

Trouble in Hot Waters: Vietnam Fishing Disputes in the South China Sea

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ABSTRACT

This research paper examines the underexplored but critical dimension of fishing disputes in the South China Sea (SCS) from the Vietnamese perspective. Despite its ecological significance, intensive anthropogenic activities and territorial disputes pose imminent threats to the region. China's alleged encroachments further exacerbate tensions, thus impacting diplomatic relations and security, notably involving Vietnamese fishermen. The paper advocates for a conflict resolution approach and underscores Vietnam's commitment to international law, particularly the 1982 UNCLOS, highlighting the need for institutional cooperation and the necessity of a regional fishery agreement to prevent conflict and ensure sustainable resource exploitation. Vietnam's responsibility to protect the ecosystem aligns with the call for multilateral cooperation, making the preservation of the fragile SCS environment imperative. The paper calls for diplomatic efforts to comprehensively address the security of those employed in the fishery industry with solutions aimed at transforming challenges into opportunities for regional stability and sustainable resource use.

Keywords: South China Sea, Vietnam, Conflict management, Fishery disputes.

INTRODUCTION

Home to hundreds of islands, atolls, and coral reefs, plus abundant reserves of hydrocarbons, the South China Sea (SCS) is one of the busiest international seaways in the world, carrying an estimated one-third of global shipping. Vietnam and its neighboring countries have long tussled over territorial claims and maritime rights in the area, but recently tensions have been bubbling over as China has been accused of encroaching into coastal states' Exclusive Economic Zones (EEZ), and reclaiming land by dredging and constructing artificial islands from which its armed forces can now launch military operations. Non-traditional security issues in Southeast Asia, especially the incapacity to properly manage fisheries, have emerged as a major threat to peace and stability in the region. However, the question of fisheries is rarely discussed in the literature on the SCS disputes. Many studies have looked into sovereign jurisdiction-related issues or the lure of seabed resources, but very few have focused on analyzing fisheries security. Since China submitted its nine-dash line map to the UN Commission on the Limits of the Continental Shelf in 2009, the number of maritime incidents has increased, particularly involving regional fishermen, specifically Vietnamese fishermen. Some of these incidents have triggered diplomatic and security tensions between Vietnam and other SCS claimants. This article intends to raise awareness about the critical role of fisheries in Vietnam's economic security and to address the country's challenges concerning the South China Sea dispute. Besides examining the fishing disputes and clarifying how Vietnam's involvement may influence its strategic stance, the article also emphasizes the importance of bilateral-multilateral cooperation within the region to address challenges in this sector, avoiding escalating tensions for Vietnam and other claimants in the SCS and creating opportunities to resolve the ongoing disputes.

In addition to the introduction, the present article is organized as follows. The first section addresses the challenges that Vietnam has been facing, specifically focusing on overfishing and the safety concerns of Vietnamese fishermen operating in the disputed waters. The second section presents socioeconomic considerations relating to fisheries in Vietnam and then sets out the country's historical position towards the SCS and its efforts to find a diplomatic solution using international legislation in the third section. The fourth section introduces the conflict resolution approach as theoretical support for this article. The fifth section discusses past diplomatic engagements between Vietnam and other SCS claimants. Then, the concluding section briefly summarizes the major findings and contributes to the intricate debates on fisheries in the SCS. This article relies on secondary sources and employs documentary research as the main research method.

RISING CHALLENGES FOR VIETNAMESE FISHERMEN IN THE SCS

Fisheries and fish processing are important drivers of economic development in the SCS. Vietnam, China, Taiwan, Thailand, the Philippines, and Indonesia are among the world's leading seafood exporters, and the seafood processing industry is one of the most important economic drivers in these countries (Food and Agriculture Organization of the United Nations, 2022). However, the open-access nature of fisheries in the SCS has led to excessive fishing capacity, posing a significant risk of resource depletion due to overfishing. Identifying the root cause of fisheries instability in the SCS, China unilaterally announced an annual fishing ban in Vietnamese waters, specifically in parts of the Gulf of Tonkin and the Paracel Islands. China's enforcement of its seasonal fishing ban represents another way in which Beijing exercises maritime power in the region. Like the SCS disputes themselves, the fishing ban is a contrivance of both law and politics – at once seeming innocuous in the light of China's efforts to conserve and revive fish stocks, while simultaneously carrying with its undertones of grey-zone warfare (Pande, 2022). In recent years, Beijing has strengthened its ability to oversee all fishing activity in the area, in particular by giving its coastguard legal license to fire on and seize foreign vessels. Vietnam has repeatedly condemned the ban, calling it "a violation of Vietnam's sovereignty and territorial jurisdiction" under the 1982 United Nations Convention on the Law of the Sea (UNCLOS). Sadly, environmental protection and food security are cynically being used as tools in the SCS sovereignty disputes.

This situation of overfishing directly impacts fisheries security and hinders the potential development of the maritime economy. A major contributing factor to this problem is illegal, unreported, and unregulated Fishing (IUUF). In Vietnam, IUUF presents a serious challenge, especially after the European Commission (EC) issued a "yellow card" warning to Vietnam in October 2017 (European Commission, 2017). While IUUF may offer short-term gains for a minority of fishermen, it inflicts substantial economic losses on the fishing industry as a whole. According to 2019 data from Havoscope, these losses are estimated at US\$1.6 billion annually, making it the second-largest economic loss in this context (Lee & Viswanathan, 2020). Moreover, IUUF activities have severely affected Vietnam's trade with crucial markets, especially the EU, making it more challenging for Vietnamese seafood products to enter these markets due to the EC's yellow card warning (Nguyen, 2021).

Furthermore, the existence of IUUF with overlapping maritime claims inevitably results in fishery conflicts. The decision by coastal states to enforce strict laws and regulations in areas that they each consider to be under their sole jurisdiction has given rise to violent incidents involving the excessive use of force and the arrest of fishing crews from other states. The violent treatment of fishing boats in the SCS is not new, but the phenomenon of publicly seizing, ramming, or destroying each other's fishing boats has dramatically escalated in recent years. Vietnamese fishermen have, on more than one occasion, been the victims of violence. For example, in 2019, Hanoi constantly raised its concerns about Indonesia's action to destroy Vietnamese fishing vessels and arrest its citizens while they operated normally within Vietnam's waters, stating that it violated bilateral relations and international conventions, especially UNCLOS (Lynch, 2019). Several cases made international headlines in 2020, such as the sinking of a Vietnamese fishing boat by a Chinese maritime surveillance vessel near the Paracel Islands in April (Vu, 2020), and the arrest and beating of Vietnamese fishermen by Chinese authorities in June (Cao, 2020). As of September 2020, the Chinese Coast Guard reported that it had expelled 1,138 foreign fishing boats from the northern half of the SCS in the preceding four months, boarded and inspected dozens more, and detained 11 boats and 66 foreign crew members, "effectively safeguarding [our] fishery interests and maritime rights" (Bengali & Uyen, 2020). The actions of the parties involved posed a threat to the safety and legitimate interests of Vietnamese fishermen, opposing the widely recognized principle of treating them with compassion.

OVERVIEW OF VIETNAM'S FISHERIES INDUSTRY

The demand for fish and other seafood in Vietnam has consistently increased over time as a result of a rapid shift in eating habits. Contrary to the Vietnamese "traditional diet," with its low percentage of fats and proteins,

the increasingly affluent population is now consuming more fish products than in the past (Duong et al., 2022)¹. The Vietnamese aquafeed market is projected to experience significant growth in the coming years, driven by increasing demand for animal protein, the expansion of the aquaculture sector, and a growing trend towards functional and sustainable feeds (Hoa, 2024). To meet domestic demand and enhance the quality of outputs, the overall fisheries industry, from capture fisheries to aquaculture, has seen extensive development, gradually becoming a major contributor to the country's economy.

In 2016, the Vietnamese fishing industry contributed approximately 5 percent to the nation's Gross Domestic Product (GDP) and provided around 4.7 million formal jobs, which is about 5 percent of the total formal sector employment. This includes roughly 2 million direct jobs and 2.7 million indirect jobs across fisheries value chains. Approximately 8.5 million people, or 10 percent of the total population, derive their main income directly or indirectly from fisheries (World Bank, 2021). Despite the challenges posed by COVID-19, the country's fishery businesses demonstrated positive growth and maintained high competitiveness. For instance, total seafood production in 2020 reached 8.4 million tons, a 1.8 percent increase from 2019, with 3.85 million tons caught, up 2.1 percent. In 2021, Vietnam produced 4.75 million tons of seafood, marking a 4.17 percent year-on-year increase. That same year, seafood export turnover hit a new record high of US\$8.9 billion, a 6 percent increase. Vietnam exports seafood to 164 markets, including the United States, Japan, China, the European Union, Russia, and South Korea (Research and Markets, 2022). However, since the European Commission issued a "yellow card" to Vietnam's seafood industry in 2017 over concerns related to illegal, unreported, and unregulated (IUU) fishing, the value of seafood exports to the EU market has declined. Once the second-largest destination for Vietnamese seafood, the EU has now fallen to fifth place (Linh & Bich, 2024). Despite these setbacks, the industry continues to strive for sustainable practices and market diversification, achieving a milestone of US\$11 billion in seafood exports in 2022 (Vietnam Investment Review, 2023).

In addition to its crucial contribution to the national economy, the fishing industry is vital to the livelihoods of millions of people living in coastal areas who depend on it for their employment and revenue. The fisheries sector in Vietnam is diverse and segmented: large marine vessels with powerful engines fish offshore waters while small boats catch small fish near the shore. Actions have been taken to reduce the pressure on coastal fisheries in response to overfishing and pollution, including the Vietnamese government's encouragement for fishermen to expand their activities into offshore areas within the country's EEZ. These measures have been aimed at reducing the number of fishing vessels operating in coastal areas and encouraging the development of larger fishing vessels to fish in offshore areas (Nguyen et al., 2019). Nevertheless, due to limitations in management and control, the regulation of offshore fishing activities has yet to be fully effective or coordinated. As a result, some fishermen have ventured into the economic zones of neighboring countries as far as Indonesian waters, leading to illegal and uncontrolled fishing practices. Noticeably, fishing vessels from China, Malaysia, Vietnam, Thailand, and the Philippines frequently entered Indonesian waters illegally around the end of 2021. They utilized various methods to gain access, allowing their crews to exploit marine resources within Indonesian water (Vinata & Kumala, 2023). This situation highlights that, despite the government's efforts, the shortcomings in implementing management measures have led to unintended consequences.

THE POSITION OF VIETNAM

After achieving important socioeconomic changes through the Doi Moi reforms (such as the restoration of the national economy with evolutions in science and technology), Vietnam has continued to place more emphasis on developing various economic zones to promote comprehensive economic development, instead of only concentrating on key industries. Following the milestone of the 7th National Party Congress's proposals on developing coastal economic zones, at the 12th Party Central Committee in 2018, General Secretary Nguyen Phu Trong signed Resolution No. 36-NQ/TW, outlining a strategy for Vietnam's sustainable marine economy development by 2030, with a vision toward 2045. The viewpoints of the Resolutions concentrate on fostering a unified national ideology and awareness regarding the sea's pivotal role in Vietnam's development and defense, emphasizing its significance as a fundamental aspect of the nation's sovereignty, a vibrant arena for international exchanges, and an integral component of both national construction and defense efforts. It advocates for Vietnam's transformation into a prosperous maritime nation, highlighting the imperative of sustainable marine economy development intertwined with safeguarding national defense, security, independence, sovereignty, and territorial integrity. Moreover, following constitutional principles, it underscores the importance of nurturing a sea-friendly society by upholding historical maritime traditions and cultural identity while ensuring equitable participation, benefits, and responsibilities in marine economy development. Furthermore, it emphasizes the need

¹ The traditional Vietnamese dietary pattern is considered to be low in fat, including small amounts of meat and fish, and rich in vegetables, high in salt and low in dairy (Nguyen & Trevisan, 2020).

for integrated and unified management of natural resources and marine environmental protection, including conservation of biodiversity and ecosystems, and proactive responses to climate change and sea-level rise through investment and cooperation at regional and global levels. Additionally, it stresses the pivotal role of advanced science, technology, and human resources in propelling marine research, training, and international collaboration, prioritizing state investment, and mobilizing domestic and foreign resources to drive sustainable marine development, while upholding principles of equality, mutual benefit, and national sovereignty (Vietnam Government Portal, 2022).

The Resolution recognizes the interconnectedness of economic, social, and environmental factors focusing on the balance between economic development and environmental protection, which makes it similar to the concept of the Blue Economy. In the 15th International South China Sea Conference “Luminate the Grey, Light up the Green”, co-sponsored by the Diplomatic Academy of Vietnam, some experts suggest that this is a direction to balance economic growth and sustainable management of the seas and oceans, with the nation playing a crucial role and the navy contributing to ensuring the sustainable use of the seas (The East Sea Studies, 2023). While the United Nations Development Programme (UNDP) and the Vietnam Administration of Seas and Islands (2022) have provided the first official definition of the green economy in Vietnam as “the alignment of the marine economy with the improvement of people’s livelihood and social equity, while minimizing environmental risks and ecological scarcity”, there are no official policies or documents from the country that have established such a definition (United Nations Development Programme, 2022). Nevertheless, over the past decade, there has been an evident integration of sustainable development principles into the maritime economy, thereby capturing the essence of the green economy, as exemplified by Resolution No. 26/NQ-CP implementing Resolution No. 36-NQ/TW or the Socio-Economic Development Strategy for 2021–2030, which underscores the importance of promoting marine economy development (Thanh, 2023).

With Vietnam's clear objectives of sustainable marine economic development, it seems that Hanoi has been concerned about moving towards cooperation on fishing disputes. Embracing a vision of shared prosperity and environmental stewardship, Vietnam is keen on collaborating with other claimant states in the South China Sea. This collaborative approach aims to conserve and sustainably exploit the region's marine resources jointly. By fostering partnerships, Vietnam seeks to transform areas of contention into platforms for mutual benefit, aligning with its broader goals of sustainable development and international cooperation.

Besides, the gestures of respecting and complying with the UNCLOS considerably support the negotiation process in overcoming obstacles in the complicated context of the SCS. Vietnam emphasized its desire to see appropriate actions from other countries in upholding the fundamentals of the maintenance of maritime law, respecting diplomatic and legal procedures, and refraining from any behavior that would weaken the implications of the Convention (Viet Nam News, 2022). The SCS maritime claims should be based on the Convention's provisions, not impose excessive claims, and not conflict with the obligations that have heretofore been agreed upon. The parties involved should discuss and implement mechanisms to resolve differences and conflicts where they pertain to the interpretation and application of the Convention in conformity with international law, including the 1982 UNCLOS, by using a diplomatic approach. Although the disputes have not yet been settled, claimants must acknowledge the Declaration on the Conduct of Parties in the South China Sea (DOC), exercise restraint, refrain from taking unilateral actions that could worsen the situation and escalate the conflicts, and engage in constructive negotiation to come to a framework agreement that complies with the 1982 UNCLOS (MOFA, 2021).

MOVING FROM FISHING DISPUTES TO COOPERATION

Endangered fisheries pose a serious dilemma as Vietnam and other SCS claimants seek to maintain or restore fish stocks to sustainable levels without incurring economic losses or conceding ground on sovereignty rights. The frequent involvement of fishermen in incidents at sea further undermines incentives for providing adequate international governance. Additionally, according to the IUU Fishing Risk Index, the situation of IUU fishing has become increasingly severe, with violations showing no signs of decreasing in recent years (Macfadyen & Hosch, 2023), primarily due to (1) depletion of marine resources and overlapping fishing grounds, (2) insufficient law enforcement and ambiguous responsibilities, and (3) fishers' limited awareness (To & Pomeroy, 2023). The stakes are high for all the countries bordering the SCS to transcend unilateral interests and pursue a consensual approach dedicated to the preservation of fishing resources and regional stability.

Conflict occurs when the activity of one group or individual interferes, either in reality or in perception, with the activities of another group or individual to such an extent that one party seeks dominance over the other (Khondker & Hossain, 2005). Conflict is relatively common in all fishing communities where the reliance upon fishing as a source of food, employment, and revenue is crucial. Fishery conflicts are generally viewed in the context of resource allocation or access rights. However, they are often rooted in more complex institutional

issues such as cultural differences and struggles over political power (Bennett et al., 2001). It is important to note that not all conflicts result in violence. Fishery conflicts can be part of an iterative process of institutional change and evolution that, in the end, may deliver a positive outcome (Salayo et al., 2006).

The current state of fisheries in the SCS calls for the early initiation and conclusion of an appropriate fishery arrangement between the different parties involved. The purpose of such an arrangement is twofold: one being the development of sustainable fisheries; and the other, the prevention of tensions and frictions. Conflict resolution theorists argue that opposing governments will only engage in cooperation where and when there are mutual interests and gains to be derived (Caballero-Anthony & Cook, 2013). In the case of the SCS, the various parties involved could benefit from the improvements mentioned above.

Despite some claimants' assessments based, on actual consumption needs, that the hydrocarbon reserves in the South China Sea are modest, these reserves are quite significant, according to the U.S. Energy Information Agency, which estimated that the SCS contains approximately 190 trillion cubic feet of natural gas and 11 billion barrels of oil in proven and probable reserves, with the majority located along the margins of the seabed rather than beneath the disputed islets and reefs (Ramkumar et al., 2020; U.S. Energy Information Administration, 2024). Fish and seafood are certainly more tangible objects for negotiation than ownership claims over seabed energy resources. Serving as a confidence-building measure, a fishery arrangement is more realistic and feasible than a joint petroleum development scheme.

Several reasons support this argument. First, fishing activities are currently taking place, whereas the exploration and extraction of local hydrocarbon resources will need to commence largely from the beginning. It is easier to regulate existing activities than to impose order and procedures on future activities. Second, the implementation of a joint petroleum development scheme is a time-consuming process and requires considerable financial investments (Nguyen, 2012). Third, fish and seafood do not possess the same strategic dimension as energy resources and therefore are not paralyzed by deep diplomatic logjams. Theoretical and empirical evidence shows that effective cooperation on the issues of relatively low politics, such as fishery cooperation, can not only generate the trust needed for cooperation on matters of high politics, such as territorial disputes but can also develop itself into an element of common ground between states, rather than an activity that necessarily leads to competition and confrontation (Zhang, 2018; Franckx, 2012; Salayo et al., 2006).

RESOLUTIONS TO ADDRESS FISHERY DISPUTES IN THE SCS

The SCS is no stranger to fishery cooperation. In fact, various forms of engagement have been undertaken by SCS countries, despite their tense relationships. At a broader regional level, most of them are members of the Asia-Pacific Fishery Commission (APFIC), which was founded by the Food and Agriculture Organization of the United Nations in 1948, making it one of the earliest established regional fishery bodies. Committed to acting as a consultative forum, the APFIC provides member states with the opportunity to review and discuss the challenges facing the region's fisheries sector and helps them decide on the most appropriate actions to take (Food and Agriculture Organization of the United Nations, 2021). In 2011, the Asia-Pacific Economic Cooperation formed APEC's Oceans and Fisheries Working Group (OFWG) with the mission of promoting the sustainable use of fisheries, aquaculture, and marine ecosystem resources and related goods and services. In the past few years, OFWG members have been engaged in the implementation of working plans such as the 2019 APEC Roadmap on Marine Debris Management and the 2019 Roadmap on Combating Illegal Fishing (Asia-Pacific Economic Cooperation, 2023). Member states participate on the basis of open dialogue and respect for the views of all participants.

At the ASEAN level, the Southeast Asian Fisheries Development Center (SEAFDEC) is an autonomous inter-governmental body established in 1967 consisting of 10 ASEAN member states and Japan. The SEAFDEC is mandated to develop and manage the fisheries potential of the region by rational utilization of resources for providing food security and safety and alleviating poverty through the transfer of new technologies, research, and information dissemination activities. It is a technical organization with no management authority (Food and Agriculture Organization of the United Nations, 2023). The importance of environmental and marine protection is also reflected in various ASEAN documents including the Jakarta Resolution on Sustainable Development, the Kuala Lumpur Accord on Environment and Development, the Singapore Resolution on Environment and Development, the Bandar Seri Begawan Resolution on Environment and Development, and the Jakarta Declaration on Environment and Development. These agreements represent a clear commitment towards sustainable development, but they are soft laws, and not legally binding.

While China is not a member of ASEAN, it has long historical ties with Southeast Asian nations. In 2002, both parties signed the DOC in the SCS, which was the first time that Beijing had accepted a declaration on this issue. All the countries concerned pledged to conclude a binding Code of Conduct (COC), committing each party to ensure freedom of navigation and overflight and to refrain from "inhabiting the presently uninhabited islands,

reefs, shoals, cays, and other features" in the seaway (Strangio, 2023). According to the "A Closer Look at the ASEAN-China Single Draft South China Sea Code of Conduct", the SDNT was supposed to go through three readings. The first reading occurred in 2019, while the second was completed in 2023. The SDNT contains an extensive section on maritime cooperation, and the individual positions of each country are set out. Vietnam has suggested that disputes in the South China Sea be resolved through "friendly negotiations, inquiry, mediation, conciliation, and other means agreed upon by the disputing Contracting Parties" and proposed that the implementation of dispute settlement mechanisms outlined in the Treaty of Amity and Cooperation in Southeast Asia in case these methods are unsuccessful. Moreover, the country emphasizes that nothing in the COC should impede the peaceful settlement of disputes as specified in Article 33(1) of the United Nations Charter, which allows for various peaceful means, including arbitration, judicial settlement, and resort to regional agencies or arrangements, as decided by the parties involved. In terms of monitoring the implementation of these resolutions in the SDNT, Vietnam proposes the creation of a Commission led by foreign ministers or their representatives. This option aims for a higher-level oversight mechanism, potentially providing more authoritative and decisive management of the implementation process. Vietnam's stance on monitoring the implementation reflects a preference for robust and high-level oversight to ensure adherence to the agreed-upon measures. This comprehensive approach underlines Hanoi's commitment to maintaining peace and stability in the region through cooperation and legal mechanisms (Thayer, 2018).

Besides, we have Taiwan as one of the significant players in the SCS given its active fishing interests and strategic position; however, such participation remains constrained by its unique international status and the One China policy. Despite its active bilateral engagements and unilateral efforts to manage fisheries and maritime security, Taiwan's unique international status significantly hampers its participation in multilateral organizations. For instance, Taiwan's absence from the United Nations and its specialized agencies restricts its involvement in broader international maritime frameworks. In addition, Taiwan's exclusion from regional forums further limits its capacity to fully engage in collective regional initiatives. This limitation on access to both the contributions and advantages derived from extensive multilateral cooperation regarding maritime matters has an impact on the overall efficiency of regional management and collaboration. Furthermore, the One China policy, which is widely recognized and influences diplomatic relations, presents additional barriers to Taiwan's involvement in formal regional frameworks.

To cope with the lack of meaningful progress, the region's coastal states have favored a different type of diplomatic approach, one that focuses on bilateral arrangements. In the past few years, it is the increased use of the Memoranda of Understanding (MOU) that has come to define the nature of bilateral cooperation in the region. An MOU clarifies how two parties will work together and lays out each one's expectations and responsibilities. The objective is to achieve a mutual understanding of the partnership to move forward toward an enforceable contract that is amenable to all parties. In 2012, Indonesia and Malaysia signed an MOU laying out common guidelines for the treatment of fishermen by the maritime law enforcement agencies of the two countries. A year later, it was with Beijing that Jakarta signed an MOU aimed at managing the sustainability of their marine and fishery partnership. In 2021, Indonesia and China have established a second Memorandum of Understanding (MOU) aimed at enhancing fishery collaboration between the Chinese province of Fujian and Salim Group, which is the largest conglomerate in Indonesia. Several projects are being finalized at the time of writing, including an MOU between Indonesia and the Philippines touching on combating illegal fishing, sustainable aquaculture development, and coastal management and development.

Vietnam, too, has signed a fair number of MOUs. In 2021, the Vietnam Coast Guard and the Indonesia Maritime Security Agency signed an MOU on cooperation in strengthening maritime security and safety between the two forces. The MOU sets forth temporary measures to delimit the EEZ between the two countries (Vietnam News Agency, 2021). Vietnam and Malaysia also reached an agreement to sign an MOU that would address the encroachment of Vietnamese fishermen into Malaysian waters. The agreement would allow both countries to cooperate to tackle illegal, unreported, and unregulated fishing through information sharing and inter-agency operations (Lin, 2023). Finally, in January 2024, Vietnam and the Philippines sealed a deal involving two MOUs focused on "incident prevention in the South China Sea" and "maritime cooperation" among their coastguards that aims to establish a comprehensive partnership between the two Coast Guards as well as work on preventing incidents in the South China Sea, (Vu, 2024).

Furthermore, collaborative efforts aimed at resolving the South China Sea (SCS) issue between Vietnam and China have seen notable progress. In 2011, Vietnam and China signed an Agreement on fundamental principles to settle maritime disputes between the two countries in which both parties must "strictly adhere to the principles and spirit" of the DOC during the negotiation. Over the years, the commitment to avoid complicating or escalating disputes has been reiterated in joint statements by the leaders of both countries (Tran, 2017). In addition, progress has been made through the negotiations of the Working Group on the sea area beyond the mouth of the Gulf of Tonkin and the Working Group for consultation on cooperation for mutual development

at sea between Vietnam and China. According to VietnamPlus in 2023, recent negotiations between Vietnam and China have emphasized several key points regarding cooperation in addressing disputes in the SCS and the advancement of joint working groups between the two countries. The negotiations highlighted cooperation for mutual development at sea, with both sides striving for substantive progress in promoting joint efforts to enhance maritime cooperation and maintain peace and stability in the South China Sea region. Vietnam and China also agreed to make concerted efforts to promote cooperation at sea, including the negotiation and signing of a new agreement on fisheries cooperation in the Gulf of Tonkin, reflecting a proactive approach toward addressing shared challenges in the maritime domain (Vietnam News Agency, 2023).

Bilateralism and multilateralism are not at odds with each other but rather complement and reinforce each other. The participation of Vietnam and other SCS claimants in bilateral and multilateral engagements shows a desire to tackle those problems. However, empirical evidence suggests that such engagements have failed to defuse security tensions or lead to the adoption of conservation measures. Given the consensus-based decision-making process in Southeast Asia (particularly the ASEAN way of diplomacy), regional arrangements tend to be negotiated, implemented, and revised according to the rule of unanimous consent. This consensual approach leads “each negotiating body to search for the lowest common denominator” and complicates negotiations when a single state can resist the development of a common position and demand concessions for the price of achieving consensus (Zhang 2018; Sovacool, 2009). In addition to the consensual approach being time-consuming, the lack of enforcement measures and arbitration mechanisms further weakens the effectiveness of whatever paltry gains are negotiated. Unfortunately, bilateral agreements do not constitute efficient tools to rectify those shortcomings, as local MOUs fail to contain legally binding obligations.

The absence of a multilateral agreement to govern fisheries issues is considered one of the key contributors to increasing fishing conflicts and the depletion of fish stocks in the SCS (Zhang, 2018). Vietnam has demonstrated that it is ready to work with countries in the region and the international community to improve the proper management of fisheries resources. Hanoi advocates functional cooperation in the shared use of marine resources, the protection of the marine environment, and the development of joint marine scientific studies. Vietnam and other claimants could benefit from the insights provided by what is considered the most effective regional governance model for fisheries management, the EU Common Fisheries Policy (CFP). Through the CFP, EU member states have enacted an elaborate network of innovative accords and legal instruments to ensure fair competition among EU fishing fleets. The CFP establishes common rules for access to fishing grounds, licensing requirements, and fishing vessel monitoring. This helps maintain market stability and prevents unfair practices that could harm smaller or less powerful fishing communities. While the CFP has been criticized for its top-down orientation and unnecessary administrative procedures, it has had a positive impact on the reduction of fishery conflicts among member states. Between 2013 and 2016, the EU recorded 29 cases of fishing disputes. By comparison, 169 cases were recorded on the Asian continent during that period (Spijkers, 2020).

In accordance with Article 2 of the SDNT, especially Section 2. c, which emphasizes the obligation to cooperate and strengthen practical maritime cooperation, Vietnam's proposed fisheries agreement should integrate aspects of collaboration similar to those proposed in the SDNT and by other countries. For instance, the Philippines' suggestion to include agreements annexed to the Code for defining cooperative activities, alongside China's recommendations for joint initiatives in fish restocking and conservation, can serve as frameworks for establishing a comprehensive multilateral fisheries management system. Such an agreement would tackle existing conflicts and resource depletion issues while promoting a more stable and sustainable fisheries regime in the South China Sea (SCS). The urgency for a well-structured and enforceable regional arrangement cannot be overstated, as it is crucial to prevent further escalation and potential conflicts. The time has come for SCS countries to adopt a more robust fishery arrangement to regulate current activities. The failure to do so could result in a full-fledged crisis or even an armed conflict in the region.

CONCLUSION

The SCS is home to some of the richest and most diverse fisheries in the world. Several countries bordering the SCS rank among the top seafood-producing and consuming countries in the world in terms of both marine catch and aquaculture industry, with millions of coastal people relying on these waters for their food and livelihoods. However, intensive anthropogenic activities have had dramatically negative impacts on the marine ecosystem. Rising sea temperatures and sea levels due to climate change threaten to render the damage permanent. Regrettably, the heightened stress surrounding territorial sovereignty disputes, coupled with elevated levels of nationalist sentiment, has compromised the capacity of SCS claimants to collaborate in desecuritizing fishery matters within the region.

Vietnam's main challenge is to protect its national sovereignty and strategic interests. Hanoi pursues a long-term solution to the fishing disputes through peaceful means in accordance with international law, especially the

1982 UNCLOS. Article 123 of UNCLOS provides that countries surrounding semi-enclosed sea areas such as the SCS have an obligation to cooperate to protect the marine environment management of fish resources. Article 192 of UNCLOS sets out a common obligation for countries to “protect and preserve the marine environment” (Nguyen, 2021). Proponents of the conflict resolution approach consider that fishery disputes need not automatically lead to tensions in international relations. Instead, they believe that fishing disputes and competition over limited fishery resources have a great probability of becoming a catalyst for much-needed cooperation in the realms of security, economic growth, and the environment. There are genuine doubts concerning the feasibility of regulating fishing activities in the SCS. The sheer size of the sea, the magnitude of the fishing industries, and the unresolved boundary disputes pose severe challenges to the implementation of any restrictive and punitive measures. However, advancing institutional cooperation among the parties involved is not a choice but a necessity. UNCLOS also indicates that if disputes remain unresolved, the parties should take “measures of a practical nature”, which means that parties should collaborate without weakening the basis of their legal claims (United Nations, 1982). The establishment of formal controls should be recognized as a security, socioeconomic, and ecological imperative. Less polemical and politically sensitive than the cooperative exploration for hydrocarbon resources, it is in the interests of the countries bordering the SCS to reach a regional fishery agreement that will prevent disputes from boiling over into violent confrontations, and that will ensure sustainable use and exploitation into the future. Promoting multilateral cooperation among claimants not only addresses the urgent issue of the fishery sector but also represents a distinctive approach to de-escalating political tensions among parties and uncovering new solutions to resolve existing disputes. By prioritizing dispute resolution and joint development cooperation, the SCS claimants could transform efforts to address fisheries security challenges into a model for regional resilience and peace.

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