

ASEAN, CHINA AND THE DECLARATION OF CONDUCT FOR THE EAST SEA

By Tran Truong Thuy

On 4 November 2004, ASEAN and China signed the Declaration of Conduct for the South China Sea. Though this is far from the binding document that ASEAN countries wished to have, however, it represents a turning point. Before the DOC, there existed in the region various documents governing the conduct of regional countries in the South China Sea. The tenet of principles enshrined in these documents is the resolution of disputes through peaceful means, non-recourse to threat or use of force, the promotion of cooperation among parties concerned. Bilaterally, the Philippines and China agreed on an 8-point code of conduct in 1985.

The idea of a code of conduct for the East Sea was first broached in 1996 at the 29th AMM and the Philippines and Vietnam were tasked with drafting the Code. Discussion centred on the area of application and the legality of the document etc. The Declaration of Conduct was proposed and signed between China and ASEAN on November 4 2000 wherein the signatories committed themselves to observing the general principles governing their relations and solutions to problems, confidence building and cooperation. With the DOC, China has relieved the fear of itself among ASEAN countries, driven a wedge among ASEAN countries and gained higher ground in the rivalry against the US. Moreover, China was also able to rule out engagement from the outside as the two sides agreed that the dispute is regional and should be resolved regionally. In any case, it testifies to China's willingness to participate in a multilateral mechanism.

PHILIPPINE DOMESTIC POLITICS AND THE DISPUTE OVER SPRATLY

By Tran Thanh Tung

In early 2009, the East Sea was once again the scene of "waves" caused by movements of the different claimants. The Philippine President approved a new law on the country's baseline in March 2009, culminating a process of complicated and acute internal discussion. Different political groups in the country adopted different approaches to the dispute. The Ministry of Foreign Affairs tends to give greater importance to relations with ASEAN while the President the Republic and the President of the Senate wish to improve cooperation with China. The country's law does not allow foreign company to own more than 30% equity in oil prospection and exploitation.

The complicated domestic politics can be seen in the Joint Marine Seismic Undertaking where the opposition criticized the Undertaking and asked for a probe into its Constitutional conformity. This Undertaking also runs counter to the spirit of the Declaration of Conduct. It divides ASEAN and raise tension in the East Sea.

The second case study is the newly approved Law on the Baseline. Heated dispute occurred in the process of getting the Law through the country's bicameral parliament. The Philippines' compromise in following China's policy of "shelving the dispute for joint development by signing the JMSU and approval of the Law on Baseline have complicated the dispute.

SINO-PHILIPPINE DISPUTE OVER MISCHIEF REEF FROM 1995 TO 1999

By Do Thanh Hai

This dispute started in 1995 when the Philippines discovered that China was building a garrison on pillars, officially affirming its presence on Mischief Reef. This dispute marked a turning point in the dispute over sovereignty in the East Sea and a shift in the Philippines' policy of relaxation with China. It also constituted the first clash between China and an ASEAN member country. Questions was raised as to China's intention in the occupation of Mischief Reef, its possible cooperation with the Philippines and other ASEAN members for a lasting solution to the dispute, the instruments and measures adopted by ASEAN member countries to tackle with China and possible adjustment in policies of regional countries.

Many political theorists hold that China's actions and intention were aimed at maximizing its power and influence as it was more and more dependent on natural resources for development. Others think that China is pursuing creeping assertiveness. Still others believed that China was seeking tactical advantage before sitting at a negotiating table. On its part, the Philippines was defensive and did not have strong armed forces and therefore had to use diplomacy. However, all these efforts were to no avail. The Philippines' policy of bilateral negotiation with China weakened the consensus and unity in ASEAN.

VIETNAM - CAMBODIA RELATIONS AND THE BORDER DEMARCATION IN THE GULF OF THAILAND

By Nguyen Minh Ngoc

The Gulf of Thailand is a large area rich in marine resources and minerals including oil. It is also dotted with many small islands. This makes it difficult to delimit the border between not only Vietnam and Cambodia but also Cambodia and Thailand. Sovereignty over those islands in the Gulf was not a problem until the French came when they placed these islands under the administration of Ha Tien. When dispute occurred on taxing the fishermen in the area, the French drew the Brevie line. However, due to historical circumstances beyond human control, the original map letter was not found. This has led to different interpretations of the line and thus the dispute over the legality of the line in border demarcation. The Agreement on the Historical Waters signed by Vietnam and Cambodia on 7 July 1982 stipulated that “the Brevie line drawn in 1939 will be the line separating islands in the area” and the two sides would “negotiate at a convenient time etc. with a view to demarcating the border between the two countries”.

Because of differences in understanding the Brevier line, the two countries have not come to terms on the demarcation of the borderline. Cambodia is of the view that the Brevier line should be taken as the borderline while Vietnam proposes a median line in conformity with the principle of equality, international law and practices, including the 1982 UN Convention of the Law of the Sea.

Demarcation of the sea border in the Gulf of Thailand is not easy because of different geographical perception, different interpretation of treaties of colonial times. However, there have already been MOU between countries. They can serve as good examples for some sort of agreement between Vietnam and Cambodia for joint development of resources in the Gulf.

BORDER DISPUTE BETWEEN RUSSIA AND JAPAN

By Tran Hiep

Demarcation of the borderline is a complex and yet important task for both Russia and Japan. Their border dispute has been going on for the last century and a half. As early 1855, the first Russian-Japanese trade and border agreement was signed, according to which the median line between Iturup and Urup. Russia and Japan then signed the Treaty of St Petersburg, under which Russia occupied Sakhalin and islands of the Kurile archipelago. However, in 1925, the Soviet Union declared that the country recognized the Portsmouth agreement, ceding control of Sakhalin and Kurile to Japan. Negotiation has been carried out between Russia and Japan on the sovereignty over the islands but efforts have been in vain as they could not resolve the problem. In the

process, public opinion of the two countries has exerted influence to bear upon the negotiation. Russians do not agree to returning the two islands to Japan while Japanese have insisted that Moscow return them to Japan. The prolonged dispute indicates that the dispute is complex and will remain there for some time to come.

CHANGES IN OIL MARKET FROM 2007-2009 AND EFFECT ON WORLD MARKET

Nguyen Van Lich and Le Thi Quynh Huong

This is an attempt by the authors to find out the causes of the recent oil price hike. They identified the objective and subjective reasons. They are for subjective reasons, political instability in the world, low US oil reserve, decision by the OPEC, the fluctuation of the US dollars, speculation and a rise in the demand for oil. The authors also give the objective reasons as difficulties in oil prospection and exploitation, dwindling oil reserve.

In the last two years, oil price hike has increased inflation in all economies, reduced economic growth in many countries. World inflation increased from 4.0% in 2007 to 4.8% in 2008. It has also increased the trend toward regionalism as countries shift to suppliers closer to home. We should try to find ways to cope with the adverse effect of the hike. The measures can be saving energy, subsidizing the consumers, cooperating with major powers and OPEC member countries. Most important of all is to try to find substitute energy sources. This is not a problem limited to a country by one that needs cooperation of all countries.

STORY OF CARAMBOLA TREE, ECONOMIC INSTITUTION AND INTEGRATION

By Dang Xuan Thanh

The author tries to use a folk story popular in Vietnam to explain economic activities in the country. He adopts multi-equilibrium and bifurcation to analyze different transactions. With 4 different connected transactions of division of inheritance, exchange between gold and carambola, transfer of property (the carambola tree) and exchange between carambola tree and gold. These transactions symbolize land property ownership in Vietnam, freedom of land transfer, inheritance.

The second and fourth transactions reflect simple transactions by Vietnamese in history. The invisible hand has helped produce two different results in the two transactions. This is also an approach to institutional economics. The first and third transactions are independent from each other and carry ideas of free riding or opportunism. So the story is not about moral but a useful model for roles and functions of economic transactions. As Vietnam integrates into the world economy, there should be regulations, control mechanism, payment institutions and some business ethics.

UN CHARTER AND EXCLUSION OF WAR IN NATIONAL CONSTITUTIONS

By Pham Lan Dung

The UN Charter begins with the following “we the people of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind. However, the word war cannot be found elsewhere in the Charter. This raises a multitude of questions on war. In history, war was not banned and it was until the end of World War I that the first document was agreed which provided for limited use of war and the UN Charter went further in stipulating the principles of non-recourse to threat or use of force. Exceptions were “effective collective measure” and “legitimate rights of self defence”.

Understanding that international law allows the use of force for self defence, the majority of countries had war-power clause in their constitutions, some defeated countries had clause limiting the army and war and neutral countries committed themselves to participating in no wars between other countries. Collective security foreseen in the Charter as an effective measure to prevent war did not work out well and a new legal document would be difficult. Proposals have been put out to formulate a political declaration, expressing the international community’s concern over wanton use of force and a declaration opposing the use of preventive self defence etc. In all this the European Union is a good example and can play a role. ASEAN can also play a role.

DISPUTE BETWEEN THE EU AND BRAZIL OVER RETREADED TYRES: ENVIROMENTAL PROBLEM, REGIONALISM AND DEVELOPING COUNTRIES IN THE WTO - AFTA RELATED ISSUES

By Ly Van Anh

The case started when Brazil decided, on 25 September 2000 to levy a ban on the import of retreaded tyres from other countries except those in the Mercosur. Brazil claimed that the measure would limit the effect of discarded tyres on the environment while the EC was of the view that the ban violated Article XI.1 GATT on quantitative restriction on import and Article XIII GATT on most favoured nation treatment. WTO Appellate Body ruled, on 3 December 2007, that the measure was necessary in conformity with paragraph b, but did not satisfy the condition set out in the introduction to Article XX. The Body went some way to environmental friendliness without resolving how to apply the Enabling Clause. The Body also ruled that Brazil's decision not to impose a ban MERCOSUR members cannot be considered irrational as it was already decided by the Mercosur Arbitration.

The case drew a great deal of attention as a measure to protect the environment by a developing country was the centre of a court case filed by a developed country, the WTO's ruling was more environment-friendly and possible conflict existed as to the WTO Dispute Settlement Mechanism and regional arbitration.

SOME REFLECTIONS ON SCHOOL OF VIETNAMESE DIPLOMACY

By Vu Duong Huan

The idea of a school of Vietnamese diplomacy is quite new and should be studied further. In this article, the author gives his views on the theoretical and practical basis, the main features of the school.

This school has indeed a theoretical base deeply rooted in Vietnamese culture, first of all patriotism, benevolence, national unity etc. It also grows out of diplomacy which has become part of our tradition, to be reconciliatory to other countries, determined to defend national independence and sovereignty etc. and the quintessence of both Eastern and Western culture. Last BUT not least, the school has Marxism and Leninism as well Ho Chi Minh's thoughts as its ideological foundation. In practice, modern Vietnamese diplomacy has contributed to efforts to regain independence and freedom as well as to build our nation. Vietnamese diplomacy has its own colour characterized by the combination of national independence and socialism, the spirit of reconciliation, the determination to defend the nation's independence and sovereignty etc.

With all these, we can name it a school of Vietnamese diplomacy.

PUBLIC RELATIONS AND CULTURAL DIPLOMACY

By Dr. Pham Thai Viet

PR has seen developments in history in the way the notion is understood and its difference from other closely related notions such as media relations, publicity, advertising and marketing etc. However, it manages relations between an organization and its public, seeks to influence and orientate the taste of the public and uses media channels for two way information flow etc. In reality, PR takes on programming, defining objectives, planning for actions; writing and editing press releases, speeches printed materials, selecting the right channel, organizing events etc.

Closely related to PR is cultural diplomacy As space and sovereignty can no longer be barrier to cultural exchanges, many countries have seized the opportunities to transform culture into soft power. In recent years, the US has taken the lead in winning the hearts and minds of the public, especially the Muslim community in the Middle East. New to this kind of activities, Vietnam should formulate and adopt a strategy to project itself culturally. This strategy should include the identification of the public and objectives and the planning for actions.
