

# Maritime Delimitation and Fishery Cooperation in the Tonkin Gulf

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*In June 2004 China and Vietnam ratified both a maritime boundary agreement for the Tonkin Gulf (Beibu Gulf) and a fisheries cooperation agreement for the Gulf. These agreements end years of negotiation and debate regarding the rights of the respective states to the ocean areas and resources in the Gulf.*

**Keywords** fisheries arrangement, Gulf of Tonkin, maritime boundary agreement

## Introduction

Sino-Vietnamese relations have been strengthened in recent years by new developments in many areas, including the settlement between the two countries of disputes respecting the land border and in the Tonkin Gulf (Beibu Gulf). The dispute in the Tonkin Gulf that existed for more than 30 years<sup>1</sup> has been resolved as a result of the two agreements, signed in Beijing, on 25 December 2000, one dealing with delimitation of territorial seas, exclusive economic zones, and continental shelves (Agreement on Maritime Delimitation) and the other with fisheries cooperation.<sup>2</sup> On 30 June 2004, the instruments of ratifications were exchanged in Hanoi bringing the two agreements into force.<sup>3</sup> This is a significant achievement for the two states, as it marks a new stage of development in the friendship and all around cooperation between the two neighboring countries.<sup>4</sup>

The area of the Tonkin Gulf is about 126,250 square kilometers bordered by the coastlines of the northern part of Vietnam, China's Guangxi Province, the Leizhou Peninsula, and Hainan Island. The Gulf is 176 nautical miles at its widest and has two outlets: the Qiongzhou Strait, 19 nautical miles wide, between Hainan Island and the Leizhou Peninsula, and the main mouth, 119 nautical miles wide between Point of Oanh Ca on Hainan Island and Con Co Island, Vietnam. The length of the Vietnamese coastline in the Gulf is approximately 763 km, with the Chinese coastline measured at about 695 km. In the Gulf, China has a few islands, with Hainan being the principal and largest one. There are 2300 Vietnamese coastal islands and islets in the Gulf. Of particular importance is the 2.5 square km Bach Long Vy Island, which is located near the middle of the inner Tonkin Gulf—110 km from the nearest Vietnamese coast and 130 km from Hainan Island.

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**Figure 1.** Delimitation line and joint fishing zones in the Tonkin Gulf.

The Tonkin Gulf is one of the principal fishing areas for Vietnam, with a multitude of fish stocks and other aquatic species. Waters along the coasts are highly productive. According to studies, in the Gulf there are over 500 species of fish, over 230 types of squillidae, and around 50 types of cephalopods, out of which over 30 species of fish, 20 squillidae, and 20 types of cephalopods are considered to have commercial value. In addition, the Tonkin Gulf produces many kinds of other marine creatures and plants that are of value for academic and medical research. The hypothesized maximum yield of fish resources is 600 thousand tons.<sup>5</sup> There are also mineral resources, such as oil and gas. According to Chinese sources, the Gulf area contains one of the largest oil and gas concentrations in the world, having oil deposits of about 2.29 billions tons and natural gas deposits of about 1,444 billion cubic meters.<sup>6</sup> In addition, the Gulf is an important sea route for the littoral states, but particularly for Vietnam, whose vessels can enter the northern Pacific Ocean using the Qiongzhou Strait. All these factors were influential in the maritime delimitation discussions regarding the Tonkin Gulf.<sup>7</sup> The lack of an agreed-upon boundary in the Gulf caused disputes between fishermen from the two states and presented the opportunity for illegal activities in maritime areas close to the coasts. The need to resolve the dispute in the Tonkin Gulf was apparent. What was required was both an agreement to divide the Gulf and an agreement on how to manage fishery activities in the Gulf.

### **Maritime Delimitation in the Tonkin Gulf**

The processes of maritime delimitation in the Tonkin Gulf began in December 1973 when Vietnam proposed opening official negotiations between the two countries. Negotiations on maritime delimitation in the Tonkin Gulf were held in 1974 (August 15 to November 22) and in 1977–1978 (October 1977 to June 1978) but did not yield any results because of the significant differences in the two sides' positions. Vietnam pro-

posed to utilize the prolonged line of 108° 03'13" east longitude as the maritime boundary line in the Gulf. This line was mentioned in the Sino-French Treaty of 1887:

The islands which are east of the Paris meridian of 105° 43' east [108° 03'13" east of Greenwich], that is to say the north-south line passing through the eastern point of Tch'a Kou or Quan-Chan [Tra Co], which forms the boundary, are also allocated to China. The island of Gotho [Kao Tao] and other islands west of this meridian belong to Annam.

The Chinese position was that the 1887 line was only a dividing line for the allocation of islands.

After the normalization of bilateral relations, the two sides renewed negotiations on territorial and boundary issues. In November 1991, in Beijing, the two sides agreed to settle the territorial and border issues that exist between the two countries through peaceful negotiations. In December 1992, in Hanoi, the Prime Minister of Vietnam, Vo Van Kiet, and the Prime Minister of the People's Republic of China, Li Peng, issued a joint statement providing that the "Two sides reaffirmed the agreement achieved on the high-level meeting of the leaders of the two countries to settle the two country's territorial and border issues through peaceful negotiations." On 19 October 1993, the General Agreement on the basic principles for setting the disputes relating to the land border and to delimitation of the Tonkin Gulf between Vietnam and China was adopted. For the delimitation of the maritime boundary in the Tonkin Gulf, the two sides agreed to "apply the international law and consult international practices, following the principle of equitable and accounting all relevant circumstances in the Gulf, in order to achieve an equitable solution." The Vietnamese also proposed to settle the dispute on the basis of the 1982 United Nations Convention on the Law of the Sea 1982 (LOS Convention) but only upon China's ratification in 1996 did the Convention serve as the common legal basis for the maritime delimitation in the Gulf.<sup>8</sup>

In July 1997, during the official visit of Party General Secretary Do Muoi to China, the two countries agreed "to try to conclude the treaty on land border and another on the maritime delineation in the Tonkin Gulf before the end of 2000." Finally, Party General Secretaries Le Kha Phieu and Jiang Zemin, in their Joint Statement on 28 December 1999, stated:

The two sides agree to place the primary issues foremost, show sympathy and compromise with each other, conduct fair, rational and friendly consultations, and taking into account international law and reality, try to satisfactorily settle the outstanding territorial and border issues between the two countries through peaceful negotiations. The two sides express their determination to accelerate the process of negotiations and raise their working efficiency for the concluding the treaty on land border in 1999; to complete settlement of the maritime delineation of the Tonkin Gulf in 2000; and to join efforts in making their common borderline one of peace, friendship and stability.<sup>9</sup>

From 1974 to 1993, the main question regarding the maritime delimitation in the Gulf was how to interpret the 1887 Convention. The term *frontier* used in article 2 and the map annexed to the Convention, according to Vietnam, indicated that there was a maritime boundary in the Gulf, for at least 3 nautical miles from the coast. The tribunal

award of 14 February 1985 on the maritime delimitation between Guinea and Guinea Bissau indicated that in the 19th century, the term frontier had the meaning and effect of dividing territories of two countries.<sup>10</sup> Vietnam proposed to extend the line of 108° 03'13" east longitude southward to divide the whole Gulf. The technique of prolonging a land boundary into the sea had been widely applied in maritime delimitation in the 19th and early 20th centuries.<sup>11</sup> The Management of the Gulf and its resources by a straight-line boundary would be easier for both states. In addition, the 1887 line would result in the ratio of the ocean areas belonging to the two countries in the Gulf being the same as that accruing if a median line give full effect to Bach Long Vy, a Vietnamese island in the middle of the Tonkin Gulf were used. However, using the extension of 108° 03'13" east longitude as a maritime boundary in the Gulf was not fully convenient for both sides. For China, the line runs close to Hainan and raises issues regarding the security of the island. For Vietnam, the line had no terminus. In addition, it would prevent Vietnamese fishermen from accessing the sea by the Beilun River and would cut off part of Traco Island.

Following 1993, the two States looked for another approach to resolve the dispute in the Gulf. The LOS Convention, articles 15, 74, and 83, relating to maritime delimitation, urged concerned parties to follow and apply equitable principles. For Vietnam, an adjusted median line taking into account all relevant factors would ensure an equitable result. For China, "equitable" meant an equal area for both states in the Gulf and Bach Long Vy having no effect on the maritime delimitation.

To achieve a solution, during 1993–2000, the two sides held seven rounds of negotiation at the governmental level, three nonofficial meetings of the two heads of the governmental delegations on the territorial and boundary issues, eighteen rounds of negotiations of the mixed working groups, nine nonofficial meetings of Groups of Legal and Technical Experts, and ten rounds of Groups of Experts making the General Nautical Chart of the Gulf. At the end of the continuous negotiations, the agreement reached covered a number of things.

- The closing line for the Beilun River was defined as the line linking the low-water marks of its natural entrance points.
- The scope of area for the maritime delimitation in the Gulf was agreed upon. In the Boundary Agreement, the Tonkin Gulf is defined as a semi-enclosed sea, bordered by the coasts of Vietnam and China in the north, by the coasts of the Leizhou Peninsula and the Hainan Island in the east, by the coast of Vietnam in the west, and limited in the south by the line starting from the furthest seaward extent of the low-water line of Point of Oanh Ca, having the geographical coordinates of 18° 30' 19" N and 108° 41' 17" E, passing by the Con Co island to the point on the Vietnamese coast.
- Delimitation of the territorial seas, continental shelves, and exclusive economic zones (EEZ) was done by a line connecting 21 points. From point 1 to point 9 is the boundary for the territorial seas. This boundary is extended to the air spaces over the territorial seas. From point 9 to point 21 is a single line for both the continental shelves and the EEZs. Each party is to recognize and acknowledge the sovereignty, the sovereign rights and jurisdiction of the other country over the other's territorial sea, continental shelf and EEZ in the Gulf as defined by the line of delimitation.
- Bach Long Vy island was given a 15 nautical mile zone and Con Co island was given a half-effect in the maritime delimitation. The islands of Bai Su Yan (China),

Chang Dong (Vietnam), and Chang Tay (Vietnam) had some effect on the territorial sea delimitation.

- The states committed to reach an agreement on the most effective manner for the exploitation of petroleum resources or other minerals if they extended across the line of delimitation. In addition, the two states are to share equitably in the benefits from exploitation of these resources.
- Disputes rising from the interpretation or implementation of the Agreement are to be settled peacefully.
- Finally, the delimitation in the Tonkin Gulf does not affect or prejudice the position of either state regarding other ocean matters.

The line gives to Vietnam 53.23% and to China 46.77% of the Gulf area.<sup>12</sup> In order to appreciate the attainment of equity, it is necessary to apply the proportionality test.<sup>13</sup> In the Tonkin Gulf, the ratio of the relevant coastlines of Vietnam and China is found to be 1.1:1, while the sea areas of Vietnam and China stand in a proportion of 1.135:1. Using this “test,” it can be said that the line of delimitation in the Tonkin Gulf reaches an equitable and acceptable solution.

### **Fishery Questions in the Tonkin Gulf**

The Tonkin Gulf has been a significant area for the fishermen of both countries for a long time. Fishing cooperation in the Gulf has taken place in conformity with the development of the international law on fisheries and with national legislation and state practice.

By the decree of 9 December 1926 of the French Government, the Law of March 1, 1888 on Territorial Waters of France was made applicable to the colonies of France. The 1888 law forbade foreign fishing activities in French territorial waters, with the 3 nautical miles line measured from the low-water line along the coast. Through the application of the 1888 law, Indochina (Vietnam, Laos, Kampuchea) had 3 nautical miles of territorial sea. By the decree of 22 September 1936 of the Minister of French Colonies, fishing zones with the breadth of 20 kilometers (10.8 nautical miles) measured from the low-water lines were established within Indochina. After gaining independence, the Democratic Republic of Vietnam (DRV) favored a 12 nautical mile territorial sea.<sup>14</sup> For China, the 12 nautical mile territorial sea was claimed by the Declaration of 4 September 1958. Neither country became a party to the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone. For the ocean areas outside of territorial waters, the principle of freedom of the high seas was applied.

In 1957, 1961, and 1963, Chinese–Vietnamese agreements on fishing activities for vessels in the Tonkin Gulf were signed. Zones, respectively of 3, 6, and 12 nautical miles along the coast and outermost islands, were established. Fishing was prohibited in those zones. However, the two states agreed to allow boats having a tonnage under 10 tons and originating from the provinces of Hai Ninh (Vietnam) and Tong Hung (China) to carry out fishing activities in certain areas inside the agreed-upon lines of the other country. The local authorities informed each other about their boats operating in the areas of the other state. Fishermen had to have special fishing licenses granted by their local authorities, put themselves under the supervision and control of enforcement officials of the other state, and observe strictly the laws and regulations issued by the government of the other side. Some harbors and anchorage for fishing boats for the purposes of entering and sheltering were agreed upon. The 1963 agreement expired in 1971.

This practice of fisheries management in the Gulf demonstrates that up to the beginning of the processes of negotiations on delimitation of the Gulf, the two parties had respected each other's respective sovereignties within 12 nautical miles. The high seas regime had been applied for areas outside of those waters and fishermen from both countries had freedom of fishing rights. Generally, the two states promoted marine scientific research and exchanges of data, experience, and techniques of fishing.

According to the 1982 LOS Convention, each coastal state has a right to declare an EEZ of 200 nautical miles, within which it can exercise sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or nonliving. With a width of only 176 nautical miles, the whole Tonkin Gulf could be considered a disputed area, where both Vietnam and China have sovereign rights for the continental shelf and EEZ.

China wanted to include fishery questions in defining the maritime boundary, while, for Vietnam, fishery cooperation was more of a technical than a territorial matter. The fisheries cooperation that had existed had been largely independent of the existence of a line dividing the Gulf between the two countries. Taking this into consideration, the negotiations on fisheries cooperation was carried out parallel to but independent from the negotiations on delimitation. While it took China and Japan five years to reach a fisheries agreement, the negotiation on fisheries in the Tonkin Gulf took only a short time, from April to December 2000, with only with six rounds of meetings. From 2001 to April 2004, the two sides negotiated respecting the Additional Protocol to the Agreement (eleven rounds at the expert level from April 2001 to October 2002, eight rounds at the Deputy Minister of Fishery level, and some other expert meetings from October 2002 to April 2004).

The purpose of the Fisheries Agreement is that "of maintaining and developing the traditional neighboring and friendly relationship between the two countries and between the two peoples, and of preserving and sustainable utilizing the marine living resources in the Agreed Water Area in the Tonkin Gulf." This means that the two sides accept the precautionary approach and sustainable management principle for fisheries management in the Tonkin Gulf. These principles are to guide the adoption and implementation of necessary measures such as the establishment and activities of the Sino-Vietnamese Joint Fishery Committee; the setting up of the Common Fishery Zone (CFZ); the determination of allowable catch and the number of operating vessels; and the licensing and control of fishing activities in the Agreed Water Area in the Tonkin Gulf. The "Agreed Water Area," for the purposes of the Fisheries Agreement, consists of the CFZ, the zone of transitional arrangement for fishing activities (Transitory Fishery Zone), and the Buffer Zone for small fishing boats. The two states are to undertake fisheries cooperation in the Agreed Water Area based on mutual respect for sovereignty, sovereign rights, and jurisdiction. Such fishery cooperation is not to affect the sovereignty of the two countries over their respective territorial seas and other rights and interests enjoyed by the two countries in their respective EEZs.<sup>15</sup>

The CFZ is an area south of the parallel of 20°N, with a breadth of about 28 to 30.5 nautical miles from the line of delimitation of both sides. The area covered is 33,500 square kilometers. For the purpose of precaution and sustainable development, the fishing activities in the CFZ are to be undertaken relying on the three main principles. First is the principle of recognizing the jurisdiction over the water area of the CFZ by each state. By this principle, the competent authorities of the parties are to monitor and inspect the nationals and fishing vessels of both states in their own water areas of the CFZ in accordance with the regulations laid down by the Sino-Vietnamese Joint Fishery

Committee (JCF) in the Tonkin Gulf and in line with the domestic laws of each party on the preservation and management of fishery resources.<sup>16</sup> Each state, in accordance with its domestic law, is to have the right to impose punishment on fishing vessels, which enter its water area in the CFZ without a permit, or with a permit but which conduct illegal activities in the CFZ. The second principle is that of equality and mutual benefit. By this principle, the allowable catch and number of operating fishing vessels permitted to each party is to be determined annually by the JCF and the catch and number of vessels are to be shared equally by the two parties. The determination of the allowable catch and the number of operating fishing vessels is to be determined based on the results of joint regular surveys of fishery resources and the need to respect sustainable development. Fishing vessels which intend to operate in the CFZ are required to have a permit from their competent authorities and to be marked in accordance with regulations set forth by the JCF. These vessels also have obligations to comply with the regulations on preservation and management of fisheries resources laid down by the JCF. The third principle is that of third party participation. By this principle, each state may adopt any form of international cooperation or joint venture to carry out fishing activities within its own area in the CFZ. All third party vessels that have permission to conduct fishing activities in the CFZ are to comply with the regulations on preservation and management of fisheries resources laid down by the JCF, use the flag of the state that has granted them the permit, mark their vessels in accordance with the regulations of the JCF, and operate only within the area of the party that has granted the permit.

The above three principles are different than those applied in the CFZs in the East China Sea that China established with Japan in 1997<sup>17</sup> and with South Korea in 2000.<sup>18</sup> The Japanese–Chinese and Korean–Chinese CFZs are set up at a significant distance from the coasts of the respective countries where vessels might otherwise enjoy the freedom of fishing without a license. Vessels operating in these areas are to observe decisions made by the relevant Joint Fishing Commission (JFC) and avoid overexploitation and ensure the conservation and sustainable management of fish resources. If one state discovers a violation by the other party's vessel, it is to inform the flag state and leave to the flag state all matters regarding enforcement and punishment. These two CFZs are temporary, lasting only until the concerned parties finalize agreements on their overlapping EEZ claims. So, despite the provisions in the two Agreements dealing with the protection of aquatic resources, the two CFZs (China–Japan or China–South Korea) in the East China Sea are open to the fishing activities of vessels of both states based on the traditional fishery activities of each party.<sup>19</sup>

The buffer zone for small fishing boats has been set up in the area adjacent to the Beilun River. The zone has a breadth of 3 nautical miles from the line of delimitation to both sides and adjacent to the boundary line to the distance of 10 nautical miles. This zone has the purpose of avoiding disputes caused by illegal entry by mistake of small fishing boats of one party into the territorial sea of the other. The Fisheries Agreement provides that if a party finds small fishing boats of the other party conducting fishing activities in its water area in the buffer zone, it may send a warning or take the necessary measures to order them to leave the water area, but that the party is to show restraint in its action, not detain or arrest the boats in question, and not use force. Disputes relating to such fishing activities are to be reported to the JFC for settlement. The buffer zone is novel in state practice.

The Transitory Fishery Zone is to be set up in the parts of EEZs of both parties north of the CFZ (measured from 20° N). This zone has an area of 9800 square kilometers. Each party is to make transitional arrangements for fishing activities of the other

party in the other's EEZ for the period of four years. Measures are to be taken to reduce fishing operations by 25% per year. At the end of the transitional arrangements, each state is to give priority, under conditions, to the other party for fishing operations in its EEZ. This zone was set up to help the governments to relocate and find new jobs for fishermen who are being displaced from the overlapping area because of the Boundary Agreement.

The Fisheries Agreement mandates the establishment of the Sino-Vietnamese Joint Fishery Committee in the Tonkin Gulf (JCF). The JCF is to consist of a government representative from each state. The Committee is to hold one or two meetings annually. It may also have *ad hoc* meetings if the parties find it necessary and agree to such meetings. The functions of the JCF are set out in article 13 of the Fisheries Agreement:

1. To consult on relevant matters relating to the preservation and sustainable utilization of fishery resources in the Agreed Water Area, and to make proposals to the two governments;
2. To consult on relevant matters relating to fishery cooperation between the two countries in the Agreed Water Area, and to make proposals to the two governments;
3. To adopt regulations and implementing measures on preservation and management of fishery resources in the CFZ in pursuance to Article 5 of the Agreement;
4. To determine the quantity of fishing vessels of each party entering into the CFZ annually in pursuance to Article 6 of the Agreement;
5. To consult and decide on other matters relating to the CFZ;
6. To carry out the functions in accordance with the Additional Protocol on transitional arrangement;
7. To settle disputes of fishing activities occurring in the buffer zone for small fishing boats;
8. To guide the settlement of fishery disputes and maritime accidents within its prescribed capacity;
9. To evaluate the situation of implementing the Agreement and report to the two governments;
10. To propose to the two governments any amendment or revision of the Agreement, annexes to the Agreement, and additional protocol to the Agreement;
11. To consult on other matters within common concern of the two parties.

The JCF can approve any proposal or adopt any decision by the unanimous agreement of the representatives of the Parties.

The Fishery Agreement is to be in force for a period of 12 years. After that period, if there is no objection, the Agreement can continue to be applied for 3 years.<sup>20</sup>

### **Significance of the Agreements**

The coming into force of two Agreements in the Tonkin Gulf turns a new page not only in the history of the Sino–Vietnamese relationship, but also in the history of defining sea boundaries and establishing fisheries cooperation in the Bien Dong (South China) Sea. The importance of the two Agreements is captured in the speech made by Deputy P. M. Vu Khoan at the reception of Chinese Deputy Foreign Minister Wang Yi visiting Vietnam to attend the ceremony to exchange documents ratifying the agreement.

From now on, Viet Nam and China have a clear line of demarcation at sea, namely a border between the two countries' territorial waters, exclusive economic zones and continental shelf on the Bei Bu (Tonkin) Gulf. The demarcation will create favorable conditions for management and maintenance of stability in the Gulf, continuing to build the Bei Bu Gulf into a region of peace, friendship, cooperation, stability and development, thus contributing to reinforcing the mutual trust as well as speeding up the comprehensive relationship between Viet Nam and China.<sup>21</sup>

As the second agreement for Vietnam, but the first for China to define sea boundaries, the Vietnam–China Maritime Boundary Agreement meets the aspirations of the two nations by identifying a clear and stable line of delimitation in the Gulf. It shows that the two states have the willingness to settle disputes left by the history of their bilateral relations. The two Agreements will contribute to the improvement of the bilateral relationship between Vietnam and China under the motto “Friendly neighbors, comprehensive cooperation, long-term stability, and looking toward the future” and the spirit of “Good neighbors, good friends, good comrades and good partners.” Together with the Vietnam–China land border Treaty of 1999, the two ocean Agreements resolved two of three border disputes that existed between the two countries and should strengthen their determination to find an acceptable solution to the issues in the Bien Dong (South China) Sea.<sup>22</sup>

The Boundary Agreement reaffirms the Vietnamese position and the international tendency of using a single line for both the continental shelf and an EEZ in an area of less than 400 nautical miles between opposite coasts. The Boundary Agreement had to deal with two states having both opposite and adjacent coastlines in the same area; the effects of islands, coastal and outlying; the role of low-tide elevations in delimitation; the issues of the outlet of a boundary river; and the question of a closing line for the Gulf.

The Fishery Agreement will be an example of a double-step solution for settling fishing disputes and delimiting EEZs. The EEZ can be divided, but the application of the fisheries regime can be delayed in order to minimize economic dislocation for states. In the case of the Tonkin Gulf, the regime of EEZ as regards fisheries will be applied only after 4 years for the Transitory Fishery Zone and 15 years for the Common Fishery Zone.

The two Agreements in the Tonkin Gulf reflect the determination of the two states to implement the 1982 LOS Convention for maritime delimitation and management.

## Notes

1. See: Chen Tigiang and Zhang Hongzheng, “Le problème de délimitation des zones maritimes dans le Golfe de Beibu (Tonkin),” *Guangmin Ribao*, (December 1980); J. R. V. Prescott, *Maritime Jurisdiction in Southeast Asia: A Commentary and Map*, (Research Report, No. 2, 1981, East-West Environment and Policy Institute); D. M. Johnston and M. J. Valencia, *Pacific Ocean Boundary Problems. Status and Solutions* (Nijhoff 1992); and Nguyen Hong Thao, *Le Vietnam face aux problèmes de l’extension maritime dans la Mer de Chine méridionale* (Septentrion, Paris 1996); and Nguyen Hong Thao, *Le Vietnam et ses différends maritimes dans la Mer de Bien Dong (Mer de Chine méridionale)*, Pedone, 2004.

2. For the text of the two agreements, see “China and Vietnam Initial Agreements on Delimitation of Beibu Bay/Fishery Cooperation December 25, 2000,” in at <http://www.fmprc.gov.cn/eng/6939.html>. Translation of the text of the two agreements are attached to this article.

3. See: [www.mofa.gov.vn](http://www.mofa.gov.vn), July 1, 2004.

4. The speech made by Vietnamese Deputy P. M. Vu Khoan at the reception for the Chinese Deputy Foreign Minister Wang Yi visiting Vietnam to attend the ceremony to exchange docu-

ments ratifying the agreement on the Tonkin Gulf demarcation between Vietnam and China. See: [www.mofa.gov.vn](http://www.mofa.gov.vn), 1 July 2004.

5. Wu Shicun, *Sustainable exploitation of the fishery resources of the Beibu Bay (the Tonkin Gulf)*, paper presented at the conference “Human and Regional Security around the South China Sea,” Oslo, 2–4 June 2000.

6. Sun Shangzhi, *Study on the Comprehensive and Coordinated Development of China’s Beibu Gulf Rim* (in Chinese) (Beijing: Meteorological Press 1997), 10.

7. See: Zou Keyuan, “Maritime Boundary Delimitation in the Tonkin Gulf,” *Ocean Development & International Law*, 30: 235–254 (1999).

8. The 1982 LOS Convention was ratified by Vietnam on 23 June 1994 and by China on 15 June 1996.

9. *Nhan Dan Daily*, 28 February 1999.

10. Tribunal Award of February 14, 1985 on maritime delimitation between Guinea and Guinea Bissau, *R.G.D.I.P.*, 89: 508, para. 49 (1985). See also: Nguyen Hong Thao, *supra* note 1, pp. 120–129.

11. Laurent Lucchini and Michel Voelckel, *Droit de la mer* (Pedone 1996), volume 1, pp. 141–142.

12. Interview by Minister of Foreign Affairs, H. E. Nguyen Dy Nien on [www.mofa.gov.vn](http://www.mofa.gov.vn), 1 July 2004.

13. Regarding the proportionality test, See: *Case Concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* [1982] *I.C.J. Reports* 18; *Case Concerning Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States)* [1984] *I.C.J. Reports* 246; *Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway)*, [1993] *I.C.J. Reports* 38; *Arbitration Decision on Delimitation of the Maritime Areas between Canada and France (St. Pierre and Miquelon)*, in *International Legal Materials*, 31: 1149 (1992).

14. Nguyen Hong Thao, *Le Vietnam face aux problèmes de l’extension maritime dans la Mer de Chine méridionale* (Septentrion Presses Universitaires 6/1997), pp. 37–69.

15. Article 2 of the Agreement on Fishery Cooperation. See: Zou Keyuan, “Sino-Vietnamese Fishery Agreement in the Tonkin Gulf,” *EAI Working Paper No. 77*, p. 16.

16. Article 9 of the Agreement on Fishery Cooperation.

17. Fishery Agreement between China and Japan, 11 November 1997, reprinted in *Japanese Annual Yearbook of International Law* 41: 122–129 (1998).

18. Fishery Agreement between China and South Korea, 3 August 2000, reprinted in Sun Pyo Kim, *Maritime Delimitation and Interim Arrangements in North East Asia* (Nijhoff, 2004), p. 347.

19. Article 7 of the Fishery Agreement between China and Japan, 11 November 1997, *supra* note 17, and Article 7 of the Fishery Agreement between China and South Korea, *supra* note 18. See Joon-Suk Kang, *An International Regime for Fisheries in East Asia* (Design Sesang 2003), pp. 74–89.

20. Keyuan, *supra* note 15.

21. Deputy P.M. Vu Khoen, *supra* note 4.

22. Concerning the Bien Dong (South China Sea) issues, the Joint Vietnam-China statement for comprehensive cooperation on 25 December 2000 said that:

The two sides agreed to maintain the existing negotiation mechanisms on marine issues and to persist in seeking a fundamental and everlasting solution acceptable to both sides through peaceful negotiations. Pending that solution, the two sides will, in the spirit of tackling easier issues before difficult ones, actively explore possibilities and measures for cooperating in environmental protection, meteorology, hydrology, disaster prevention and mitigation. At the same time, they will not take actions to complicate or aggravate disputes, nor will they resort to force or threat of force. They will consult each other in a timely manner in case of disputes and adopt a cool and constructive attitude to handle them properly in order not to allow disputes to impede the normal development of bilateral ties.

News from Vietnam Ministry of Foreign Affairs, 27 December 2000, at [www.vnn.mofa.vn](http://www.vnn.mofa.vn).

## **Appendix A: Agreement on Fishery Co-operation in the Tonkin Gulf between the Government of the People's Republic of China and the Government of the Socialist Republic of Vietnam**

For the purpose of maintaining and developing the traditional neighboring and friendly relationship between the two countries and between the two peoples, and of preserving and sustainably utilizing the marine living resources in the Agreed Water Area in the Tonkin Gulf,

In accordance with international law, particularly relevant provisions in the United Nations Convention on the Law of the Sea concluded on 10 December 1982, and the Agreement on Delimitation of Territorial Seas, Exclusive Economic Zones and Continental Shelves in the Tonkin Gulf between the People's Republic of China and the Socialist Republic of Vietnam (hereinafter referred to as the Delimitation Agreement on the Tonkin Gulf) signed on 25 December 2000,

Based on mutual respect for sovereignty, sovereign rights, and jurisdiction of the two countries in the Tonkin Gulf,  
The Government of the People's Republic of China and the Government of the Socialist Republic of Vietnam, have agreed, through friendly consultation, as follows:

### ***Part I. General Provisions***

#### **Article 1**

This Agreement applies to parts of the exclusive economic zones and parts of the adjacent territorial seas of the two countries (hereinafter referred to as "Agreed Water Area") in the Tonkin Gulf.

#### **Article 2**

The Contracting Parties shall undertake fishery cooperation in the Agreed Water Area based on the mutual respect for sovereignty, sovereign rights, and jurisdiction. Such fishery cooperation shall not affect the sovereignty of the two countries over their respective territorial seas and other rights and interests enjoyed by the two countries in their respective exclusive economic zones.

### ***Part II. Common Fishery Zone***

#### **Article 3**

1. Both Contracting Parties have agreed to establish the Common Fishery Zone in the respective areas of 30.5 nautical miles of the exclusive economic zones of the two countries from the demarcation line determined in the Delimitation Agreement on Tonkin Gulf, north to the closing line of the Tonkin Gulf, and south of 20° N.

2. The actual extent of the Common Fishery Zone is the water area encircled by straight lines connecting in order the following points:

- (1) 17° 23'38"N., 107° 34'43"E.
- (2) 18° 09'20"N., 108° 20'18"E.
- (3) 18° 44'25"N., 107° 41'51"E.
- (4) 19° 08'09"N., 108° 41'51"E.
- (5) 19° 43'00"N., 108° 20'30"E.
- (6) 20° 00'00"N., 108° 42'32"E.
- (7) 20° 00'00"N., 107° 57'42"E.

- (8) 19° 52'34"N., 107° 57'42"E.
- (9) 19° 52'34"N., 107° 29'00"E.
- (10) 20° 00'00"N., 107° 29'00"E.
- (11) 20° 00'00"N., 107° 07'41"E.
- (12) 19° 33'07"N., 106° 37'17"E.
- (13) 18° 40'00"N., 106° 37'17"E.
- (14) 18° 18'58"N., 106° 53'08"E.
- (15) 18° 00'00"N., 107° 01'55"E.
- (16) 17° 23'38"N., 107° 34'43"E.

#### **Article 4**

Both Contracting Parties shall undertake long-term fishery co-operation in the Common Fishery Zone in the spirit of mutual benefits.

#### **Article 5**

Both Contracting Parties shall jointly make measures in relation to preservation, management and sustainable utilization of the living resources in the Common Fishery Zone in accordance with the natural conditions, characteristics of the living resources, the need of sustainable development and environmental protection, and the impact on the respective fishery activities of the two parties.

#### **Article 6**

The Contracting Parties shall respect the principle of equality and mutual benefit and shall determine annually the quantity of operating fishing vessels for each party in the Common Fishery Zone through the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf established pursuant to Article 13 of this Agreement, based on the allowable catch determined on the basis of the results from joint regular surveys on fishery resources and the impact on respective fishing activities of both parties, and the need of sustainable development.

#### **Article 7**

1. Both Contracting Parties shall carry out the licensing system for fishing activities conducted by their own fishing vessels in the Common Fishery Zone. Fishing permits shall be issued in accordance with the quantity of fishing vessels in the current year determined by the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf, and the names of the fishing vessels granted permits shall be notified to the other party. Both Contracting Parties shall be obliged to educate and train their fishermen who conduct fishing activities in the Common Fishery Zone.

2. Fishing Vessels which intend to enter the Common Fishery Zone for fishing activities shall apply for the permit from the competent authorities of their own countries and may enter the Common Fishery Zone for fishing activities only after they have obtained the permit. The fishing vessels of the Contracting Parties for fishing activities in the Common Fishery Zone shall mark themselves in accordance with the regulations set forth by the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf.

#### **Article 8**

Nationals and fishing vessels of both parties for fishing activities in the Common Fishery Zone shall comply with the regulations on preservation and management of fishery

resources laid down by the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf, and shall write the fishing log correctly in accordance with the requirements by the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf and submit it to the competent authorities of their own countries within the prescribed time.

#### **Article 9**

1. The competent authorities of the Contracting Parties shall monitor and inspect the nationals and fishing vessels of both parties in their own water areas of the Common Fishery Zone in accordance with the regulations laid down by the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf based on the characteristics of the Common Fishery Zone and in line with the domestic laws of both parties on preservation and management of fishery resources.

2. The competent authorities of one Contracting Party, having found any breach of the regulations laid down by the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf by nationals or fishing vessels of the other Contracting Party in the Tonkin Gulf in its own water area of the Common Fishery Zone, shall have the right to deal with such breach in accordance with the regulations laid down by the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf, and shall notify the other party promptly of the relevant circumstances and the handling result through the consultation mechanism established by the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf. The detained fishing vessels or crew shall be released promptly after the appropriate bond or other kind of security has been posted.

3. The competent authorities of both parties, if necessary, may coordinate to conduct joint monitoring and inspection and to handle any breach of the regulations laid down by the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf concerning preservation and management of fishery resources.

4. Each Contracting Party shall, in accordance with its domestic law, have the right to impose punishment on fishing vessels which enter its own water area in the Common Fishery Zone without a permit, or with a permit but conduct illegal activities other than fishing activities in the Common Fishery Zone.

5. Each Contracting Party shall provide facilities for the permitted fishing vessels of the other Contracting Party in the Common Fishery Zone. The competent authorities of each Contracting Party shall not abuse its power, or hamper normal fishing activities conducted by the permitted nationals and fishing vessels of the other party in the Common Fishery Zone. Each Contracting Party, having found that the competent authorities of the other Contracting Party has conducted law enforcement in contravention against the common management measures adopted by the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf, shall have the right to request this authorities to render explanations, and to submit, if necessary, the matter to the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf for discussion and settlement.

#### **Article 10**

Each Contracting Party may adopt any form of international cooperation or form of joint venture within the framework of operational scale in its own area in the Common Fishery Zone. All the vessels under the above cooperative or joint venture forms permitted

to conduct fishing activities in the Common Fishery Zone shall comply with the regulations on preservation and management of fishery resources adopted by the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf, hoist the national flag of the Contracting Party who has granted them the permit, mark them in accordance with the regulations of the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf, and operate within the area of the Contracting Party who has granted them the permit in the Common Fishery Zone.

### *Part III. Transitional Arrangements*

#### **Article 11**

1. Each Contracting Party shall make transitional arrangements for the existing fishing operations of the other Contracting Party in its exclusive economic zone north of the Common Fishery Zone (measured from 20°N.). The transitional arrangements shall be implemented from the date of the entry into force of this Agreement. The other Contracting Party shall take measures to reduce such fishing operations year by year. The transitional arrangements will end within four years from the date of the entry into force of this Agreement.
2. The extent of the water area and management measures for the transitional arrangements shall be made by the Contracting Parties in the form of a supplementary protocol, which shall constitute an integral part of this Agreement.
3. Each Contracting Party, upon the end of the transitional arrangements, shall give priority, under the same conditions, to the other party for fishing operations in its exclusive economic zone.

### *Part IV. Buffer Zone for Small Fishing Boats*

#### **Article 12**

1. The Contracting Parties shall establish the buffer zone in order to avoid disputes caused by illegal entry by mistake of small fishing boats of one party to the territorial sea of the other. The actual extent of the buffer zone is the water area circled by the straight lines connecting the following points:

- (1) 21°28'12.5"N., 108°06'04.3"E.
- (2) 21°25'40.7"N., 108°02'46.1"E.
- (3) 21°17'52.1"N., 108°04'30.3"E.
- (4) 21°18'29.0"N., 108°07'39.0"E.
- (5) 21°19'05.7"N., 108°10'47.8"E.
- (6) 21°25'41.7"N., 108°09'20.0"E.
- (7) 21°28'12.5"N., 108°06'04.3"E.

2. Each Contracting Party, if it finds that small fishing boats of the other party conduct fishing activities in its water area in the buffer zone, may send a warning, or take necessary measures to order them to leave that water area, but by so doing the Contracting Party shall restrain its action not to detain or arrest the vessels in question, nor to use

force. If there is any dispute relating to fishing activities, it shall be reported to the Sino–Vietnamese Joint Committee for Fishery in the Tonkin Gulf for settlement; if there is any dispute beyond fishing activities, it shall be settled by relevant and respective competent authorities of the two countries in accordance with their domestic law.

Part V Sino-Vietnamese Joint Committee For Fishery in the Tonkin Gulf

**Article 13**

1. The Contracting Parties have decided to establish the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf (hereinafter referred to as the Joint Fishery Committee) in order to implement this Agreement. The Joint Fishery Committee shall consist of two representatives respectively appointed by both Governments and several committee members.

2. The Joint Fishery Committee will make detailed regulations on its operational mechanism.

3. The functions of the Joint Fishery Committee are as follows:

- (1) to consult on relevant matters relating to the preservation and sustainable utilisation of fishery resources in the Agreed Water Area, and to make proposals for the two Governments;
- (2) to consult on relevant matters relating to fishery cooperation between the two countries in the Agreed Water Area, and to make proposals for the two Governments;
- (3) to adopt regulations and implementing measures on preservation and management of fishery resources in the Common Fishery Zone in pursuance to Article 5 of this Agreement;
- (4) to determine the quantity of fishing vessels of each party entering into the Common Fishery Zone annually in pursuance to Article 6 of this Agreement;
- (5) to consult and decide on other matters relating to the Common Fishery Zone;
- (6) to carry out the functions in accordance with the supplementary protocol on transitional arrangements;
- (7) to settle disputes of fishing activities occurring in the buffer zone for small fishing boats;
- (8) to guide the settlement of fishery disputes and maritime accidents within its prescribed capacity;
- (9) to evaluate the situation of implementing this Agreement and report to the two Governments;
- (10) to propose to the two Governments any amendment or revision of this Agreement, annexes to this Agreement, and supplementary protocols to this Agreement; and
- (11) to consult on other matters within common concern of the two parties.

4. Any proposal and decision of the Joint Fishery Committee shall be subject to unanimous agreement of the representatives of the Contracting Parties.

5. The Joint Fishery Committee shall hold one or two meetings annually, and the venue is made by turn between the two countries. Meetings *ad hoc* may be held with the agreement of both parties when necessary.

***Part VI. Miscellaneous Provisions*****Article 14**

The Contracting Parties shall provide their own nationals and fishing vessels with guidelines, legal education, and adopt other necessary measures so as to ensure the safety of navigation, maintenance of the order and safety of fishing operations at sea, and the smooth and timely handling of maritime accidents in the Agreed Water Area.

**Article 15**

1. When the nationals and fishing vessels of one Contracting Party need assistance due to distress or other emergencies in the sea area of the other Contracting Party, the other Contracting Party shall be obliged to render salvage and protection, and notify in the meantime the relevant department of the counterpart Contracting Party of the relevant matters.

2. When the nationals and fishing vessels of one Contracting Party seek refuge due to bad weather or other emergencies, they may take refuge in the area of the other Contracting Party in accordance with the annex to this Agreement and the regulations of the Joint Fishery Committee, and after the contact with the other Contracting Party. During the refuge, the nationals and fishing vessels of that Contracting Party shall abide by the relevant laws and regulations of the other Contracting Party, and obey the management of the relevant department of the other Contracting Party.

**Article 16**

Each Contracting Party shall ensure the right of innocent passage and navigational convenience of fishing vessels of the other Contracting Party in accordance with the provisions of the United Nations Convention on the Law of the Sea concluded on 10 December 1982.

**Article 17**

1. The Contracting Parties shall cooperate for fishery scientific research and preservation of marine living resources in the Agreed Water Area.
2. Each Contracting Party may have international co-operation for fishery scientific research in its own water area of the Agreed Water Area.

***Part VII. Final Provisions*****Article 18**

Any dispute resulting from interpretation or application of this Agreement between the two parties shall be settled through friendly consultation.

**Article 19**

Any annex or supplementary protocol to this Agreement shall constitute an integral part of this Agreement.

**Article 20**

Both Contracting Parties may amend or revise, through consultation, this Agreement, any annex to this Agreement, or any protocol to this Agreement.

**Article 21**

The geographical coordinates of the Common Fishery Zone stipulated in Article 3(2) of this Agreement and the geographical coordinates of the buffer zone for small fishing boats are measured from the complete map of the Tonkin Gulf and the special map of the mouth of the Beilun River annexed to the Delimitation Agreement on the Tonkin Gulf.

**Article 22**

1. This Agreement shall enter into force from the date of the exchange of notes between the two parties after having carried out necessary domestic legal procedures by both parties respectively.

2. The term of validity of this Agreement shall be 12 years, and extend to another 3 years automatically afterwards. The continuation of cooperation after the expiry of the extension shall be negotiated between the two parties through consultation.

This Agreement is signed in Beijing on 25 December 2000, and written in Chinese and Vietnamese, both of which are equally authentic.

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(signed)  
Representative for the Government  
of the People's Republic of China

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(signed)  
Representative for the Government  
of the Socialist Republic of Vietnam

**Appendix B: Agreement between the Socialist Republic of Viet Nam and the People's Republic of China on the Delimitation of the Territorial Sea, Exclusive Economic Zone and Continental Shelf between the Two Countries in the Tonkin Gulf**

The Socialist Republic of Viet Nam and the People's Republic of China (hereinafter referred to as "the two Contracting Parties");

Desiring to strengthen and enhance the traditional bonds of friendship and neighborliness between the two countries and the peoples of Viet Nam and the peoples of China, maintain the stability and promote the development of the Tonkin Gulf;

Basing themselves on the principles of mutual respect for independence, sovereignty and territorial integrity, nonaggression, no-interference into one another's internal affairs, equality, mutual benefit, and peaceful coexistence;

In the spirit of mutual understanding and accommodation and friendly consultations for an equitable and reasonable solution to the delimitation of the Tonkin Gulf;  
Have agreed as follows:

### Article 1

1. The two Contracting Parties, taking into account the 1982 United Nations Convention on the Law of the Sea, internationally recognized legal principles and practices, considering all relevant circumstances in the Tonkin Gulf, following the equitable principle and through friendly negotiations, have delimited the territorial sea, exclusive economic zone and continental shelf between the two countries in the Tonkin Gulf.

2. In this Agreement, the Tonkin Gulf is a semi-enclosed gulf bordered by the continental coastlines of Viet Nam and China to the North, by the coastlines of the Lei Zhou peninsula and Hainan island of China to the East, by the continental coastline of Viet Nam to the West and by the straight lines connecting the outermost point of the outer edge of the Yieng Ge cape, Hainan island of China defined by the geographical coordinates of latitude 18° 0'19" North, longitude 108° 41'17" East, crossing Con Co island of Viet Nam to a point situated on the coastline of Viet Nam specified by the geographical coordinates of latitude 16° 57' 40" North and longitude 107° 08'42" East. The two Contracting Parties identify the above-mentioned area as the area to be delimited under this Agreement.

### Article II

The two Contracting Parties agreed on the delimitation line of the territorial sea, exclusive economic zone and continental shelf between the two countries defined by the straight lines connecting the following 21 points specified by coordinates and in the sequence given below:

Point 1:	Latitude	21° 28'12". 5 North
	Longitude	108° 06'04". 3 East
Point 2:	Latitude	21° 28'01".7 North
	Longitude	108° 06'01".6 East
Point 3:	Latitude	21° 27'0".1 North
	Longitude	108° 05'57".7 East
Point 4:	Latitude	21° 27'39".5 North
	Longitude	108° 05'51".5 East
Point 5:	Latitude	21° 27'28".2 North
	Longitude	108° 05'39".9 East
Point 6:	Latitude	21° 27'23".1 North
	Longitude	108° 05'38".8 East
Point 7:	Latitude	21° 27'08".2 North
	Longitude	108° 05'43".7 East
Point 8:	Latitude	21° 16'32" North
	Longitude	108° 08'05" East
Point 9:	Latitude	21° 12'35" North
	Longitude	108° 12'31" East
Point 10:	Latitude	20° 24'05" North
	Longitude	108° 22'45" East
Point 11:	Latitude	19° 57'33" North
	Longitude	107° 55'47" East
Point 12:	Latitude	19° 39'33" North
	Longitude	107° 31'40" East
Point 13:	Latitude	19° 25'26" North
	Longitude	107° 21'00" East

Point 14:	Latitude	19° 25'26" North
	Longitude	107° 12'43" East
Point 15:	Latitude	19° 16'04" North
	Longitude	107° 11'23" East
Point 16:	Latitude	19° 12'55" North
	Longitude	107° 09'34" East
Point 17:	Latitude	18° 42'52" North
	Longitude	107° 09'34" East
Point 18:	Latitude	18° 13'49" North
	Longitude	107° 34'00" East
Point 19:	Latitude	18° 07'08" North
	Longitude	107° 37'34" East
Point 20:	Latitude	18° 04'13" North
	Longitude	107° 39'09" East
Point 21:	Latitude	17° 47'00" North
	Longitude	107° 58'00" East

### **Article III**

1. The delimitation line from point 1 to point 9 defined in Article II of this Agreement shall be the border of territorial sea between the two countries in the Tonkin Gulf.
2. The vertical surface running along the border of the territorial seas referred to in Paragraph 1 of this Article shall delimit the air spaces, seabeds, and subsoils of the two countries' territorial seas.
3. Any topological changes shall not affect the territorial sea border from point 1 to point 7 referred to in Paragraph 1 of this Article, unless otherwise agreed by the two Contracting Parties.

### **Article IV**

The delimitation line from point 9 to point 21 defined in Article II of this Agreement shall be the boundary of the exclusive economic zone and the continental shelf between the two countries in the Tonkin Gulf.

### **Article V**

The territorial sea delimitation line defined in Article II of this Agreement from point 1 to point 7 is illustrated by the black lines in the thematic map of the Bei Lun estuary, on 1:10,000 scale, established by the two Contracting Parties in 2000. The territorial sea, exclusive economic zone, and continental shelf delimitation line from point 7 to point 21 is illustrated by the black lines on the Overall Map of the Tonkin Gulf, on 1:500,000 scale, established by the two Contracting Parties in 2000. All the delimitation lines are geodetic lines.

The above-mentioned thematic map of Bei Lun estuary and the Overall Map of the Tonkin Gulf are attached to this Agreement. These two maps are based on ITRF-96 system. Geographical coordinates of the points defined in Article II of this Agreement are specified in the above-mentioned maps. The delimitation line defined in this Agreement as shown on the maps attached to the Agreement is for illustrative purpose only.

### **Article VI**

The two Contracting Party shall respect the sovereignty, sovereign rights, and jurisdiction of each other over their respective territorial sea, exclusive economic zone, and continental shelf in the Tonkin Gulf as provided for in this Agreement.

### **Article VII**

If any single petroleum or natural gas structure or field, or other mineral deposit of whatever character, extends across the delimitation line defined in Article II of this Agreement, the two Contracting Parties shall, through friendly consultations, reach agreements as to the manner in which structure, field, or deposit will be most effectively exploited as well as on the equitable sharing of the benefits arising from such exploitation.

### **Article VIII**

The two Contracting Parties shall conduct consultations on the proper use and sustainable development of the living resources in the Tonkin Gulf as well as on cooperative activities relating to the conservation, management, and use of the living resources in the exclusive economic zones of the two countries in the Tonkin Gulf.

### **Article IX**

The delimitation of the territorial sea, exclusive economic zone, and continental shelf between the two countries in the Tonkin Gulf in accordance with this Agreement shall not affect or prejudice each Contracting Party's positions on provisions of international law of the Sea.

### **Article X**

Any dispute between the two Contracting Parties arising out of the interpretation and implementation of the Agreement shall be settled through friendly negotiations and consultations.

### **Article XI**

The Agreement shall be ratified by the two Contracting Parties and shall enter into force on the date of the exchange of the instruments of ratification. The instruments of ratification will be exchanged in Ha Noi.

Done at Beijing, this 25th day of December, 2000, in duplicate, in each of the Vietnamese and Chinese languages, both texts being equally authentic.

Plenipotentiary Representative of the  
Socialist Republic of Vietnam

Plenipotentiary Representative of the  
People's Republic of China

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(signed)

Nguyen Dy Nien

Minister of Foreign Affairs

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(signed)

Tang Jiakuan

Minister of Foreign Affairs