

UNHAPPY NEIGHBORS

Why Beijing's Muscle-Flexing in the South China Sea Alarms Asia

By Ngo Vinh Long

Speaking to diplomats, businessmen and journalists at the British Foreign Office in November, President Susilo Bambang Yudhoyono of Indonesia emphasized the need for “norms and principles” in resolving disputes in the South China Sea. Why did President Yudhoyono, who was spending a week in London at the invitation of Queen Elizabeth II as the first leader to visit Britain during the year of her Diamond Jubilee, feel that he had to bring up the South China Sea disputes at such a time?

After a member of the audience asked what Indonesia, the leading nation in the Association of Southeast Asian Nations (ASEAN) could do if China did not share his views, President Yudhoyono recalled what he had said to Chinese Premier Wen Jiabao at a summit conference in Bali and again to Chinese President Hu Jintao at a meeting in Beijing: without forward movement on a Code of Conduct (CoC) for the South China Sea, the whole region could “easily become a flash-point.” He added that the two Chinese leaders had concurred with his assessment.

President Yudhoyono added, however, that he had become quite concerned after ASEAN foreign ministers failed to reach a CoC agreement at a meeting in Cambodia in July 2012. He did not mention the role played by China in getting the Cambodian government to sabotage the pact. He only said that since then, Indonesia has done its utmost to bring about a consensus among ASEAN nations on the issue. He also did not mention the fact that at an international conference on “Peace and Stability in the South China Sea and the Asia Pacific Region” held

in Jakarta in September, most of the participants expressed pessimism as long as China continued to exert military and economic power in area within the U-shape line demarcating its self-declared zone of sovereignty.

▷ Chinese marines in the South China Sea, near Nansha Islands, April 10, 2010. *Zha Chunming/Xinhua Press/Corbis*



The U-Shape Line

What is the U-shape line and why is it seen as such a threat to peace and stability in the South China Sea area and the Asia Pacific Region?

On May 7, 2009, the People's Republic of China (PRC) officially submitted—in two separate letters—to the secretary general of the United Nations a map with a nine-dotted, U-shape line with the following identical words: “China has indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof.”

This was the first time China sent the map, without any coordinates, to an intergovernmental body, principally in response to the Vietnamese-Malayan joint submission and Vietnamese individual submission to the Commission on the Limits of the Continental Shelf (CLCS) of the United Nations. Under the 1982 Convention on the Law of the Sea (UNCLOS), the littoral states of Southeast Asia are entitled to an Exclusive Economic Zone (EEZ) in waters up to 200 nautical miles from their coastlines. In order for coastal states to expand the outer limit up to 350 nautical miles, they have to obtain approval from the CLCS.

The origin of the U-shape line can be traced to a map published by the Department of the Interior of the Republic of China (ROC) in 1946. The map included a U-shape line consisting of eleven intermittent dashes enclosing most of the South China Sea, supposedly because Chinese had discovered the area during the Han Dynasty. Even though the dashes in the Gulf of Tonkin were erased from the map presented to the UN in 2009, partly because a bilateral agreement between China and Vietnam on the demarcation of the area had been reached, the U-shape in the latest map still cut deeply into the EEZs of Vietnam, the Philippines, Malaysia, and Brunei.

Vietnam, Indonesia, and the Philippines responded with their own notes to the CLCS to reject China's claim and its map. Vietnam's note maintained that China's claim as represented by the U-shape line “has no legal, historical, or factual basis, therefore is null and void.” Indonesia's note said that the map “clearly lacks international legal basis” and is tantamount to upsetting the UNCLOS. The Philippines' note said that China's claim to most of the South China Sea “would have no basis under international law, specifically UNCLOS.”

Under UNCLOS, the South China Sea is divided into three areas:

—The 200 nautical mile EEZs stretching out from the coastal lines of Vietnam, Chinese Hainan Island/Province, the Philippines, Malaysia, and Brunei.

—The islands, islets, rocks, and reefs in the Paracels and the Spratlys. According to Article 121 of UNCLOS: “Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.” And islands cannot have maritime space beyond twelve nautical miles.

—The international waters area outside of the EEZs, the Paracels, and the Spratlys. Many of the islands, islets, rocks, and reefs in the Spratlys are actually situated inside the EEZs of the Philippines, Malaysia and Brunei.

In 1974, China used force to take over the entire Paracels, which at that time was under the administration of the Republic of Vietnam (South Vietnam), killing at least fifty-three Vietnamese sailors. Again, in 1988, China took possession of the Johnson Reef in the Spratlys from the Vietnamese. Chinese gunboats sank Vietnamese transport ships supporting a landing party of Vietnamese soldiers, killing sixty-four Vietnamese soldiers and injuring many others. In 1995, China also took over the Mischief Reef, which is 150 miles west of the Palawan, the Philippines's nearest land mass, and proceeded immediately with the construction of military structures on the reef.

It is seemingly based on these and other occupations that China claims “indisputable” sovereignty over all the island groupings in the South China Sea and uses them to justify attempts to control maritime space 200 nautical miles beyond them. For example, in response to an official protest by the Philippines following China's assertive activities in the region, especially in the Spratlys (called the Nansha Islands by China), China sent a note to the United Nations on April 14, 2011, that asserted: “China's Nansha Islands is fully entitled to Territorial Sea, Exclusive Economic Zones, and Continental Shelf.”

In June 2012, China's State Council announced the establishment of the City of Sansha (Three Sands), a prefectural-level city to be headquartered on Woody Island in the disputed Paracels, to directly administer “the Xisha, Nansha, Zhongsha Islands and their adjacent islets and waters.” Xisha (Western Sands), Nansha (Southern Sands), and Zhongsha (Middle Sands) are Chinese names of three disputed archipelagos—otherwise known as the Paracels, the Spratlys, and the Macclesfield Banks—respectively. On July 24, 2012, Sansha officially announced that it had established a prefectural government; and the Chinese People's Liberation Army (PLA) also said that it would soon establish a military garrison there to serve as the command headquarters for military units operating in the South China Sea area. The headquarters of China's Southern Fleet—the most powerful of China's three naval fleets—and China's entire marine force with some 20,000 soldiers, are presently stationed on Hainan Island, China's southernmost province.

Many countries in Southeast Asia—among them the Philippines and Vietnam—protested China's provocative actions, especially the establishment of the new military garrison. In August, the U.S. State Department issued a statement saying that the move risked raising tensions and was “counter to collaborative diplomatic efforts to resolve differences.” On the same day, the Chinese foreign ministry called in a senior U.S. diplomat to protest the State Department's remarks. Chinese Foreign Ministry Spokesman

Qin Gang also issued a statement, which repeated China's contention that it has absolute sovereignty over the sea and islands in the South China Sea, and so has the right to set up a city to administer the region. In September, the Chinese foreign minister, Yang Jiechi, declared flatly during a four-hour appearance with U.S. Secretary of State Hillary Clinton in the Great Hall of the People on Tiananmen Square that "China has sovereignty over the islands of the South China Sea and the adjacent waters. There is plentiful historical and jurisprudential evidence for that."

Even if China could rightfully claim sovereignty over the disputed islands in the South China Sea and exclusive zones as well as continental shelf rights around them, this would still not justify the U-shape line given that it cuts deeply into the EEZs and undisputed territories of other countries. Thus, China's actions raise the question of whether its real intention is to turn undisputed territories into disputed ones in order to flex its muscles and force other countries to yield to its demands, and not only in the South China Sea but also in other domains.

In 2011, for example, Chinese ships twice cut the cables of oil exploration vessels well within Vietnam's EEZ and drove off an oil exploration vessel in Philippine waters. Then in late June 2012 China's National Offshore Oil Corporation (CNOOC) issued nine exploration leases in blocks that fall entirely within Vietnam's EEZ. CNOOC executives and officials at China's Ministry of Land and Resources have given estimates that there are approximately 40 billion tons of oil equivalent in the South China Sea, most of which is believed to be natural gas. According to the U.S. Energy Information Administration, one Chinese estimate puts the sea's gas reserves at 2,000 trillion cubic feet. That would be enough to meet China's gas needs for more than 400 years based on 2011 consumption levels. According to a May 2012 statement by Zhong Hua, CNOOC chief financial officer, the company aims to produce 500 million barrels of oil equivalent a day from the deepwater of the South China Sea by 2020—up from nothing today.

Oil is but one factor in China's strategy of roiling the troubled waters. Since 2009, China has also enforced an annual unilateral fishing ban in the South China Sea, confiscating fishing boats from other countries—mostly from Vietnam—as well as arresting and injuring many fishermen. In April 2012, when the Philippine navy prepared to arrest Chinese fishermen who were operating illegally in the Scarborough Shoal, China Marine Surveillance (CMS) vessels arrived on the scene and blocked the entrance to the lagoon thus preventing the arrest of the Chinese illegal fishing boats. During a two-month stand-off, China dispatched nearly one hundred fishing craft to occupy the shoal. In June, the Philippines announced that an agreement had been reached with China for a mutual withdrawal of ships. Later, however, Chinese ships returned and have maintained effective control of the shoal and the waters around it ever since. In

addition to the occupation of the shoal, China also applied economic sanctions on the Philippines by banning the import of bananas and cancelling tourist charter flights.

China and Vietnam

For Vietnam, pressures from China have been multi-faceted and more heavy-handed than those applied on the Philippines and other countries in the region. And because of historical, ideological, geopolitical, economic, and cultural considerations, reactions from Vietnam have also been much more circumscribed compared to those from the Philippines. Here it is useful to consider some of the key periods in the history of Chinese-Vietnamese relations since the establishment of the Chinese Communist regime in 1949.

The Vietnamese resistance to the French colonial re-conquest of Vietnam after the Second World War had consistently been interpreted by the U.S. State Department as a case of “nationalist groundswell” under the leadership of Ho Chi Minh. But after the Communist victory in China, it came to be seen by top U.S. leaders as a Communist threat that had to be destroyed. Secretary of State Dean Acheson commented: “The question of whether Ho is as much a nationalist as a Communist is irrelevant.” Consequently, Acheson argued in 1949 that “no effort should be spared” to assure the success of a pro-French Vietnamese government. On the eve of the Korean War in March 1950, Acheson observed that French military success “depends, in the end, on overcoming [the] opposition of indigenous population” and that the U.S. must help the French protect Indochina from communist encroachment. Thereafter, the United States supplied the French with some 80 percent of the total cost of its colonial re-conquest.

In late 1950, Chinese economic and military aid also began to enter Vietnam. Though much more limited in scope than U.S. support for France, Chinese aid enabled China to increasingly exert influence and dictate demands on the anti-colonial front—the Vietnamese League for Independence, or Viet Minh—and provoke factional disputes among its leadership.

French military setbacks by the Viet Minh, such as the humiliating defeat at Dien Bien Phu in 1954, led to the Geneva Conference (held from May 8 to July 21 in that year) to provide France with a face-saving means of disengagement. On her part, France did not want anything more than a graceful exit from Indochina. But, after the United States attempted to sabotage the negotiations and create an opportunity for direct intervention in Vietnam, China and the Soviet Union forced the Hanoi delegation to make repeated and significant compromises so that a peaceful settlement could be concluded quickly. These powers were uneasy over the possibility that the United States might intervene massively, with consequences that would extend beyond Indochina. The Chinese and Russian leaders were also afraid that once the

United States intervened, nuclear warfare that had begun in one corner of Asia would not be confined there. China's leaders also wished to avoid giving the U.S. any pretext for introducing forces on her southern flank, especially after as many as one million Chinese "volunteers" had lost their lives in Korea.

As a result of the significant concessions made by Hanoi, the Geneva agreements on Vietnam were reached on July 20 and 21: the bilateral armistice agreement between France and the Viet Minh was signed on July 20, and the multilateral final declaration was signed by all participants—except the United States—the following day. Secretary of States John Foster Dulles had said however, two days before the signing of the agreement by the Democratic Republic of Vietnam (DRV) and France, that the United States "will not do anything to upset any reasonable accord sought by the French." This promise was no doubt quite instrumental in encouraging the DRV delegation to make its final concessions in reaching the accords. Both accords spelled out in detail a temporary partition of the country, at the 17th Parallel, into "two military regroupment zones" with military forces of the Viet Minh regrouped to the north of those of the French to the south of the line. National elections under international supervision were to be held in two years to reunify the country.

Undersecretary of State Walter Bedell Smith, head of the American delegation, read an official unilateral declaration from the United States saying that it would not do anything to threaten the stipulations of the agreements and that it specifically endorsed the call for elections to reunify the country. In spite of the public promise, the United States immediately went about violating the agreements and promoted the country's division into so-called "North Vietnam" and "South Vietnam" until 1975. The Second Indochina War fought over this decision would cost more than two million Vietnamese and 58,000 American lives. In a meeting with a group of U.S. scholars in 1971, Premier Zhou Enlai, the head of the Chinese delegation at Geneva, admitted that his "mistake and inexperience" at Geneva had contributed to the Vietnam tragedy.

In the meantime, however, China was able to use the northern half of Vietnam as a buffer zone to protect its territorial integrity from possible U.S. encroachments. Furthermore, in order to secure its "lips-and-teeth" relationship with the Hanoi leadership, China pushed its Maoist model on the northern regime with disastrous consequences for the economic, social, and political structures of the region. As a result, again, many innocent Vietnamese lives were lost.

The most grievous destruction during the mid-1950s was the land reform program carried out simultaneously with the rectification program applied against so-called rightists within the Vietnamese Workers Party and the state bureaucracy. Of course, this was done in the name of building socialism and creating a solid base for resisting imperialist aggression in the south. A report by the politburo to the

tenth plenary session of the central committee of the party in October 1956 stated that thousands of lives had been lost as a result of the land reform program, and that “the land reform machine, in fact, became the institution that was placed both above the party and the government.”

The politburo report said that 2,876 village party branches or cells (out of 3,777) were subjected to the rectification program. These branches represented 150,000 out of the total of 178,000 party members. Of the party members who were forced to go through rectification, 84,000 (or 47.1 percent of the total number of party members) were purged. Many village party branches were summarily disbanded, and many good party members were arrested and executed.

The report went on to say that often the best village party branches and the best local cadres were the ones who were most severely punished. Many village party branches that made the biggest contributions during the resistance war against the French were regarded as reactionary and hence their party members and party secretaries were either jailed or killed. One of the aims of the rectification program was to replace party members with those with “property-less peasant background.” As a result, the percentage of members with this background in the village party branches rose to 97 percent.

The rectification program was also applied against sixty-six district party branches and seven provincial branches with similar damaging results. Yet, the land reform and rectification programs enabled China to exert increasing control over the economic, social, and political structures in the northern half of Vietnam. Partly because of their realization of China’s influence over Vietnam and of the China-Soviet split, President Richard M. Nixon and his national security advisor, Henry Kissinger, began to play the “China card” in the early 1970s to get China to apply pressures on Vietnam in favor of American objectives.

Nixon in China

In 1972, President Nixon undertook his historic trip to China, which to the Vietnamese conveyed the implication that the Vietnam question could be settled not via representatives of the Vietnamese people, but between these two great powers. In response to this, *Nhan Dan* (The People’s Daily), the central organ of the Vietnam Workers’ Party, wrote: “Nixon is heading in the wrong direction. The way out is open, yet he rushes headlong into a blind alley. The time when the great powers could decide the fate of small nations is past and gone.”

Although China was not able to force Vietnam to end the war on Washington’s terms, after the signing of the Paris agreement in late January of 1973 China began cutting all military aid and most economic aid to Hanoi while the United States gave the

Saigon regime more than \$1 billion a year from 1973 to 1975. After the fall of Saigon and the reunification of Vietnam in 1975, the United States immediately imposed the strictest possible trade embargo under the Trading with the Enemy Act.

Partly because Hanoi refused to heed China's advice in sparing Saigon from a military takeover as suggested by France and some other countries, China lost face and decided to cut off all aid to Vietnam. Furthermore, while China began to mass several hundred thousand troops along Vietnam's northern border, it increased both economic and military aid significantly to the Pol Pot regime in Cambodia, which also started to build up its forces along Vietnam's southern border provinces. According to the scholar Damodar Sardesai, "between 1975 and 1978, China supplied Cambodia with 130-mm mortars, 107-mm bazookas, automatic rifles, transport vehicles, gasoline, and various small weapons, enough to equip thirty to forty regiments totaling about 200,000 troops... An estimated 10,000 Chinese military and technical personnel were sent to Cambodia to improve its military preparedness." Beginning in January 1977, Khmer Rouge forces attacked civilian settlements in six out of seven of Vietnam's border provinces. Khmer Rouge troops brutally murdered about 30,000 Vietnamese civilians during attacks in 1977 and 1978, and forced tens of thousands to flee the border provinces. Several hundred thousand Cambodian refugees also fled to Vietnam during those years.

It was during these two years that officials from Vietnam and the United States met to negotiate the normalization of relations between the two countries. In meetings between Assistant Secretary of State Richard Holbrooke and Vietnamese Foreign Minister Nguyen Co Thach at the United Nations headquarters in New York in 1978, the two agreed on normalization without any preconditions. According to Zbigniew Brzezinski's memoirs, Secretary of State Cyrus Vance sent a report on the details of the agreement to President Jimmy Carter and recommended that normalization should proceed immediately after the Congressional elections in early November. But Brzezinski succeeded in persuading Carter against it.

Fearing that the negative position of the United States would encourage Cambodia and China to stage a pincer attack on Vietnam, in November 1978 Vietnam signed a treaty of friendship and mutual assistance with the Soviet Union. On December 15, the United States announced the normalization of relations with China. On December 25, Vietnam invaded Cambodia in order to preempt a pincer attack, publicly saying, however, that it went into Cambodia to save the Cambodian people from the genocidal Pol Pot regime. In January 1979 China's top leader, Deng Xiaoping, visiting the United States, announced that China would "teach Vietnam a lesson," and asked President Carter for "moral support" for the forthcoming Chinese punitive war against Vietnam.

In February 1979, with the blessing of the United States, China launched its invasion of Vietnam, laying waste to six northern provinces and killing an estimated 30,000 Vietnamese (Chinese sources have claimed from 60–70,000 Vietnamese were killed.) Brzezinski called this a “proxy war” against the Soviet Union and was satisfied that it imposed “major costs on [the Vietnamese], produced a great deal of devastation, and above all, showed the limits of their reliance on the Soviets.”

For the next ten years, China and the United States exerted maximum economic and diplomatic pressures on Vietnam. China rejected all proposals by Vietnam Foreign Minister Nguyen Co Thach for a peaceful settlement to the Cambodian conflict under the auspices of the United Nations. The Tiananmen Square crisis of 1989 and Vietnam’s withdrawal of all its troops from Cambodia by September of the same year should have led to favorable international support for such a settlement.

Then came the collapse of communism in Europe. Vietnamese General Secretary Nguyen Van Linh had gone to East Germany to attend the fortieth anniversary of the Democratic Republic of Germany in early October 1989 just before the Eastern European communist regimes began to collapse one after another. Vietnamese Communist officials rushed to reestablish relations with China at all cost in order to defend socialism under the leadership of China. Linh even went so far as apologizing to Chinese leaders for all the mistakes that Vietnam had made in its relations with China, while proposing a solution to the Cambodian situation that only involved the remaining communist countries in the region (known as the “Red Solution”).

In 1991, Nguyen Co Thach, the foreign minister who had pushed for a multilateral settlement to the Cambodian conflict, was evicted from the Vietnamese central committee and politburo. Later that year, Vietnam signed the UN-sponsored settlement for Cambodia, which represented the positions of China and the United States. In 1992, China and Vietnam established full diplomatic relations and the policy of cooperating closely with China for ideological reasons and for regime maintenance has been reinforced ever since between top Chinese and Vietnamese leaders.

For example, a joint declaration between Vietnamese General Secretary Nong Duc Manh and Chinese President Hu Jintao in 2008 spelled out the details of “total and effective cooperation” between central committee organizations of the two parties to “promote the mechanisms between the agencies of foreign relations, defense, public security, national security, and to expand practical cooperation in the economic, trade, scientific, technological, cultural, educational and other fields.”

It is difficult to know the real extent of Chinese-Vietnamese cooperation. But even official information publicly given by the two countries has shown that Chinese penetration in many sectors has been quite deep and detrimental to Vietnam’s interests. For example, although bilateral trade between the two countries has increased rapidly

since 2000, Vietnam's trade deficits with China have also accumulated to unprecedented levels. In fact, Vietnam's trade deficits in the last decade have been principally with China. In 2011, Chinese and Vietnamese governments reported in glowing terms expanding bilateral trade of some \$40 billion. This represented a 30 percent increase over the 2010 figure of \$27 billion. But Vietnam's trade deficits with China also grew significantly to over \$11 billion in 2009 and \$14 billion in 2011. In the first seven months of 2012, Vietnam's trade deficit with China was over \$8 billion. According to both governments, this bilateral trade will increase to \$60 billion in 2015 when the ASEAN-China trade agreement goes into effect. This is when Vietnam will have to discard trade barriers over almost all items imported from China.

China's trade surplus with Vietnam will certainly grow significantly after this date. Already, there are three principal reasons for China's rapid increase in trade surplus with Vietnam in the last decade: 1) most of Chinese exports to Vietnam are manufactured goods while most of its imports from Vietnam have been agricultural products and raw materials; 2) China subsidizes its producers, manufacturers, and traders at all levels and hence the cost of products exported to Vietnam have been much lower than the production costs of most items produced in Vietnam; 3) Chinese exporters resort to a wide variety of questionable means including outright bribery—which are often reported even in the highly-censored Vietnamese press—to penetrate the Vietnamese market.

Bribery has also enabled Chinese corporations to win most of the bids for significant projects in Vietnam. According to many estimates, more than 50 percent of the total value of the all the contracts during the last ten years have been won by Chinese companies. In particular Chinese companies have won 90 percent of all the contracts in the sectors of electricity, oil and gas, telecommunications, metallurgy, machine tools, and chemicals and 100 percent of all contracts in the mining sector. Many of the contracts are worth several billion dollars each.

Vietnamese press reports have also disclosed that Chinese companies, armed with insider information, often tendered bids lower than those by Vietnam or other foreign countries, in order the win contracts. But after they have won the contracts, the companies jack up prices to levels much higher even than those tendered by Western companies whose technology and equipment are much more modern. The Vietnamese Ministry of Science and Technology disclosed this year that many “turn-key” projects with outdated technology and equipment have been imported from 1,800 dismantled Chinese industrial plants. The ministry added that it has come up with a policy to limit this kind of practice.

It remains to be seen how the ministry will be able to minimize these problems that will certainly grow by leaps and bounds. According to current plans, government outlays for infrastructure alone will be \$117 billion by 2025 and many Vietnamese

have wondered aloud how much of this money will again end up in Chinese hands. In the meantime, however, implementation of the projects that are already under contract with Chinese companies have been mostly been prolonged because of all kinds of excuses, causing huge cost overruns that the Vietnamese side has had to pay. Completed projects also have to depend on these Chinese contractors for maintenance and spare parts. In addition, tens of thousands of Chinese workers have been brought to projects in Vietnam and have, according to frequent reports in the Vietnamese press, caused many security problems in the surrounding areas.

Partly as a result of the outlays for such projects, the Vietnamese government budget deficit increased 31 percent in 2007, increased 29 percent in 2008, and 46 percent in 2009. Government borrowing from China increased tenfold during those years. In 2009 alone, official borrowing from China was \$1.4 billion. Worse, the bad debts to Vietnamese banks from state sectors are threatening a series of bank collapses. According to sources in the financial sector and reports by the International Monetary Fund (IMF), Asian Development Bank (ADB), and Vietnamese press, the 2011 figures for the overall debt of the state sector is \$52.2 billion, about 43 percent of GDP. The state sector debts to Vietnamese banks run to \$24.5 billion, 47 percent of which is considered bad debt.

Both the IMF and the ADB have issued warnings to Vietnam about the danger of the collapse of its banking system. The IMF also stated in September 2012 that it might have to provide bail-out supports for Vietnam. However, Prime Minister Nguyen Tien Dung announced after a meeting with Chinese Vice Premier Xi Jinping in September 2012 that “we will not have to resort to help from the IMF.” Sources close to the prime minister have gloated that this was a meeting between bosom friends and that Chinese leaders were prepared to loan the Vietnamese government \$10 billion to shore up its banking system should the crisis worsen.

Cleaning up the Neighborhood

Reporting on the meeting between the Chinese vice premier and the Vietnamese prime minister on September 20, the official Chinese news agency Xinhua quoted Xi Jinping as saying that the South China Sea issue will have a negative impact on bilateral relations if not handled properly. The Xinhua report also disclosed that the two sides reaffirmed the agreement reached between President Hu Jintao and General Secretary Nguyen Phu Trong in mid-October of the previous year on “finding solutions to maritime disputes based on negotiations and dialogues.”

The Vietnam News Agency’s report of the same meeting quoted Dung as saying that “the two sides need to properly implement the general understandings of the top leaders of the two countries and seriously abide by the agreements on the fundamental

principles directing efforts at solving maritime issues and disputes... through friendly negotiations based on international laws, especially the United Nations Convention on the Law of the Sea of 1982, as well as on the spirit of the Declaration of Conduct in order to move forward to an effective Code of Conduct (CoC).”

The Declaration on the Conduct of Parties in the South China Sea was signed in 2002 by ASEAN countries and China, and committed them to respect freedom of navigation and overflight in the South China Sea in accordance with international laws and UNCLOS, and to resolve their disputes through peaceful means without resorting to the threat or use of force. The parties must also exercise self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability in the region. But the declaration was non-binding, thus enabling activities that have heightened tensions and instability for the entire region. Hence, in 2009 the ASEAN countries decided to come up with the idea of the Code of Conduct to create a rules-based framework for managing and regulating the conduct of the parties in the South China Sea. The aim of the CoC is to dampen conflicts and manage disputes, not to solve them. Even so, China has put up obstacles to such an agreement, including providing aid and loans to some ASEAN countries in order to get them to sabotage such an agreement.

A gathering of ASEAN and Chinese officials to discuss the CoC was held in October 2012 in Pattaya, Thailand, to work out the final details of the document so that it could be presented to the ASEAN summit meeting in November for ratification. On October 31, Vietnamese Foreign Minister Pham Binh Minh stated that ASEAN countries had already reached a consensus of the basic points of a CoC. After the meeting in Pattaya, however, First Deputy Foreign Minister Nopadol Gunavibool of Thailand, the coordinator of meetings between ASEAN and China, said that he did not have much hope for the passage of a CoC at the ASEAN. Then the spokesperson of the Cambodian foreign ministry announced flatly on November 3 that the CoC would not be adopted in 2012.

Recently, China made further moves that alarmed its neighbors. Perhaps the most serious was the announcement in late November by Hainan Province, which administers China's South China Sea claims, that starting January 1, 2013, Chinese police and coast guard will board ships entering what China considers its territory in the South China Sea. According to a report by Jane Perlez of the *New York Times* on December 1, the announcement was made by Wu Shicun, the director general of the foreign affairs office of Hainan Province. The article stated: “Mr. Wu said the new regulations applied to all of the hundreds of islands scattered across the sea, and their surrounding waters. That includes islands claimed by several other countries, including Vietnam and the Philippines... The Chinese foreign ministry said

last week that China was within its rights to allow the coast guard to board vessels in the South China Sea.”

On January 22, Philippines Foreign Secretary Albert del Rosario told reporters that his country had exhausted almost all political and diplomatic avenues for a peaceful negotiated settlement of maritime disputes with China and that his government would take the South China Sea issue to an UNCLOS tribunal. That was a direct challenge to China, whose deputy foreign minister, Fu Yuqing, had asked del Rosario not to internationalize their dispute by going to the United Nations, raising it with third parties including allies or holding high-profile press conferences.

China has annexed Scarborough Shoal by maintaining a continuous deployment of surveillance ships there. If the Philippines took no action, it would appear to be acquiescing to the enforcement of Chinese jurisdiction by its civilian surveillance ships. The Philippines is trying to get a ruling on international law on specific matters involving maritime jurisdiction under UNCLOS. The Philippines is making four claims: 1) China's U-shape line is illegal under international law; 2) China has occupied and built structures on submerged banks, reefs and low-tide elevations in the South China Sea and illegally claims that these are Chinese islands under international law; 3) China has illegally interfered with the Philippines' exercise of sovereign jurisdiction within legal maritime zones; and 4) the Philippines is seeking a judgment in international law on matters that China has not excluded from consideration in its 2006 declaration exempting itself from compulsory arbitration by UNCLOS.

Although the Philippines has chosen to focus on highly specific legal aspects in its case, any favorable ruling would not only undermine China's U-shape claim but would also represent a breakthrough for a peaceful resolution to the maritime disputes in the region.

China's stonewalling and resistance with respect to addressing South China Sea issues come from the confidence that in bilateral negotiations with each of the far less powerful ASEAN countries she can impose her will on them. Vietnam is the most vulnerable to China's pressures in part because Vietnam has the longest coastline in the region and has had the most maritime territories taken over by force by China. Hence compromises by the Vietnamese government in the face of further Chinese assertiveness inside Vietnam's EEZs and around the areas of disputed islands would certainly invite further pressures from China as well as strong reactions from Vietnamese citizens.

In 2007, protests against China's arrest and maltreatment of Vietnamese fishermen erupted at the PRC's embassy and consulates in Vietnam, but were quashed by the Vietnamese government. In 2011, after Chinese Maritime Administration ships cut the sonar cables of Vietnamese oil prospecting boats, protest rallies were staged

again, in Hanoi and Ho Chi Minh City simultaneously, every Sunday for nearly two months. But arrests and violence against the protestors by security forces again put an end to the rallies.

In September, before going to Nanning to meet with Xi Jinping, Prime Minister Dung ordered a crackdown on blogs that have attacked his leadership and opposed China. Subsequently at least five bloggers were put on trial, resulting in jail terms of up to thirteen years. One of the bloggers had composed a song in which he urged the citizens to rise up against invaders and “cowards who sell the country.” On October 14, ten policemen stormed into the dorm room of the female student, Nguyen Phuong Uyen, at the Ho Chi Minh City Food and Technology University and put her in a jail in Long An province. An open letter for her release, signed by her classmates and addressed to President Truong Tan Sang, stated that she had been arrested because she had been suspected of participating in anti-China activities and joining anti-corruption campaigns.

The Vietnamese government’s repressive activities in the face of pressures from China have exacerbated tensions with its own citizens and eroded its legitimacy. Furthermore, these activities might have soiled the Vietnamese government’s image regionally and internationally and hence weakened its effectiveness in dealing with China’s increasing assertive activities in a region through which 60 percent of the entire global sea-borne trade moves each year.

In order to promote peace and stability in the region, all countries that utilize the South China Sea for trade and other reasons should unambiguously support efforts to settle the disputes.

A Proposal

In the interest of regional peace and global development, this writer made the following proposal based on UNCLOS’s definition of three South China Sea areas at an international conference attended by specialists and officials from most Asian countries, the United States, and many European nations. The conference, “The South China Sea: Cooperation for Regional Security and Development,” was held in Ho Chi Minh City in November. The main idea of the proposal is to open up areas for cooperation among all parties involved:

1. Reaffirm the EEZ of each individual country and negotiate all overlapping claims. Form an international consensus on getting China to abandon its U-shape line.
2. Rally international support to bring all disputed claims in the island areas (islands, islets, rocks, and so on) to an international court for judgment if

solutions could not be agreed upon by the claimants. In the meantime, occupants of undisputed areas should be willing to declare publicly that no island should have more than twelve nautical miles of territorial waters around it.

3. In the international area beyond the EEZs and the territorial waters of the islands all resources extracted therein (such as oil, gas, seafood) should be divided to each country in the region, after extractive expenses have been deducted, according to a formula to be negotiated.