

Non-traditional Security Complex in the South China Sea: Vietnam's Perspectives and Policy Implications

Nghiem Tuan Hung* • Nguyen Xuan Cuong**

Abstract The South China Sea (SCS) is one of the busiest maritime areas in the world. In the SCS, there are several outstanding non-traditional security issues. After reviewing perspectives of Vietnam on non-traditional security issues, the article focuses on newly emerging issues, such as maritime security, freedom of navigation, marine environment, and resources exploitation in the SCS. The article argues that China's main factor making the situation more complicated is its territorial and resource ambitions. However, when it comes to the SCS issue, it is about differences, disputes, and complicated developments and about cooperation. Although the benefits are diverse, efforts to build confidence and promote cooperation between countries should be recognized. Among the disputing parties, Vietnam always seeks to resolve the issues as soon as possible with the most actively proposed idea called the cooperation model for mutual development.

Keywords: South China Sea, Vietnam, China, non-traditional security

1. Introduction

The South China Sea (SCS) is either one of the busiest maritime areas in the world or "an important nexus for regional and global economic activity" (Panda, 2017). Oil and commercial goods from the Middle East and Southeast Asia to Japan, South Korea, and China are transported through SCS, where there are many important straits such as the Strait of Malacca, Sunda and Lombok, and Makassar. On the military side, SCS is also an essential route for the movement of US military forces from the Western Pacific to the Indian Ocean and the Gulf. In addition, freedom of navigation, which is considered another important principle of international relations, is the principle of conduct in the world's seas. This principle is sometimes briefly referred to as freedom of navigation within the seas. Vietnam is located on the west coast of the SCS. For Vietnam, the SCS

Nghiem Tuan Hung*, Nguyen Xuan Cuong** (✉)

* PhD, Research Fellow at the Institute of World Economics and Politics, Vietnam Academy of Social Sciences, Vietnam

E-mail: hungnt.iwep@vass.gov.vn, tuanhung3110@gmail.com

** PhD, Director-General of the Institute for Chinese Studies, Vietnam Academy of Social Sciences, Vietnam

E-mail: xuancuong@vnics.org.vn

plays a vital role in the process of national construction and defense in history, present and future. The SCS has created a favorable strategic position for Vietnam. The SCS provides a vital source of aquatic resources, which contribute to making the fisheries sector one of the country's key economic sectors. The SCS is a source of seafood and a gateway for Vietnam to develop tourism, attract international visitors, and is a place for exchange and integration between many cultures. Oil and gas are the two largest resources found under the Vietnamese continental shelf. Up to now, many sedimentary basins have been identified and exploited with significant oil and gas reserves. Given the importance of the SCS to Vietnam's socio-economic development and security, any move in the SCS is carefully considered by Vietnam.

While traditional security issues have appeared and existed for a long time in the SCS, non-traditional security issues in the SCS have also become increasingly harsh. There are two groups of non-traditional security issues in the SCS. The first one contains issues that originated from the relationships between social communities, including state actors and non-state actors. The second one covers issues deriving from the interactions between social communities and the natural world. The paper analyzes the complexity of non-traditional security in the SCS, thereby drawing some policy implications for Vietnam in the coming time.

2. Non-traditional security in Vietnam's formal documents and academic perspectives

2.1 Non-traditional security in Vietnam's strategic documents

According to Vietnam's legal perspective, non-traditional security is an integral part of national security and defense; thus, ensuring national security is a strategic task in any time period. Non-traditional security threats have challenged Vietnam's national independence, sustainable development, socio-political stability, national independence, sovereignty, and national security.

The Ministry of Defence of Vietnam (2004, p. 2) affirms:

“Unresolved issues related to border, territorial, maritime and land disputes as well as other non-traditional security issues, such as drug trafficking, weapons trafficking, piracy, transnational organized crime, terrorism, illegal immigration and migration, ecological degradation, etc., are also Vietnam's security concerns.”

The Ministry of Defence of Vietnam (2009) emphasized that non-traditional security issues such as the illegal trade and transportation of weapons, drugs, piracy, organized crime, terrorism, illegal immigration and migration, environmental degradation, climate change, epidemics, etc. were also frequent security concerns of Vietnam. In addition to the potential regional security risks of tension and conflict, the Ministry of Defence (2009) stated that many natural disasters heavily impacted southeast Asia; although terrorism and piracy had been curbed, there were still

potential threats to regional security; thus, those threats were common concern of Southeast Asian nations and many other countries; besides, climate change, natural disasters, epidemics, transnational crime were increasingly affecting the security of nations in the region. In 2019 Vietnam National Defence, the Ministry of National Defence (2019, pp. 11) once again reaffirmed the list of non-traditional security issues “as seen in cyberspace, terrorism, energy, food, climate change, natural disasters, epidemics, drug trafficking, people smuggling, illegal migration, transnational crime, and maritime piracy.”

In the 11th National Congress of the Communist Party of Vietnam, the Party (2011, pp. 182-183) considered that non-traditional security threats and high-tech crime continued to increase; global issues such as financial security, energy security, food security, climate change, natural disasters, and epidemics would continue developing. The Party also listed a number of non-traditional security issues, namely religious conflict, ethnical issue, separatism, local wars, political riots, interference, subversion, terrorism, high-tech crime in the fields of finance and monetary, electronic telecommunications, biology, environment, and so on. According to the Party, those issues would continuously intensify in the coming years. At the 12th National Congress, the Communist Party of Vietnam (2016, pp. 33-34) asserted its consistent perception and perspective on national security strategies in general, including traditional and non-traditional security. The Party illustrated that Vietnam must strengthen national defence and security to firmly defend the fatherland and keep the environment of peace and stability for the country's development. Otherwise, Vietnam must be well-prepared to respond to traditional and non-traditional security threats. Lately, the Communist Party of Vietnam (2021) illustrated that:

“Non-traditional security issues are increasingly diverse, complex, and impactful; Increased natural disasters, epidemics and climate change, and the use of transboundary water resources, especially the Mekong River's water source, poses many unprecedented challenges for sustainable development.”

2.2 Non-traditional security in the studies of the Vietnamese research community

Besides the formal perception of the ruling party and Ministry of National Defence, the Vietnamese research community also introduced many notions of non-traditional security. Le Van Cuong (2008) argues that there were 17 non-traditional security issues, including extreme nationalism, terrorism, financial security, energy security, science, and technology security, ecological environment security, drug trafficking, infectious disease, organized crime, transnational crime, money laundering, cyber attacks, illegal immigrants, population explosion, depletion of water resources, piracy, and the underground economy. Another author named Luan Thuy Duong (2010) divided the non-traditional security that Vietnam needs to address into seven forms, namely environmental security, energy security, economic security, human security, maritime

security, natural disasters, and epidemics. According to Pham Gia Khiem (2010), non-traditional security issues must include climate change, energy security, natural disasters, and epidemics, etc. Those issues are becoming a tough challenge to the security of Vietnam today. According to Tran Thi Ha (2017), in recent years, Southeast Asia has faced serious challenges originating from non-traditional security issues, such as climate change, pirates, and terrorism, etc. Those issues strongly affect regional countries in every aspect of the economy, security, politics, culture, and society. Besides, Southeast Asian nations develop a mechanism to deal with those new challenges.

Other authors focus on specific issues. For example, Dam Huy Hoang (2018) paid attention to the environmental pollution in the SCS. The issue of environmental pollution in the SCS has caused deep concern for either coastal countries or other countries using transport routes across the SCS. According to Dam Huy Hoang, ASEAN has launched cooperative efforts to protect the environment, including cooperation to protect the waters from being polluted by human activities since 2003, and ASEAN also works with many partners to look for solutions. However, up to now, due to many problems, cooperation in the control of discharge in the SCS among the concerned countries is still limited. Meanwhile, Vo Xuan Vinh (2018) considered the issue of piracy as a top concern. The author argued that as a region characterized by archipelago and island terrain, the world's most important sea route in terms of trade in goods, the waters in Southeast Asia are the birthplace and the ideal environment for piracy when maritime control capacity of regional countries is limited. During the post-Cold War period, when the world's commercial activity became more bustling due to regionalization and globalization, piracy developed rapidly and turned itself into a primary security concern of the region. Due to these challenges, Southeast Asia's anti-piracy cooperation mechanisms have been formed at various levels.

In short, the Party and the State of Vietnam revealed its views on non-traditional security issues through the documents of the Party Congress and the Vietnam White Book of National Defence. Additionally, Vietnamese scholars have also shown their interest in non-traditional security. In general, Vietnam has identified non-traditional security as a complex and diverse challenge that needs to be addressed to ensure national security, independence, and territorial integrity. From the studies of Vietnamese authors on the non-traditional security issues which the world has to face, those issues can be classified into two groups:

The first group includes issues associated with the relationship between the basic human social communities. Those are the relationships between groups of countries of which political and economic interests are the same or relatively similar. At the heart of the group, it is the fierce confrontation between major powers. While the likelihood of major wars, or the risk of direct collision, between major powers is low, the risk of a conflict to some extent cannot be completely ruled out. That confrontation occurs not only in bilateral interactions but also in multilateral aspects, or traditional political

and security issues, but also extends to maritime security and safety. Additionally, individuals or human groups as sub-state actors, namely marine crime and piracy, also carry undeniable threats to maritime security and safety, which have been very common for a long time.

The second group includes issues arising from the interactions between human society and the natural world. The group of issues is associated with the limitation of the natural environment when the environment is too strongly and frequently impacted by diversified activities, especially economic activities, of humans. Those are also issues related to the capability to provide energy, fuel, natural resources, etc. to meet the needs of human activities and serve societies' production. The group also includes protecting natural resources, preserving the human living environment, rational exploitation and saving of marine resources, and international cooperation to exploit sea surface serving the purpose of peace and prosperity.

3. Non-traditional security complex in the SCS

There are two layers of non-traditional security issues in the SCS. Those are entangled issues, thus making the SCS the most complicated among all territorial and maritime disputes in the world while also making traditional and non-traditional security issues intertwined.

3.1. Maritime security, the safety of navigation and marine crime

The first and most fundamental is maritime security and the use of sea lanes, which are related to overlapping sovereignty claims between littoral states and the conduct of military operations in the name of freedom of navigation by international actors, as well as marine crime. Out of the disputing parties, China emerges as the most assertive and aggressive.

To reinforce territorial claims, many countries, especially China, have forcibly seized entities in the SCS and built infrastructures (e.g., airports, wharves, harbors, and military bases for stationed troops, and so forth.) on those entities. Although many countries have engaged in such activities, the number of entities renovated and built by China and the level of militarization of features occupied by China has caused special concerns. China's action raises concerns about the potential for conflict and the possibility to strengthen the states involved as a deterrent power to limit regional conflict.

China builds artificial islands and infrastructure in the SCS for civilian purposes, benefiting the international community. That is the argument the Chinese side often makes to justify its behavior. China insists that the construction aimed at non-military purposes, but it also admits that its objectives include improving its ability to safeguard territorial sovereignty and maritime rights and interests as well as satisfy the necessary military needs" (Chase & Purser, 2015). Additionally, the inauguration of the five lighthouses in different features would "reflects China's dedication to its responsibility of boosting navigational safety in the SCS" and improve China's "capacity for maritime rescue and environmental protection" (An, 2016). In addition

to island reclamation, infrastructure construction, and other civil activities, China continues to conduct drills and illegally maintains a military presence in the occupied features. Over the years, China has repeatedly deployed weapons to the Paracel and Spratly archipelago, combined with holding exercises separately and with other countries, which intensifies the situation. China no longer conceals its ambition to establish an air defense identification zone in the SCS. “For the ADIZ in the SCS, we have repeated our position on many occasions. What I need to underscore here is that to set up an ADIZ is the right of a sovereign state and we don’t need other countries to make suggestions” (Ministry of National Defense of the PRC, 2016). China’s militarization and infrastructure-building activities in the SCS threaten maritime peace, stability, security, and safety, go against the UNCLOS, challenge other provisions of international law, ignore the Declaration on the Conduct of Parties in the SCS (DOC) that China signed in 2002, as well as intentionally disregard the attention and legitimate recommendations of the international community. The actions of China have affected maritime security and safety in the SCS, thus negatively impacts other countries’ efforts to resolve disputes.

Maritime security and safety remain an issue because traffic through the SCS is essential for world maritime trade and communications, and the existing maritime and territorial disputes will threaten the safety of navigation there. In recent years, the term “safety and freedom of navigation” has become an important expression of the competition between China and the United States in the SCS. China is deploying its navy across Asia’s seas and sea lanes, making the unipolar US maritime security order that has existed for 75 years into a more multipolar and volatile system. The Chinese naval’s aggression in the East China Sea and SCS is not a single move but affects the United States’ ability to control the sea across the Western Pacific Rim. Geographically, the SCS is home to some of the world’s most important shipping routes. The ship carrying import and export goods between markets in Asia and Europe, Africa, and America must pass through the SCS. Regional circulation will be significantly related to both the cost and time delay in delivery. As a result, most countries are directly interested in ensuring freedom of navigation is respected in the SCS. Unfortunately, however, the SCS is home to many long-standing territorial disputes. Brunei, China, Indonesia, Malaysia, the Philippines, Taiwan, and Vietnam have overlapping sovereignty claims over different maritime entities and water areas in the SCS. Most of these territorial disputes focus on features within the Paracel and Spratly islands group, and China is the country making the most absurd demands.

The United States does not support either side in territorial disputes over the features in the SCS, and the various sovereignty claims are not discussed in detail here. However, the United States actively opposes illegal claims to the waters around those entities and illegal restrictions on sea traffic. China has made such unreasonable claims to limit freedom of navigation. The United States conducts freedom of navigation operations in

the SCS to oppose these claims and actions. Strategically, the United States has used the SCS issue as a manipulation mechanism to force either regional countries or external powers to support the ultimate goal of building a military alliance against China in the Indo-Pacific region. Tactically, the United States has increased unilateral or joint power deployments under the Indo-Pacific Strategy. That approach intensifies the geopolitical competition triggered by naval military games between China and the United States and poses new challenges to regional maritime security. The primary consideration of the US Indo-Pacific Strategy is to prevent the bilateral balance of power from developing in favor of China. US tactics are designed to undermine China's growing influence in the vast Indo-Pacific region, including the SCS, and to maintain US superiority. Because of the Indo-Pacific Strategy, the future will see increasingly fierce competition between China and the system of US allies and partners.

Therefore, the security model in the SCS is increasingly developing into competition between major countries. First, US-led freedom of navigation operations (FONOPS) in disputed areas in the SCS will be more provocative and targeted and the involvement of the United States Coast Guard (USCG). The joint FONOPS and the joint law enforcement role played by the USCG as part of their Indo-Pacific Strategy in the SCS will provide a new means for the United States to prevent the growth of China's maritime forces and the militarization of the SCS. It is foreseeable that in the framework of its Indo-Pacific Strategy, the United States will not only continue to escalate FONOPS in the SCS in terms of frequency, scale, and geography but also bring along many challenges as well as become more diverse, which means putting pressure on China in the security realm. On the one hand, allies of the United States such as Japan, Australia, and the United Kingdom can conduct joint operations with the United States based on existing unilateral military operations in the SCS. France and the UK have announced that the two countries would promptly conduct patrols for freedom of navigation in the SCS (Lillehaugen, 2018). Australia insisted that it had the right to send naval operations to the SCS, as evidenced by sending three warships to the SCS (Strait Times, 2018). Another US ally, New Zealand, also openly and openly criticized China in its 2018 Strategic Defence Policy Statement (New Zealand Government, 2018).

On the other hand, the United States institutionalizes and normalizes the enforcement actions of the coast guard and gradually conducts joint maritime law enforcement with relevant countries such as the Philippines, Vietnam, and Malaysia. Hence, direct competition for power between China and the United States in the SCS is ongoing. Clearly, the United States has been proving to allies as well as other countries that it is ready for a safe, secure and free SCS. The US effort has been recognized by its allies, at least in terms of freedom of navigation, to demonstrate that China's desire to hegemony the SCS is not easily achieved. Although China is taking advantage of the field and space in the SCS, the US is also slowly regaining its position. Marine crime

is another long-standing issue affecting maritime security in the SCS. SCS is known as a sea area with a very high traffic density because it concentrates on many important international maritime traffic routes. That is one reason for the development of many types of crimes operating in the SCS. Depending on the crime situation, countries focus on different types of marine crimes, such as: i) piracy and armed robbery; ii) terrorism; iii) smuggling (goods, human trafficking, rare animals and plants, weapons and banned substances); iv) violations of the sovereignty of coastal states such as illegal fishing, illegal exploitation of natural resources; and vi) acts in violation of international law on matters such as the protection of the marine environment.

In July 2005, the Lloyd Markets Association's Joint War Committee (JWC) listed the Strait of Malacca and some areas in the south of the Philippines (along with regions like Iraq, Lebanon and Somalia) as regions facing potential wars, attacks, terrorist activities and related hazards (Wu & Zou, 2009). As a result, marine insurance premiums have increased for ships passing through those areas despite firm opposition from regional authorities and shipowners. In 2003, the ASEAN Regional Forum issued a Statement on Cooperation Against Piracy and Other Threats to Maritime Security. ASEAN is also aware of the piracy threat and cooperates to a certain extent. At the 12th ASEAN Regional Forum Ministers' meeting in July 2005, ministers applauded ARF's persistent efforts in promoting maritime safety and security and highlighted the four areas of for future cooperation, namely multilateral cooperation, operational solutions for maritime safety and security, transport and port security, and the application of technology for maritime safety and security (ASEAN, 2005). There are also some truly bilateral or trilateral cooperation efforts based on no firm agreement, such as the joint patrols between Indonesia, Singapore and Malaysia, which are really reasonable as they share the waters of the Strait of Malacca and Singapore.

Additionally, the concerned countries should realize that without any great power help, eradicating piracy would be pretty tricky. The ASEAN Regional Forum then convened a meeting of maritime experts to coordinate coastal protection actions, exchange information, and investigate re-piracy. In February 2006, the United States held a meeting in Alameda, California, where representatives from Indonesia, Malaysia, Singapore, Australia, Germany, India, Japan, the Netherlands, Norway, South Korea, the United Kingdom, and the Philippines were gathered. China was invited but did not attend (Herbert-Burn et al, 2009).

Despite new moves in anti-piracy efforts and the recent decline in piracy in the SCS, there are some nagging problems in combating piracy. Long-term concerns include many unresolved overlapping disputes and jurisdictional disputes. For example, the Spratly Islands are claimed by six parties and occupied by three of them. These territorial claims are particularly important as anchors for asserting exclusive ecological zones around disputed islands and natural oil and gas resources that are believed to be on the seabed. With an insufficient number of agreed boundaries in the SCS, states act primarily

for their interests. As a result, “The lack of agreed jurisdiction complicates maritime enforcement, leads to unchecked degradation of the marine environment and facilitates illegal activities at sea, including possible maritime terrorism” (Bateman, 2005, pp. 260). Otherwise, when the objective of the meeting was to coordinate state contribution efforts to support coastal states in the Strait of Malacca / Singapore, there has been little progress in burden-sharing. On the one hand, the littoral states wanted to share the burden, including providing environmental protection and security services. On the other hand, the sea-used countries saw burden-sharing to engage more directly in maritime security measures against piracy and terrorist threats. It can be said that the anti-piracy cooperation in the SCS has only achieved limited results.

3.2. Marine resources exploitation and environmental degradation

All the issues of this second group are directly related to the human exploitation of nature to find resources that serve different human and social purposes. In fact, oil and gas exploitation, as well as fishing in the SCS, are simply an expression of a more fundamental conflict over sovereignty in the region. Given the recent strength and assertiveness in the SCS, China's interests notably deserve special attention. In addition to expanding China's security perimeter, China's regional interests in marine resources can be grouped into two issues (2 ps), namely petroleum, and protein (seafood).

As the world's largest energy importer, China wants the most assurance of energy resources, securing supplies, and not having to worry much about ownership. Due to the supply-demand nature of the global energy market, any additional supply that is developed makes the market larger and larger. As a result, the product's price will fall, both directly benefiting China as the world's largest energy consumer.

Since energy is really a China's concern, China will find ways to exploit marine energy resources. Although China continues to oppose exploration by other claimants in the “nine-dash line,” it repeatedly uses its own oil and gas companies to complicate the situation in existing disputed maritime areas. While the level of competition for oil and gas resources is inflated, it is clear that state oil and gas companies in the region are being used to assert maritime claims, with rigs and oil being used as a clear indication that the state controls disputed areas. International oil and gas companies trying to operate in disputed areas also run the risk of promoting national goals over economic and business reasons. The most typical example of this is the stressful monthly incident in 2014 with Vietnam when China National Petroleum Corporation (CNOOC) used the Haiyang Shiyou 981 rig to perform exploration drilling at the disputed area near Paracel archipelago. CNOOC with its fleet and exploration rigs is a kind of tool to establish sovereignty. CNOOC itself is interested in encouraging Chinese leaders to take a hard line in protecting the right to access oil and gas resources. CNOOC is also known for promoting sovereignty claims over potential oil and gas reserves in the SCS; thus, CNOOC's credibility and political influence could be enhanced.

The sovereignty disputes and too high seafood demand from the claimants, especially China, harm seafood resources in the SCS. The most important aspect of the Spratly Islands dispute is not just oil or sovereignty; it is whether seafood from the SCS continues to be supplied to the Asian people in general and the Chinese in particular or not. For more than 20 years, every May, China unilaterally issued a ban on fishing in the SCS, lasting for three months. In line with the ban, China sent many fishing boats and China Marine Surveillance (haijian) ships to increase operations in the SCS to control and confiscate fishing boats and equipment that China considers violations of its unilateral fishing ban. There are at least three signs that seafood resources are endangered. The first sign is production. Catches remain unsustainable 10-12 million tons for decades, a figure that could double from illegal, unreported, and unregulated (IUU) fishing (Cheung & Sumaila, 2015). Stable catch conceals a severe problem: catches increasingly include smaller species with booming populations because wild predators have been overfished. The second sign is that fishermen's catch per unit effort (CPUE) has dropped drastically over the past decades as fishers are forced to spend more time and fuel to bring in the same amount of fish or seafood. Vandalism, including the use of fishing boats damaging corals, Muro-ami nets, or even explosives and cyanides that are often used to squeeze more from declining fisheries. The third sign is that vital habitat is disappearing. A 2012 meta-analysis of maritime studies show that in the past 10-15 years, the SCS's coral coverage in disputed areas decreased from over 60% to just 20%. Coral reefs along the Chinese coast are even worse and have declined by more than 80 percent in the past few decades (Hughes et al, 2013).

Under the provisions of UNCLOS, the coastal state has:

“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. (Article 56).

Environmental degradation in the SCS has caused deep concern for either coastal countries or other countries using transport routes across the SCS. Scholars and scientists pay great attention to the environmental degradation and pollution in the SCS. There is a noticeable activity that damages the ecological environment of the SCS, namely islands reclamation or the construction of artificial islands. Among the claimants, China is the most active.

China has diversified strategies to assert its dominance over the disputed maritime areas, including strengthening its military capabilities, researching to show a historical and diplomatic basis for its claims to ensure that the Southeast Asian claimants do not unite in the dispute with China. This is evident in the comments of Yi Xianliang, deputy head of the Chinese Foreign Ministry's Boundary and Ocean Affairs Departments, on construction activities in the SCS when he said that “the Spratly Islands are China's

intrinsic territory, and what China does or doesn't do is up to the Chinese government. Nobody can change the government's position." In other words, China has sovereignty control over the disputed territory and intends to enforce it. One tactic that China has used recently as if having undoubted sovereignty over disputed areas, is to explore potential energy resources and to build infrastructure construction. By doing those, China asserts its rights to do what it wants to do within its territory.

As for the reclamation and construction of artificial islands, it is undeniable that China is responsible for the most active implementation of island-building activities in recent years. Additionally, according to Zhang Hongzhou (2016), the giant clam mining industry began to explode in 2013, when the Chinese government decided to turn a blind eye to the illegal exploitation of a protected species to reinforce its claim in the SCS. According to Zhang (2016), in 2015, the giant clam mining industry supported the lives of nearly 100,000 people in Tanmen, Hainan. Environmental damage may have dire consequences for the people of all countries around the SCS. Actually, the Chinese side has always denied all allegations. On April 28, 2015, Foreign Ministry spokesperson, Hong Lei, rejected the notion that the construction of the Chinese island is harmful to the environment. Chinese construction projects have also undergone years of rigorous scientific evaluation and testing and are subject to strict environmental protection standards and requirements. Such projects will not damage the ecological environment of the SCS (Ministry of Foreign Affairs of the PRC, 2015). On June 16, 2015, Chinese Foreign Ministry spokesman Lu Kang told reporters that China's construction activities against the Spratly Islands did not and will not cause damage to the system and marine ecological environment in the SCS (Ministry of Foreign Affairs of the PRC, 2015).

However, in its 2016 ruling, the Permanent Court of Arbitration "strongly condemns China for the serious and permanent environmental damage it has inflicted to coral reefs and their wildlife in the SCS" (Tickell, 2016), especially regarding China's recent large-scale island reclamation (O'Neil, 2018). The court ruled that by carrying out such activities, China has violated its obligation to conserve and protect fragile ecosystems and habitats of depleted, threatened, or endangered species and threats that cannot be overcome to the marine environment. In its ruling, the court noted that it had asked China to provide the environmental assessment studies, as required by Article 206 of UNCLOS. China, which refused to participate in any court proceedings in the lawsuit, did not comply. The arbitral tribunal also determined that the Chinese government is responsible for the poaching and destruction of coral reefs in the SCS. The court ruled that the Chinese authorities were aware that Chinese fishers had caught and harvested giant endangered sea turtles, corals and clams in the SCS (by using inducing methods that seriously damage the reef) and failed to fulfill an obligation to prevent such activities. The court found that China, despite the rules of giant clams protection and conservation of the reef environment in general, was fully aware of the practice and has proactively accepted it as a means to exploit the living resource

cascade of the reefs within the months before those reefs faced the near-permanent destruction brought on by island construction activities.

4. Policy implications for Vietnam

In the SCS, there are disputes in some areas of waters, leading to sovereignty in the undefined overlapping areas between disputing parties. Directly related to Vietnam are the dispute in Paracel Islands between Vietnam and China; and the Spratly Islands dispute between six parties (Vietnam, China, the Philippines, Malaysia, Brunei, and Taiwan). Because of the history of conflicts between countries related to the SCS and the continuous strengthening of military capabilities, the SCS has hidden hot spots that can threaten peace and stability. Maintaining a stable, peaceful, and cooperative SCS is an aspiration and a shared responsibility of either regional countries or the international community. To achieve this goal, it is necessary to have a joint effort of the countries in the region and the international community based on respecting international law, fully and responsibly implementing the basic principles of international law, including UNCLOS 1982. Vietnam has been and will be making a positive and responsible contribution to this joint effort towards this goal. Several policy implications should go to Vietnam's government as follows.

4.1 For maritime security, freedom of navigation, and marine crime

First and foremost, Vietnam should enhance cooperation with the United States in general and in the SCS in particular. In addition to the issue of common interests in the field of security for the SCS and Southeast Asia, the two countries have come to understand each other better. Vietnam and the US no longer look at each other through an ideological lens. Vietnam and the US both believe that the SCS is a strategic area in terms of politics, international law, economics, marine environment, and security.

Although the US is not directly involved in sovereignty disputes, the country has many interests similar to Vietnam in the SCS. The US-Vietnam cooperation in the SCS issue is very active and there are many potentials for development. While the United States essentially continued to rely on the principles outlined in May 1995 (before establishing diplomatic relations with Vietnam), under which it continued to promote peacefully resolving disputes, peace and stability, freedom of navigation, neutrality regarding disputes, respect for principles of international law, the fact that the United States is becoming more and more actively and voluntarily involved in the SCS issue. The outstanding benefit that both Vietnam and the US are concerned about is the right of unobstructed access in the SCS following international law. That right of unobstructed access is closely related to the exploitation of marine resources as well as for the navigation of commercial ships and military activities in the SCS. Besides continuously making policy statements and proposing acts related to the region and the SCS, the United States continues to strengthen its presence in the SCS with naval ships and aircraft of all

kinds, including warships. In terms of economic business, US companies such as Delta Offshore Energy, Bechtel Corporation, General Electric, McDermott, Exxon Mobil, and Murphy Oil continue to cooperate in oil and liquefied natural gas projects in Vietnam and the SCS (BBC, 2020). And defense cooperation related to the SCS continues to be of interest to the two sides, including transferring a number of big-size US patrol boats to Vietnam (US Embassy & Consulate in Vietnam, 2019).

Another important interest that both Vietnam and the United States attach importance to promoting is enhancing peace and stability in the SCS and Southeast Asia. Good relations between Vietnam and the US will help protect maritime security in the SCS. The fact that Vietnam and the US continue to pay attention to and strengthen cooperation related to the SCS has brought about practical benefits to the region. That cooperation contributes to increasing regional interest in the SCS issue, accelerating the process of dialogue at regional and international forums, creating a more balanced situation in resolving the disputes. In addition, although the United States itself has not ratified the 1982 UNCLOS, it has persisted in promoting cooperation based on The Convention's principles of facilitating regional countries in finding a common voice to realize patterns of behavior in the SCS. Otherwise, strengthening cooperation on SCS issues actively contributes to helping protect the legitimate interests of both Vietnam, the US, and some other Southeast Asian countries about dispute settlement, marine resources exploitation, using sea routes in international integration, and enhancing trade. In order to contribute to promoting peace, stability and cooperation in the SCS, Vietnam and the US have plenty of room to promote cooperation. The two sides should continue to uphold and promote the building of a rules-based regional order, for which the free and open Indo-Pacific is one of the examples a regional order. Thus, the SCS issue is also resolved according to the positive general principles of international law. Vietnam and the US established their "comprehensive partnership" in July 2013.¹ Of course, in Vietnam's diplomatic rhetoric, China is Vietnam's most important partner, while the US is one of the least important. However, the US is in reality, the second most important partner of Vietnam. For many aspects, the United States is just as important as China. For Vietnam, the current relationship with the United States is fundamentally strategic in many vital areas, such as security and defense, although it is just called a "comprehensive partnership" by name. Vietnam and the US can also join regional and international countries to create an annual high-level security forum

¹ Linguistically, Vietnam lags behind the Philippines, Thailand, Indonesia and Singapore, which are strategic partners of the United States in the region, in their importance to the US. Meanwhile, Vietnam has raised the level of diplomacy to "strategic relations" with 16 countries including Russia (2001), Japan (2006), India (2007), China (2008), South Korea and Spain (2009), United Kingdom (2010), Germany (2011), France, Indonesia, Italy, Singapore and Thailand (2013), Malaysia and the Philippines (2015) and Australia (2017). The US, the world's largest economy and military, is even behind Vietnam's "comprehensive partnership" with Myanmar which was set up in 2017.

to discuss and resolve emerging SCS issues. The two countries can also promote cooperation related to the capacity building of each stakeholder for training, joint exercises, information exchange, economic cooperation, scientific research, marine environmental protection, terrorism, piracy prevention, and natural disaster relief in the SCS. In that process, openness and transparency of cooperation and active sharing of information and cooperation with regional countries are essential to alleviate concerns and gain access to other resources and support of the international and regional community. The tighter the US-Vietnam relationship, the higher it will enhance regional countries' confidence in the US.

For marine crime, the basis for promoting cooperation in the field of marine crime prevention in both bilateral and multilateral frameworks is the common understanding of the threats. Marine crime issues such as piracy, armed robbery at sea, smuggling, terrorism, illegal fishing, and destruction of the marine environment in the SCS created an urgent need for cooperation between countries.

Facing with these security challenges, Vietnam has actively participated in multilateral and bilateral cooperation mechanisms such as the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia, Heads of Asian Coast Guard Agencies Meeting, etc., proactively set up communication channels or hotlines, participated in joint patrols, and cooperated to improve maritime capacity with neighboring countries. All are heading towards the prevention of all kinds of marine crimes. The coastal states have come to realize that cooperation is one of the effective options for maintaining order and security in the SCS. In addition, the adjustment of the maritime security focus in the policies of major countries such as China, Japan, the US, India, and other countries also facilitates cooperation between law enforcement forces in general. It looks for opportunities to promote cooperation and capacity building for maritime law enforcement agencies in Vietnam in particular. However, in the context of increasingly fierce disputes in the SCS, cooperation between anti-crime forces is facing many challenges: (i) civil and law enforcement forces are used by some countries as political tools to assert sovereignty and unilaterally enforce their claims; (ii) the decline of confidence among countries in the region is pursued by some countries and enforced excessive claims which are inconsistent with UNCLOS, which is considered as the main cause of distrust, dissatisfaction, and conflicts between law enforcement forces in the SCS, thus creating a huge challenge in efforts to promote cooperation against threats from marine crime; (iii) it is also difficult to reach consensus due to the lack of clearly delimited maritime boundaries, thereby defining the specific jurisdiction and jurisdiction of the stakeholders. Thus, it can be seen that disputes and lack of trust are factors that limit the motivation and desire for cooperation between countries.

4.2 For marine resources exploitation and environmental degradation

Among the disputing parties, Vietnam always wishes to resolve the problem as soon

as possible with the most actively proposed idea called the model of cooperation for mutual development. General Secretary Do Muoi introduced this model during his visit to Thailand in October 1993 (Hoang Viet, 2010).

This policy is being implemented by Vietnam in practice. The legal basis for cooperation for development without the delineation of the main overlapping sea area is the Clause 3 of Article 74 (applied to the EEZ) and the Clause 3 of Article 83 (applied to the continental shelf) of the UNCLOS. Accordingly, in the period of the delimitation of the sea, states must endeavor to reach a practical interim settlement that does not prejudice or hinder the reaching of the final delimitation agreement. In other words, the provisional settlement is the ultimate solution that the Convention requires states to strive to achieve. This is an effort obligation, so no provisional arrangements are required. Unlike the Chinese model of “setting aside dispute and pursuing joint development²,” the model proposed by Vietnam should be deployed in the disputed area, which is overlapping by the sovereignty demands of the related parties, with legal and historical grounds consistent with the provisions of international law, especially UNCLOS and acknowledged by the parties to be disputed. According

² In Chinese: 搁置争议，共同开发. According to the Ministry of Foreign Affairs of the PRC, the concept has four elements:

The sovereignty of the territories concerned belongs to China.

When conditions are not ripe to bring about a thorough solution to territorial dispute, discussion on the issue of sovereignty may be postponed so that the dispute is set aside. To set aside dispute does not mean giving up sovereignty. It is just to leave the dispute aside for the time being.

The territories under dispute may be developed in a joint way.

The purpose of joint development is to enhance mutual understanding through cooperation and create conditions for the eventual resolution of territorial ownership.

In fact, despite the proposed joint exploitation cooperation, China still maintains its unreasonable territorial claim. More importantly, most of the areas that China proposed to exploit collectively lie on the continental shelf which is obviously under the sovereignty of another countries. Through common exploitation intentions, China intentionally forces other countries involved in mining to understand that they are exploiting in the disputed territory with China. In addition, the policy of bilateral negotiations with each disputing country that China has introduced is not consistent with the reality of intermingling interests and claims of many parties and the international community in the SCS. Therefore, China's proposal is not feasible in practice. The model of cooperation in sharing marine resources and setting aside disputes for mutual exploitation, if carried out, will mean the recognition of Chinese claims over the entire SCS, in accordance with China's intentions to turn a non-disputed area into a dispute. Other claimants may have to accept a resource sharing within their own territorial waters. This makes the model difficult to implement. In fact, not a single country would accept to give up their sovereignty. Although China has recently signed joint mining cooperation memorandums with the Philippines (2017) and Malaysia (2019), the implementation of these agreements will be prolonged and there is always a potential risk of collapse when economic benefits are not as expected.

to this point of view, in the SCS, there are basically disputed areas such as the Paracel archipelago, Spratly archipelago, continental shelf areas in the South and Southwest of Vietnam between Vietnam and Malaysia, Vietnam - Thailand - Malaysia, and historic waters between Vietnam and Cambodia. The goal of Vietnam is to the interests of all stakeholders and contribute to building the SCS of peace, cooperation, and sustainable development is through the process of cooperation and development in the SCS. That policy of Vietnam is consistent with the principles of international law, the Charter of the United Nations, and the stakeholders' interests.

Meanwhile, the co-development model proposed by Vietnam meets the set of criteria, especially cooperation must take place in areas with factual disputes under the EEZ and the continental shelf. Therefore, the model is supported by many countries. Currently, in addition to cooperation for development between Vietnam and Malaysia, or Malaysia and Thailand, some countries are actively researching and applying this model. In the context that the settlement of sovereignty disputes in the SCS faces many difficulties and challenges, it can be expected that the related parties show their goodwill, and promote negotiations for mutual cooperation in exploitation and development, generally, in disputed waters. However, the replication of the cooperation model under Vietnam's initiative still faces many obstacles because the views of countries on joint exploitation are still different, and strategic confidence between countries is still low and deterrence by China. In addition, the application of this model is only possible in cases the related parties show their willingness to negotiate a specific disputed area, the subject to be jointly exploited, and the extraction mechanism. Although the implementation of Vietnam's model of cooperation for development is not always easy (Tran Nam Tien, 2014), in recent years, the implementation of the model has been carried out quite smoothly because it meets the criteria for identifying the real disputed area and is supported by many countries.

Besides, Vietnam needs to continue promoting the implementation of the model of cooperation for development in expanding cooperation for exploitation and development first, and at the same time negotiating and settling disputes of the overlapping areas with other countries based on suitability and respect for the interests of all parties, and in compliance with the principles of UNCLOS and DOC. If implementing that move well, Vietnam will receive the support of the international and regional community, thereby contributing to building the SCS into a sea of peace, cooperation and sustainable development. According to the regulations of UNCLOS, Vietnam can consider a temporary practical solution of joint exploitation in the overlapping area with Indonesia and the Philippines. However, it is necessary to carefully consider and comprehensively forecast the parties' response when conducting joint exploitation of marine resources in sensitive areas. Besides, in international cooperation on oil and gas exploitation, it is necessary to select potential partners, focus on international cooperation mechanisms. The implementation of exploration

and exploitation projects should focus on sovereignty and long-term interests over short-term and immediate economic interests.

Due to the geographical and historical conditions and the process of regional and world integration, Vietnam's security and defense issues are increasingly closely linked with neighboring countries. The rapid developments of non-traditional security issues in Southeast Asia have forced countries to erase the distinction between domestic and regional issues. No country, including Vietnam, can continue to assert that non-traditional security issues within its borders can be resolved unilaterally through the state's response. The range of fluctuations, the extent of the effects, and the impacts of these issues crossed national boundaries; thus, responses at the national level are insufficient. In other words, the transnational character of non-traditional security requests either responses at the national level or closer regional cooperation. Vietnam has actively cooperated with neighboring countries and regional institutions in responding to security challenges, especially climate change (Communist Party of Vietnam 2011, pp. 237).

Vietnam has also made great efforts to promote cooperation with other countries in the region in setting up legal frameworks, building a special cooperation mechanism with a particular focus on strengthening cooperation with ASEAN countries. Vietnam submitted appropriate plans and mechanisms such as participation in the ASEAN Anti-Drug Cooperation Strategy, signing the ASEAN Declaration on Counterterrorism Cooperation. Vietnam highly appreciates and actively participates in the ASEAN Defence Ministers Meeting (ADMM) and other defence industry conferences and supports initiatives to enhance ASEAN military cooperation to tackle security issues for mutual interests. In that spirit, the Ministry of National Defence of Vietnam has actively participated in multilateral cooperation mechanisms with ASEAN countries, such as attending ASEAN defence conferences at all levels, exchanging experiences on national defence, fighting against transnational crime, anti-terrorism, and humanitarian activities in disaster prevention. (Ministry of National Defence 2009, pp. 29).

Not only does Vietnam cooperate with Southeast Asian countries but dialogue partners. Vietnam and ASEAN have developed collaborative programs and plans in the field of non-traditional security, including cooperation capabilities. In other words, cooperation in non-traditional security areas is a new direction that ASEAN countries and Vietnam have implemented effectively with dialogue partners, significant partners such as China, Japan, South Korea, the United States, and the European Union. These cooperative efforts can be named here, for example, ASEAN-US Joint Statement on Counterterrorism Cooperation; ASEAN-EU Joint Statement on Counterterrorism Cooperation; Bali Declaration on building the ASEAN Community; ASEAN Regional Forum. Among those cooperation mechanisms, the ASEAN Regional Forum is the most important formal security dialogue mechanism with the participation of many dialogue partners. In addition to the ASEAN Regional Forum, the cooperation mechanism between the 10 ASEAN member countries and the three Northeast Asian powers, including Japan,

Korea, and China, also known as ASEAN +3, is becoming an increasingly mainstream channel for cooperation, particularly in the field of economics and security.

Marine investigation and research on marine resources and the environment should be carried out regularly to verify Vietnam's sovereignty over areas where Vietnam has sovereignty and jurisdiction under UNCLOS. Vietnam needs to develop marine economy sustainably, form marine eco-culture, proactively adapt to climate change, sea-level rise, and prevent low tide, pollution, degradation of the marine environment, erosion of the coast and sea erosion, restoration, and conservation of important marine ecosystems (Nguyen Chu Hoi, 2018). Besides, Vietnam must develop strategies and socio-economic development plans combining with a marine investigation, prevention of natural disasters, and sea environmental pollution. Vietnam's attention should be paid to international cooperation on marine resources and environmental investigation and research. Particularly, on the issue of fishing, it is necessary to negotiate with the concerned countries about the traditional fishing area in the SCS based on international law and the conclusions of the Permanent Court of Arbitration. This will be an essential foundation for establishing regional cooperation mechanisms to control fishing in the disputed field and prevent the degradation of marine resources.

5. Conclusion

In sum, the non-traditional security complex in the SCS covers two categories. First, the issues must be maritime security, freedom of navigation, and marine crimes. As the lifeline sea route connecting the Pacific and Indian oceans, the SCS plays an important role in the global maritime map. Thus, any emerging nation's control of the sea route will be a threat to maritime security and not be consistent with the interests of freedom of navigation for all the countries or the region as a whole because SCS is a sea area with a very high traffic density because it concentrates on many important international maritime traffic routes. That is one reason for the development of many types of crimes operating in the SCS, such as piracy and armed robbery. Second, there is a group of issues that are directly related to the human exploitation of nature in order to find resources that serve different human and social purposes. It can be said that, in terms of the immediate intensity of impact on nature, those activities are just inferior to the war. However, unlike armed conflicts or wars, natural exploitation takes place regularly, continuously, and in perpetuity. Therefore, the scope of action of natural extraction and the duration of exploitation are respectively stronger and longer than those of wars. It is undeniable that the destructive intensity of nature and habitat increases with human exploitation and economic development.

In fact, the situation in the SCS is always subject to tension or local conflict and recent years have continuously witnessed an escalation in sovereignty claims as well as tense actions in the disputed waters. Meanwhile, there is a lack of regional security cooperation mechanisms that are strong enough to effectively handle those issues in accordance with the fundamental principles of international law, especially aiming to

resolve disputes peacefully. The main factor making the situation more complicated is China with its territorial and resource ambitions. Due to its interpretation of international law and field actions, China tends to increase imposition of restrictions on freedom of navigation and overflight in most areas of the SCS. In its strategy of becoming a global power, the SCS is certainly not China's ultimate goal. Vietnam is not the only target that China wants to dominate or maintain influence. China's goal is global reach, in which Vietnam and the SCS are only important gateways for China to take steps passing on the path they want to take. If China cannot pass through Vietnam, it is difficult for China to control and monopolize the SCS. China will find every way and at any cost dominate the SCS according to the intention of the nine-dash line, to completely master the sea routes to the world. The SCS is the lifeblood of oil transportation, the only way China can reach out to control the ocean. The SCS is a strategic path, a core area of interest, ensuring national safety and security as well as China's economic growth and military position.

For Vietnam, the country should be aware of heightening its relationship with the US. China's aggression in the South China Sea is one of the main factors for Vietnam to seek to tighten relations with the US, especially in defense security to balance China in the SCS. Overall, while there are certain differences, especially in political freedoms and human rights, the strategic interests of the United States and Vietnam are increasingly aligned. A better Vietnam-US relationship is beneficiary to the SCS as well as Southeast Asia's regional cooperation. Besides, Vietnam always emphasizes that peace, stability, cooperation and development in the South China Sea are the common aspirations and goals of the countries surrounding the SCS. Exploiting natural resources for economic growth has led to great achievements. However, because of not paying attention to the consequences, or by pursuing immediate benefits, the mankind has made the earth as a whole and the SCS in particular become gradually exhausted. The risk of crises, large-scale ecological disasters are appearing in the immediate future. Thus, multilateral cooperation in every aspects of non-traditional security issues in the SCS must be pushed forward.

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