Vietnam and South China Sea Issues: Role of Multilateral Forums

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Outline

• Recent China-Vietnam Tensions
• China’s Assertive Approach to Regionalism
• Vietnam’s Possible Options
• Role of ASEAN-led Institutions
• Role of United Nations
• India’s Position
Recent SCS developments

• China sent its survey ship, Haiyang Dizhi 8, escorted by other ships, to conduct activities in SCS (East Sea) violating Vietnam’s EEZ and Continental Shelf, on 4 July 2019.

• In 2014 - the Haiyang Shiyou 981 oil rig standoff

• In 2011 also China had sent ships
...Recent Devpts

• Chinese ships intruded in two blocks 0.51 and 0.61 and then moved to where Indian’s OVL, Petro Vietnam and Russia’s Rosneft are prospecting.

• China by utilising its artificial islands to serve as logistics hub can stay away from its nearest Hainan island for longer duration, thereby posing a new challenge to Vietnam.
China’s Assertive Regionalism

• China’s economic and military rise and growth of nationalism prompted the quest for new security architecture

• Beijing’s One Belt One Road with ASEAN States joining in, has weakened ASEAN centrality

• Masterplan on ASEAN Connectivity 2025 requires an annual investment of $110 billion which explains imp of Asian Investment Bank
Vietnam’s Possible Options

• Bilateral
• Raise concerns with friendly states
• Use the Media
• UN Diplomacy: UNGA, UNSC
• Legal recourse: ITLOS, ICJ or the PCA
• ASEAN Diplomacy: ASEAN Summit, EAS, ADMM +, ARF.
ASEAN

• 1992: ASEAN adopts Declaration on SCS urging restraint
• 2002: ASEAN-China sign non binding DoC
• 2012: ASEAN fails to produce Jt Communique due to differences on SCS
• 2016: ASEAN-China agree on CUES
• 2017: ASEAN-China agree at Manila to a negotiating framework for the CoC
ASEAN-led institutions

• June 2019: ASEAN released the ASEAN Outlook on Indo-Pacific.
• At the outset, the document points out that it is not aimed at creating new mechanisms or replacing existing ones, but to strengthen ASEAN’s Community building process and strengthen ASEAN-led mechanisms [to better face challenges like SCS]
East Asia Summit

- EAS: is a leaders led forum for negotiating and articulating policy decisions from a regional platform
- At the 14th EAS, Bangkok recently mooted the **Indo-Pacific Initiative** to enhance maritime security. PM Modi of India has proposed a Seminar on Maritime security and cooperation in Chennai in 2020.
The 13th EAS held in Nov 2018, Singapore: emphasised importance of maintaining and promoting peace, security, freedom of navigation and overflight above the SCS.

Noted the progress to a Single Draft CoC Negotiating Text
ADMM Plus

• Membership: ASEAN+ 10 Dialogue Partners
• Forum for regional defence leaders for security dialogue + forum for practical steps to promote military coop including joint military exercises.
• ASEAN Defence Sr Officals’Mtg Plus, ADSOM prepares the ground for ADMM+
• The 6th ADMM+ the defence ministers exchanged views on recent developments in the SCS. Emphasised need to enhance mutual trust and pursue peaceful resolution of disputes in accordance with international law, incl UNCLOS and expeditious conclusion of the CoC in the SCS.
• Formed in 1994, has 27 Members as pol and security issues replaced economic focus of ASEAN
• ARF Concept Paper lists 3 stages of evolution: 1. CBMs  2. Preventive Diplomacy and 3. Conflict Resolution
• ARF has become bloated and consensus difficult
• Failed to progress beyond Stage 1 of CBMs
Expanded ASEAN Maritime Forum

• It has emerged as a venue for EAS Member countries to address common crosscutting maritime issues and challenges
United Nations

- Maritime disputes come to the UN through its various organs and bodies.
- UNGA and UNSC
- CLCS: Commission on the Limits to the Continental Shelf (held its 20th anniv 2017)
- ITLOS: Intl Tribunal for the Law of the Sea was created by the mandate of the Third UNCLOS
- ICJ: Intl Court of Justice
UNGA and UNSC

- Vietnam Foreign Minister Pham Binh Minh said: “Multilateralism is facing acute challenges” and called for strengthening the UN
- Principal organ of UN based on the sovereign equality of all its Members
- General Debate: most imp item on the regular session of the UNGA
- UNSC: 2020 significant year Vietnam becomes non permanent member
ITLOS

• It has an independent judicial jurisdiction over any dispute concerning the interpretation or application of the UN Convention on the Law of the Sea

• Disputes could relate to the living resources of the sea; delimitation of maritime zones; protection and preservation of the marine environment
PCA

• Permanent Court of Arbitration- not a UN agency but an intergovtual one located at the Hague. It has an observer status in the General Assembly

• As evident from the 2016 ruling on Philippines-China dispute in the SCS, its rulings are binding but not enforceable
India’s Position

• India follows a consistent approach on the SCS, articulated on several occasions
• India not a party to the dispute in SCS but 55 % of India’s trade passes through the SCS and Malacca Strait.
• India’s ONGC Videsh Ltd (OVL) engaged in oil and gas exploration in blocks off the coast of Vietnam since 1988. China raised concerns, but India has conveyed that these activities by Indian companies are purely commercial in nature.
India’s position

- Freedom of navigation, overflight and unimpeded lawful commerce in the international waters in accordance with international laws, notably the UNCLOS.
- Peaceful resolution of disputes, without resorting to the threat or use of force.
- India welcomed Declaration of Conduct, 2002 and measures to work towards adoption of Code of Conduct
- India and Bangladesh settled their maritime boundary using the mechanism of UNCLOS
Conclusion

• The 2016 PCA verdict gave a potential filip to rule of law in the SCS
• ASEAN States esp. the claimant states have to show greater resolve in responding both militarily and diplomatically in the SCS
• Once that happens the gains on the multilateral front would be more visible