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The Vanguard Bank Incident: Developments and What Next?

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EXECUTIVE SUMMARY

- Vietnam and China are embroiled in their worst standoff near Vanguard Bank in the South China Sea since the 2014 incident in the waters off Paracel Islands.
- China is taking tougher action to disrupt new oil and gas mining operations by Southeast Asian claimant states, including Vietnam. Vietnam has not shown any signs of backing down.
- There have been reported cases of ramming and firing of water cannons involving vessels from both sides. Unlike 2014, tensions between the two countries off Vanguard Bank have not yet spiralled inexorably downwards.
- For the moment, Vietnam and China seem to have opted for restraint. High-level exchanges from Vietnam to China continued in July 2019 but these seem to have tapered off. Vietnam, while protesting China's intrusion, is still talking about a peaceful resolution.
- However, this does not mean that the situation will not get out of hand. There could be unintended or unplanned encounters at sea. Some Vietnamese have surmised that Vietnam is ready for tougher action against China if the situation warrants it.

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INTRODUCTION

Vietnam and China are caught in another standoff in the South China Sea after China dispatched its survey ship, Haiyang Dizhi 8, to survey for oil and gas off Vanguard Bank in contested waters. Adding to the tension is the fact that Haiyang Dizhi 8 is operating in an area close to the oil and gas Block 06-01 where a Russia-Vietnam joint venture company is drilling.

The latest standoff began in early July 2019 when Haiyang Dizhi 8 arrived in the area escorted by Chinese coastguard vessels and maritime militia. In response, Vietnam stepped up its maritime presence in the area, at times despatching more vessels in an effort to outnumber the Chinese. There have been reported incidents of ramming and firing of water cannons involving vessels from both sides.

So what exactly happened, and what is the current situation near the Vanguard Bank? How is the current development different from the 2014 standoff when China sent its oil rig Haiyang Shiyou 981 to disputed waters in the Paracel Islands? What has been the response of Vietnam and other countries to China's latest actions?

WHAT HAPPENED?

Beginning on 3 July 2019, Haiyang Dizhi 8, a vessel belonging to China Geological Survey (a government agency under China's Ministry of Natural Resources)¹, was sent to survey the seabed to the northeast of Vanguard Bank, which lies within Vietnam's Exclusive Economic Zone (EEZ) and continental shelf.²

For more than a month, it operated essentially in this area, conducting numerous rounds of oil and gas surveys across a 35,000 km² area of water that covers ten blocks northeast of Vanguard Bank. Based on the timing of the survey, China seems to be sending a message of disapproval to Vietnam for entering into an agreement with Rosneft, Russia's largest oil and gas company, to drill in Block 06-01, which is situated to the northwest of Vanguard Bank, within Vietnam's EEZ.

Haiyang Dizhi 8 does not operate alone. When it first entered the northeast of Vanguard Bank, it was accompanied by two Chinese coast guard vessels.³ At other times, there are apparently four⁴ or five⁵ other Chinese coast guard and maritime militia vessels escorting it. Other accounts have reported that up to 80 coast guard and maritime militia vessels have surrounded the Haiyang Dizhi 8 to stave off Vietnamese vessels attempting to intervene.⁶ There were tense moments as well when Chinese coast guard vessels were reported to have rammed and used water cannons to drive away Vietnamese coast guard vessels approaching the survey ship.⁷

Apart from escorting Haiyang Dizhi 8, the Chinese coast guard vessels have taken the additional step of operating near Block 06-01 where a Russia-Vietnam joint venture company has mined for oil and gas for years. According to the Asia Maritime Transparency Initiative (AMTI), since June 16, the Chinese coast guard vessel Haijing 3511, equipped with a 76mm multi-purpose naval gun, has been patrolling an area 190 nautical miles off the coast of southeastern Vietnam. The patrols are centered on oil and gas Block 06-01.⁸

Block 06-01 is the site of the key Nam Con Son project, which BP and ConocoPhillips developed in the early 2000s to pipe gas to the Vietnamese mainland. Today, natural gas from Block 06-01's Lan Do field supplies up to 10 percent of Vietnam's total energy demand. Russia's Rosneft took over as operator of the block in 2013 when it acquired TNK-BP. In May 2018, Rosneft contracted the Hakuryu-5, a semi-submersible rig owned by Japan Drilling Company, to drill a new production well in Block 06-01 at a second gas field called Lan Do.⁹ Rosneft went ahead with the drilling at Lan Do despite two earlier incidents in July 2017 and March 2018 during which Chinese strong objections forced Vietnam to cancel drilling in nearby oil and gas blocks being carried out by Spain's Repsol.¹⁰ A year later, in May 2019, Rosneft contracted the Hakuryu-5 to drill another well in Block 06-01.

Haijing 35111 has reportedly operated in a threatening manner in Block 06-01. AMTI said that on 2 July, Haijing 35111 maneuvered at high speed between two Vietnamese vessels just as they were leaving the Hakuryu-5, passing within 100 meters of each ship and less than half a nautical mile from the rig.¹¹ Apart from Haijing 35111, there have been separate reports of other Chinese coast guard vessels such as Haijing 3402 and Haijing 3308 operating in Block 06-01 to threaten Vietnam's drilling operations there.¹²

The standoff between the Chinese and Vietnamese vessels have continued notwithstanding a respite when the Chinese vessels departed the area. For instance, after patrolling Block 06-01 for nearly a month, Haijing 35111 traveled to China's artificial island on Fiery Cross Reef from July 12 to 14 before returning to its post near Hakuryu-5. Similarly, Haiyang Dizhi 8 vacated its survey area northeast of Vanguard Bank for Fiery Cross Reef for a brief one-week period (7-13 August) and has since returned to the area. These instances show China making use of its artificial islands to carry out grey zone tactics in the South China Sea.

More recently, in mid-August, Vietnam appeared to have further indicated its determination to protect its sovereignty by dispatching its advanced naval frigate Quang Trung to Vanguard Bank to intercept Haiyang Dizhi 8.¹³ On its part, China seemed to have extended Haiyang Dizhi 8's area of operations by allowing it to come closer to around 102 kilometers southeast of Vietnam's Phu Quy Island and 185 kilometers off Phan Thiet City in the south on 24 August 2019.¹⁴

VIETNAMESE RESPONSES

Vietnam has responded to the intrusion of Haiyang Dizhi 8 in several ways. At the foreign ministry level, Vietnam has stated its resolve to defend its interests while indicating that it remains open to a peaceful resolution. On 16 July, in its initial response, the foreign ministry reiterated Vietnam's "sovereignty, sovereign rights and jurisdiction over waters in the South China Sea" based on the 1982 UNCLOS, and reiterated Vietnam's "consistent position to resolutely and persistently" stand up against any acts that infringe on such rights. It added that the relevant Vietnamese authorities at sea have been exercising such rights in a peaceful and lawful manner.¹⁵

In subsequent remarks, apart from reiterating the above, Vietnam's foreign ministry went further on two fronts. Firstly, to show that it was taking the initiative to defuse the situation, the ministry highlighted that Vietnam had reached out to China on multiple occasions via

different channels including issuing diplomatic notes to “oppose China’s violations” and demanding that China cease “all unlawful activities” and “withdraw” from Vietnam waters.

Secondly, the ministry sought to broaden the issue beyond the Vietnam-China angle, when it said that “all countries within and outside the region”, and “the international community” share a “common interest” and “responsibility” in maintaining peace, order and security in the East Sea. It added that Vietnam stood ready to work with other countries and the international community to uphold such a common interest.¹⁶ Vietnam was implicitly appealing to other countries to oppose China’s illegal actions.

As part of its “multilateral” or “internationalization” efforts, Vietnam raised the issue at the 52nd ASEAN Foreign Ministers’ Meeting (AMM) in Bangkok in July-August 2019. Vietnam’s Foreign Minister and Deputy Prime Minister Pham Binh Minh expressed Vietnam’s “grave concern” over Haiyang Dizhi 8 activities in Vietnam’s EEZ and continental shelf at the ASEAN-China Ministerial Meeting on 31 July.¹⁷ On the same day, in the AMM Joint Communiqué, Vietnam succeeded in securing tougher language (as underlined by authors) in an implicit reference to China’s recent actions:

*We discussed the situation in the South China Sea, during which concerns were expressed by some Ministers on the land reclamations, activities and serious incidents in the area, which have eroded trust and confidence, increased tensions and may undermine peace, security and stability in the region.*¹⁸

Pham Binh Minh again raised the same issue when he met Chinese State Councilor and Foreign Minister Wang Yi on the sidelines of the 52nd AMM on 1 August 2019. When Minh met his Japanese counterpart Taro Kono, it was reported that the two countries shared information on the East Sea situation as well as their positions to settle related issues through peaceful measures in line with international law and the UNCLOS.¹⁹

Beyond ASEAN, other extra-regional countries have responded in ways that suggest a level of support for Vietnam. Most notably, the US Department of State issued a statement expressing concern over China’s “interference with oil and gas activities” and its “repeated provocative actions” in the South China Sea.²⁰ US Secretary of State Mike Pompeo further criticized China’s coercion of its Southeast Asian neighbors in the South China Sea and China’s dam-building on the Mekong River at the 52nd AMM in Bangkok.²¹ In August 2019, the United States sent USS Ronald Reagan to sail through the South China Sea before docking at Manila Bay. The European Union (EU) foreign policy head Federica Mogherini expressed EU’s concern over the increasing tensions in the South China Sea, which was not conducive to a peaceful environment in her Hanoi visit in August 2019.²² Australia and Vietnam expressed “serious concerns about developments in the South China Sea, including land reclamation and militarization of disputed features” as well as “concerns about disruptive activities in relation to long-standing oil and gas projects in the East Sea” during Australian Prime Minister Scott Morrison’s Vietnam trip in August 2019.²³

Throughout, Vietnam has maintained high-level contacts with China despite the tensions at sea. Vietnam’s National Assembly Chairwoman Nguyen Thi Kim Ngan proceeded with her maiden visit to China as chairwoman on 8 July 2019, just days after Haiyang Dizhi 8 entered Vietnam’s EEZ and continental shelf. This can partly be read as an effort by the two countries to keep channels of communication between them open.

Ngan's visit can also be read as an attempt to keep a lid on the situation at sea and prevent it from affecting broader relations between Vietnam and China. Ngan reportedly told Chinese President Xi Jinping during her visit that Vietnam was ready to work with China to settle the East Sea issue so as to create a foundation for a sustainable and stable relationship.²⁴ Visiting China after Ngan, Vietnam's politburo member and Secretary of the Communist Party of Vietnam Central Committee Vo Van Thuong appeared to take a tougher line when he said that China "must respect Vietnam's legitimate rights and interests" in the South China Sea.²⁵

At the same time, Vietnam has indicated its resolve to provide a robust response to Haiyang Dizhi 8's intrusion. This message was delivered by Vietnam Prime Minister Nguyen Xuan Phuc when he visited the headquarters of Vietnam's coast guard where he conducted a live video conferencing with Vietnamese personnel at the frontlines of the standoff with the Chinese vessels.²⁶ In the same visit, Phuc told the coast guard that it had a responsibility that was as "heavy as it is glorious", in a veiled reference to the standoff at sea.²⁷ And since early July, Vietnamese vessels have closely followed the movement of Haiyang Dizhi 8 northeast of Vanguard Bank and at times, the number of Vietnamese vessels outnumber the Chinese vessels in a show of force. This has led observers to view Vietnam to be different from the Philippines and that it will not hesitate to stand up to China if the situation warrants it.²⁸

VANGUARD BANK AND 2014 OIL RIG INCIDENTS

There are a number of differences between the current standoff between Vietnam and China near Vanguard Bank and the 2014 episode when China deployed the deep-sea oil rig, Haiyang Shiyou 981, to disputed waters in the Paracel Islands.

In 2014, the standoff was one that was essentially confined to just Vietnam and China as Haiyang Shiyou 981 carried out drilling operations off Triton Island in the Paracel Islands. In the current standoff off Vanguard Bank, although the principals involved are still Vietnam and China, the Chinese escort vessel Haijing 35111, before it moved to escort Haiyang Dizhi 8 to the northeast of Vanguard Bank, was engaged in provocative maneuverings to disrupt oil and gas drilling activities near Luconia Shoals off the coast of Sarawak, Malaysia.²⁹ Subsequently, Haijing 35111 went on to try to disrupt Vietnam's oil and gas mining activities near Vanguard Bank. In other words, China seems committed to taking broader action to prevent what it regards as new unilateral oil and gas activities by ASEAN claimant states that fall within its nine-dash line map.

Another key difference is that in 2014, Haiyang Shiyou 981 operated in an area where Vietnam did not conduct major oil and gas mining activities. In contrast, in the current standoff near Vanguard Bank, Vietnam has been conducting oil and gas mining activities there for years and continues to commission new projects there. The activities of Haiyang Dizhi 8 and its escort vessels therefore reinforces the above point that China is sending a strong message that it is against new unilateral oil and gas activities by ASEAN claimant states.

Yet another difference is in the way Vietnam and China have handled the situation thus far. In the 2014 oil rig incident, the two countries' actions and counter actions apparently led to

a quick escalation and to a downward spiral in relations. At the height of the 2014 crisis, China was reported to have deployed 137 Chinese vessels including military ships such as missile frigates, fast attack missile crafts, anti-submarine patrol ships and amphibious landing ships around the oil rig. Helicopters, early warning planes and reconnaissance planes and fighter jets were also mobilized.³⁰ Anti-China protests also broke out in a few cities across Vietnam, and Chinese factories were looted and burnt.

This time round, however, there seems to be a conscious effort on the part of both countries to prevent the situation from getting out of hand. On Vietnam's part, the police apparently took swift action to break up a small group of protestors calling themselves the "No-U" group (the name deliberately chosen to oppose China's U-shaped nine-dash line map) that gathered outside the Chinese embassy in Hanoi on 6 August 2019.³¹ This demonstration took place more than a month after the standoff started on 3 July. In contrast to 2014, the waves of anti-China protests started only about ten days after the Oil Rig 891 moved near to Triton Island on 2 May 2014.³²

While Vietnam has continued to closely monitor the activities of Haiyang Dizhi 8 and its escorts, and has indicated that it stands ready to safeguard its sovereignty and sovereign rights, the situation has not deteriorated any further. High-level government and party exchanges have taken place where both sides have highlighted the broader aspects of their relationship while also mentioning their differences at sea. In addition, the two countries have continued to indicate their desire to resolve differences in a peaceful manner. In other words, the relationship has so far not reached the stage of spiraling inexorably downwards as was the case in 2014.

Another key difference is that Vietnam has so far, at least officially, refrained from specifically talking about bringing China to court. In the 2014 oil rig incident, Vietnamese leaders suggested the legal approach on a few occasions. In May 2014, Vietnam's then-Prime Minister Nguyen Tan Dung said that Vietnam was "considering various defense options, including legal actions in accordance with international law" to defend its claims in the South China Sea.³³ In addition, Vietnam's then-Defense Minister Phung Quang Thanh said on the sidelines of the 2014 Shangri-La Dialogue in Singapore that while Vietnam was seeking to resolve the oil rig issue with China bilaterally, it was prepared for other solutions including taking China to court should its bilateral efforts fail.³⁴

In the current standoff, there has been no official word that Vietnam is considering a legal approach. However, perhaps not surprisingly, there have been suggestions that the next logical step for Vietnam to take is to submit its dispute with China to an arbitral tribunal according to Annex VII of the United Nations Convention on the Law of the Sea (UNCLOS).³⁵ If followed through, this approach could be similar to the case brought by the Philippines against China in 2013 where an arbitral tribunal constituted under Annex VII of UNCLOS was convened. Present developments have as yet not reached such a stage.

PROGNOSIS

The standoff near Vanguard Bank appears to indicate a new *modus operandi* in China's approach to new oil and gas mining activities in disputed areas in the South China Sea, i.e.

it will send its own vessels to survey for oil and gas while at the same time try to disrupt similar activities by other claimant states.

It is still too early to judge whether China's greater assertiveness will bear any fruit. Vietnam has not shown any signs of backing down and has indicated its intention to carry on with oil and gas mining in its EEZ and continental shelf. In late July 2019, Vietnam announced that the operations of Hakuryu-5 rig's operations would be extended until 15 September, instead of ending on July 30.³⁶ Its maritime vessels, including an advanced naval frigate, have plied the area near Vanguard Bank to try to disrupt Haiyang Dizhi 8's activities. Vietnam is also expected to continue to "internationalize" the issue and may raise it at the United Nations as had happened during the 2014 standoff.³⁷

Be that as it may, both sides for the moment appear to have exercised restraint. This is possibly due to several reasons. One could be that China is presently confronted with more pressing challenges such as the US-China trade war and the protest movement in Hong Kong to want to push its interest in the South China Sea to the hilt. Another reason could be that Vietnam will be the chair for ASEAN next year and neither China nor Vietnam wants to see a deterioration of their relations to an extent that complicates Vietnam's role as chair. Next year also marks the 70th anniversary of the establishment of Vietnam-China relations and both sides have good reason to try to keep their differences in check.

However, this does not necessarily mean that the situation near Vanguard Bank cannot get out of hand. Given the presence of so many vessels, there could be the possibility of unplanned or unintended encounters that could cause relations to deteriorate and lead to a conflict. There is even a view by some quarters in Vietnam that if pushed into a corner, Vietnam will take tougher action even if that affects its role as ASEAN chair or the 70th anniversary of bilateral relations.

¹ Haiyang Dizhi 8, unveiled in Shanghai in February 2017, was touted for its ability to create a high resolution three-dimensional image of the seabed's geological structure. See "Haiyang Dizhi 'bahao' 'jiuhao' diaocha chuan xiashui" (Ocean geological survey ships No. 8 and No. 9 launched in sea trials), *China Daily*, 1 March 2017.

² "The survey operations of the Haiyang Dizhi 8 (July 3-11, 2019)", Ryan Martinson's (from US Naval War College) twitter account, 11 July 2019 available at <https://twitter.com/rdmartinson88/status/1149309057943179269?lang=en>

³ They were the 12,000-tonne armed coastguard vessel 3901 and the 2,200-tonne coastguard ship 37111. See "China and Vietnam in stand-off over Chinese survey ship mission to disputed reef in South China Sea", *South China Morning Post*, 12 July 2019.

⁴ "Add China Coast Guard cutter 3308 to the list of ships escorting Haiyang Dizhi 8", Ryan Martinson's (from US Naval War College) twitter account, 23 July 2019, available at <https://twitter.com/rdmartinson88/status/1153735693518159872>

⁵ "I notice that the 5,000 ton China Coast Guard cutter 3501 is also participating in the escort", 25 July 2019, Ryan Martinson's (from US Naval War College) twitter account, available at <https://twitter.com/rdmartinson88/status/1154353787756318727>

⁶ "Carl Thayer: Có đến 80 tàu Trung Quốc vây quanh bãi Tư Chính!" (Carl Thayer: Up to 80 Chinese vessels surrounded Vanguard Bank), Radio France Internationale, 4 August 2019.

⁷ Ibid.

⁸ “China risks flare-up over Malaysian, Vietnamese gas resources”, Asia Maritime Transparency Initiative, 16 July 2019.

⁹ Ibid.

¹⁰ These were Blocks 136/3 and 07/03 where drilling was halted. See “South China Sea: Vietnam ‘scraps new oil project’”, *BBC*, 23 March 2018.

¹¹ “China risks flare-up over Malaysian, Vietnamese gas resources”, Asia Maritime Transparency Initiative, 16 July 2019.

¹² Ibid.

¹³ “This graphic shows the tracks of Haiyang Dizhi 8 (the typical “lawnmower” track of a survey) and the Quang Trung, which has clearly sought to obstruct its operations”, Ryan Martinson’s (from US Naval War College) twitter account, 17 August 2019, available at <https://twitter.com/rdmartinson88/status/1162786417375895553>

¹⁴ “Chinese survey ship moves closer to Vietnamese coast amid tensions over South China Sea”, *SCMP*, 24 August 2019.

¹⁵ “Remarks by MOFA Spokesperson Le Thi Thu Hang on recent developments on the East Sea”, Vietnam’s foreign ministry, 16 July 2019.

¹⁶ “Remarks by MOFA Spokesperson Le Thi Thu Hang on comments on the remarks made by the Spokesperson of the Ministry of Foreign Affairs of China on 17 July 2019 regarding the developments in the East Sea”, Vietnam’s foreign ministry, 17 July 2019 and “Statement of the MOFA Spokesperson on the violations of Viet Nam’s EEZ and Continental shelf by the Chinese survey ship, Haiyang Dizhi 8, and its escort vessels”, Vietnam’s foreign ministry, 25 July 2019.

¹⁷ “VN expresses grave concern over recent developments in East Sea”, Vietnam Government News, 1 August 2019.

¹⁸ “Joint Communique of the 52nd ASEAN Foreign Ministers’ Meeting”, ASEAN Secretariat, 31 July 2019. In contrast, the sentence used in the 51st AMM Joint Communique a year ago in August 2018 was “We discussed the matters relating to the South China Sea and took note of some concerns on the land reclamations and activities in the area, which have eroded trust and confidence, increased tensions and may undermine peace, security and stability in the region. In addition, during the visit of Malaysian Prime Minister Mahathir Mohamad to Vietnam in August 2019, Vietnam and Malaysia issued a joint statement that included a mention of the two countries “serious concerns over recent developments in the South China Sea”. See “Vietnam, Malaysia issue joint statement”, *Nhan Dan*, 28 August 2019.

¹⁹ “Deputy PM, FM Minh meets Foreign Ministers on sidelines of AMM-52 in Bangkok”, Vietnam Government News, 1 August 2019.

²⁰ “Chinese Coercion on Oil and Gas Activity in the South China Sea”, US Department of State, 20 July 2019.

²¹ “Pompeo criticizes China after meeting top diplomat in Bangkok”, *VNExpress*, 1 August 2019.

²² “EU criticises ‘militarisation’ of South China Sea”, *Straits Times*, 5 August 2019.

²³ “Vietnam, Australia issue Joint Statement”, *Nhan Dan*, 23 August 2019.

²⁴ “Vietnamese NA Chairwoman meets top Chinese Party and State leader”, *Nhan Dan*, 13 July 2019.

²⁵ “Top Party member asks China to respect Vietnam’s rights at sea after EEZ infringement”, *Tuoi Tre News*, 22 July 2019.

²⁶ *IndoPacific_SCS_Info*, 11 July 2019.

²⁷ “Coast guard bear heavy but glorious responsibility: PM”, *Vietnam News*, 12 July 2019.

²⁸ “South China Sea: Beijing Shouldn’t Treat Vietnam Like The Philippines”, *Forbes*, 13 July 2019.

²⁹ AMTI reported that from 10-27 May, Haijing 35111 was heavily patrolling the area around Luconia Breakers, including part of oil and gas block SK308 which is licensed to Sarawak Shell. In one incident on 21 May, Haijing 35111 manoeuvred close to two Malaysian vessels (within 80 meters) that were servicing the drilling rig Sapura Esperanza in Block SK308. See “China risks

flare-up over Malaysian, Vietnamese gas resources”, Asia Maritime Transparency Institute, 16 July 2019. Apart from Malaysia, China has also stepped up its presence around Philippine-occupied features and in the Philippines’ EEZ.

³⁰ Remarks by Mr Tran Duy Hai, Vice Chairman of the National Boundary Committee, Vietnam’s foreign ministry, 5 June 2014.

³¹ “Vietnamese protesters ‘show their anger’ about Beijing’s presence in South China Sea at embassy in Hanoi”, *SCMP*, 6 August 2019.

³² “Protests break out in Vietnam over China oil rig issue”, *Straits Times*, 11 May 2014.

³³ Dung said this while visiting Manila to hold talks with Philippine President Benigno Aquino (who had authorized the Philippines to initiate arbitral proceedings against China’s claims in the South China Sea in 2013). See “Vietnam PM says considering legal action against China over disputed waters”, *Reuters*, 22 May 2014.

³⁴ “Vietnam mulling legal option to resolve maritime spat with China”, *The Straits Times*, 31 May 2014.

³⁵ “Vụ tàu Hải Dương 8: Sau những bước đi bài bản, Việt Nam có thể làm gì tiếp theo?” (The case of Hai Duong 8: After making several attempts to resolve the issue, what can Vietnam do next?), SOHA, 2 August 2019. See also “Coi chừng Trung Quốc ‘giương đông kích tây’”, *Tuoi Tre*, 20 August 2019.

(Watch out for China extending eastward and westward)

³⁶ “Vietnam extends operation of East Vietnam Sea oil rig amid Beijing’s harassment at sea”, *Tuoi Tre*, 27 July 2019.

³⁷ “VN asks UN for East Sea support”, *Vietnam News*, 5 July 2014.

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