguyen, 2018). Most observers understood this to mean the vast Spratly area in the southern part of the SCS, where five-six states claim sovereignty to all or part of a great many scattered islands, rocks and reefs. Vietnam, however, challenged this interpretation, and added the Paracels should be included. Although the other ASEAN states had no particular interest in the Paracels, which is disputed only between Vietnam and China, they accepted the Vietnamese view and included the Paracels in the proposal presented to China. This became one of the stumbling blocks in the talks between the ASEAN and China (Quynh, 2011) despite the fact that at least four rounds of negotiations have not yet resulted in any agreement.

Diplomats believe that if Vietnam and China agree on the Paracel issue, the SCS negotiations will be much easier. In December 2011, China hosted a meeting with officials of 10 ASEAN countries to discuss a more stringent legal COC on the SCSS dispute. Observers considered this activity as very remarkable as it signaled a new step for resolving disputes. However, Banh Quang Khiem, an expert on military strategy at the Chinese Defense Academy, said there was never a Chinese concession to sovereignty at the Paracel or Spratly Islands. He said: “China has never changed its position on protecting maritime sovereignty. It is Vietnam and other countries that are taking over Chinese islands.” (Dang, 2011).

On August 31, 2018, the Chinese Maritime Bureau announced that Beijing was conducting a military exercise in the Paracel Islands. Responding to the Chinese conduct of a live ammunition drill in Paracel Islands, Vietnam's Foreign Ministry Spokesman, Le Thi Thu Hang stated (TTXVN, 2018): “In the days of 9-12/5/2018, China continues carrying out live ammunition shootings in the Paracel Islands of Vietnam, seriously violating Vietnam's sovereignty over the islands, going against the Agreement on basic principles to guide the settlement of the problem. The sea between Vietnam and China violates the spirit of the Declaration on the Conduct of the SCS (DOC), complicating the situation, not conducive to the current negotiations between China and ASEAN on the Ministry.” Code of Conduct between Parties in the SCS (COC) and the maintenance of a peaceful, stable and cooperative environment in the SCS.

Moreover, she also said that Vietnam has a full legal basis and historical evidence affirming Vietnam's sovereignty over the Paracel and Spratly Islands in accordance with national law. China now claims to 90% of the South China Sea in the 9-dashed line that Beijing itself outlines; however, according to the International Arbitration Court's ruling in La Haye, (RFA, 2017) the broken line is not valid either legally or historically (Nguyen, 2018).

It is the fact that that Vietnam requested China to stop similar activities, to respect Vietnam's sovereignty over the two archipelagos of Paracel and Spratly Islands, to respect the common perception of senior leaders of the two countries as

well as international law, there is no activity that raises stress and complicates the situation in the region.

### **3.4 How did DOC/COC contribute to Vietnam to negotiate with China over Paracel Island**

The situation in the SCS was heated up in 2009, when in March, the US ship *Impeccable* clashed with Chinese ships and in May when China objected to filing jointly the boundary of the Vietnamese-Malaysian continental shelf and the lake. Vietnam's border with the continental shelf before the deadline of May 13, 2009, which is confirmed by the United Nations (Truc, 2014). The protest statement of the Chinese delegation on May 7, 2009, included a map of the “dotted line” claiming 80% of the SCS area on a so-called historical basis. This was the first time China took this map to the international community. After that, China adopted a series of measures to establish the “Nine Dash Line” in practice (Thao, 2015).

2010 was the confrontation between statements about China's “core interests” and the “national interests” of the United States in the SCS that made the ARF 17 conference in Hanoi hotter. Foreign Minister Yang Jiechi accused the United States of intervening and threatening its neighbors, stating “China is a big country and other countries are small, that's a fact” (Need Reference). China unilaterally extended the ban on fishing in the SCS from May 15 to August 31 every year and intensified the arrest of Vietnamese and Filipino fishing vessels operating legally in the SCS. The peak of tension was in the first half of 2011 (Vu & Lan, 2016).

In March 2011, China blocked the operation of the Philippines Normal Exploration Corps in the Bai Co Rong area. In May 2011, Chinese cruise ships cut the Binh Minh 02 and Viking 02 cables in the sea area 120 nautical miles from Vietnam. This was a serious act. According to the 1982 Convention on the Law of the Sea, in Articles 57 and 76, coastal states have the right to have an exclusive economic zone at least 200 nautical miles and a continental shelf at least 200 nautical miles and possibly extending (if geologic conditions permit) 350 nautical miles from the baseline or 100 nautical miles from the shallow 195m line, in accordance with the

provisions of the Convention. These offenses led to self-serving protests demonstrating the patriotic spirit of preserving Vietnamese sovereignty over the islands for 7 consecutive Sundays of 6-7 / 2011 (Thao, 2013; 2015).

Thus, the 10-point DOC 2002 was supplemented by the 8-Point DOC Instruction 2011 to further clarify the contents of the DOC's points. Like the DOC 2002, DOC 2011 evades the scope of application, albeit only for collaborative projects. The scope of the DOC is understood by both Vietnam and ASEAN, including the Paracel and Spratly areas in dispute, and China only understands the Spratlys (Quy, 2013; Thao, 2017). China expresses the view that the DOC is a document signed between China and each ASEAN member country, not the ASEAN bloc. At the ARF 17 held in Hanoi in 2010, China's policy towards the SCS was non-internationalized, non-multilateral, but bilateral. In the context of the need for a political paper to cool down in the SCS such as the DOC 2011, finding a compliant formula is mandatory.

ASEAN and China signed the DOC in 2002 in the hope of soon reaching a legally binding COC. However, in August 2017, a new draft COC framework was adopted by ASEAN Foreign Ministers. China was seeking a COC that should not be legally binding. Meanwhile, Vietnam and ASEAN wanted the COC to be legally binding (Quang, 2018). Eventually, ASEAN had to yield to China by adopting a draft of China's constitution.

It can be seen that ASEAN always yielded to China from DOC 2002, DOC 2011 to COC 2017 to achieve a temporary agreement to lessen the tension in the SCS. Amongst ASEAN members, since Vietnam is in position of having both bilateral and multilateral disputes with China, Vietnam has no choice to add the Parcels sovereignty to COC to benefit it. Though Vietnam being a member of ASEAN and the fact Vietnam having both bilateral and multilateral disputes with China, has no choice to add Paracels sovereignty to COC.

Vietnam certainly wants the COC to include the Paracels, but it will not be acceptable to China because China now controls all the 130 islands in the archipelago after the military coup of South Vietnam in 1974 (Forbes). China claims sovereignty over about 90% of the area of the SCS with a nine-dashed line known as

the “dotted line” across much of the region claimed by other nations (Truc, 2014; Hiep, 2019).

Tran Viet Thai, deputy director of the Institute for Strategic Studies, Ministry of Foreign Affairs of Vietnam, said earlier that ASEAN wanted to use the COC itself to bind China, but now there is the risk that China will use its own COC to bind ASEAN. terms that China desires and they will use this to overrun ASEAN (Linh, 2018). Hoang Viet, a member of the SCS Research Fund, said that one of the reasons why the COC has stalled for many years without any progress is due to the problem of the Paracels. He said:

“It’s definitely a challenge. COC is related to the Paracel Islands, one of the reasons that the COC has stalled is because it is related to the Paracel Islands. The ASEAN countries that issued the COC are the entire South China Sea, and China claims that the Paracels are part of China’s territory and that there is no need to negotiate. Only COCs can be issued to the Spratlys.” (Nguyen, 2018).

According to Forbes article, it is very unlikely that China will accept Vietnamese vessels or any other countries near the Paracels, which means that China will oppose a COC that allows other countries to have access to these archipelagos. Moreover, other years, many Vietnamese fishing vessels fishing near the Paracels archipelago, which is their traditional fishing habitat for many generations, were routinely chased by Chinese law enforcement vessels. Fishing boats of the Quang Ngai (Vietnam) fishermen were arrested, confiscated and ransomed by China. Even the fishing vessels of Vietnamese fishermen in the Paracel Islands have not been accepted by the Chinese (Hy, 2010; Phuong, 2017).

However, the ASEAN side recently also expressed “self-restraint” while still avoiding directly mentioning China in documents expressing general concern about the situation in the SCS, from the press release (Articles 10, 11) to the ASEAN-Australia Joint Declaration (18 March) (Article 9) (Thao, 2015; 2017). It can be said, even though ASEAN has reached a consensus in expressing concern about the SCS issue, it still maintains the traditional view of the whole block to limit further complicate the situation. This position of ASEAN is also consistent with Vietnam’s

“slow but steady” approach in the South China Sea (Thao, 2017; Linh, 2018; Hiep, 2019).

It is understandable that Vietnam ignored the Paracels issue in the COC because of pressure from China to reach a provisional security agreement in the SCS. Although this move seems passive, it is invisible in the middle power's strategy for major power in a century-long sovereignty dispute.

### **3.5 Why Vietnam failed in settling bilaterally the dispute over the Paracel Island with China**

The COC has its background partly in various declarations made by the ASEAN countries since the organization was founded in 1967, and partly in two bilateral agreements that were agreed upon in the aftermath of certain incidents in the mid-1990s. After China constructed installations on Mischief Reef in the Spratly area, Manila negotiated a joint statement with China on a COC in August 1995, and signed a similar agreement with Vietnam in November (Thao, 2013). It played a certain role in preventing incidents between two countries, notably the Philippines and China. In 1999, the Philippines and Vietnam together drafted ASEAN's proposal for the regional COC. They intended to first reach an agreement among the ASEAN members and then negotiate with China. ASEAN did reach agreement, and China accepted after some hesitations to enter to talks. However, China came up with its own quite different draft, the Chinese draft was less specific as far as preventive diplomacy and self-restraint were concerned, but went further than the ASEAN draft in calling for cooperation (Thang, 2013; Quy, 2013; Nguyen, 2018).

Since normalizing ties in 1991, Beijing and Hanoi have successfully settled disputes over their mountainous 1,400-kilometre land border as well as the Tonkin Gulf (Keyzuan, 2001). The last remaining issues relate to the mouth of Tonkin and the rest of the SCS, claimed in large part by China through its controversial nine-dotted line. The discussions are still in their infancy, technically setting a framework of guiding principles - and the Paracels are a key stumbling block as Beijing refuses to accept the fact that they are even in dispute. In 2011, while China recently pledged



co-operation with the ASEAN including Vietnam, over the SCS, Beijing has long demanded that specific disputes be settled one to one rather than as part of a regional settlement, as advocated by ASEAN. Vietnam and its ASEAN counterparts - Malaysia, the Philippines and Brunei - have claims on the SCS and the Spratly Islands. Only China and Vietnam claim the Spratlys in their entirety and are the sole claimants to the Paracels. Taipei's claims mirror those of Beijing's (Thuy & Ngoc, 2013). Hanoi said it will negotiate directly with Beijing on specific bilateral disputes and more broadly when more countries are involved. "Given everything that is happening, the fact that China and Vietnam are talking is significant and being very closely watched by the rest of us," said one veteran Southeast Asian envoy. "The problem is that they don't seem to be getting very far despite progress in the past." (Thang, 2017). Finally, Vietnam failed in its bid to convince China to open talks on their long-simmering territorial dispute over the Paracel Islands in the SCS. While an initial report from Vietnam's Foreign Ministry after the latest round of discussions on outstanding sea disputes with China stated that a 'preliminary consensus on some issues' had been reached, a later statement made clear the Paracels were not yet part of that consensus (South China Morning Posts, 2011).

During the past years, Vietnam and China have had many closed talks on territorial disputes in the SCS. However, the Beijing side was determined not to discuss the Paracel Islands that China had occupied completely since 1974. But an unnamed Vietnamese official said that this is one of the most problematic points in the territorial dispute because "China has always made it clear that the archipelago belongs to China and has nothing to negotiate." (Yen, 2018). Meanwhile, the Ministry of Foreign Affairs of Vietnam emphasized the importance of bilateral and regional negotiations when addressing these sensitive issues. Vietnamese Foreign Ministry spokeswoman Nguyen Phuong Nga said bilateral negotiations were held to seek agreement on "fundamental principles in dealing with maritime issues". Nga said the two sides have reached a consistent understanding that the fundamental and long-term solution to the SCS must be achieved through "peace negotiations in the spirit of mutual understanding and respect". Vietnamese diplomatic spokesman also

reiterated Vietnam's "indisputable" sovereignty over the two archipelagos of Paracel and Spratly Islands (Hy, 2010).

China and Vietnam have agreed to speed up negotiations towards ending a long-running spat over the SCS, as Beijing continued a campaign to defuse tension. In Hanoi, China's top foreign affairs official, State Councilor Dai Bingguo, co-chaired closed-door discussions, which analysts see as paving the way for a visit to China by Vietnam's new Communist Party chief Nguyen Phu Trong, possibly later in 2011. The two sides "agreed to intensify the efforts to speed up the negotiation and work out a mutually agreeable solution on the issue, and pledged to work hard to sign an agreement as early as possible", China's Xinhua news agency reported (Reuters, 2011; Quynh, 2011).

Vietnamese Prime Minister Nguyen Tan Dung, who met Dai said differences of opinion over what Vietnam calls the SCS were an objective fact, and the two sides needed "to hasten negotiations to sign an agreement on basic principles" for settling the dispute (Vietnam News, 2012). A big sticking point between China and the other claimants is Beijing's insistence on settling differences on a bilateral basis rather than in a multilateral forum. "There are many facets to the South China Sea issue and we think bilateral problems should be resolved bilaterally but multilateral problems must be resolved multilaterally." (Facts and Details, 2017; BBC Vietnamese, 2017; VOA Vietnamese, 2017).

### 3.6 Conclusion

There have now been more than ten official and other sub-official rounds of negotiations up to the present, but it is still on-going because the parties have been unable to agree on the geographical area to be covered by the COC. In the first draft from the Philippines, the focus seemed to have been only on the Spratlys. Vietnam persuaded the Philippines and the other ASEAN countries to include the Paracels. China has refused to do this and to speak about "disputes" at all. Since China considers its sovereignty both to the Paracels and Spratlys indisputable, Beijing prefers to speak only about "differences" (Thao, 2015). China

also did not seem to see the same need as the ASEAN countries to specify exactly the area concerned.

Bilateral dispute, of course, is suitable to bilateral negotiations, but Vietnam applied multilateral approach to increase its voice in negotiation with China over Paracel's dispute. However, it did not work. Vietnam has also tried to persuade ASEAN to join as a unified bloc to increase the voice on the negotiating table with China. However, since this is a bilateral dispute, Vietnam has failed to gain support from unrelated countries in the ASEAN region. From bilateral and multilateral forums to DOC/COC, is just a mechanism to build trust and avoid proposing a specific commitment to island disputes.

The history of international relations, whether in wars between major countries, whether in the colonial wars, whether in foreign gatherings or vassals to strengthen their power, divided to treat, break each chopstick in the whole chopsticks are ancient tricks but still useful until now. China is obviously very strong, holding an overwhelming position compared to each country and compared to all countries in the SCS combined. If China pursues the goals of peace, cooperation, and friendship, it is in the situation that almost no country in the ASEAN community has any intrigue or ability to take over or overthrow China. No country in this community has the ability to individually assemble each other to fight for any problems with China, China insists on a "China + 1 ASEAN" bilateral solution in seeking solutions to the problems of the SCS. As a result, the bilateral agreement between strong and weak countries, the loss always belongs to the weaker country. Divide to treat is always very useful for strong countries to pursue big schemes.

However, the Spratly's case that involved many counterparts will certainly be more complicated in the issue of negotiation, whether the method of applying the institutions with international law will help Vietnam reach an agreement with China or continue to fail. Chapter 4 will address this question deeply.

## CHAPTER 4

### THE SPRATLY ISLANDS DISPUTE: MULTILATERAL NEGOTIATIONS WITHIN ASEAN AND WITH CHINA

#### 4.1 Introduction

The long-standing dispute over two island chains in the South China Sea (SCS) is one of the most intractable multilateral disputes in the world at the moment (Ninh & Duong, 1993; Linh, 2018). The most vociferous are Vietnam and its traditional rival, China. Spratly's dispute is not complex in term of history as Paracels, it is the number of counterparts. China strengthens diplomatic efforts while reassuring its neighbors and strengthening its claims in the SCS. Although the bilateral method is dominant, why does the country negotiate two agreements both bilateral and multilateral with ASEAN over the past two decades.

This chapter will focus on the dispute over the Spratly Islands, the main actors and their relationship with each other - China and the four claimant members of ASEAN, and ASEAN, as well as other interested parties. The author will analyze their relationships and their interests, why Vietnam prefer multilateral negotiations thus far, and finally, whether multilateral negotiations are likely to be successful in resolving this dispute.

#### 4.2 The claims made and their bases

The Spratly Islands and Paracel Islands are two groups of islands in the SCS. This dispute began in 1988. The Paracel Islands has been controlled by China since 1974, when Vietnam lost control to the Chinese (Ba, 2011; Thao, 2010). The reason for such keen interest in this region is from speculation that the area may hold vast reserves of natural resources, particularly oil and natural gas reserves. It is also an important shipping lane for the region and for fishing activities, which sustains the lives of thousands of people (BBC Vietnamese, 2017).

The state actors that have made overlapping claims to these territories are China, Malaysia, the Philippines, Vietnam and Brunei, with Taiwan as a non-state claimant. Malaysia, the Philippines, Vietnam and Brunei are all members of the 10-member group ASEAN.

China claims sovereignty of what appears to be the entire SCS, which includes both island chains and encroaches very closely to a few other. It first released a map in 1947 under Mao Zedong's reign, which drew a "nine-dash line" – a U-shaped line that demarcated China's claimed territory, and which comes precariously close to the coastlines of smaller Southeast Asian states, including the four ASEAN claimants (see Appendix 1). It has stated that its right to the territory is based on more than 2,000 years of history during which it considered it to be part of Chinese territory (BBC Vietnamese, 2017).

Vietnam is the second most vocal opponent to China's claim, arguing that China's argument of historical use, and itself claims to have ruled over the Paracels and Spratlys since the 17th century, with written proof to back these claims (Thao, 2010; BBC Vietnamese, 2013; Quy, 2013).

China and Vietnam assert more than the customary continental shelf. Vietnam's claim reaches past a conventional, internationally exclusive economic zone 200-nautical mile (370-km) from its Indochinese coastline into the Spratly archipelago, among other places (Jennings, 2016). Its military units occupy the group's largest feature, Spratly Island. Claimants Brunei, Malaysia and the Philippines normally operate within 200 nautical miles of their shores. China claims nearly the whole resource-rich sea (Truc, 2014).

Both make historic claims. Beijing cites maps and documents going back to the Han Dynasty 2,200 years ago to substantiate its claim to the South China Sea. Vietnamese people were using the Spratly Islands, the sea's biggest group of tiny land features, as long as 1,000 years ago, their story goes. Hanoi has also cited an 1887 Franco-Chinese Treaty as a basis for allocating claims, though U.N. law questions the concept behind it, according to one scholar (Thao, 2010; 2013; 2015; Thang, 2013).

Moreover, both countries are reclaiming land for military use. China has landfilled about 3,200 acres (1,294 hectares) of land to beef up tiny, partly submerged islets. It has got surface-to-air missiles on Woody Island in the Paracel chain, to cite one example. Vietnam has landfilled 27 islets, more than any other claimant. It is investing now in the extension of Spratly Island's runway from 2,500 to 3,300 feet, (Jennings, 2016) ideal for landing air force maritime surveillance aircraft, and building hangars, the U.S. think tank Center for Strategic and International Studies says. "Vietnam is the only other country there that has overlapping claims with China," says Carl Thayer, emeritus professor of politics at the University of New South Wales in Australia. "They both claim everything essentially. It's also the only other country to engage in such a robust defense (Linh, 2018).

### **4.3 Key actors and their interests**

#### **4.3.1 Claimant States**

China is the most dominant power in the region – both militarily and economically. It has, in the past, often been the “loser” in territorial disputes. So, one interest of the Chinese is to gain or maintain its prestige and status as a regional power (Trung, 2015). The public position taken by China is that it aims to protect the country “against foreign and domestic threats to both territory and sovereignty; and the eventual achievement of great power status in Asia and beyond” (Ba, 2011).

Vietnam has had visible clashes with China and thus has a less-than-friendly diplomatic relationship with the Chinese. Aside from the 1974 clash in the Paracel Islands with China, which killed more than 70 Vietnamese soldiers, there were clashes in the Spratly Islands in 1988, killing 60 Vietnamese soldiers as well (BBC Vietnamese, 2017), while 2009 and 2010 also saw a rise in fishing activity around the Paracel Islands, accompanied by Chinese expulsions and detentions of Vietnamese fishermen (Ba, 2011).

The Philippines has emerged as one of the most vocal claimants in this dispute. It claims sovereignty over the Spratly Islands on the basis of

geographical proximity – the Scarborough Shoal, one of the hotly contested islands, lies a little more than 100 miles from the Philippines' coastline (BBC Vietnamese, 2013).

Malaysia has expressed support for interests of the two major powers, China and the USA. It has expressed a certain level of trust that China does not intend to engage in hostilities (Chen, 2013), but also expressed concern with US activities in the SCS as part of its claim to “freedom of navigation” (Ba, 2011). It is generally known to downplay tensions in this area (Chen, 2013).

Brunei, due to its small and wealthy status, as well as its status as a non-claimant of the Spratly Islands, is seen as a neutral party, not influenced by China's economic dominance in the region (Trung, 2015). It is an important player given its position as the ASEAN Chair in 2013.

Indonesia, though it does not have dispute with China over the SCS, as the most populous member of ASEAN, and as a rising economic power in the region, has begun to embrace its regional influence, and is a vocal supporter of regionalism. Thus its interests lie in encouraging ASEAN members to use the group as a forum for diplomatic dispute resolution. It has previously shown its initiative in elevating ASEAN's role and status as an effective regional organization during the otherwise disappointing AMM in 2012 chaired by Cambodia (Simon, 2012; Quy, 2013; Thao, 2015). Besides, the USA, in the earlier days of this dispute, was not an interested party, only until recently, most noticeably during a maritime incident in 2009 with Chinese patrol boats in the SCS (Thuy & Ngoc, 2013; Trung, 2015). Since its involvement, it has played a valuable role. Its interests in this dispute are clearly to maintain its maritime influence in Southeast Asian waters, and to counterbalance China's dominant political position in the region (Duong, 2018) and (Phong & Danh, 2018).

#### **4.3.2 ASEAN**

ASEAN is an association formed by 10 nations in the Southeastern region of Asia, 4 of which are claimants to the Spratly Islands. The “ASEAN Way” refers to a set of principles that governs how ASEAN members behave and relate to one another, including the principle of non-interference in each other's domestic

affairs, and the requirement of a unanimous vote on any major decisions made as a group. As such, many have heavily criticized the association for being slow to make decisions and implement agreements, like in the present matter (McDonald, 2012). In addition, with the small stature and influence of its individual members, and its status as a battleground for influence during the Cold War, members aligned themselves with major world powers, subjecting the group to conflicts between the interests of external powers. Notwithstanding their geographical proximity, there is also great diversity among its members, politically, economically and culturally, and this has been cited as a key challenge to the unity of the association (Ririhena, 2011; Thang, 2013; Phuong, 2017). As a regional association, some commentators still see ASEAN as transitioning from the early stages of serving to build up each member state's confidence in other members, and in the idea of regional diplomacy, towards a more mature stage of "preventive diplomacy", and ultimately to "dispute resolution" (Simon, 2012).

#### **4.4 A brief review of ASEAN involvement in the SCS Dispute**

##### **4.4.1 Multilateral Talks**

The major multilateral forum dealing with the SCS at the track two - informal - level is the workshop hosted by Indonesia since 1990. With the support Canadian International Development Agency, this workshop was initially a gathering for the states of the Association of South-East Asian Nations (ASEAN) to discuss SCS issues. However, from 1991, China was invited to attend, as were Taiwan, Laos and Vietnam. By that time, Beijing had already resumed diplomatic relations with Jakarta. With this diplomatic breakthrough after the 1989 Tiananmen Square riots, China was clearly hoping to be able to plug into the circuit of activities in the ASEAN region (Thao, 2013). It stated pursuing a friendly foreign policy towards neighboring regions, and that it needed peace and stability at home and abroad to get on with its Four Modernizations programme. Although the forum was an informal one and participants attended in their personal capacity, China, like most other states, sent a team headed by officials from the Ministry of Foreign Affairs to the 1991 workshop in



Bandung. Beijing must have realized that it was unrealistic to insist on bilateral discussions in examining some SCS issues when many of the overlapping claims, especially those involving the Spratlys, were of a multilateral nature (Quy, 2013).

More importantly perhaps, ASEAN claimants and non-claimants had been promoting multilateral dialogues at sub regional as well as regional meetings. As a diplomatic community of some weight, ASEAN could provide a forum at which to draw international attention to the SCS; it might even play an important role in containing and managing the problems involved. It would have been unwise of China to be absent from an ASEAN gathering on the SCS, and indeed one hosted by Indonesia, the gathering on the SCS, and indeed one hosted by Indonesia, the biggest state in the ASEAN region (Hy, 2011). This was especially true now that other claimants were to take part in the discussions. The SCS was a bone of contention in Sino-ASEAN relations, and China's problems in the SCS were related to the claims of some ASEAN member-states. Beijing probably found the 'informal' workshop process comfortable, as it provided some flexibility and leeway to question or refute any resolutions or agreements that might be accepted by the other participants (Thao & Amser, 2011).

In its debut at the workshop in 1991, China - as related by Wang Yinfan, then Director of the Asian Department of the Chinese Foreign Ministry said that its presence at the workshop did not mean that it would compromise its claims on the SCS on the issue of sovereignty. In fact, the Chinese delegation reiterated Beijing's 'indisputable' sovereignty over the Paracels and Spratlys and its adjacent waters at the workshop. However, Wang also stated that China had been advocating the shelving of the sovereignty issue, and the joint development of the Spratlys, since the second half of the 1980s (VOA Vietnamese, 2018). Apparently, this had been done at the behest of Deng Xiaoping in June 1986, and had been repeated by Premier Li Peng during his visit to Singapore in August 1990 (Vu & Lan, 2016; Truc, 2018). As elaborated by Wang in an interview, to get joint development started and promote goodwill among the claimants, cooperation should begin with "easier" and presumably less sensitive projects. Such cooperation could be on a bilateral or multilateral basis. For these cooperative projects, Wang indicated it might be

appropriate to set up mechanisms or organs to promote them, depending on the specific needs of such cooperation (Thuy & Ngoc, 2013). However, he made it clear that China opposed the setting up of mechanisms to deal with problems related to territorial disputes, as such disputes should be dealt with by the involved states themselves. “Non SCS states should not have a finger in the pie”, he said.

After eight years of annual discussions, multilateral cooperation for joint development in the SCS has still failed to take off. At the December 1997 meeting, it was emphasized that the workshop process should “focus on implementation of the agreed projects and programs for cooperation.” (Vu & Lan, 2016).

We should bear in mind that China had a limited mandate when it participated in this “informal” multilateral dialogue on the SCS (Thao, 2015). The delegation was prepared to talk only about joint development projects which would not infringe its sovereignty claims. In fact, the workshop stressed that all cooperative efforts were made “without prejudice to territorial and jurisdictional claims”. Furthermore, the Chinese wanted to confine workshop talks to the claimants, and adamantly rejected internationalizing the discussions. Even though Beijing has reluctantly agreed that outside technical support and funding could be considered on a case-by-case basis, it has not been receptive to the suggestion of involving outsiders - particularly the USA, Japan or other powerful players. Such involvement is viewed as interference in what China considers to be a sub-regional affair among the claimant states or, at most, among the SCS states (Truc, 2014; TTXVN, 2018).

Finally, the Chinese felt that the workshop should not concern itself with jurisdictional and territorial questions concerning the Spratlys and Paracels. The delegation argued that the workshop process was in itself a confidence-building measure, and that it was neither the forum nor did it have the man-date to discuss or decide on other confidence-building measures (CBMs), especially those relating to security. China may also consider it more appropriate to discuss political, military and security CBMs in fora like the ASEAN Regional Forum (ARF) for track one or the Council for Security Cooperation in the Asia Pacific (CSCAP) for track two. Even with

the limited mandate of the workshop, China has been slow in supporting agreed projects (RFA Vietnamese, 2017).

Although the workshop has dealt with matters peripheral to the central territorial issues in the SCS, most participants have probably found the informal talks conducive to free discussion. China has also agreed to use international law and the Third UN Convention on the Law of the Sea (UNCLOS III) to examine the issues. At the 1991 workshop, Chinese participants announced their readiness to follow the requirements of UNCLOS and the International Maritime Organization (IMO) on the safety of maritime traffic in the SCS (Thao, 2013). China's willingness to follow UNCLOS III, as well as to maintain the security of sea-lanes in the SCS, was officially announced by Vice Premier and then Foreign Minister Qian Qichen in 1995 (Thao, 2012). The use of UNCLOS III or international law seems well accepted by most workshop participants. However, China, like many other claimants, must have done its calculations before the move, and would always interpret the clauses of the convention to its advantage. The drawing of the baselines in 1996 for the Paracels is a case in point. These were premised on the rights or conventional practice of an archipelago state, thus allowing China to expand the area of waters under its jurisdiction.<sup>10</sup> It was suggested at the workshop that the conflicts could be referred to an international tribunal for the law of the sea, the International Court of Justice, or some other legal body for arbitration and adjudication. China would, however, have great reservations about submitting questions of national sovereignty to an international judicial or arbitration body (Thao, 2016; 2017).

China has not shown much interest in using the formal multilateral processes to discuss the SCS conflicts. Despite its participation in many multilateral fora, notably the UN, China still views multilateralism as a long, tedious and perhaps unproductive process. In a multilateral setting, undue pressure would also be brought to bear on Beijing by small and medium-sized states, to secure compromises possibly harmful to its national interest's least as regards "non-negotiable", "indisputable" sovereignty issues (Quy, 2013) and (Thang, 2018). For these reasons, Beijing prefers the quieter diplomacy of bilateral negotiations.

When China went to Kuala Lumpur as a guest of the host of the ASEAN Ministerial Meeting (AMM) in 1991, it had no wish to have SCS issues brought into the dialogue. Nor did the ASEAN foreign ministers in general want to bring up such sensitive matters in this first encounter with Qian. However, by the time of the July 1992 Manila meeting, there was an urgent need for ASEAN to discuss SCS issues with China. Not only had China remained adamant in its claim to indisputable sovereignty over the Spratlys, it had also taken action to consolidate and expand its control of some of the reefs (Thuy & Ngoc, 2013).

Nor was it surprising that Beijing indicated to the host of the first ARF, Thailand, that the Spratly issue should not figure on the agenda, stressing that the ARF ought to concentrate on discussing CBMs (Thao, 2010). Apparently, some ASEAN members and other extra regional powers felt otherwise, but they did not want to embarrass the Chinese at the beginning of this venture. Thus, the Chairman's statement from the first ARF in 1994 made no mention of the Spratlys or the SCS. However, by the second ARF meeting in Brunei in August 1995, it had become clear that it would be extremely difficult for China to prevent the others from discussing SCS issues in the ARF, or in other meetings hosted by an enlarged ASEAN which now included Vietnam, China's major nemesis in the SCS scramble (Hy, 2010; 2011). Moreover, it seems that other states in the Asia Pacific also saw fit to express their views on the security of the Spratlys. The US desire to have the Spratlys discussed in the ARF had actually been made clear by Winston Lord, the then Assistant Secretary of State for East Asian and Pacific Affairs. However, China was adamant that the Spratly issue should not be reflected in the Chairman's report (Ninh & Duong, 1993).

ASEAN and other Asia-Pacific states have become keen to discuss the Spratlys, and indeed SCS issues, in multilateral fora, as demonstrated by the ARF and other ASEAN meeting since 1995. China could not but realize that it would have to accept reality and plan a strategy to take up the challenge. Beijing still clung to its emphasis on bilateral discussions with other claimants, but some limited progress was made, as shown by its August 1995 agreement with Manila on a code of conduct in the Spratlys, and the resumption of rail links at the Sino-Vietnamese border in early 1996. However, China should have been able to tell that the overall sentiment

favoured continuing the discussion on the SCS issue, despite its objections to this being done in multilateral meetings like the ARF (Trung, 2015; Vu & Lan, 2016; Mai, 2018).

In addition to noting the contributions of the Indonesian workshop and of ARF itself, the statement also mentioned the contributions of bilateral consultations between the countries concerned and the ASEAN-China Senior Officials Meetings (SOM). Although the Spratly dispute was originally not listed as an ASEAN-SOM agenda item, China's chief representative Tang Jiaxuan did make an interesting move to have discussions about the Spratlys in a separate room after dinner as a result of the concerns and worries expressed by ASEAN officials in the daytime during the first meeting (Quy, 2013). China took the opportunity to reiterate its official policy, expressing its reservations over the proposal of some ASEAN officials to set up a small working group to examine the territorial and sovereignty issues of the Spratlys. Instead, China suggested holding further discussions on the Spratly problem at the next ASEAN-China SOM in Indonesia in 1996 (Thuy & Ngoc, 2013). While China still rejected multilateral talks over the Spratly disputes, it had probably with some reluctance accepted that in the case of ASEAN-China SOM, expressions of Views on such issues would be unavoidable, as most of the claimants were from the ASEAN region (Truc, 2015). This could mark the beginning of China's acceptance of a kind of limited multilateralism and internationalization of the Spratly issue, at least in the Sino—ASEAN context (Trung, 2014).

China was more interested in deepening relations with ASEAN and would not allow the differences in the Spratlys to block such a development. When the third ASEAN—China dialogue of the PMC took place in July 1998, both Sides were preoccupied with many other issues, notably the raging Asian economic crisis, and only perfunctory attention was paid to the SCS disputes (Phuong, 2017). Finally, China's dialogue with ASEAN was elevated to the level of heads of government / state when President Jiang attended the 'nine plus three' (ASEAN plus China, Japan and Korea) informal summit and the 'nine plus one' (ASEAN-China, ASEAN-Japan and ASEAN-South Korea) informal meetings in December 1997 in Malaysia. Jiang's visit to Malaysia gave him an opportunity to reiterate China's position on East Asian

cooperation (Hy, 2010). A statement on “ASEAN-China Cooperation Towards the 21st Century” was issued by China and ASEAN during Jiang’s Visit. Mention was made of several political and security areas, notably the SCS conflicts. While the contents of the statement on this issue, like the agreement to use international law and UN CLOS III to examine the conflicts, were merely a repetition of what China and ASEAN had announced earlier, it is interesting to note that the statement highlighted that both sides agreed “not to allow existing differences to hamper the development of friendly relations and cooperation” (Duong, 2018; Lynh, 2018).

#### **4.4.2 DOC/COC Negotiations**

##### **Before 2009**

The first agreement on this dispute was signed in 1992 by the five members of ASEAN (ASEAN Secretariat, 1992). In 2002, China signed the DOC with all 10 ASEAN members. The DOC contained a promise to, amongst other terms, cease from taking any provocative actions, until all territorial and jurisdictional disputes were resolved peacefully (ASEAN Secretariat, 2002). Following that, another agreement was signed in 2011 (the 2011 Agreement) by China and ASEAN members, laying out guidelines for the advancement of the DOC, but which does not address the most critical issues of energy exploration and military tensions (Thao, 2010; Abdul & Desy, 2011; ASEAN, 2012; Simon, 2012; Quy, 2013).

The process of forming COC was born from the 1995 event when China seized the Ring Scarf beach in the Spratly Islands which was considered by the Philippines as part of its territory. The Philippines is the first country in ASEAN that wishes to establish a Code of Conduct in which the participation of China as a way to curb its actions, avoid repeating the incident at the Reef Beach (Phuong, 2017). However, it was not until 1999 that ASEAN countries agreed on the principle of Vietnam to establish a common COC with China. China's desire to negotiate bilaterally with the disputing parties clearly shows the power of this great power. The superiority of military power or economic ability between China and ASEAN countries makes Beijing completely overwhelming if bilateral negotiations between each country are involved. China in this period of time wants to avoid being bound by an international institution that it thinks is not in its best interests. A COC, if signed, will

make it impossible for China to use its superior power elements to protect the national interests of sovereignty it deems necessary, here is unilateral. the use of military measures like 1995 (Thang, 2011). Efforts to force ASEAN countries with disputes to negotiate bilateral negotiations are actually a very logical strategy for a major power when dealing with the efforts of Smaller countries to entice this power into a highly binding institution. In short, in the first phase, right after the Philippines' proposal to sign COC as a code of conduct, China chose to avoid and refuse to participate in a multilateral institution. High binding. Institutional evasion is typical of the power with rapidly increasing economic and military power in the region.

Beijing finally changed its approach, agreeing to multilateral discussions and accepting COC negotiations with ASEAN countries. However, although the negotiation strategy has changed, the ultimate goal remains the same. China has moved from completely rejecting to accepting COC, but Beijing has the following advantages: (1) they have intervened in the process of shaping COC rules from the beginning when allowed issue its own draft of COC, and (2) take advantage of conflicts within ASEAN countries to gain the advantage of negotiation. In March 2000, ASEAN countries agreed on a joint draft of the COC to discuss and discuss with China to reach a final agreement. But there was disagreement over some specific areas: in terms of geographical scope specified in COC, on the limitation of infrastructure construction on the objects of dispute in the SCS, military activities in waters near the Spratly Islands, or whether or not to arrest and detain fishing vessels operating in disputed waters (Phuong, 2016).

These disagreements are utilized by China, plus the prestige of its negotiations to completely defeat the efforts of ASEAN countries in building a complete COC set as the initial goal. In November 2002, ASEAN and China signed a non-binding political agreement to replace the COC called the Declaration of Conduct of the Parties in the SCS (DOC) (Thao, 2018). This document directs four factors in building trust and years of voluntary cooperation between ASEAN and China regarding disputes in the SCS. The ultimate goal of the COC is to strengthen regional stability and security, increasing mutual trust between ASEAN and China, as well as increasing cooperation in the SCS, creating favorable conditions so that the

parties involved can resolve the dispute in the most peaceful way (Thao, 2017; 2018; Hiep, 2019).

In other words, the DOC is a highly unconstitutional institution aimed at managing disputes, other than to initially create COC with the goal of resolving disputes. DOC, on the one hand, creates undisputed advantages, but on the other hand, makes China too confident in the power it holds (nghiencuuquocte, 2010; Quynh, 2011). This institution meets the basic interests of Beijing: an almost stable international environment, a reputation built relatively well with neighboring neighbors especially ASEAN, and in line with war. China's foreign strategy: press yourself to wait but not be bound. The fact that COC is “downgraded” (Nguyen, 2018) is only an institution that is not highly binding like DOC is a Chinese success and a failure of ASEAN.

#### **From 2009 until now**

The main platform is bilateral cooperation that China is a proactive country (for other powers) or a leading country (for smaller countries). The proactive participation in cooperation mechanisms such as ASEAN + 1, ASEAN + 3 or EAS is a testament to China as a regional “leader”, actively participating in multilateral institutions. in which Beijing's power gives this power the ability to lead or influence (Thu, 2011; Quynh, 2011; Dao, 2011). Gradually, the process of building trust was not respected by China, and based on the nation's great power, the power used a completely different approach to the South China Sea issue compared to the previous 2009: implementing increasing aggression in disputed areas (Phuong, 2016).

Beijing's pursuit of policies that align with the regional interests of the region or break the common rules that have existed so far will have different implications for the overall security situation. In addition, how other countries see China plays an important role (Tuan, 2018). For countries in the Asia-Pacific region, a big question is whether China's rise will help strengthen national security or vice versa, undermining the national security of they. This question has rekindled since the period before the rise of Chinese power quickly. But it only became more intense in the period from 2009 onwards. Chinese policymakers regard East Asia in general and Southeast Asia in particular as a “backyard” that cannot be abandoned



(BaothegioivaVietnam, 2011). The DOC has also made ASEAN countries hopefully too much on the so-called “confidence-building process” (Phuong, 2016) from China that really does not have any other guarantee than verbal commitments. from the Beijing side. This results in China being able to freely act whenever this great power finds its interests in the SCS. In other words, since 2009, China has not wanted to comply with commitments in the DOC, although in practice itself this statement does not have any legal binding, and on forums. Beijing diplomats still claim to abide by the principles set forth (Dat, 2018; Phong & Danh, 2018).

In an interview with Reuters on April 28th 2017, Secretary General Le Luong Minh said that ASEAN has not received any guarantees from China on achieving the COC framework this year. ASEAN, however, expects some provisions to be adopted to prevent conflict and militarization in the SCS. COC is very important when the situation in the SCS is complicated, especially in terms of militancy and occupation as well as unilateral action. For ASEAN, a framework must contain substantive elements, and a code of conduct must be “legally binding” (Thao, 2013).

In August, 2018, the foreign ministers of ASEAN and their Chinese counterpart announced agreement on a Single Draft SCS Code of Conduct Negotiating Text (SDNT) that will serve as the basis for the adoption of a Code of Conduct in the SCS. It is structured according to the previously adopted Framework Agreement on the Code of Conduct into three main sections – preamble provisions, general provisions, and final clauses. The SDNT does not clearly define the geographic scope of the SCS (Nguyen, 2018). Under General Provisions, Vietnam suggested that, “the present Code of Conduct shall apply to all disputed features and overlapping maritime areas claimed under the 1982 UNCLOS in the SCS.” (Thayer, 2018). However, the SDNT is also a work in progress that is slated to go through at least three readings to create a final Code of Conduct in the SCS.

After all, COC cannot be a means of resolving disputes over territorial sovereignty or demarcating the sea in the SCS. The settlement of such disputes must be affected by direct negotiations between the disputing parties, or through competent international arbitration agencies and agreed upon by the parties to the dispute. Like the DOC 2002, the COC will continue to be a tool to build trust

in order to create a peaceful, stable and trusting environment and encourage cooperation in the use and management of the SCS in a peaceful, on the basis of compliance with international law (Thao, 2015). In particular the 1982 Law of the Sea Convention; as well as measures taken within the framework of the COC will not prejudice the settlement of territorial and maritime disputes. On the other hand, the COC should inherit and develop the provisions of the 2002 DOC, overcoming constraints that hinder the implementation of the DOC in practice to reduce tension and risk of conflict in the SCS (Thao, 2017; 2018).

For the above purpose, the COC should not stop at the commitment of the parties to implement the framework principles, or not to take unspecified actions. The COC must clearly identify acts that are not allowed to proceed in the SCS for violations of international law, the 1982 UN Convention on the Law of the Sea, agreements between parties concerned in relation to the maritime area, straight, unstable in the SCS. The COC should also stipulate appropriate conditions and mechanisms that allow parties to enhance dialogue, minimize conflicts, disagreements, cooperate in specific areas, trust building (Thao, 2017; 2018; Thang, 2017).

With this approach, the COC also needs to have scope, object and content appropriate, considering the difficulties and obstacles that emerged during the 2002 DOC negotiations.

#### **4.5 Why Vietnam prefer multilateral negotiations thus far**

##### **4.5.1 ASEAN Responsibilities in the South China Sea**

ASEAN has strategic reasons for long-term participation in high levels of tension management in the SCS. First of all, the SCS is within the geopolitical scope of ASEAN and directly affects the national security of its members. The SCS, one of the world's busiest commercial maritime routes, is largely surrounded by Southeast Asian countries. In addition, potentially rich natural resources in the SCS make this region even more important, both economically and strategically. Therefore, maintaining security and stability in this region is not only

important for ASEAN countries, but also for the whole region. In the first ASEAN document, the Bangkok Declaration on August 8, 1967, the desire to “establish a solid foundation for joint activities to promote regional cooperation in Southeast Asia” was declared. This ambition is always at the center of ASEAN's development path. The ASEAN Charter, the most important document for ASEAN's future development in the coming years, has affirmed that one of its objectives is to “ensure that the people and member states of ASEAN are living in peace. ASEAN has pledged to “maintain a central and proactive role as a fundamental driving force in its relations and cooperation with external partners “. This spirit, when implemented in practice, clearly requires the Association to be active in the South China Sea issue, actively participate in promoting a peaceful solution and cooperation for the dispute here. Again, this is a practical test for the central role and pillar of ASEAN in existing multilateral regional mechanisms in Asia-Pacific, including ARF and the East Asia Summit (EAS).

Second, all Southeast Asian claimants want ASEAN to play a bigger role in resolving disputes in the SCS. Since the end of the Cold War, the Philippines has always considered diplomatic negotiations the best way to protect its sovereignty, and ASEAN is a center of its diplomacy. This is reflected in the country's efforts to achieve the ASEAN Declaration on the SCS in 1992 and DOC in 2002. Similarly, Vietnam has chosen to be more proactive with ASEAN in conflict management. ASEAN members are not in a strong position to compete with China in the SCS, so naturally, they seek support from ASEAN as a group. Obviously, when a country joins an international treaty or joins an organization, it voluntarily renounces a certain degree of sovereignty to fulfill its commitments. In return, they expect to gain a certain benefit, including security protection. Southeast Asian countries, including those claiming sovereignty in the SCS, jointly established ASEAN and pledged to strengthen the association by adopting the ASEAN Charter in 2008, from which it was awarded an independent legal status. Not surprisingly, member countries expect ASEAN's active role in the SCS issue.

Third, the situation in the SCS has an important influence on ASEAN solidarity. As Ernest Bower (2010) asserts, “The South China Sea connects most of

the countries in East Asia geographically and also separates these countries.” This comes from differences in priorities and choices among Southeast Asian countries, because countries have different national interests in this regard. The different areas include the desire for China and the US to participate and role, the scope of cooperation in the SCS, and the role of ASEAN itself in this dispute. On the one hand, countries ASEAN does not have a claim that often has no direct interest in territorial disputes in the SCS and clearly does not want to undermine relations with China, an important economic and strategic partner (Tuan, 2018). Over the past decade, Beijing's influence in Southeast Asia has been increasing and many countries have benefited from China's economic development. Michael Mazza and Gary Schmitt (2011) argue that “many continental Southeast Asian countries believe their ASEAN membership is now less prioritized than keeping good relations with China.” This, therefore, does not have a strong stance in opposing tough actions in the SCS or in its determination to promote ASEAN's role. On the other hand, Vietnam and the Philippines are countries with vital interests in maintaining peace and sovereignty in the SCS. Both Hanoi and Manila view ASEAN as an effective multilateral mechanism to reduce their straits in the SCS and give them a higher position when resolving disputes.

#### **4.5.2 ASEAN Way**

The ASEAN Way also influences the approach of ASEAN leaders in regional relations with partners outside the region. ASEAN applies an open strategy but not a security alliance with outside countries. Since its foundation in 1967, when tensions in Southeast Asia have risen, the founding countries of ASEAN have a vision of an association of all 10 Southeast Asian countries. Countries outside Southeast Asia are also welcomed to cooperate with ASEAN to promote regional peace and stability. TAC is open to all participating countries and there have been many party powers in 2009) and the US (in 2010).

As stated earlier, ASEAN is indeed a diverse association. Although located in the same geographical location, ASEAN is not a “unitary actor on matters of political sensitivity” (Simon, 2012). Every member has a different set of security interests, and therefore approach the bigger powers, namely China and the US, very

differently. This tends to divide the member states into different groups. For instance, Cambodia is known to be a “diplomatic surrogate for Beijing”, while the Philippines is generally confrontational towards China and calls the US a close military ally, while Malaysia keeps “a low profile” and has adopted a “hedging strategy” (Simon, 2012; Thao, 2013).

Firstly, it is varying interests of Chairs: ASEAN adopts a policy of rotating the Chair every year amongst its 10 members. The position of the Chair is vitally important in any multilateral negotiation, as the Chair has the power to decide the agenda and to influence how formal and informal discussions proceed. It may not always be beneficial to resolution of the dispute for a Chair to have an interest in one side of a dispute than the other, while a party with little to no interest in the matter at hand can often make for a Chair, able to manage conflict without having to pursue their own interests in the matter at hand (Thang, 2013). The track record of the ASEAN Chairs is uneven during the years when this issue has been a hotly discussed topic at ASEAN and other multilateral meetings. The Chair certainly plays an influential role in steering discussions, but has no less voting power than any of the other nine member States.

For example, Cambodia, as the chair in 2012, saw fingers being pointed at them for blocking all efforts to bring the dispute closer to a resolution, by blocking an agreement on the issuing of a formal communiqué at the end of the 2012 AMM about a COC on the SCS, insisting that “bilateral disputes with an outside power were not an appropriate subject for an ASEAN communiqué”, a similar stance to that of China’s (Thao, 2012). As the Chair, Cambodia accomplished their goal of preventing all ASEAN members from coming to a common position, which favours the interests of China (Barta & Tejada, Sea Dispute Upends Asian Summit, 2012). If one regards Cambodia as being a “proxy” of China’s interests, this adds to the question of whether such a situation is suitable for integrative bargaining, given that China’s interests and the interests of the other claimants all appear to be in direct conflict. This will be further discussed later in this paper.

The rotation of the Chair position can possibly lead to inconsistent results each year, depending on the influence and tactics of the nation occupying

the Chair (Thao, 2012). While this is beneficial in providing a fresh perspective on negotiations, it can also halt or stall progress that is made every year.

Second is unenforceable and non-binding agreements: All the formal agreements that have been reached so far by China and ASEAN are all non-binding, and therefore unenforceable (Thao, 2013). Neither do any of these agreements state any deadline by which parties must begin to negotiate further. This has given parties the leeway to violate terms of these agreements, and has not given the parties any pressure to move forward on the dispute.

It also has the undesirable effect of prompting claimant parties to jump on any hint of a violation of such agreements, in order to discredit the other party and put their intentions in a bad light (Thao, 2013). This would have a negative effect on their relationships. For example, the Philippines accused China of bringing concrete blocks to Scarborough Shoal, seen as a prelude to construction on the territory, which would violate the 2002 DOC (Sevastopulo & Landingin, 2013).

The lack of trust is last but not least: A cumulative result of all these factors has led to a lack of trust among the parties, particularly between China and the other two dominant claimants, the Philippines and Vietnam. This subtracts legitimacy from any promises that claimant states make to one another and the credibility of the ASEAN institution (Thao, 2013).

#### **4.5.3 External factors**

Quad (US, Japan, Australia, India), notably US, of course, has no rights or rights regarding sovereignty disputes over islands. But the issue of sovereignty over maritime space is different (Linh, 2018; Quang, 2018).

First of all, the area between the SCS has the potential not to be an EEZ of any country. If so, all countries in the world will have equal rights to the water column in this area (Vu & Lan, 2016) and (RFA Vietnamese, 2018). If a country demands excessive sea space in the SCS, it will threaten to deprive the international community of rights, including those of Quad, in this central area. Second, while China claims that it respects freedom of navigation in the SCS, it interprets that freedom in the exclusive economic zone more restrictively than the American interpretation (RFA Vietnamese, 2018). The clashes between China and the United

States in military surveys in the SCS are due to differences in this interpretation (Mai, 2018).

Third, China has never formally stated what the U-shaped line means or the scope of their claims is out, or what rights they claim in the claimed zone. This lack of transparency contains risks for all countries using the SCS, including for Quad (Mai, 2018).

Fourth, maximizing the area of the disputed area, as China is doing, will increase the risk of conflict and negatively affect countries using the SCS, including for both the US and its allies. With the above considerations, if the area of waters in the islands in the dispute is minimized, it will be beneficial for the United States (Ha, 2018). This is in line with the interests of Southeast Asian countries in the dispute and contrary to China's goals, not necessarily that the United States must support any country in the island dispute and inland waters.

In geopolitical terms, if the SCS becomes a Chinese pond, or if Southeast Asian countries fall into China's orbit, it will have a significant impact on the balance of forces in the Western Pacific Ocean and East Indian Ocean (Yen, 2018; Mai, 2018). Therefore, it is necessary to prevent these possibilities from becoming reality. The above analysis means that the Southeast Asian countries in the dispute and Quad will act for the common good, but not necessarily which side Quad must take on the island and the waters of the island. Meanwhile, China will seek to counter US involvement and prevent the solidarity of Southeast Asian countries in disputes.

Table 4.1

*Comparison the dispute over Paracel Islands and Spratly Islands between China and Vietnam*

TITLE	PARACEL ISLANDS	SPRATLY ISLANDS
TIME OF DISPUTE	> 200 years (1816)	< 80 years (1930)
CLAIMANT STATES	2 (+Taiwan)	5 (+Taiwan)
EXTERNAL FACTORS	US, Japan, Aus, India (Quad)	Quad
LAW APPLICATION	UNCLOS 1982 vs. U-shaped Line	UNCLOS 1982 vs. U-shaped Line
KEY ACTORS AND INTEREST	Claimant states, external factors (EEZ)	ASEAN, claimant states, external factors (EEZ)
NEGOTIATIONS	Bilateral > Multilateral	Multilateral (DOC, COC and other talks) > Bilateral

\* The author collected sample data by selecting different sources, mainly 3 Vietnamese diplomatic newspapers: *Nghiencuuquocte*, *Baothegioivietnam*, *DaisukyBienDong*

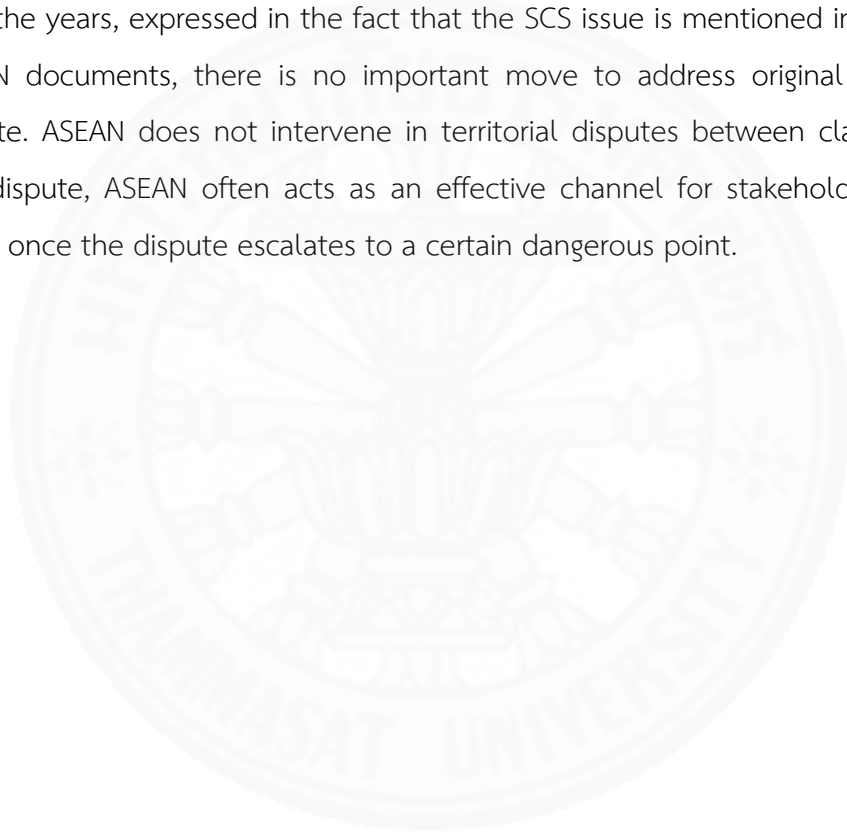
#### 4.6 Conclusion

Of all parties involved in the SCS, China is the only country to lower ASEAN's role and multilateral mechanisms in general in managing disputes. China's position clearly stems from the view that solving problems by relying on multilateralism is much more difficult than through bilateral negotiations. Moreover, for several thousand years of history, China's foreign relations are still mainly bilateral relations and China has never been known for multilateral diplomacy (Tuan, 2018). In a more realistic approach, China thinks there will be an underground coalition in ASEAN that opposes it. In response to this threat, they proposed a policy to divide and isolate countries with smaller claims to ASEAN, as a bloc, by supporting some



countries while punishing more determined countries. Thus, Vietnam faces a lot of difficulties in getting support from non-claimant countries due to consensus rules in ASEAN. Only when Vietnam takes on the role of rotating ASEAN president, it is possible to bring the SCS dispute to the negotiating table.

Regarding ASEAN's participation in managing the SCS dispute, until recently, ASEAN's role in major disputes was limited to political and diplomatic efforts, consistent with the ASEAN Way. Although these efforts have been sustained over the years, expressed in the fact that the SCS issue is mentioned in all important ASEAN documents, there is no important move to address original cause of the dispute. ASEAN does not intervene in territorial disputes between claimants in the SCS dispute, ASEAN often acts as an effective channel for stakeholders to reduce stress once the dispute escalates to a certain dangerous point.



## CHAPTER 5

### CONCLUSIONS AND RECOMMENDATIONS

#### 5.1 A brief of the South China Sea Dispute

Sovereignty disputes on the Paracels and Spratlys archipelagos that exist between the SCS have existed for more than hundreds of years (Thao, 2010). These are the oldest disputes between many countries with sovereignty claims on the islands, a dispute that lasts until today but has not achieved any sustainable legal solution. It is even more complicated, meaning that the dispute is fiercely heated, and then settles down with complicated changes from the parties who have directly involved in the dispute.

At first, the dispute was only directly related to the islands. Due to their geographic location, these islands allow the coastal state to possess them not only to control commodity trade in the SCS but also to use them as initial naval bases for defense purposes. Another race of scale and nuance comes from the recent rapid development of the International Law of the Sea and the ability to detect exploitable oil fields located on the seabed of two archipelagos. The UNCLOS 1982 took effect in 1994, allowing coastal states to extend the 12 nautical miles' territorial sea, the 200 nautical miles exclusive economic zone and the continental shelf. The development of international maritime law brings many benefits to the coastal state, such as the ability to exploit natural resources from the sea: oil, aquatic resources, and minerals, but also gives rise to fecal problems defining the sea area and continental shelf among countries with overlapping seas (Thao, 2010; 2017; Thang, 2017; Nguyen, 2018).

Addressing the issue of maritime delimitation has always been associated with territorial and island disputes. According to the provisions of UNCLOS 1982, the islands, rocks or may have territorial waters of 12 nautical miles, 200 nautical miles exclusive economic zone, and continental shelf or only territorial waters of 12 nautical miles, based on a number of articles certain facts (Thao, 2010). Such unclear

provisions of the Convention make the situation of sovereignty disputes on the islands more complicated. If the islands belong to the two archipelagos have the right to EEZ and their own continental shelf, with the position in the middle of the sea, the two archipelagos will give the country the right to control most of the SCS. It also led to a picture of the overlapping claims of countries in the SCS requiring resolution. If the islands of the two archipelagos only have territorial rights of 12 nautical miles, the islands “waters will not overlap the countries” continental shelf and EEZ, reducing the dispute. In fact, the more complicated dispute is due to the aspirations of coastal states wanting some uninhabited offshore islands, rocks, and beaches to enjoy the full legal status of an island. It is true that the new international maritime law allows coastal states to claim a continental shelf and an economic zone of two hundred nautical miles wide around floating islands regularly at high tide. But the fact that there are still islands that are unsuitable for people to live in or for a particular economic life may require the same regulation. The modern maritime law adds to the strategic geographic value of the two archipelagos and the disputing parties are about the new geostrategic role of the two archipelagos (Thang, 2015). The disputes over the SCS, apart from the meaning of territorial sovereignty, are also the strategic interests of ownership and exploitation of natural resources, especially oil resources (Yen, 2018). The sovereignty disputes between islands and seas are not easily solved because it involves not only legal factors but also historical, national and economic will. The goal of the persistent dispute is now not only the main islands but also the large seas surrounding them to control the whole or only part of the sea (Phong & Danh, 2018). Paracel and Spratly Islands are sovereignty by Vietnam; China and Taiwan have similar requirements. Particularly, Spratly Islands, the Philippines only in 1956, Malaysia from 1979 and Brunei claimed a small amount since 1993 (Thao, 2015). Given the number of states involved in this dispute and the complex relationships shared between and among them, it is no wonder that the dispute, decades after it began, continues to run till this day. A lot is still at stake in this dispute and every state will stand to lose more if a compromise cannot be found.

## 5.2 Vietnam's drivers to the South China Sea Dispute

Facing China's increasingly tough attitude in the SCS, Southeast Asian countries, the US, Russia, India, and Australia have expressed interest in the topic (Linh, 2018). The world's interest and the direction of the multilateral settlement of disputes are consistent with international law, with the multilateral nature of the dispute, and in favor of small countries in disputes. Since it is difficult to resolve the island dispute in the near future, the focus on maritime disputes is necessary to create consensus among small countries in the dispute and the support of non-contested powers. However, even in focusing on maritime disputes, to establish a political reality that can ensure security and fairness for the region and the world, there is a long and difficult path.

Certainly, China will find ways to hinder and dilute that political reality (Phuong, 2017). Only the US can have all the strength and will to counter Chinese in the SCS - the interest of the EU, Japan, Russia, and India on the SCS is limited. America excels in China for power, but the power that a country can apply to a problem is the product of strength and will. On the will of the SCS, especially, in the long run, China can outperform the United States. China has proved that its determination on the island can exist and grow for over 100 years. Although we do not know when China has the ambition of about 75% of the SCS ever since it is impossible to underestimate their determination to the sea (Hy, 2010). Meanwhile, America's interest in the SCS is primarily maritime freedom for the US, for its allies, and for international trade (Tuan, 2018). Freedom of navigation in a sea area across the Pacific Ocean, though important, is difficult to have a lot of weight in American national psychology by the weight of territorial disputes in Chinese people's psychology.

Not only that, China will seek to reduce America's will and interest (Dat, 2018). The US is a big country and has many rights that may be more important than freedom of navigation in the SCS. China is also a big country and has many economic and political "items" that can be used to make America abandon the SCS, especially if China can convince the US that China will not reduce the freedoms of goods.

Marine in the SCS in particular or China will behave like a responsible superpower in general. Therefore, small countries in the dispute must both build collective strength and enlist America in the SCS.

It cannot be assumed that the United States will be willing to spend money on maritime security in the SCS all the time while Southeast Asian countries themselves place security issues in the SCS and put the United States under enrichment with China's national interest. China and Southeast Asian countries are at odds with each other and if these countries want to consolidate and maintain US interest in the SCS, it is impossible to be more pro-Chinese than the US.

### **5.3 Role of COC in Vietnam's negotiation progress in the South China Sea Dispute**

Vietnam is promoting some provisions in the negotiating text of the ASEAN-China Code of Conduct (COC) in the SCS which is likely to be “unacceptable for Beijing.” (Hiep, 2019). The article points out that Hanoi is seeking to outlaw many of the actions China has taken in the SCS over the years, including the construction of artificial islands, sea blockade and the deployment of weapons attack. Hanoi also requires countries to clarify their maritime claims in accordance with international law. More interestingly, Hanoi called for a ban on the establishment of any new air defense zone (ADIZ) in the SCS (Phuong, 2018).

Previously, Vietnam's well-known stance was mainly to promote a legally binding COC and apply to the entire SCS. Therefore, these requirements shed more light on Vietnam's position on COC, as well as how Hanoi sees security threats from China in the SCS.

Previous methods of discussing COC were implemented through ASEAN. The current period requires each ASEAN country to address its national priorities (Thao, 2016). Therefore, at the moment, Vietnam has no choice but to say more about its concerns. However, among the above requirements, only the call to not establish a new ADIZ in the SCS is noteworthy, since Hanoi has long objected to other Chinese actions, such as island construction. Artificial and militarized disputes. Hanoi has also repeatedly called upon the claimants to clarify their maritime claims

in accordance with the UNCLOS 1982. The call to ban the establishment of the ADIZ affirms Hanoi's concern that Beijing at some time in the future will establish an ADIZ in the SCS like what they did in 2013 (Duong, 2019).

Otherwise, Beijing has stated that it has the right to protect national security by any means, including establishing an ADIZ, to deal with the levels of threat Beijing faces in the SCS. That implies that underground China threatens that if the United States and its allies strengthen military actions, they will declare the establishment of ADIZ. As people often say, "prevention is better than cure," Hanoi's call for a ban on the above is a wise "first" move that will put Beijing under pressure if it considers this option (Phong & Danh, 2018; Lynh, 2018).

It can be predicted that Beijing will reject the above requirements of Hanoi. Similarly, Vietnam and a number of other ASEAN members will also reject the two main requirements of China: i) Military exercises with external powers in the SCS will not be allowed unless all both parties agree, and ii) Common marine resource development agreements are reserved only for China and Southeast Asian countries. Thus, the COC negotiations between China and ASEAN will likely be tough and on-going for many years later (Thao, 2018).

Considering maritime ambitions and the desire to control China 's South China Sea, Vietnam and ASEAN members with the same strategic objectives will face difficulties in negotiating with China. Their main leverage in the negotiations is probably the increasing pressure from the United States and its allies to China on the SCS issue. But while China can seriously consider these pressures and soften its approach to disputes in the future, a higher possibility is that China will re-enforce these pressures and choose to stiffer stance, especially at a time when the Chinese leadership needs to show the domestic people that China will stand firm and resolutely against US pressure in the growing confrontation between the two country.

#### 5.4 How far has COC contributed to diplomatic negotiation's progress over the SCS dispute

The dispute in the SCS is even more complex. Drawing on ancient maps and historical accounts, the Chinese and Taiwanese insist that the sea's two island chains, the Spratlys and the Paracels, were long occupied by Chinese fisherfolk, and so the entire region belongs to them (Thao & Amser, 2011; Thao, 2017). The Vietnamese also assert historical ties to the two chains based on long-term fishing activities, while the other littoral states each claim a 200-nautical mile EEZ stretching into the heart of the sea. When combined, these various claims produce multiple overlaps, in some instances with three or more states involved but always including China and Taiwan as claimants. Efforts to devise a formula to resolve the disputes through negotiations sponsored by the Association of Southeast Asian Nations (ASEAN) have so far met with failure: While China has offered to negotiate one-on-one with individual states but not in a roundtable with all claimants, the other countries mindful of China's greater wealth and power prefer to negotiate en masse (Klare & Michael, 2013, p.29).

In conclusion, Vietnam protests China with artificial islands in the SCS not because of lack of mutual agreements and benefits, it is China offended Vietnam's sovereignty. However, Vietnam ignored the Paracels issue in the COC because of pressure from China to reach a provisional security agreement in the SCS. Although this move seems passive, it is invisible in the middle power's strategy for major power in a century-long sovereignty dispute. The general decline in territorial conquest stems in part from increasing economic interdependence among countries in the world. Both Paracels and Spratlys are parts of the disputes in the SCS but these two disputes show differences in terms of how China claims its territorial sovereignty and how it deals with bilateral relations of the countries involved in the disputes. A sharp difference between these two islands is a geographical location. More countries involved in the disputes of the Spratly Islands while bilateral conflict is between Vietnam and China.

COC might also work as a crisis-management and prevention mechanism in the region. According to Ian Storey, senior fellow at the ISEAS-Yusof Ishak Institute, the COC is likely to include new provisions for the prevention and management of incidents at sea. If true, the COC could join the Code for Unplanned Encounters at Sea (CUES) in making the SCS safer for all seafarers. Another view from Hiep (2019) is that the key rationale for ASEAN pursuing the COC with China is its supposedly higher legal standing compared with DOC, a document that reflects parties' political will rather than their legal commitments. ASEAN hopes that the more legally binding COC will encourage China to refrain from resorting to force or other coercive measures in resolving disputes with ASEAN claimant states over the SCS. "Southeast Asian countries, by negotiating a COC, have finally armed with weapons that can resist their future. That is why, at the present time, COC's predictable results, not only illusions, but also the calming effects expected from what is relevant, in any case, when '9/10 paragraph line' still exists " (Schaeffer, 2016).

Therefore, when China wants a COC that is not "legally binding", it is just a false pretense in the present. Because Beijing is considering current immature conditions to achieve a limited COC. That is why, in the end, China is taking a delay when pretending to agree to discuss, while simultaneously creating obstacles to prevent the COC process from happening faster. The conditions are given by China, such as "there is no major external intervention, and this is a prerequisite" to start discussions in November, is not necessarily just a kind of hindrance. above. Because this will be easy for China, at one time or another, to regard the United States, through maritime freedom activities (FONOPs), or Australia or Japan, for other reasons, such as those troublemakers is stirring up in the SCS (Son, 2018; Thao, 2018; VOA Vietnamese, 2018).

China and possibly other claimants do not compromise on this dispute, despite the current negotiating mechanisms. If bilateral talks (with Vietnam), China certainly does not compromise. It also uses military means to occupy the island, how to compromise. Regardless of bilateral negotiations with any country, China too. More than that, the bilateral negotiations have many limitations, multilateral issues such as the Spratly Islands, small countries like Vietnam need to use multilateralism



to protect the environment, stabilize the region, limit the level China's expansionism, militarization, and existing multilateral mechanisms are not intended to address substantive issues of territorial sovereignty or delimitation. Vietnam's perspective: "Independence is self-reliant but multilateral diversification of relations, is a friend of all countries" (Yen, 2018) also prefer multilateral negotiation.

### **5.5 Promoting ASEAN conflict management's role in the South China Sea**

Even if ASEAN countries are united, China is still stronger. Not only that, China will seek to reduce ASEAN support for Southeast Asian countries in the dispute. Burma, located outside the SCS, will not suffer much if the SCS becomes China's home pond (Yen, 2018). China is more likely to convince Burma, Cambodia and Thailand are located in the Gulf of Thailand, relatively isolated from China's claim zones, and are also feasible to persuade China. Cambodia has declared "anti-internationalization" (Duong, 2018) of the SCS dispute. Singapore has no territorial or maritime disputes with China. China will enlist these countries to dilute the consensus ASEAN can achieve. Therefore, Southeast Asian countries in the dispute will both have to achieve the strongest possible agreement for ASEAN and to build a stronger consensus for these countries.

For Southeast Asian countries in the dispute, China will seek to separate each of these countries for processing. Indonesia has no island disputes with China and only maritime disputes. Because the overlapping area is at the end of the U-shaped sea, and because Indonesia is one of the Southeast Asian countries in the strongest dispute, China may temporarily soften Indonesia to deal with other countries first. Malaysia and Brunei only dispute a few islands with China, and the waters that these countries dispute with China are also at the bottom of the U-shaped waters.

Malaysia and Brunei are also Southeast Asian countries in the picture, accept the best-equipped navy and air force (Tuan, 2018). Therefore, China can temporarily leave Malaysia and Brunei for further processing. China will focus on the Philippines and Vietnam first.

The sovereignty of Vietnam and the Philippines in the SCS lies on the road to the south of China. The U-shaped waters overlap the waters of Vietnam and the Philippines the most. The Philippines has many second island disputes with China while Vietnam has the most disputes with China (Thang, 2017). Although the defense treaty between the Philippines and the US does not include the Spratly Islands, the Philippines has a defense treaty with the United States anyway, while Vietnam does not have a defense treaty with any country in the world - therefore, Vietnam is more exposed than the Philippines. There are signs that China has focused on Vietnam first. The scope of China's annual fishing ban waters is designed to maximize Vietnam, while not touching other countries. The only news about Chinese fishing vessels caught Vietnamese fishermen but there was no news of catching other fishermen. The Philippines should stand shoulder to shoulder with Vietnam. But the fact that the Philippines signed a survey with China in the Spratly area in 2004 and opposed the reports of Vietnam's and Malaysia's continental shelf in 2009 showed that Manila was not a reliable ally with Hanoi (Hy, 2010).

Since around early 2009, the SCS dispute has attracted more attention from the world and the United States. That is the favorite for small countries in disputes. During that time, China also made some mistakes. However, the international game of the SCS has only just begun, China has a lot of time, opportunity and hard and soft power to overcome. China will strengthen measures to reduce America's will and interest, reduce support for Southeast Asian countries in disputes, and separate these countries to deal with each country (Mai, 2018; Thao, 2018). Among Southeast Asian countries in the dispute, Vietnam is probably the most open. Moreover, perhaps China's strategy is soft with ASEAN, hard on Vietnam. Although the way of multilateralism and internationalization is the right and necessary path, small countries in the dispute must overcome many difficulties before reaching success.

## REFERENCES

### Books

- Johnson, A. (2007). *Social States: China in International Institutions 1980-2000*. Princeton University Press.
- Kent, A. (2007). *Beyond Compliance: China, International Organizations, and Global Security*. Stanford University Press.
- Morton, K. (2016). *China's Ambition in the South China Sea: Hegemonic Power versus Maritime Order*. SOAS China Institute.
- Ninh, & Duong, V. (1993). *Một số vấn đề về sự phát triển của các nước ASEAN. [ASEAN development]*. Ha noi: National Politics.
- Norton, S. (2015). *China's Grand Strategy*. In T. U. o. Sydney (Ed.). Australia: China Studies Centre.
- Pempel, T. J. (2005). *Introduction: Emerging Webs of Regional Interconnectedness*. Cornell University Press.
- Security and Cooperation in the South China Sea. (2014). *Russian Academy of Sciences, Institute of Oriental Studies*.
- Slaughter, & Anne-Marie. (2011). *International Relations, Principal Theories*. Princeton University Press.

### Articles

- Acharya, A. (2014). Thinking Theoretically about Asian IR. In D. L. Shambaugh & M. B. Yahuda (Eds.), *International Relations of Asia* (Second edition ed., Vol. Asia in world politics, pp. 59-89). Lanham: Rowman & Littlefield.
- Beckman, R. (2012). Geopolitics, International Law and the South China Sea. *Tokyo Plenary Meeting*. Retrieve from: [http://trilateral.org/download/files/Beckman\\_South\\_China\\_Sea.pdf](http://trilateral.org/download/files/Beckman_South_China_Sea.pdf)
- Colin, S. (2016). China, the US, and the Law of the Sea. *China Perspective*, pp. 57-61.

- Choi, J. K., & Eun, Y. S. (2018). What does international relations theory tell us about territorial disputes and their resolution? *Journal International Politics, Yonsei University*.
- Christensen, T. J. (1962). Fostering Stability or Creating a Monster? The Rise of China and US Policy Towards East Asia. *International Security*, pp. 81-126. Retrieved from <https://www.princeton.edu/politics/about/file-repository/public/hristensen-1.pdf>
- Driver, R. G. (2018). Understanding ASEAN - An Alternative Approach to International Relations Theory in Asia. *Portland State University*, 159.
- Emmers, R. (2009). Geopolitics and Maritime Territorial Disputes in East Asia. *JSTOR*, 113.
- Forsber, T. (1996). Explaining Territorial Disputes: From Power Politics to Normative Reasons. *SAGE Journals*, 33(4), 433-449.
- Hungdah Chiu, C.-h. (2009). Legal Status of the Paracels and Spratlyslands. *3 OCEAN DEV. & INTL. L.* 3, 1-28.
- Ikenberry, G. J. (1998). Constitutional Politics in International Relations. *European Journal of International Relations*, 153.
- Klare, & Michael. (2013). The Growing Threat of Maritime Conflict. *Unclosdebate*, 29.
- Ota, F. (2013). Chinese Maritime Platforms in the East China Sea. *IENE*.
- Paasi, A. (1998). Boundaries as social processes: Territoriality in the world of flows. *Geopolitics*, 3(1), pp. 69-88. doi:10.1080/14650049808407608.
- Quy, D. D. (2013). *Tranh chấp Biển Đông: Luật pháp, Địa Chính trị và Hợp tác Quốc tế*. Hanoi: Institute of Foreign Affairs and Lawyers Association.
- Roy, N. (2016). The South China Sea Disputes: Past, Present, and Future. *Contemporary Southeast Asia*, 39,. 411-413.
- Scott, D. (2012). Conflict Irresolution in the South China Sea. *Asian Survey*, pp. 1019-1042
- Starr, H. (2005). Territory, Proximity, and Spatiality: The Geography of International Conflict. *International Studies Review*, 7, 387 - 406.

Thao, N. H. (2012). Vietnam's Position on the Sovereignty over the Paracels & the Spratlys: Its Maritime Claims. *East Asia and International Law*, 165-2.

11Thayer, C. (2010). China's Core interest in the South China Sea. *SCRIBD*, 1-3.

Thuy, T. T., & Ngoc, N. M. (2013). Vietnam's Security Challenges: Priorities, Policy Implications and Prospects for Regional Cooperation. *4th International Workshop on Asia-Pacific*, 1-20.

The South China Sea Reader: Papers and Proceedings of the Manila Conference on the South China Sea: Toward a Region of Peace, Cooperation and Progress. (2011). *Manila Conference on the South China Sea*.

## Electronic Media

### Vietnamese sources

Asean và TQ 'đạt tiến bộ trong đàm phán COC'. (2017). [Asean and China 'make progress in COC negotiations']. *BBC Vietnamese*.

ASEAN và Trung Quốc đạt được thỏa thuận “văn bản duy nhất” đàm phán về COC. (2018). [ASEAN and China reached a “single document” agreement on COC negotiations]. *TTXVN*.

ASEAN, TQ đồng ý ‘cột mốc quan trọng’ về Bộ quy tắc ứng xử Biển Đông. (2018). [ASEAN and China agreed to 'important milestones' on the South China Sea Code of Conduct]. *VOA Vietnamese*.

Trung Quốc hiện thực hóa bành trướng biển Đông và giải pháp nào cho Việt Nam. (2018). [China realizes the expansion of the South China Sea and any solution for Vietnam]. *RFA Vietnamese*.

Việt Nam kiên quyết phản đối xâm phạm chủ quyền ở Hoàng Sa, Trường Sa. (2018). [Vietnam firmly opposes encroaching on sovereignty in Paracel and Spratly Islands]. *TTXVN*.

Anh, V. (2018). Việt Nam phản đối tên lửa ở Hoàng Sa và Trường Sa. [Vietnam condemns China for deploying missiles to Paracel Islands]. *VNExpress*.

Dao, A. (2018). Vì một Biển Đông hòa bình, thịnh vượng. [For a peaceful and prosperous South China Sea]. *Thoi Nay*.

- Dat, T. (2018). ASEAN - Trung Quốc đạt bước tiến quan trọng trong đàm phán COC. [ASEAN - China has made important progress in COC negotiations]. *Dan Tri*.
- Duong, T. (2018). Bước tiến mới đàm phán COC giữa ASEAN và Trung Quốc. [Newly negotiating COC between ASEAN and China]. *Giao Thong*.
- Ha, L. (2018). Chuyên gia nhận định về đàm phán Biển Đông. [The expert commented on the South China Sea negotiations]. *Nghe An*.
- Hiep, L. H. (2019). Thấy gì từ lập trường về COC của Việt Nam? [Vietnam's position on the South China Sea]. *Nghiencuuquocte*.
- Hy, D. D. (2010). VN cần làm gì để bảo vệ Biển Đông? [What should Vietnam do to protect the South China Sea?]. *BBC Vietnamese*.
- Hy, D. D. (2011). Việt-Trung đàm phán kín về Biển Đông. [Vietnam-China talks privately about the South China Sea]. *BBC Vietnamese*.
- Le, N. (2018). Giải pháp nào cho tranh chấp Biển Đông? [What solution for the South China Sea dispute?]. *Nghiencuuquocte*.
- Linh, T. (2018). Vấn đề Hoàng Sa và Trường Sa trong quan hệ Việt Trung. [Paracel and Spratly Islands in Vietnam-China Relations]. *Soha*.
- Ly, D. X. (2015). Biển Đông Dưới Góc Nhìn Địa - Chính Trị [The South China Sea under view of Geopolitics]. *Nghiencuuquocte*.
- Lynh, K. (2018). Trung Quốc tính toán gì khi đưa thời hạn ba năm đàm phán Biển Đông? [What does China calculate when it takes the three-year South China Sea negotiation period?]. *VNExpress*.
- Mai, X. (2018). Biển Đông trên bàn đàm phán Mỹ-Trung. [China-US negotiation on the South China Sea]. *Ngươi lao động*.
- Minh, P. Q. (2018). Những lựa chọn chiến lược của Việt Nam trên Biển Đông trong thời gian tới. [Vietnam's strategic choices in the South China Sea in the coming time]. *Tia Sang*.
- Minh, T. (2018). VN bình luận về ý định hoàn tất đàm phán COC trong 3 năm của Trung Quốc. [VN commented on China's intention to complete COC negotiations for 3 years]. *Info.net*.
- Quần đảo Trường Sa. (2010). [Spratly Islands]. *nghiencuuquocte*.

- Nguyen, D. (2018). Hoàng Sa, Trường Sa và Biển Đông ở đâu trong giấc mộng bá quyền đại Hán của Trung Quốc? Tiếng Dân. Retrieved from
- Phong, D., & Danh, T. (2018). Ngoại trưởng Singapore: Đàm phán COC Biển Đông có tiến triển mới. [Singapore Foreign Minister: Negotiating COC South China Sea has a new progress]. *Zing.vn*.
- Phuong, T. (2017). Bộ quy tắc ứng xử trên Biển Đông: Đàm phán tiến nhanh. [Code of Conduct in the South China Sea: Negotiations move fast]. *RFI Vietnamese*.
- Quang, T. (2018). Điều chỉnh chính sách Biển Đông của Trung Quốc sau Phán quyết của Tòa trọng tài. [Adjusting the South China Sea policy after the Arbitral Tribunal's decision]. *nghiencuubiendong*.
- Quynh, L. (2011). Chính sách Việt Nam và Trung Quốc ở Biển Đông. [Vietnam's Strategy and China's Strategy on the South China Sea]. *BBC Vietnamese*.
- RFA. (2017). Sau tập trận, Trung Quốc đàm phán với Việt Nam về vùng ngoài cửa Vịnh Bắc Bộ. [After the exercises, China negotiated with Vietnam outside the Gulf of Tonkin]. *RFA*.
- Thang, D. H. (2017). Đàm phán COC: hành trình còn dài và nhiều gian nan. [Negotiating COC: the journey is long and hard]. *RFA*.
- Thang, N. D. (2013). Cooperation in the South China Sea Dispute: from dispute management to ocean governance. *nghiencuubiendong*.
- Thao, N. H. (2010). Biển Đông - Ba giai đoạn, Bốn thách thức, Hai cách tiếp cận khu vực và Một niềm tin. [The South China Sea - Three Stages, Four Challenges, Two Regional Approaches and One Confidence]. *nghiencuuquocte*.
- Thao, N. H. (2015). The Truth About 'Aggression' in the South China Sea. *The Diplomat*.
- Thao, N. H. (2017). Hoàng Sa. [Paracel Islands]. *Danang.gov.vn*.
- Thao, N. H. (2017). Lập trường của Việt Nam đối với các vấn đề trên Biển Đông. [Vietnam's position on issues in the South China Sea]. *VSIL*.
- Thao, N. H. (2018). Chuyên gia quốc tế: Tuân thủ luật pháp quốc tế để giải quyết vấn đề Biển Đông. [Adhere to international law to solve the South China Sea problem]. *RFA Vietnamese*.

- Thao, N. H., & Amer, R. (2011). BIỂN ĐÔNG: TÌM KIẾM MỘT DÀN XẾP PHÁP LÝ MỚI NHẪM TĂNG CƯỜNG ỔN ĐỊNH, HÒA BÌNH VÀ HỢP TÁC. [THE SOUTH CHINA SEA: SEARCHING FOR A NEW LEGAL RATING AREA TO INCREASE STABILITY, PEACE AND COOPERATION]. *Nghiencuubiendong*.
- Thu, P. M. (2018). Vấn đề Biển Đông trong chính sách khu vực của Chính quyền Tổng thống Mỹ Đô-nan Trăm. [The South China Sea issue in the regional policy of the administration of Donald Trump President]. *Tap chi Cong san*.
- Truc, T. C. (2018). Bài học cho Việt Nam trong đàm phán với Trung Quốc về Biển Đông. [Lesson for Vietnam in negotiating with China on the South China Sea]. *Giao duc Viet nam*.
- Truc, T. T. (2014). Biển Đông đang tồn tại những tranh chấp gì? [What disputes existed in the South China Sea?]. *Info.net*.
- Trung, N. H. (2015). Kinh tế Việt Nam thời Pháp thuộc. *Nghiencuquote*.
- Tuan, L. M. (2018). Bản Tin về Diễn Biến xung quanh Đàm Phán Bộ Quy Tắc Ứng Xử trên Biển Đông Tháng 3/2018. [News of Movements Around the Negotiation of the Code of Conduct in the South China Sea March 2018]. *Dai su ky Bien Dong*.
- Vu, T. M., & Lan, N. D. (2016). This Is How to Stop China from Dominating the South China Sea. *The National Interest*.
- Yen, H. (2018). Trung Quốc hy vọng hoàn tất đàm phán COC trong vòng ba năm. [China hopes to complete COC negotiations within three years]. *Bao Moi*.

#### English sources:

- Doi Moi II: Rule of Law and State Legitimacy in Vietnam. (2017). *The Diplomat*.
- Vietnam fails to bring China into Paracels talks. (2011). *Nghiencuquote*.  
<https://www.scmp.com/article/977002/vietnam-fails-bring-china-paracels-talks>.
- China and Vietnam negotiations over the South China Sea Dispute. (2012). *Facts and Details*.
- China Moves Toward Military Hegemony in South China Sea (2017). *Asia Pacific*.
- Amy. (2010). Remarks by Hilary Clinton, Secretary of State. Retrieved from Hanoi:  
<https://www.state.gov/secretary/rm/2010/07/145095.htm>



- Anh, V. (2018). Vietnam condemns China for deploying missiles to Paracel Islands. *VNExpress*.
- Ben Westcott. (2018). Duterte will 'go to war' over South China Sea resources, minister says. *CNN*.
- Board, E. (2015). A 'Great Wall of Sand' in the South China Sea. *The Washington Post*. Retrieved from [https://www.washingtonpost.com/opinions/a-great-wall-of-sand/2015/04/08/d23adb3e-dd6a-11e4-be40-566e2653afe5\\_story.html?noredirect=on&utm\\_term=.56e4265489ad](https://www.washingtonpost.com/opinions/a-great-wall-of-sand/2015/04/08/d23adb3e-dd6a-11e4-be40-566e2653afe5_story.html?noredirect=on&utm_term=.56e4265489ad)
- Burkeley, C. (2018). Xi Jinping Thought Explained: A new Ideology for a New Era. *The New York Times*.
- Chellaney, B. (2018). Who lost the South China Sea? *The New York Times*. Retrieved from <https://www.aspistrategist.org.au/who-lost-the-south-china-sea/>
- Cohen, S. B. (2003). Geopolitics of the World System. *USA*.
- Doyle, M. W. (2005). Three Pillars of the Liberal Peace. *American Political Science Review*.
- Duong, H. (2011). Negotiating the South China Sea. *The Diplomat*.
- Dutton, P. (2011). Three dispute and three objectives: China and the South China Sea, by Peter Dutton. *nghiencuuquocte*. Retrieved from <http://nghiencuubiendong.vn/en/conferences-and-seminars-/second-international-workshop/592-592->
- Evan, M. (2016). Strategic Hedging and the Future of Asia-Pacific Stability. Retrieved from <http://www.inquiriesjournal.com/articles/1567/understanding-the-potential-for-conflict-in-the-south-china-sea>
- Geddie, J., & Shepher, C. (2018). Southeast Asia, Beijing hail milestone in South China Sea talks. *Reuters*.
- GERSHANECK, K. K. (2018). China's 'political warfare' aims at South China Sea. Southeast Asia.
- Greg Torode, S. S. (2018). Concrete and coral: Beijing's South China Sea building boom fuels concerns. *Reuters*.
- Haacke, J. (2003). ASEAN's Diplomatic and Security Culture: A Constructivist Assessment. *International Relations of the Asia-Pacific*.

- Hayton, B. (2014). *The South China Sea: The Struggle for Power in Asia*.
- Ikenberry, G. J. (2013). *The Rise of China, and the Future of the Liberal International order*. Retrieved from [https://www.chathamhouse.org/sites/default/files/field/field\\_document/20140507RiseofChina.pdf](https://www.chathamhouse.org/sites/default/files/field/field_document/20140507RiseofChina.pdf)
- Jennifer Llewellyn, J. S. a. S. T. (2016). *French colonialism in Vietnam*. *Alpha History*.
- Jennings, R. (2016). *Vietnam Is Challenging China's Control of The Disputed South China Sea*. *Forbes*.
- Jinchen, T. (2016). *One Belt and One Road': Connecting China and the world*. *McKinsey&Company*.
- Johnson, I. (2015). *Xi's China: The Illusion of Change*. *New York Review of Books*.
- Kaiman, J. (2014). *China accuses Vietnam of ramming its ships in South China Sea*. *The Guardian*. Retrieved from <https://www.theguardian.com/world/2014/may/08/china-accuses-vietnam-ships-south-china-sea-oil-rig>
- Kapila, S. (2014). *Spratly and Paracel Islands: Resolving China's conflict is hindered*. *Eurasia Review*.
- Kaplan, R. D. (2011). *Asia's Cauldron: The South China Sea and the End of a stable Pacific*.
- Karim, A. (2007). *ASEAN: Association to Community: Constructed in the Image of Malaysia's Global Diplomacy*. *Malaysia's Foreign Policy: Continuity and Change*.
- Keyzuan, Z. (2001). *Sino-Vietnamese Agreement in the Gulf of Tonkin*. Retrieved from Singapore:
- Kurlantzick, J. (2012). *South China Sea: From Bad to Worse?*
- Kurlantzick, J. (2017). *The ASEAN-China Breakthrough in the South China Sea That Wasn't*. *World Politics Reviews*.
- Lind, J. (2018). *Life in China's Asia: What Regional Hegemony Would Look Like*. *Foreign Affairs*. Retrieved from <https://www.foreignaffairs.com/articles/china/2018-02-13/life-chinas-asia>
- Mirski, S. (2015). *The South China Sea Dispute: A Brief History*. *Lawfare*. Retrieved from <https://www.lawfareblog.com/south-china-sea-dispute-brief-history>

- Mitchell, S. (2016). Territorial Disputes. Retrieved from <http://www.oxfordbibliographies.com/view/document/obo-9780199743292/obo-9780199743292-0178.xml>
- Montgomery, S. L. (2018). Oil, History, and the South China Sea: A Dangerous Mix. *Global Policy*. Retrieved from <https://www.globalpolicyjournal.com/blog/07/08/2018/oil-history-and-south-china-sea-dangerous-mix>
- n.d. (2016). South China Sea dispute: what you need to know about The Hague court ruling. *The Guardian*.
- name, n. (2010). Quần đảo Trường Sa. [Spratly Islands]. *nghiencuuquocte*.
- News, A.-C. (2018). Philippines taking 'diplomatic actions' vs China over South China Sea activities. *ABS-CBN News*. Retrieved from <http://news.abs-cbn.com/news/05/31/18/philippines-taking-diplomatic-actions-vs-china-over-south-china-sea-activities>
- News, B. (2016). Why is the South China Sea contentious?
- Ninh, & Duong, V. (1993). Một số vấn đề về sự phát triển của các nước ASEAN. *Ha noi: National Politics*.
- Nischalke, T. I. (2000). Insights from ASEAN's Foreign Policy: The "ASEAN Way", a Real Spirit or a Phantom?. *Contemporary Southeast Asia*.
- Panda, A. (2017). China, ASEAN Come to Agreement on a Framework South China Sea Code of Conduct. *The Diplomat*. Retrieved from <https://thediplomat.com/2017/05/china-asean-come-to-agreement-on-a-framework-south-china-sea-code-of-conduct/>
- Panda, A., & Parameswaran, P. (2017). One Belt, One Road, One Hegemon? The Geopolitics of China's OBOR Initiative. *The Diplomat*. Retrieved from <https://thediplomat.com/2017/05/one-belt-one-road-one-hegemon-the-geopolitics-of-chinas-obor-initiative/>
- Passi, A. (1998). Boundaries as social processes: Territoriality in the world of flows. *Geopolitics*.
- Perlez, J. (2012). Vietnam Law on Contested Islands Draws China's Ire. *The New York Times*. Retrieved from <https://www.nytimes.com/2012/06/22/world/asia/china-criticizes-vietnam-in-dispute-over-islands.html>

- Perlez, J. (2016). Tribunal Rejects Beijing's Claims in South China Sea. *The New York Times*.
- Santos, M. (2016). Philippines wins arbitration case vs. China over South China Sea. Inquirer.Net.
- Schaffer, P. D. (2016). Code of conduct in the South China Sea.
- Schneider, H. (2017). Opinion: The BRI – China's road to hegemony. *GIS*.
- Sempa, F. (2018). The South China Sea Disputes: Historical, Geopolitical and Legal Studies. *Asian Review of Books*. Retrieved from <http://asianreviewofbooks.com/content/the-south-china-sea-disputes-historical-geopolitical-and-legal-studies-edited-by-tsu-sung-hsieh/>
- Sempa, F. P. (2014). The Geopolitical Vision of Alfred Thayer Mahan. *The Diplomat*.
- Shirk, S. (2014). The Domestic Context of Chinese Foreign Security Policies. <http://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199916245.001.0001/oxfordhb-9780199916245-e-020>
- Stepman, J. (2017). How China Plans to Dominate the South China Sea: Copy Great Britain. *The National Interest*.
- Steve Rolf, J. A. (2016). Sovereignty regimes in the South China Sea: assessing contemporary Sino-US relations. *Eurasian Geography and Economics*. Retrieved from <https://www.tandfonline.com/doi/pdf/10.1080/15387216.2016.1234403>
- Summit, t. A. (2002). Tuyên bố về ứng xử giữa các bên tại Biển Đông giữa ASEAN – Trung Quốc. Retrieved from <http://www.aseansec.org/13163.htm>
- Supriyanto, & Ristian. (2016). Out of Its Comfort Zone: Indonesia and the South China Sea. *Asia Policy*.
- Sutter, R. (2006). China's Rise: Implications for US Leadership in Asia. *Washington*.
- Thang, N. D. (2013). Cooperation in the South China Sea Dispute: from dispute management to ocean governance. *nghiencuubiendong*.
- Thao, N. H. (2015). The Truth About 'Aggression' in the South China Sea. *The Diplomat*. Retrieved from <https://thediplomat.com/2015/06/the-truth-about-aggression-in-the-south-china-sea/>

- Thayer, C. (2018). A Closer Look at the ASEAN-China Single Draft South China Sea Code of Conduct. *The Diplomat*.
- Thayer, C. A. (2012). ASEAN's Code of Conduct in the South China Sea: A Litmus Test for Community-Building. *The Asia-Pacific Journal*.
- Thayer, C. A. (2015). ASEAN and the South China Sea: A Dual Track Approach? *High-Level International Workshop Managing South China Sea Conflict from ASEAN Perspective*. Jakarta, Indonesia.
- Vaughn, B., & Morrison, W. M. (2006). China-Southeast Asia Relations: Trends, Issues, and Implications for the United States.
- Viray, P. L. (2018). Despite South China Sea militarization, China's Xi wants to refrain from 'seeking dominance'. *Philstar Global*.
- Vu, T. M., & Lan, N. D. (2016). This Is How to Stop China from Dominating the South China Sea. *The National Interest*. Retrieved from <https://nationalinterest.org/blog/the-buzz/how-stop-china-dominating-the-south-china-sea-15732>
- Watkins, D. (2015). What China Has Been Building in the South China Sea. *The New York Times*. Retrieved from <https://www.nytimes.com/interactive/2015/07/30/world/asia/what-china-has-been-building-in-the-south-china-sea.html>
- Wong, B. (2016). UNDERSTANDING THE POTENTIAL FOR CONFLICT IN THE SOUTH CHINA SEA. *Clocks & Clouds*.
- Wong, E. (2010). Vietnam Enlists Allies to Stave Off China's Reach. *The New York Times*.
- Wong, E. (2015). Security Law Suggests a Broadening of China's "core interest". *The New York Times*.
- Woody, C. (2015). The South China Sea is now a 'core interest' of Beijing — and that's a problem for its neighbors. *Business Insider*.
- Zakharov, J. (2017). One Belt, One Road, One Hegemony. *The Gate*.
- Zhou, L. (2017). What is the South China Sea code of conduct, and why does it matter? *South China Morning Post*.



APPENDICES

## APPENDIX A

### SPRATLY ISLANDS

The Spratly Islands are about 350 nautical miles away from the Spratly Islands, the nearest is about 500 nautical miles, 305 miles from Vung Tau and 250 nautical miles from Cam Ranh, 240 nautical miles from Phu Quoc. Binh Thuan (Phan Thiet) 270 nautical miles. The islands stretch from 60 2 'B, 028' B, from longitude 112 ° E, 115 ° D.4) in the sea area of about 160,000 to 180,000 km<sup>2</sup>. However, the area of islands, rocks, floating beach on the water surface is very little, only a total of 11 km<sup>2</sup> (nghienccuquocte, 2010). According to Thao, in 1988, there are 137 islands, rocks, yards (1.5), including 5 undergrounds in the continental shelf of Vietnam. Besides, according to French statistics in 1933, there are 9 main kinds including islands, rocks and adjacent yards. The Philippines lists 53 units of islands and islets in an area of 976 square miles. Based on the map drawn by the General Staff Office of the Socialist Republic of Vietnam in 1979, the Spratly Islands can be divided into nine main clusters from the north to the south.

#### 1. Song Tu Island Cluster

Song Tu Dong (Northeast Cay, Pei Zi Dao or Pei -Tzu Tao (China), Parola Isl, (Africa) and Song Tu Tay (Southwest Cay, Nan Zi Dao Nan) or Nan -Tzu Tao (China), Pugad Isl., (Phi) are two islands are twins located in the northernmost of the Spratly archipelago, across the mountain with Phan Rang (Ninh Thuan). It is because of this position that the Bac Hai team operates in this region since the end of the 17th century to derive from Binh Thuan province. There are medium-high trees on the island, many bird droppings can be processed into fertilizer. Around these two islands, to the east and south about five nautical miles, there are many reefs, seaweed grows much here. Song Tu Dong is slightly rounded, with an area of 20 acres, 900m long, 250m wide, 3m high, with many sandy beaches and coral reefs, lots of trees, some coconut. In 1963, the Republic of Vietnam built a sovereign beer. Philippines for occupation troops since 1968. Song Tu Tay is a crescent-shaped, smaller area of Song Tu Dong, 700m long, 300m wide, has fresh water, has a coconut

garden and many small trees. There is a radar tower in the period of the Republic of Vietnam. The Vietnam People's Army now holds the whole island. The Song Tu cluster also has Northern Stone (North Reef, Pei Jiao or Tung - Pei - Chiao). Da Nam (South Reef, Nan Jiao or Nai -lo-Chiao), the Gemini group also has the Ding Ba Shoal in the North (Trident Shoal, Yong Deng Ansha or Yung -Teng An -she (China), TatLong, Tulis Shoal (Africa)) and Nui Cau beach (Lys Shoal, Lesi Ansha (China), Bisugo Shoal (Africa).

## 2. Thi Tu Cluster

South of Song Tu cluster, including Thi Tu island and rocky beaches- Thi Tu Island (Thi Tu Island, Zhong Ye Dao or Chung-Yeh Tao (China), Pagasa Isl (phi). The island is located in the northeast of Spratly island because of the leveling with white sand and limestone. Island oval, 550m wide, 700m long, with freshwater wells. On the island, there are blind trees, eagle trees, many climbing plants. There are many seaweed and reefs around the island. Around the island there is much fish, sprawling, seaweed. North of Thi Tu Island includes Hoai An Stone (Xandi), Tri Le stone (Sandy Cay), Vinh Hao stone. - In the south of Thi Tu island is Xu Bi stone (Subi Reef, Zhu Bi Jiao, Zamora Reef (Africa), about 14 nautical miles from Thi Tu island.

## 3. Loai Ta Cluster

Loai Ta Cluster: In the eastern part of the Thi Tu cluster, there is the lower Loai Ta Island and Lacan Coral Reef or An Nhon Coral Reef (Lankan Cay, Yang asked Zhou, Panata) in the East. Round island, 300m in diameter, about 2m high, there are many big trees growing around the island. There are many coconut trees in the north of the island. Around the island, there are many white sand beaches that create poetic beauty, fresh water wells but very little water. The cluster also includes An Lao (Menzeis Reef, Mong zi Jiao (China), Lankandula Reef), and Bai Duong (Chan tan (China), An Nhon Bac (pebble stone) (Ku gui Jiao (China)), Bai Ta Bac yard (Laoita Reef, Shuan huan Shazhou), Bai Chai Ta Nam ( Laoita Bank, Shuan huan Shazhou). In the east, there are Coconut Island and Shark Reef.

## 4. Nam Yet Cluster

Nam Yet or Ti Gia islands: In the south of Loai Ta cluster, one ring of Tizart Bank is located, including Nam Yet island (NamYit Island, Hong xui dao), Son Ca



island (Sand Cay, Dungian shazhou), with Ban Than beach, Nui Thi rock (Petley Reef, Bolan Jiao), Stone En Land (Eldad Reef, An da jiao), Lac stone (Meiji Jiao), stone Gaven (Gaven Reef, Nan xun jiao), Big stone (Great Discovery Reef, Daxian jiao), Small stone (Small Discovery Reef, Xiaoxien jiao), Da Cay Stone (Western or Flora Temple Reef, Fulusi jiao), this cluster has the largest island of Spratly, Ba Binh and the highest is Nam Yet island.

Nam Yet Island: The second largest island after Ba Binh, it is the highest island of the archipelago, in the south of the cluster, shaped C-shaped, about 700m long, 250m high and 4.7m (15ft) wide (China Boundaries of Ying Cheng Kian (Illiois, 1984) This island recorded as high as 64 ft, Ocean Year Book 10 (Chicago, 1993) recorded even 20m tall. There are many types of trees on the island, most notably howling (higher than 3m), noni (higher than 3m), u (5m), tallest (about 12m) and many small tropical plants. Birds, screws here are very few, Water wells are not sweet, slightly ignorant. Around the island there are coral reefs and many reefs. (The north of the island has a wharf opposite the Ba Binh island occupied by Taiwan). Here, with fortified fortifications, placed the command of the entire Republic of Vietnam soldiers before 1975, the Vietnamese people's army took over.

Son Ca Island (Sand Cay, Dungian shazhou). The island is shaped like C, 391m long, 156m wide, 3m high (compared to the average water level). The island has trees such as howling, bang, silver and weeds, vines growing everywhere. Before 1975, there were Vietnamese Republic troops occupied and then taken over by the Vietnamese People's Army.

Ba Binh Island (Itu Aba Island, Taiping dao (China), Ligaw I (Philippines)). The largest island of the Spratly Islands, a height of about 4m (13ft) is slightly lower than Nam Yet; According to the Taiwanese yearbook 1993, it is 1360m long, 3.8m high, with an area of 489,600m<sup>2</sup> (nearly 50 hectares). Having the best living conditions, fertile land, cultivating cassava, vegetables, bananas. Surrounding by corals, the water surface is quite quiet, small land can access quite well. In the southwest of Nam Yet cluster, there is a cross stone (Fiery Cross). The cross stone is the highest place of a 25km long beach, 6 km wide, occupied by Chinese forces, turning this place into an important military base.

### 5. Sinh Ton Cluster

Sinh Ton island group in the South of Nam Yet Tigia archipelago. Including Sinh Ton island (Sin Cowe Island, Hing hong dao), Sinh Tac Dong stone, Binh Khe Stone (Endmund Reef), Ken Nan Stone (Mekennam Reef), Tu Nghia Stone (Hughes Reef), Da Bai Frame (Holiday Reef), Da Duc Hoa (Empire Reef), Da Ba Dau (Whitsun Reef, Weinan jiao), An Binh Stone (Ross Reef ), Da Bia (Bamfore) Stone Van Nguyen (Jones Reef), Phuc Stone (Higgen Reef ), Stone Rock Scattered, Stone Gau Ma (Johnson Reef, Zhang jiao (China), Mabine Reef (Africa) ), Stone Miss Lin (Conlins Reef, Cao lin jiao), Nghia Nghia (Lovele Reef), Da Tam Trung, Da Son Ha (Gent Reef). The three islands and a number of small floating islands form a coral ring named “Union Reef”.

### 6. Truong Sa island cluster

In the south and southwest of Sinh Ton cluster, stretching horizontally, there are 3 islands, rocks and yards: Da Lat (Ladd Reef, Riji jiao), Truong Sa Island ( Spratley Island, Nan wei ), West Stone Beach (West Reef (Sand patch), Xijiao jiao), East Stone (East Reef, Dong Jiao, Silangan Reef), Da Chau Vien (Cuarteron Reef, Hua yang Jiao), Da Toc Khan (Alison Reef, Liumen jiao), Nui Le Stone (Coznwalis S. Reef, Nan hua jiao), Da Tien Nu (Tennent Reef, Pigion, Tian lan jiao).The cluster of Truong Sa island lies on the East, adjacent to the rocks and rocks of the Vietnamese continental shelf such as Phuc Tan, Huyen Tran, Que Duong, Phuc Nguyen and Tu Chinh. The largest island is the Spratly island), the French called the storm island (Ile de Tempete), which is in the form of a balanced triangle that is slightly deflected to the North. The bottom is 350m long, the other two sides, each side is 450m long, the height in the north is 3.5m in the south is 2.1m compared to the water surface at low water level. Able to set up the runway. After 1975, Vietnam built an 800m long airport. There are no big trees, most of them are Nam Sam, with medicinal properties, different kinds of vegetables, sea lily. There are white seabirds, painted ca, and swallow birds. There is a fresh water well, quite deep, 3m high, sweet 9/10, and then it has a fishy smell. Before 1975, there were troops residing in the Republic of Vietnam, with a pier to the West Island. After taking over, the Vietnam People's

Army built a larger ship. There is also Truong Sa Dong Island (Central Reef, Zhong jiao, ), Phan Vinh Island (Pearson Reef, Bisheng jiao).

#### 7. An Bang Cluster

An Bang island cluster In the south of Spratley Island, there is an island and rocks: Da Ba Ke Stone (Bombay Castle, Pongpo bao jiao), Land (Orileana Shoal, Aonan Ansha). Bai Dinh (Kinhston, Shoal, Jin du ansha), Bai Vung May (John Pacht, Changpun, ansha), Fishing Boat Yard (Canada Reef Bai Barque) jiao, ), Ha Tan stone (Lzzie, Webr Li xei jiao), Tan Chau stone , Da Luc Giang (Hopp Reef, He jiao), Da Long Hai (Livok Reef, Nan Tang ), Half Moon Shoal (Banyeu jiao), Da Cong Do (Commodore Reef, Siling jiao), Da Ky Van (Marivels Reef, Nan two jiao, ), Bai Horse Rider (Asdasier Reef, Andu jiao), Da Lau (Swallow Reef, Dan Wan jiao ), Da Lo (Royal Charlotts Reef, Huan lu jiao), Da Louisa (Louisa Reef, Nan ton g jiao). The only island is An Bang Island (Ambonay Cay, Anbo shazou). An Bang Island is like an eastern bottom bag and the pocket of the bag is tied in the West. The island is relatively small and long, only 20 m wide compared to the water surface at low tide.

#### 8. Binh Nguyen cluster

The group of islands in the East includes Binh Nguyen Island (Flat Island), and Vinh Vien Island (Nashan Island, Ma Huan Dao). Each island covers about 15 acres. Vinh Vien Island is about 580m long, about 2m high, Binh Nguyen Island is lower and very narrow. In the South near Vinh Vien island, there are Da Hoa, Da Kim Son stone. Da Din, and Han Stone Son, Da Pet, Giro coral. To the south and beyond, Mischief Reef (Mischief Reef, Mei ji jiao), Bai Co May (2nd Thomas Shoal, Ren ai Reef), Ivory Stream (2nd Thomas Shoal, Xinyu jiao), Rock Xan (Boxall Reef, Pai she jiao), Bai Can Sa Bin (Sabina Shoal, Xian). In the east of Binh Nguyen island cluster is Vinh Vien island cluster with Hop Kim (Hopkins Reef, Huo xing jiao, ), Mo Mo yard (Hirane Shoal, An tang tan), Da Co (Baker Reef, Bei she jiao), Da Khuc Giac (Iroquois Reef, Feng lai jiao), Da Ba, Chicken Spring Chicken (North Pennsylvania Reef, Yang ming jiao). The beach of Can Nam, (Southern Bank, Nan Fang), Bai Can Nau (Brown Bank, Dong tan), Bai Can Rach Vang (Templer Bank, Zhong xi tan), Bai Can Rach, Carnatic Shoal (Hong shi), Bai Can Na Khoai (Lord Auckland Shoal, Elan ansha).

## APPENDIX B

### PARACEL ISLANDS

The Paracel Islands are in a range of about 15,000 km<sup>2</sup>, between the meridians about .

degrees East to 113 degrees East, about 95 nautical miles (1 nautical mile = 1,853 km), from 17°05' to 15°45' north latitude, about 90 nautical miles; The depth is more than 1000m, but between the islands the depth is usually less than 100m. About the distance to the mainland, Paracel archipelago is closer to the mainland of Vietnam than from Triton Island to Ba Ba Village (Cap Batangan: 15 latitude B, 108 degrees 6 'D). In Vietnam, the sea is 135 nautical miles away, while the reefs are only 123 nautical miles away, while the closest island to the coast of Hainan is 140 nautical miles (Hoang Sa Pattle: 16 latitude B .

degrees 6 ' E and Ling-Sui or Leing Soi: 18 B latitude, 110 E); It is much farther from the mainland of China, at least 235 nautical miles. There are 23 islands named, including 15 islands, 3 beaches, 3 rocks, 1 alcohol, 1 island. The islands are not high, especially Hon island (50 feet), the lowest island is Tri Ton (10 feet). The main islands consist of two groups: Crescent group in the Southwest and an Amphitrite group in the North East (nghiencuuquocte, 2010).

#### 1. Crescent Group

The Crescent Group is also called the Crescent Moon, according to Son Hong Duc, if viewed from the plane, this island group looks like a “croissant” European pie. There are 7 main islands and numerous stones:

Paracel Island (Pattle, Shanhu Dao). Although it is the main island, it is not the largest island, has the most important military position for the defense of Vietnam's coast, more than Woody island. The island is about 900m long, about 700m wide, about 0.3km<sup>2</sup> area (30ha) including the surrounding coral ring.

Huu Nhat Island (Robert, Canquan Dao or Cam Tuyen). The island named Pham Huu Nhat, a naval army, was dispatched to Paracel island by Emperor Minh Mang. He drew a map in 1836. South of Paracel island is 3 nautical miles away, round

oval, 800 m in diameter, 2000m in circumference, an area of about 0.32 km<sup>2</sup> (32 ha) with a ring of coral cover, between is a calm basin. Around the island of luxuriant trees, in the middle is not the very deep basin. The sea around the island has many seas, covering the entire sea. Because this island is uninhabited, the screw is often laid on the shore from March to August of the lunar calendar.

Duy Mong Island (Drummond, Jinqing Dao). The island in the southeast of Huu Nhat island, in the northeast, is Quang Hoa island. Due to the coral is formed, the beach is far away from the island, rising up. water surface about 4m. Island oval, an area of about 0.41km<sup>2</sup> (41ha) with no big trees, only small trees. The middle of the island is empty land, can be settled. The island has a small creek, which can use boats to go inland. The ship can anchor 200m from the island. There are many seabirds and the screw that live on the island.

Quang Hoa Island (Duncan, Chenhang Dao) is the largest island in Crescent Group (Crescent Group), together with the island is a yellow sandy beach (desert or sand gold). The coral ring spreads very far away from the island cover. Next to the big island are small islands connected by long sandy beaches. Some geological maps indicate Quang Hoa into two islands: Quang Hoa Dong and Quang Hoa Tay-Quang Hoa Dong has Noni plantations, a kind of medicinal plants commonly found in the South of Vietnam and phosphorite trees grow in the west of the island, many trees reach up to 5m high. The eastern part is bear with only vines close to the ground. The perimeter of the island is 2,700m, the area is about 0.48km<sup>2</sup> (48ha)-Quang Hoa Tay is a small island, near the circle, perimeter of 1000m only tape 1/10 Quang Hoa Dong Island, about 0.09km<sup>2</sup> (9ha), there are also trees like in Quang Hoa Dong island but only 3m tall.

Quang Anh Island (Money Island, Jinyin Dao, Kim Ngan (China)). The island formed by coral, rising 6m above the water, the highest place in Crescent Island group. Together with the island, the coast has many sharp reefs that are very dangerous, large ships cannot anchor. Large vessels have to anchor offshore; they want to enter small boats. Because the terrain was so dangerous and there was no fresh water on the island, there were few footprints on the island. The island named Pham Quang Anh, a captain of Hoang Sa was wrongly measured by hydrologist King

Gia Long in Truong Sa in 1815, currently has descendants and their churches in Cu Lao Re. The oval island is slightly rounded, the circumference is about 2,100m, the area is about 0.3km<sup>2</sup> (30ha). There are some big trees growing in the middle of the island up to 5m high. On the outside of the island, there are phosphorene trees and a few other plants like jackfruit but no fruit.

In addition to the above 5 islands, there are also 4 small islands such as Ba Ba island, Xa Cu island and stones like Ginseng (Antelope Reef), Convex stone (Discovery Reef), Stone Bird Nest (Vunladdaore Reef), and Bach Quy rock (Passu Keah Reef).

## 2. Amphitrite group

The Amphitrite island group consists of the largest and highest islands in the Paracel archipelago, which are also the largest atolls in the South China Sea. The largest island is Phu Lam Island.

Phu Lam Island (Woody Island, Yongxing Dao) is the largest island in the archipelago, 3,700m long, 2,800m wide. On the island, luxuriant trees, some coconut trees, should be called Phu Lam. Here, doves born from one century to another leave a layer of guano (black stool) of up to 50cm thick. This is the only island that can be seen from a distance. The island has a large jetty, airport, artillery checkpoint and many other military facilities. Other islands and beaches in Paracel archipelago belong to parallel 17, except Da Bac, there are many wrecked wrecks in this beach.

Cay island (Tree Island, Zhaoshudao). The French colonial authority set up a meteorological observation, data in the World Meteorological Organization list is 48859. There also has North Island, South Island (Nandao), Middle Island (Zhongdao) and Da Island (Rock Island) in the northwest of Phu Lam island, Western sand dunes (West Sand, Xi Shazhou) and South Sand (Nan Suzhou).

**APPENDIX C**  
**RELEVANT PROVISIONS FROM 1982 UNCLOS**

PART II  
TERRITORIAL SEA AND CONTIGUOUS ZONE  
SECTION 2. LIMITS OF THE TERRITORIAL SEA

Article 3

Breadth of the territorial sea

Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention.

PART V  
EXCLUSIVE ECONOMIC ZONE

Article 56

Rights, jurisdiction and duties of the coastal State in the exclusive economic zone

1. In the exclusive economic zone, the coastal State has:

(a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds;

(b) jurisdiction as provided for in the relevant provisions of this Convention with regard to:

(i) the establishment and use of artificial islands, installations and structures;

(ii) marine scientific research;

- (iii) the protection and preservation of the marine environment;
- (c) other rights and duties provided for in this Convention.

2. In exercising its rights and performing its duties under this Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other States and shall act in a manner compatible with the provisions of this Convention.

3. The rights set out in this article with respect to the seabed and subsoil shall be exercised in accordance with Part VI.

#### Article 57

##### Breadth of the exclusive economic zone

The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. (emphasis added)

#### PART VIII

##### REGIME OF ISLANDS

#### Article 121

##### Regime of islands

1. An island is a naturally formed area of land, surrounded by water, which is above water at high tide.

2. Except as provided for in paragraph 3, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory.

3. Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf. (emphasis added)



## APPENDIX D

### COC FRAMEWORK

#### FRAMEWORK OF A CODE OF CONDUCT IN THE SOUTH CHINA SEA

1. Preambular provisions
  - a. Bases of the COC
  - b. Inter-connection and interaction between DOC and COC
  - c. Importance and aspirations
2. General provisions
  - a. Objectives:
    - i. To establish a rules-based framework containing a set of norms to guide the conduct of parties and promote maritime cooperation in the South China Sea;
    - ii. To promote mutual trust, cooperation and confidence, prevent incidents, manage incidents should they occur, and create a favourable environment for the peaceful settlement of the disputes;
    - iii. To ensure maritime security and safety and freedom of navigation and overflight.
  - b. Principles
    - i. Not an instrument to settle territorial disputes or maritime delimitation issues;
    - ii. Commitment to the purposes and principles of the Charter of the United Nations, the 1982 United Nations Convention on the Law of the Sea (UNCLOS), the Treaty of Amity and Cooperation in Southeast Asia (TAC), the Five Principles of Peaceful Coexistence, and other universally recognized principles of international law;
    - iii. Commitment to full and effective implementation of the DOC;
    - iv. Respect for each other's independence, sovereignty and territorial integrity in accordance with international law, and the principle of non-interference in the internal affairs of other states.

- c. Basic undertakings
  - i. Duty to cooperate;
  - ii. Promotion of practical maritime cooperation;
  - iii. Self - restraint / Promotion of trust and confidence;
  - iv. Prevention of incidents;
    - Confidence building measures
    - Hotlines
  - v. Management of incidents
    - Hotlines
  - vi. Other undertakings, in accordance with international law, to fulfill the objectives and principles of the COC
- 3. Final Clauses
  - a. Encourage other countries to respect the principles contained in the COC;
  - b. Necessary mechanisms for monitoring of implementation;
  - c. Review of the COC;
  - d. Nature;
  - e. Entry into force.

**BIOGRAPHY**

Name	Ms. Luong Anh Linh
Date of Birth	July 17, 1995
Educational Attainment	2017-2018: Master of Arts in Asia Pacific Studies, Thammasat University, Thailand 2013-2017: Bachelor of Arts, International Studies, Department of International Studies, The University of foreign language studies (UFL), Danang University
Scholarship	2017: Thammasat University Scholarship Recipient

**Publications**

Luong Anh Linh (2017). The role of the Danang Museum in the Development of Cultural Tourism in Danang City. Thesis (in Vietnamese) and Working Paper (in English) of the requirement for the degree of Bachelor of Arts in International Studies, Department of International Studies, The University of foreign language studies, Danang University.