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Regional Conflict Management: Challenges of the Border Disputes of Cambodia, Laos, and Vietnam

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This study analyzes the border disputes of Cambodia, Laos, and Vietnam, respectively. Both settled and unsettled disputes are encompassed. The study outlines the settlements reached and the remaining unsettled disputes. Furthermore, the broader trends in managing the border disputes are analyzed and remaining challenges, both in implementing agreements and in managing the unsettled disputes, are addressed. So are the implications for regional conflict management. The study displays that both Laos and Vietnam have made considerable progress in both managing and settling their existing border disputes, whereas Cambodia has thus far been less successful.

Keywords: Border Disputes, Regional Conflict Management, Cambodia, Laos, Vietnam

Dieser Beitrag analysiert Grenzstreitigkeiten Kambodschas, Laos und Vietnams. Gelöste und ungelöste Konflikte, als auch weitere Trends im Management von Grenzstreitigkeiten werden dabei betrachtet. Herausforderungen in der Umsetzung von Vereinbarungen sowie in der Schlichtung noch ungelöster Dispute und deren Implikationen auf das regionale Konfliktmanagement werden adressiert. Die Studie zeigt auf, dass Laos und Vietnam beträchtliche Fortschritte im Management und in der Lösung ihrer Grenzstreitigkeiten gemacht haben, während Kambodscha bis dato weniger erfolgreich war.

Schlagworte: Grenzstreitigkeiten, regionales Konfliktmanagement, Kambodscha, Laos, Vietnam

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Purpose and structure³

The purpose of this study is to outline and assess the border disputes of Cambodia, Laos, and Vietnam, respectively. The study encompasses both disputes between the three countries and between each of the three countries and other countries. Both settled and unsettled disputes are encompassed in the study. The study is divided into three main parts. The first part encompasses two sections: the first devoted to the settlements reached and the second to the remaining unsettled disputes. The second part is a broader analysis of the trends in managing the border disputes of the three Indochinese countries and of the remaining challenges both in implementing agreements and in managing the unsettled disputes. The final part is a conclusion summarizing the main findings of the study and also addresses the regional conflict management dimension.

Settled and unsettled border disputes

The border disputes of the Indochinese countries can be studied from various perspectives; in this study the focus is on the current status of the disputes, i.e. whether the disputes are settled or not. Since some of the border disputes have been settled the overview of the disputes is divided into two categories; the first devoted to the settled disputes and the second to unresolved disputes.

Settled territorial disputes

On July 18, 1977, Laos and Vietnam signed a Treaty delimiting the land boundary between the countries. Following the completion of the demarcation process a Complementing Treaty was signed on January 24, 1986. On March 1, 1990, an Additional Protocol was signed and on the same day an Agreement on border regulation was signed.⁴ More recently, the two countries signed a Supplementary Treaty to the

³ This study partly draws on Amer (2009). This study also draws both on Amer's and Thao's individual and joint research on Vietnam's border dispute and on the South China Sea situation. It also draws on Amer's research on regional collaboration and conflict management in South-East Asia with a focus on the border dispute dimension. The views expressed in this study only represent the private views of the two authors.

⁴ For details on the settlement and demarcation of the land border between Laos and Vietnam see Gay (1995). See also a report carried by VNA News Agency reproduced in BBC/FE 2975, B/6-7.

Border Treaty on November 27, 2007 (MFA Vietnam, 2007a).

On July 7, 1982, Vietnam and the then People's Republic of Kampuchea (PRK) signed an agreement on "historic waters" located between the coast of Kien Giang Province, Phu Quoc Island and the Tho Chu islands on the Vietnamese side and the coast of Kampot Province and the Poulo Wai islands on the Cambodian side. The agreement stipulated that the two countries would hold, "at a suitable time", negotiations to determine the maritime frontier in the "historic waters". Pending such a settlement the two sides would continue to regard the Brévié Line drawn in 1939 as the dividing line for the islands within the "historic waters". The exploitation of the zone would be decided by "common agreement".⁵ On July 20, 1983, the two countries signed a Treaty on the settlement of border problems and an Agreement on border regulations (BBC/FE 7393, A3/1; Quang, 1986, pp. 8-9). On December 27, 1985, the two countries signed the Treaty on the Delimitation of the Vietnam-Kampuchea Frontier (BBC/FE/8143, A3/1-3; Quang, 1986, pp. 8-9). On October 10, 2005, the two countries signed a Supplementary Treaty to the 1985 Treaty (MFA Vietnam, 2005b).

In October 1991 Laos and China signed the Treaty on the Sino-Laotian Boundary System. Subsequently the two countries agreed on a Supplementary Protocol to the Treaty on the Sino-Laotian Boundary System in 1993.⁶

On June 5, 1992, an agreement was reached between Malaysia and Vietnam to engage in joint development in areas of overlapping claims to continental shelf areas to the south-west of Vietnam and to the east-north-east off the east coast of Peninsular Malaysia (Amer, 1995, p. 306; Nguyen, 1999, pp. 79-88; Nguyen, 2002a, pp. 53-56).

On April 8, 1994, Laos, Myanmar and China signed a 'Convention' relating to the delimitation of a Tri-junction point where the borders between the three countries meet (Gay & Phommachack, 1999, pp. 14-15).

On June 11, 1994, Laos and Myanmar reached an agreement relating to their land boundary, i.e. along the Mekong river. The 'Convention' relates to the 'fixation' of the

⁵ For the full text of the Agreement of July 7, 1982, see BBC/FE 7074, A3/7-8. The text of the Agreement has also been reproduced in an English language version as 'Appendix 2' in Kittichaisaree (1987, pp. 180-181). Interestingly enough the 'full text' of the Agreement transmitted by the official Cambodian news agency (SPK) on July 8 omitted the sentence "Patrolling and surveillance in these historical waters will be jointly conducted by the two sides", which was included in Article 3 of the version published by the Vietnamese News Agency and reproduced in Kittichaisaree's study (BBC/FE 7074, A3/8; BBC/FE 7076, A3/7; Kittichaisaree, 1987, pp. 180-181).

⁶ MFA China (2003a; 2003b). The second document refers to the 'Treaty on China-Laos Boundary'. Neither of the two documents provides more specific details about the dates of agreements.

international boundary between the two countries.⁷

On August 9, 1997, Thailand and Vietnam reached an agreement delimiting their continental shelf and Exclusive Economic Zones (EEZ) boundaries in a disputed area in the Gulf of Thailand to the south-west of Vietnam and to the north-east of Thailand (BBC/FE 1996, B/4-5; Nguyen, 1997, pp. 74-79; Nguyen, 1998, pp. 7-10; Nguyen, 2002a, pp. 51-53).

On December 30, 1999, China and Vietnam signed a 'Land Border Treaty' settling the land border dispute between the two countries (Nhan Dan, 1999).

On December 25, 2000, China and Vietnam signed the 'Agreement on the Delimitation of the Territorial Seas, Exclusive Economic Zones and Continental Shelves in the Gulf of Tonkin' settling their maritime boundary disputes in the Gulf (MFA Vietnam, 2000b). On the same day the two countries signed an agreement on fishery co-operation in the Gulf of Tonkin (Nguyen, 2005, pp. 35-41; Zou, 2002, pp. 127-148).

On June 11, 2003, Vietnam and Indonesia signed an agreement on the delimitation of their continental shelf boundary in an area to the North of the Natuna Islands (Nhan Dan, 2003).

On October 10, 2006, China, Laos and Vietnam signed a treaty defining the tri-junction point of their land boundaries (MFA Vietnam, 2006).

On August 26, 2008, Cambodia, Laos and Vietnam signed an agreement defining the tri-junction of their land boundaries (MFA Vietnam, 2008d).

Unsettled territorial disputes

Between Laos and Thailand there are disputed areas along the land border. The border is partly made up of the Mekong River.⁸

Between Cambodia and Thailand there are disputes relating to both the land border and to the maritime borders in the Gulf of Thailand where the claims of the two countries to maritime zones overlap.⁹

7 For details on the settlement and demarcation of the boundary between Laos and Myanmar see Gay & Phommachack (1999, pp. 7-18).

8 Ramses Amer's discussions with officials in Bangkok in December 1998, April 1999 and November 2000.

9 Amer's discussions with officials in Bangkok in December 1998, April 1999 and November 2000. See also Prescott (1998).

Between Cambodia and Laos there are disputes relating to the land border.¹⁰

The agreements reached between Vietnam and Cambodia in the 1980s, were not recognized by all parties within Cambodia for most of the 1990s. New bilateral talks on the status of their borders between the countries have been initiated to reach a solution to remaining disputed issues. This eventually led to signing in 2005 Supplementary Treaty to the Treaty of 1985 thus settling the land border dispute between the two countries. However, the maritime disputes are still not settled, therefore in the context of this study the maritime disputes between Vietnam and Cambodia cannot be considered as resolved and they are listed among the unsettled disputes. The disputes relate to overlapping claims to maritime areas in the Gulf of Thailand.¹¹

Between China and Vietnam the overlapping sovereignty claims to the Paracel and Spratly archipelagos are still unresolved. The same applies to China's claims within the so-called 'nine dotted lines' to the east of the Vietnamese coast in the South China Sea.

Between Malaysia, Thailand and Vietnam there is a multilateral dispute relating to an area of overlapping claims in the Gulf of Thailand.¹²

Between Malaysia and Vietnam the major dispute relates to Vietnam's sovereignty claim to the whole Spratly archipelago which overlaps the Malaysian claim to the southern part of the archipelago (Amer, 1995, pp. 305-306; Prescott, 1985, pp. 218-222; Valencia, 1991, pp. 54-66). These parts of the Archipelago are also claimed by China and Taiwan as well as partly claimed by the Philippines. Furthermore, Brunei Darussalam also claims Louisa Reef.

Between the Philippines and Vietnam there is a dispute in the South China Sea where Vietnam's sovereignty claim to the whole Spratly archipelago overlaps the Filipino claim to the major part of it (Amer, 1995, pp. 306-308; Prescott, 1985, pp. 218-222). These parts of the Archipelago are also claimed by China and Taiwan as well as partly claimed by Malaysia.

10 This was acknowledged by the then Cambodian First Prime Minister Ung Huot in early June 1998 (BBC/FE 3250, B/1).

11 For details on the disputes between Cambodia and Vietnam relating to the land and sea borders see Amer (1997, pp. 80-91; 1995, pp. 299-301).

12 For an overview of the maritime conflicts and co-operative agreements in the Gulf of Thailand see Prescott (1998). The area is currently included in the JDA between Malaysia and Thailand but is recognized by the two countries as claimed by Vietnam (Amer's discussions with officials in Bangkok December 1998, in April 1999 and in November 2000).

Between Vietnam and Indonesia the issue of the delimitation of the EEZ between the two countries remains to be settled.

Brunei's claim to Louisa Reef also overlaps with a Vietnamese claim through its sovereignty claim to the whole of the Spratly archipelago.¹³

Vietnam's claims to the Paracel and Spratly archipelagos also overlap with Taiwan's claims to the two archipelagos.

Between conflict management and tension

Cambodia

During the 1980s came agreements between the then PRK and Vietnam in 1982, 1983 and 1985. But no progress was made in negotiating the border disputes with Thailand. The Cambodian conflict prevented any such initiatives from 1979 to 1991. Although the PRK had good relations with Laos, border issues do not appear to have been addressed in the 1980s.

In the 1990s after the settlement of the Cambodian Conflict in late 1991 and in particular following the formation of a coalition government in Cambodia in mid-1993 after the United Nations-organized election, the border disputes with its three neighbouring countries – Laos, Thailand and Vietnam – re-emerged as contentious issues. In fact during the 1990s Cambodia openly accused Laos, Thailand and in particular Vietnam of violating its borders (Amer, 2000, pp. 40-43).

With Vietnam in particular, the land border issue and events along it have caused periods of tension in bilateral relations. Vietnam has repeatedly rejected accusations that it has violated Cambodian territory. The initiation of renewed talks on the border issues in the late 1990s did not lead to any agreement by the end of the decade. The status of the agreements of 1982, 1983 and 1985 were first put in doubt by the Cambodian side, but since the late 1990s they seem to have become acceptable to both sides as basis for further talks (Amer, 1995, pp. 299-301; Amer, 1997, pp. 80-91; Amer, 2000, pp. 40-42). The bilateral talks did progress into the year 2000 and Vietnam officially stated that an agreement would be reached by the end of that year (Nhan

¹³ A conflict over overlapping claims to 200-mile EEZ could emerge if Brunei and Vietnam would begin to assert such claims from islands and reefs which they claim in the area (Valencia, 1991, pp. 48-50 and pp. 66-67).

Dan, 2000; MFA Vietnam, 2000a). However, this did not materialize and for a few years talks were more sporadic. Eventually the two countries managed to make progress in their talks on the land border dispute resulting in the agreement on a Supplementary Treaty on October 10, 2005. Following the completion of the ratification process in both countries, the exchange of ratification documents for the Supplementary Treaty took place on December 6, 2005 and thus it entered into force (Nhan Dan, 2005). This settled the land border issue between the two countries. Currently, Cambodia and Vietnam are carrying-out the demarcation and marker planting of the land border in order to complete the process by 2012 in accordance with the agreement between the two Prime Ministers (MFA Vietnam, 2009e). However, the maritime disputes in the Gulf of Thailand are still not settled. Talks on the maritime disputes were initiated following Cambodian complaints that the Thai-Vietnamese maritime boundary agreement of August 1997 encroached on Cambodian waters.¹⁴ Thus far, little progress has been made in the maritime talks with one major point of differences being the interpretation of the Brévié line left by the French.¹⁵

In relation to the land border disputes with Laos the two countries established the Cambodia-Laos Joint Boundary Commission (CLJBC) and the Laos-Cambodia-Joint Boundary Commission (LCBJC), respectively, and they met for the first time in Vientiane from November 20-22, 1995. Talks have continued with some progress being reported in terms of survey and also demarcation including the 2008 tri-junction agreement with Vietnam, but the land border issue has not been fully settled yet.¹⁶

For the major part of the 1990s areas of Cambodia bordering Thailand were under the control of the Party of Democratic Kampuchea (PDK) (*Khmer Rouge*). This situation caused tension and also prevented the Cambodian government from getting involved in talks with Thailand on the common border.¹⁷ Cambodia and Thailand initiated

14 For Cambodia's complaints about the Thai-Vietnamese agreement see BBC/FE (3223, B/2-3; 3228, B/14). For the Vietnamese response see BBC/FE (3228, B/14). The information relating to the agreement was carried by the Voice of Vietnam.

15 In an earlier study it has been observed that "the Brévié-line left by the French, which primarily addressed the question of the islands in the area, is to be regarded as an administrative delimitation and not as a border delimitation" (Amer, 1997, p. 89). In fact the Governor General Brévié made this distinction in his decision of January 31, 1939 (see Chhak, 1966, p. 158; Tran, 1979, p. 39). For the text of Brévié's decision see Sarin (1966, pp. 207-208) and Tran (1979, pp. 62-63).

16 For details on developments up to 2000 see Amer (2000, pp. 42-43) and St John (2001, pp. 101-102). In January 2005 Cambodia officially reported that "86% of the border issues" had been settled (Cambodia MFA, 2005). In late 2008 Cambodia officially issued information that border demarcation would be terminated in 2009 ("Cambodia, Laos to end", 2008).

17 For information about the situation along the border in the 1990s see St John (2001, pp. 103-104).

talks on their land border dispute with the first meeting of the Joint Commission on Demarcation of the Land Boundary held in Thailand in early July 1999. Reportedly, the two sides could not agree on which system to opt for when using earlier conventions and treaties.¹⁸ Later the same year, talks on the maritime disputes between the two countries were initiated. Due to periods of tension in bilateral relations in the 2000s – most notably in 2003 with attacks on Thai assets in Cambodia including the Thai Embassy in Phnom Penh – and to periods of tension along the land border – most notably in 2008 and 2009 when tension in and relating to areas in the vicinity of the Preah Vihear temple led to both deep political tension and to sporadic clashes between Thai and Cambodian troops resulting in casualties¹⁹ – the talks on the border issues between the two countries have been hampered and both land and maritime disputes remain to be settled.

Laos

During the second half of the 1970s Laos and Vietnam reached agreements relating to their land border with the demarcation being finalized in 1990. Officially the two countries did not refer to any border dispute between them but the outcome of the demarcation process displayed that areas of overlapping claims existed and that such differences were resolved in the negotiation and demarcation processes. Since September 2008, Laos and Vietnam are implementing a project to add and upgrade border landmarks between the two countries. This project will be carried-out during the period 2008-2014 and about 800 border pillars will be planted along the 2,300 km boundary line (MFA Vietnam, 2008b; MFA Vietnam, 2008c).

With other neighbouring countries it was not until after the end of the Cold War and the changing regional developments with the end of the Third Indochina Conflict that border issues were being addressed.

The most notable progress is the agreements and demarcations of the borders

18 Land Boundary (1999, p. 46) and Boundary Talks (1999, p. 37).

19 Official Cambodian sources provide details on Cambodia's position on key periods of the 2008-2009 dispute with Thailand. First, through letters to the United Nations complaining about Thailand's violation of Cambodia's territorial integrity (UN Cambodia Letter, 2008a, UN Cambodia Letter, 2008b; UN Cambodia Letter, 2008c). Second, by clarifying that there is no territorial dispute in the Preah Vihear temple area ("No overlapping", 2008). Third, on Thai de-mining activities encroaching on Cambodian territory ("Cambodia: Thailand", 2008; "Statement of the Spokesman", 2008). Fourth, through accounts about military clashes in both October 2008 and April 2009 ("Cambodia informs", 2008; "Cambodia clarifies", 2009; "Cambodia demands", 2009). Fifth, an official rebuttal that the inscription of Preah Vihear Temple provoked Thailand's military action ("Inscription of the Temple", 2009).

between Laos and China and Laos and Myanmar, respectively, as well as the tri-junction agreement between the three countries during the first half of the 1990s.

With Thailand, Laos agreed in August 1996 to set up a Joint Border Committee, to be chaired by the Foreign Ministers of the two countries, to deal with the demarcation of the common border.²⁰ The demarcation process has been initiated and some sections of the land border have been demarcated but a number of disputed areas remain to be settled.²¹ Furthermore, the two countries need to agree on the principles for establishing the borderline along the Mekong River which makes up a large section of the common border between Laos and Thailand. The attempts at progressing with the demarcation process have at times been hampered by tension between the two countries.²²

Vietnam

With the exception of Laos and the PRK, Vietnam only held border talks with Indonesia prior to the early 1990s. The 1990s were characterized by considerable progress in negotiations. In 1992 a joint development agreement (JDA) was reached with Malaysia relating to an area of bilateral dispute in the Gulf of Thailand. In 1997 an agreement was reached with Thailand relating to maritime boundaries in areas of bilateral dispute in the Gulf of Thailand. The agreement entered into force on February 27, 1998, following the completion of the ratification process (Thai-Vietnam Ratification, n.d.). In 1995 Vietnam and the Philippines agreed on a 'code of conduct' to be observed by the two countries in the South China Sea. In the late 1990s Vietnam, Malaysia and Thailand initiated trilateral talks relating to an area in the Gulf of Thailand where the claims of the three countries overlap. These talks were made possible by the maritime boundary agreement between Vietnam and Thailand in 1997 (Amer & Nguyen, 2005, p. 432 & p. 434).

The claims of Taiwan and Vietnam, respectively, to the Spratly and Paracel archipelagos overlap and Vietnam have made official statements criticizing Taiwanese

20 Amer's discussions with officials in Bangkok in December 1996. See also BBC/FE (2713, B/4; 2770, B/4.)

21 Thai sources indicate that more than 90 percent of its border with Laos has been demarcated. This does not include the sections of the border along the Mekong River (Amer's discussions with officials in Bangkok in November 2007 and in February 2009).

22 For background information including clashes in both 1984 and in 1987 as well as developments up to 2000 see St John (2001, pp. 102-103).

activities in the Spratlys in recent years. However, Vietnam does not recognize Taiwan as a sovereign country. Vietnam not only adheres to the 'one China policy' – implying that Vietnam is committed to only recognize China and not Taiwan – but also has repeatedly stated its commitment to this policy. Thus, Vietnam cannot enter into official talks with Taiwan over the overlapping claims by the two parties. The non-recognition of Taiwan does not imply that Vietnam refrains from official protest against Taiwanese activities in the Spratlys.²³

Given the extent of the border disputes between China and Vietnam along the land border, in the Gulf of Tonkin and in the South China Sea, these disputes deserve more extensive analysis. During the process leading up to the full normalisation of relations between the two countries in November 1991 the border disputes were not resolved.²⁴

Following the full normalization of relations the major part of the 1990s was characterized by a fluctuating level of tension relating to the border disputes. Sharp differences relating to all the border disputes, i.e. overlapping claims to the Paracel and Spratly archipelagos; to water and continental shelf areas in the South China Sea and in the Gulf of Tonkin; and to areas along the land border, were prevalent from May to November 1992. Differences relating to oil exploration in the South China Sea and the signing of contracts with foreign companies for exploration were prevalent during the periods April to June 1994, April to May 1996, and March to April 1997. In 1998 there was no extended period of tension relating to the border disputes but shorter periods can be noted such as in January along the land border and in the South China Sea in April, May, July, and September (Amer, 2002, pp. 8-26).

In order to cope with the fluctuating level of tension relating to the border disputes, the two countries developed a system of talks at the expert-, government- and high-levels to deal with the border issues (Amer, 2002, pp. 9-41 & pp. 50-58; Amer, 2004, pp. 329-331, Amer, 2008; Amer & Nguyen, 2005, pp. 433-434; Amer & Nguyen, 2007a, pp. 74-76; Amer & Nguyen, 2007b, pp. 118-122). The talks at the government-level began in August 1993, the thirteenth round of talks was held in January 2007, and in

23 The most recent Vietnamese protest was made on May 5, 2008 (MFA Vietnam, 2008a).

24 For more detailed analyses of the normalization process as such and the way in which the border disputes were addressed during this process see Amer (2002, pp. 7-8). For broader analysis of the normalization process see Amer (1994, pp. 365-366 & p. 376; 1999, pp. 73-74 & pp. 105-108; 2004, pp. 320-328).

August 2009 the most recent 'round' of government-level talks was held.²⁵ The first achievement was the signing of an agreement on October 19, 1993, on the principles for handling the land border and Gulf of Tonkin disputes. It was further agreed to set up joint working groups at the expert-level to deal with the two issues. The joint working group on the land border held sixteen rounds of talks from February 1994 to the signing of the 'Land Border Treaty' in December 1999. The joint working group on the Gulf of Tonkin met 17 times from March 1994 to the signing of the 'Agreement on the Delimitation of the Territorial Seas, Exclusive Economic Zones and Continental Shelves in the Gulf of Tonkin' in December 2000. Talks at the expert-level on the disputes in the South China Sea proper, the so-called 'sea issues', were initiated in November 1995 and the eleventh round of talks was held in July 2006.²⁶

The progress is evident relating to both the land border and the Gulf of Tonkin with the agreements of 1999 and 2000 respectively. Both countries ratified the 'Land Border Treaty' in 2000 and it officially took effect on July 6 (Amer, 2002, pp. 27-35; Amer, 2004, pp. 334-335). The demarcation process was officially concluded at the end of 2008 (MFA Vietnam, 2009a; MFA China, 2008; Nhan Dan, 2009). The maritime boundary agreement relating to the Gulf of Tonkin entered into force on June 30, 2004, when the two countries exchanged documents relating to the ratification of the agreement in Hanoi (Nhan Dan, 2004; People's Daily, 2004). The ratifications process and the entry into force of the agreement were made possible by the completion of the talks on an additional protocol to the agreement of fishery co-operation. This agreement also entered into force on June 30 (People's Daily, 2004; "VN - China gulf," 2004, pp. 8-10, Nguyen, 2004, pp. 9-15 & p. 19; Nguyen, 2005, pp. 25-44; Zou, 2005, pp.13-24).

Following the entry into force of the Gulf of Tonkin maritime boundary agreement and the fisheries cooperation agreement, the two countries initiated expert-level talks on the delimitation of the area outside the entrance of the Gulf of Tonkin - the

25 The thirteenth round of government-level talks we held in Beijing January 19-20, 2007 (Nhan Dan, 2007; MFA Vietnam, 2007b). At a meeting in Hanoi November 27-29, 2007, between the Vietnam and Chinese delegations to the 'Sino-Vietnamese Government Border and Territory Negotiation' it was agreed that the fourteenth round of talks at the government-level will be held in 2008 (MFA Vietnam, 2007d). From August 12-14, 2009, government-level talks were held in Hanoi. Reports do not indicate which round this corresponds to (MFA Vietnam, 2009d; MFA China, 2009b).

26 The eleventh round of talks on 'sea issues' was held July 10-12, 2006 (Nhan Dan, 2006). At a meeting in Hanoi from November 27-29, 2007, between the Vietnam and Chinese delegations to the 'Sino-Vietnamese Government Border and Territory Negotiation' it was agreed that the twelfth round of talks on the 'Sea Issues' would be held in 2008 (MFA Vietnam, 2007d).

so-called mouth of the Gulf of Tonkin. The first meeting of the expert-level working group was held in January 2006 in Hanoi and the fifth meeting was held in Hanoi in January 2009 (Nguyen & Amer, 2007, p. 313; MFA Vietnam, 2009b).

The expert-level talks on the so-called 'sea issues' (South China Sea – referred to as East Sea by Vietnam) have not made much progress partly due to disagreements on what issues should be on the agenda with Vietnam pushing for the inclusion of the issue of the Paracels and China insisting that that issue should not be on the agenda. Nevertheless, the level of tension relating to the disputes in the South China Sea had been considerably reduced by 1999, a trend that has continued to largely prevail in the 2000s (Amer, 2002, pp. 27-35; Amer, 2004, pp. 334-335; Amer & Nguyen, 2005, pp. 434-435; Amer & Nguyen, 2007a, p. 76; Nguyen & Amer, 2007, p. 313).

Despite this lack of progress in the expert-level talks, the high-level talks have resulted in agreements on increasingly sophisticated principles for the behaviour of the two countries in the South China Sea in order to avoid actions that can provoke tension and to minimize tension if a dispute arises. Notable provisions relating to the behaviour in the South China Sea can be found in Joint Declarations, Joint Statements and Joint Communiqués from high-level meetings between China and Vietnam over the last decade.²⁷

This clearly displays the stated commitment to handle the disputes in the South China Sea through peaceful means and to strive for both a solution and collaboration in the area. In the context of the multilateral dispute relating to the Spratly archipelago and the broader issue of the situation in the South China Sea, Vietnam is actively involved in the ASEAN-China dialogue. The most tangible outcome of that dialogue was the signing of the 'ASEAN-China Declaration on the Conduct of Parties in the South China Sea' (DOC) on November 4, 2002, during the Eighth ASEAN Summit. The DOC is seen as an important step in the process aiming at establishing and agreeing on a 'code of conduct' in the South China Sea. The parties concerned undertake to resolve their border and jurisdictional disputes by peaceful means, without resorting to the threat or use of force, through friendly consultations and negotiations by sovereign states directly concerned, in accordance with universally recognized principles of international law, including the 1982 United Nations Convention on the

²⁷ For an overview of such high-level meetings and the focus of the Joint Declarations, Joint Statements and Joint Communiqués see Amer (2008).

Law of the Sea (UNCLOS) (Nguyen, 2001, pp. 105-130; Nguyen, 2002b, pp. 19-21).

In the context of the situation in the South China Sea it can be noted that an Agreement on seismic survey in the South China Sea between the Chinese National Offshore Oil Company (CNOOC) and the Philippines National Oil Company (PNOC) was signed on September 1, 2004 (DFA 2004). The area of seismic survey covers some parts of the Spratly archipelago. Vietnam officially stated that the agreement had been concluded without consulting other parties. It 'requested' China and the Philippines to inform Vietnam about the content of the agreement. Vietnam also reiterated its sovereignty claims to both the Spratly and Paracel archipelagos. Finally, it called on all other signatories to join Vietnam in "strictly implementing the DOC" (MFA Vietnam, 2004).

In March 2005 there were further developments relating to the South China Sea. First, on March 7, it was announced by the Department of Foreign Affairs of the Philippines that the Maritime and Ocean Affairs Center, Department of Foreign Affairs of the Philippines would host the Third Philippines-Vietnam Joint Oceanographic Marine Scientific Expedition in the South China Sea (JOMSRE-SCS III) from April 6-9, 2005 (DFA, 2005a). On March 11 the Spokesman of China's Ministry of Foreign Affairs expressed China's "concern" about the joint marine research and that China and the "relevant parties" would follow the "principles enshrined in the Declaration on Conduct of Parties in the South China Sea" in their marine research (MFA China, 2005a).

Second, on March 14, a 'Tripartite Agreement for Joint Marine Seismic Undertaking in the Agreement Area in the South China Sea' (JMSU) was signed between China National Offshore Oil Corporation (CNOOC), Vietnam Oil and Gas Corporation (PETROVIETNAM) and the Philippine National Oil Company (PNOC). It was stipulated that the signing of the agreement 'would not undermine the basic position held by the Government of each party on the South China Sea issue'. However, the parties expressed their "resolve to transform the South China Sea into an area of peace, stability, cooperation and development".²⁸ The three-year term of JMSU ended on July 1, 2008, and the three parties have not officialized any information about the possible continuation and future direction of the tripartite collaboration.

28 Information derived from MFA Vietnam (2005a). For the report from China see MFA China (2005b). For the report of the Philippines see DFA (2005b).

On February 2, 2009, the House of Representatives of the Philippines passed House Bill 3216. The Bill aimed at defining the Archipelagic Baselines of the Philippine Archipelago and it reportedly includes both the Kalayaan Island Group (KIG)²⁹, i.e. the major part of the Spratly archipelago, and Scarborough Shoal. The passing of the Bill prompted reactions from both Vietnam and China.³⁰

In early May 2009 Vietnam submitted a 'Partial Submission' relating to Vietnam's extended continental shelf in the "North Area" (UN Vietnam Submission, 2009) as well as a "Joint Submission" together with Malaysia to the Commission on the Limits of the Continental Shelf (UN Malaysia-Vietnam Submission, 2009). Both submissions prompted China to protest and to reiterate its claims in the South China Sea.³¹

In the context of the border disputes with Indonesia the 1990s did not bring about a breakthrough in the negotiations. The two countries failed to capitalize on the traditionally good bilateral relations. Furthermore, the impact of the Asian Financial Crisis on Indonesia brought other more pressing needs on the agenda for the Indonesian leaders. Thus, no progress was made in negotiating the border disputes, but stability was maintained. This state of affairs continued to prevail into the early 2000s (Nguyen, 2002a, pp. 56-58) until a breakthrough was made in 2003 leading to the agreement of June 2003 settling the continental shelf dispute between the two countries. After the completion of a lengthy ratification process the agreement entered into force on May 29, 2007 (MFA Vietnam, 2007c). The issue of the delimitation of the EEZ between the two countries remains to be settled.

Patterns of conflict management

From the observations above it can be noted that the resolution of the Cambodian conflict in October 1991 was a watershed in the management of both Laos' and Vietnam's border disputes. Prior to this development Laos and Vietnam had settled

29 The KIG encompasses all features of the Spratly archipelago with the exception of the Spratly Island itself, Royal Charlotte Reef, Swallow Reef, and Louisa Reef (Nguyen & Amer, 2007, p. 308).

30 On the passing of the bill see Dalangin-Fernandez (2009). On Vietnam's initial response see MFA Vietnam (2009c). On China's initial response see MFA China (2009a).

31 China's reaction to the Joint Submission was through a Letter from the Permanent Mission of the People's Republic of China to the Secretary General of the United Nations (UN China Letter, 2009a). China's reaction Vietnam's Partial Submission was through a Letter from the Permanent Mission of the People's Republic of China to the Secretary General of the United Nations (UN China Letter, 2009b). Attached to both Letters was a map of the South China Sea outlining China's claims in the area and the so-called 'nine-dotted lines' are clearly displayed on the map.

only their common land border.

During the first half of the 1990s Laos settled its land borders with China and Myanmar, respectively. During the 1990s talks were also initiated with Thailand and Cambodia, respectively. These talks have continued in the 2000s and progress has reportedly been made also in terms of border demarcation.

As noted above the agreements reached between Cambodia and Vietnam in the 1980s did not resolve the border disputes as displayed by continued differences and renewed attempts at negotiations in the late 1990s and the early 2000s. However, the land border dispute was settled in late 2005.

Since the settlement of the Cambodian conflict, Vietnam has agreed on a JDA with Malaysia in areas of overlapping claims in the Gulf of Thailand in 1992. In 1997 Vietnam and Thailand agreed on maritime boundaries between the two countries in the Gulf of Thailand. The agreement with Thailand has also paved the way for talks between Vietnam, Thailand and Malaysia relating to the area of the Gulf of Thailand where the claims of the three countries overlap. In 2003 Vietnam and Indonesia agreed on their continental shelf boundary. Furthermore, the 1995 agreement with the Philippines on a 'code of conduct' to be observed in the South China Sea is another notable progress after the resolution of the Cambodian conflict. More recently in May 2009 the 'Joint Submission' by Vietnam together with Malaysia to the Commission on the Limits of the Continental Shelf can be seen as the result of a bilateral conflict management process (UN Malaysia-Vietnam Submission, 2009).

In relation to the border disputes between Vietnam and China the full normalization of bilateral relations in late 1991 certainly facilitate the management of the disputes. However, the most interesting feature is the fact that the full normalization took place without resolving the border issues. This can best be understood in light of the major efforts that both countries have invested in managing and resolving the border issues since full normalization. In other words, as noted above, full normalization of relations between China and Vietnam would not have been possible in 1991 if resolving the border issues would have been a pre-condition for it.

Overall Vietnam has made considerable progress in managing and resolving its border disputes. Some bilateral disputes have not been formally settled but they are managed through various measures such as JDA, code of conduct, and talks. The multilateral dispute over the Spratlys is more complicated due to the nature of the

disputes. Thus far Vietnam has made most progress in its bilateral talks with the Philippines and China, respectively, when it comes to managing disputes in the area. Vietnam also contributes to the policy of ASEAN on the South China Sea situation and the Association's attempts at promoting peace and stability in the area. Differences are likely to persist such as those between Vietnam and China relating to the Paracels and also with regard to areas to the east of the Vietnamese coast and the west of the Spratlys. However, as noted above both sides have made considerable progress in containing tension in recent years and have agreed on a number of measures to avoid and contain possible sources of tension.

Cambodia has been less successful in formally settling its border disputes with the notable exception being the land border with Vietnam, which is currently being demarcated. However, Cambodia is involved in border talks and in border demarcation with Laos on the land border issues, with Vietnam on the maritime issues, and with Thailand on both land and maritime border issues.

Achievements

Since the early 1990s, Vietnam has emerged as an active actor in settling border disputes by peaceful means in the region. During a period spanning less than fifteen years (1992-2005) Vietnam reached agreements relating to its land border disputes with China and Cambodia and on maritime disputes with Malaysia, Thailand, China, and Indonesia. In addition Vietnam has reached an agreement on a code of conduct with the Philippines relating to the South China Sea. More recently Vietnam and Malaysia made a 'Joint Submission' to the Commission on the Limits of the Continental Shelf. This is an impressive success rate in terms of settlement of border disputes in the South-East Asian context. Through these agreements, Vietnam has contributed to the development of international law such as the application of *uti possidetis* principle, the equitable principle, the application of the single line for maritime delimitation, and in terms of the effect of islands in maritime delimitation.

Also Laos has been actively addressing its border disputes with the notable progress achieved with Vietnam as well as with China and Myanmar, respectively. Progress has also been made in terms of border demarcation with both Thailand and Cambodia, although these processes have not yet been completed.

Cambodia has not been as successful as its two neighbours but the 2005 agreement relating to the land border with Vietnam is a notable progress for Cambodia in terms of settling its border disputes. Talks are also underway with Laos relating to the land border and with Vietnam relating to the maritime disputes. Although tension dominated the interaction between Cambodia and Thailand in 2008 and 2009 the mechanisms for talks on border issues are in existence.

Challenges

In the case of Cambodia the land border disputes with Thailand have been the most acute and tension filled over the past year. The lack of progress in addressing the maritime disputes with both Thailand and Vietnam, respectively, display the continued challenges facing Cambodia in terms of dispute settlement on border issues. The fact that the land border issue with Laos still persists further adds to the challenges that Cambodia faces in dealing with its border issues. There is also a need to complete the land border demarcation with Vietnam within the deadline agreed upon by the two countries, i.e. by 2012.³²

In the case of Laos the main challenges are the settlements of its land border disputes with Thailand and Cambodia, respectively.

For Vietnam the demarcation processes of the land border with Cambodia has to be completed. Vietnam and China have to complete their negotiations relating to maritime delimitation in then the so-called mouth of the Gulf of Tonkin. The talks between Vietnam, Malaysia and Thailand relating to the area of tri-lateral overlap in the Gulf of Thailand have to be concluded. In the South China Sea the disputes with China have to be continuously managed and the same applies to Vietnam disputes with other claimants in the area, i.e. Malaysia, Taiwan, the Philippines, and potentially Brunei.

Conclusion and regional conflict management dimension

The analysis carried out in this study has displayed the positive developments relating

³² The on-going demarcation process between Cambodia and Vietnam is expected to be completed by 2012 (Nhan Dan, 2008; MFA Vietnam, 2008b; MFA Vietnam, 2009e).

to both Laos and Vietnam's border disputes. The developments relating to Cambodia's border disputes display less progress than that of its two neighbours.

The case of Cambodia displays few formal settlements of border disputes, with the land border with Vietnam being the exception, while talks are underway with Laos, Thailand, and Vietnam, respectively, on unsettled border disputes. This relates to the land border dispute with Laos, the land and maritime disputes with Thailand, and the maritime dispute with Vietnam.

The cases of both Laos and Vietnam display track records in settling border disputes, which has been impressive as seen from the perspective of the South-East Asian region. The reduction in tension relating to the remaining border disputes of Vietnam is also a positive development. Also Laos is on the process of managing its borders with both Thailand and Cambodia. These overall positive developments do not imply that all disputes have been settled nor that all agreements have been fully implemented, therefore continued efforts are needed to resolve the remaining bilateral disputes, e.g. in the case of Vietnam the maritime disputes with Cambodia, and to prevent tension from reemerging, e.g. the South China Sea. For Laos the settlement of its land border disputes with Thailand and Cambodia, respectively, has to be achieved.

The full implementation of the agreements reached thus far is essential. In the case of Vietnam this relates to the land border with Cambodia, along which the demarcation processes has to be completed. The negotiations relating to maritime delimitation in the so-called mouth of the Gulf of Tonkin needs to be completed by Vietnam and China.

Vietnam's integration into ASEAN can be further enhanced and strengthened if the trilateral dispute involving Thailand and Malaysia in the Gulf of Thailand could be formally managed through some sort of joint scheme. It could serve as a model for handling other multilateral dispute in the region. The settlement of the maritime disputes with Cambodia would also be a positive contribution.

Furthermore, continued and renewed efforts between Vietnam and China to manage their disputes in the South China Sea are also of importance to Vietnam and to the rest of the region. The importance placed on minimizing tension by the two sides can be seen in the agreements on mechanisms to reduce tension and the actual

reduction in tension that has been prevailing since the late 1990s.³³ Despite such efforts differences are likely to persist and administrative decisions in the respective country relating to the Paracels and/or Spratlys will spark official protest from the other side as will oil exploration and related contracts with foreign oil companies. However, both sides will continue to strive to minimize the tension caused and refrain from escalating it, as has been the prevailing policy since the late 1990s.

As for the broader South China Sea situation the adoption by ASEAN and China of the DOC for the South China Sea is a positive step in terms of conflict management. Vietnam and other parties concerned can play active and constructive roles in implementing and abiding by the DOC. The Tripartite Agreement – JSMU – between the national oil companies of China, the Philippines and Vietnam could possibly have an important impact on the South China Sea situation. The findings generated from this tripartite initiative will also provide valuable information about how resource rich the area is. The latter will certainly be an important factor in influencing the involved parties in discussions about the possible future direction of the tripartite collaboration.

In terms of regional integration into ASEAN, the settlement of the land and maritime disputes between Cambodia and Thailand, of the maritime disputes between Cambodia and Vietnam, and the settling of Cambodia's land border issues with Laos, would not only enhance bilateral relations between Cambodia and its three neighbours, but also enhance Cambodia's integration into ASEAN. Laos' integration would also be strengthened by the formal settlement of its land border issues with Thailand. Vietnam's integration into ASEAN can be further enhanced and strengthened if the trilateral dispute involving Thailand and Malaysia in the Gulf of Thailand could be formally settled which could serve as a model for handling other multilateral disputes in the region.

In the above the question of regional integration has been discussed relating to Cambodia, Laos and Vietnam, respectively. If this is expanded to the field of regional

33 Despite the sharp reduction in tension some incidents have occurred since 1999 (Amer, 2002, pp. 27-35; Amer, 2004, pp. 334-335). For example in 2007 two events led to Vietnamese official responses. First, on November 27 – in response to a military exercise by China in the Paracels – Vietnam reiterated its sovereignty claims to both the Paracel and Spratly archipelagos (MFA Vietnam, 2007e). Second, the establishment by China – of what the Vietnamese called 'San Shan city' – on Hainan Island to administer the Paracel and Spratly archipelagos in 2007 led to an Vietnamese official protest. On December 3, 2007 (MFA Vietnam, 2007f). In an unprecedented development protests were held outside the Chinese embassy in Hanoi and the Chinese consulate in Ho Chi Minh City on December 9, 2007, prompting an official response by the Chinese Foreign Ministry stating that China was "deeply concerned over the recent developments in Vietnam" and warning that they could undermine bilateral relations (MFA China, 2007).

conflict management and in particular the ASEAN approach to conflict management, it can be said that all three Indochinese countries display a preference to bilateral approaches to negotiating their border disputes. This is not in contradiction with the ASEAN approach as long as the three countries do adhere to the Treaty of Amity and Cooperation and other ASEAN documents of relevance to inter-state relations among its members. The fundamental principle is of course the peaceful settlement of disputes as enshrined in the TAC.

As has been argued in earlier studies on the management of Vietnam's border disputes the progress made in formally settling a number of Vietnam's border disputes strengthens the credibility of ASEAN in the field of conflict management (Amer & Nguyen, 2005, p. 443; Amer & Nguyen, 2007a, pp. 81-82). This study has shown that also Laos has contributed to enhance the credibility of the ASEAN approach. This line of argumentation draws on the logic that bilateral approaches are not in contradiction with the regional approach as long as the bilateral ones adhere to the same basic principles guiding the regional approach. This relates to the ASEAN role as one of norm creator and not necessarily as a third-party mediator in disputes between its members. More problematic are cases where the bilateral approaches are not successful and where regional mechanisms such as the High Council of the TAC are not utilized.

By way of concluding it can be argued that since formal talks and negotiation are the approaches utilized by both Vietnam and Laos with success and also by Cambodia with less formal settlement outcome thus far, the informality that is said to be the dominant within ASEAN as part of the so-called 'ASEAN Way' does not seem to apply when addressing the border disputes of the Indochinese countries. On the contrary in particular Vietnam has intentionally and consistently sought to address through management and when possible formal settlement its border disputes. This displays a preference for both diplomatic and legalistic approaches to managing and settling border disputes. It indicates that the study of conflict management and disputes settlement in South-East Asia and among the ASEAN members must take into account the experiences of the newer members, e.g. Vietnam, to a greater extent.

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