

A group of young students in school uniforms (white shirts, dark blue vests, and khaki pants/skirts) are holding up small American and Vietnamese flags. The students are looking towards the right, and the flags are held high in the air. The background is slightly blurred, showing green foliage and a yellow structure.

From Foes to Partners: Rethinking 25 Years of U.S.-Vietnam Relations

Edited by

**Jeffrey Ordaniel
Ariel Stenek**



Based in Honolulu, the Pacific Forum (www.pacforum.org) is a foreign policy research institute focused on the Asia-Pacific Region. Founded in 1975, the Pacific Forum collaborates with a broad network of research institutes from around the Pacific Rim, drawing on Asian perspectives and disseminating project findings and recommendations to global leaders, governments, and members of the public throughout the region. The Forum's programs encompass current and emerging political, security, economic, and maritime policy issues, and works to help stimulate cooperative policies through rigorous research, analyses and dialogues.

Cover page photo:

Vietnamese primary school students holding Vietnamese and American flags in Hanoi on February 27, 2019, during then-U.S. President Donald Trump's visit to Vietnam.
State Department photo by Ron Przysucha/Public Domain.



PACIFIC FORUM



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ISSUES & INSIGHTS

EDITED VOLUME

VOL. 21, SR3 | OCTOBER 2021

Issues & Insights

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About This Volume

Authors of this volume participated in the inaugural U.S.-Vietnam Next-Generation Leaders Initiative. With backgrounds in academia, public policy, military and industry, the cohort brings rich insights on the past, present, and future of the U.S.-Vietnam relationship. Between October 2020 and April 2021, cohort members engaged with senior experts and practitioners as they developed research papers addressing various aspects of the bilateral relationship.

The statements made and views expressed are solely the responsibility of the authors and do not necessarily reflect the views of their respective organizations and affiliations. For questions, please email maritime@pacforum.org.

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Acknowledgments

This volume is made possible with support from the U.S. Consulate in Ho Chi Minh City and the Luce Foundation. The editors wish to thank Audrey Happ (Program Manager, Pacific Forum), Nguyen Xuan Nhat Minh (JSPS Research Assistant, Tokyo International University) and the editorial team of Southeast Asia Globe for their assistance in the publication of this volume.



1. From foes to partners: 25 years of U.S.-Vietnam relations

By Jeffrey Ordaniel

INTRODUCTION

“It is...absolutely in our national security interests to have an economically viable Vietnam strong enough to resist, in concert with its neighbors, the heavy-handed tactics of its great power neighbor. That reason, more than any other, urges the normalization of our relations and makes Vietnam’s membership in the Association of Southeast Asian Nations [ASEAN], and the increasingly responsible role Hanoi is playing in regional affairs, a very welcome development.”

– John S. McCain, May 21, 1995¹

It has been 25 years since the establishment of diplomatic relations between the Socialist Republic of Vietnam and the United States. Throughout those 25 years, the relationship has achieved significant breakthroughs. The two Cold War adversaries are now close security and economic partners.

Most experts point to both countries’ common misgivings on China as the most significant determinant. However, a closer look at the history of the relationship would reveal that the extraordinary transition from wartime foes to comprehensive partners was far from parochial.

The U.S. withdrawal from Vietnam in 1975 was a bitter pill to swallow for many Americans.

The fall of Saigon to Communist North Vietnam eroded America’s standing in the world, and

Americans’ confidence in themselves. Meanwhile, despite being victorious, the remnants of war, like Agent Orange, unexploded ordnance, and the sheer loss of lives at the hands of U.S. service members, could not have possibly erased the antagonism and anti-American sentiments among the Vietnamese public. Yet, the United States and Vietnam overcame these seemingly insurmountable historical confines to advance a forward-looking relationship based on trust, fueled by mutual interest in genuine reconciliation, economic growth, regional security, and common views on the benefits of a rules-based order.

FROM HOSTILITY TO FRIENDSHIP

Literature on Vietnamese foreign policy cites various factors that have led to the dramatic turnaround in bilateral relations. Two of the most frequently cited are the *Doi Moi* economic reforms and China. The former transitioned Vietnam from a command economy to a “socialist-oriented” market economy, and opened the country to foreign investments and

capital. This made Vietnam’s approach to foreign relations less ideological,² and reduced U.S. security concerns. The latter has become a major security concern for Hanoi and Washington in recent years. But the closer relations between Vietnam and the United States have been 25 years in the making.

Indeed, Vietnam’s pursuit of *Doi Moi* reforms in 1986 started the process. The abandonment of strict central economic planning, and the introduction of several liberalization measures *vis-à-vis* the domestic market, foreign direct investment (FDI), and private businesses, among many others, have eased concerns in the United States. The *Doi Moi* reforms meant that Vietnamese foreign policy would no longer be ideologically driven. The Politburo explicitly expressed this in a 1988 Resolution describing Hanoi’s then-new foreign policy goal of having ‘more friends and fewer enemies.’³ In 1989, Vietnam withdrew from Cambodia and expressed intention to join regional organizations. The Clinton administration saw these as indicators that Vietnam would no longer be a security risk for Southeast Asia, and that the *Doi Moi* economic liberalization was serious. The United States rewarded these reforms by openly supporting

international lending for Vietnam and allowing U.S. entities to participate in economic projects in the country. This was followed by lifting economic sanctions against Vietnam, which allowed American companies to enter

the Vietnamese market.⁴

By the turn of the 1990s, Southeast Asian neighbors no longer viewed Hanoi as a security threat and welcomed it as the sixth member of the Association of Southeast Asian Nations (ASEAN), a welcome development for the United States. The Clinton administration formally normalized diplomatic relations in 1995.

Economic underpinnings

Over the past two decades, economics has underpinned closer relations. In Vietnam, as national security became less ideological and as party legitimacy was tied to delivering economic growth, relations with the United States were seen as even more attractive. Economic ties with the United States opened the door to global economic integration. Following normalization was a negotiation for a bilateral trade agreement, which was eventually completed in 2000.⁵ The other reforms required by the agreement further eased Vietnam’s entry into

“In Vietnam, as national security became less ideological... relations with the United States were seen as even more attractive.”

¹ McCain, John. 1995. “Opinion: Let’s Normalize Relations with Vietnam.” *The Washington Post*. https://www.washingtonpost.com/opinions/lets-normalize-relations-with-vietnam/2018/08/26/6c6553f4-a934-11e8-a8d7-0f63ab8b1370_story.html.

² Le, Hiep H. 2018. “Introduction: The Making of Vietnam’s Foreign Policy under Doi Moi.” *ISEAS-Yusof Ishak Institute*.

³ Chauhan, Sadhavi. 2013. “Vietnam’s Role in ASEAN.” *East Asia Forum*. <https://www.eastasiaforum.org/2013/10/23/vietnams-role-in-asean/>.

⁴ Manyin, Mark E. 2003. “The Vietnam-U.S. Normalization Process.” *U.S. Library of Congress, Congressional Research Service*. https://www.everycrsreport.com/files/20030617_IB98033_adb057ddab15b4b7a2c93f5ea477716cd4d95cff.pdf.

⁵ CRS Report for Congress. 2002. “The Vietnam-U.S. Bilateral Trade Agreement.” *U.S. Library of Congress, Congressional Research Service*. <https://www.everycrsreport.com/reports/RL30416.html>.

the World Trade Organization (WTO) in 2007. Since *Doi Moi*, ASEAN membership, normalization of relations with the United States, and WTO accession, Vietnam has been among the fastest growing economies in Southeast Asia.

Today, the United States is Vietnam's largest trading partner, even bigger than neighboring China. U.S. trade with Vietnam has ballooned to over US \$92 billion in 2020, from

“In the South China Sea, Vietnam has been the most frequent recipient of Chinese assertiveness.”

virtually zero in 1975.⁶ On track to break the 100-billion-dollar mark by the end of 2021, U.S. trade with Vietnam is now bigger than with two Southeast Asian allies, the Philippines and Thailand, combined. Over the past ten years, Vietnam has received US \$143 billion in cumulative foreign direct investments (FDIs) from the United States, most of which went into manufacturing.⁷ These rosy economic statistics support jobs and promote development in Vietnam.

Geopolitical and security underpinnings

Despite dissimilar political systems, Hanoi and Washington have increasingly aligned national security goals in Southeast Asia. They share similar concerns on China's behavior in the South China Sea and the Mekong River, and on Beijing's alleged predatory investment and foreign aid policy.

In the South China Sea, Vietnam has been the most frequent recipient of Chinese assertiveness. The outcome of the Johnson South Reef skirmish between Vietnamese and Chinese forces in 1988 marked the beginning of permanent PRC presence in the Spratlys. Many in Vietnam welcome continued U.S. presence in Southeast Asia to balance China's influence and deter further Chinese advances in the South China Sea.⁸ Hanoi knows freedom of navigation is an important U.S. interest in the region. Although its domestic legal regime may not necessarily be supportive of the U.S. Navy's freedom of navigation operations (FONOPs), particularly on innocent passage for foreign military vessels traversing Vietnamese territorial seas, Hanoi has been implicitly supporting U.S. activities by frequently referencing international law, in particular UNCLOS *vis-a-vis* navigational rights and freedoms.⁹

Washington has started to recognize Hanoi's interest.

Beyond freedom of navigation issues, the United States has echoed Vietnamese and Southeast Asian concerns on the South China Sea. For instance, on July 13, 2020, Washington clarified its position, insisting that while the United States does not take a position on sovereignty claims over disputed land features, it has a clear position on maritime resources and jurisdiction. That statement from the U.S. Department of State made it clear

that “the United States rejects any PRC claim to waters beyond a 12-nautical mile territorial sea derived from islands it claims in the Spratly Islands (without prejudice to other states' sovereignty claims over such islands)... the United States rejects any PRC maritime claim in the waters surrounding Vanguard Bank (off Vietnam), Luconia Shoals (off Malaysia), waters in Brunei's EEZ, and Natuna Besar (off Indonesia). Any PRC action to harass other states' fishing or hydrocarbon development in these waters – or to carry out such activities unilaterally – is unlawful.”¹⁰

Vietnam also finds value in U.S. support for the Lower Mekong Region, especially amidst concerns about Beijing's dams potentially contributing to a record period of drought in Southern Vietnam in recent years. For Hanoi, the Mekong issue is more than just politics. It affects the livelihood of its people and the country's economy. Some experts estimate China's dam policy in the upper Mekong impacts nearly 10 percent of Vietnam's paddy cultivation area in the country's rice-growing region.¹¹ Vietnam has welcomed the Lower Mekong Initiative, a multinational partnership effort initiated by the United States in 2009 to “promote greater cooperation in the Mekong sub-region,” which was followed by the establishment of the Mekong-U.S. Partnership in 2020 aimed at jumpstarting collaborative projects related to hydrological data-sharing, disaster management, and security cooperation. Vietnamese Foreign Minister Pham Binh Minh described the U.S.-led efforts in positive terms saying they “contribute to the sustainable development of the Mekong sub-region and help Mekong countries narrow the development gap, seize new opportunities and overcome challenges.”¹²

Also, while publicly supporting China's Belt and Road

⁶ Bureau of East Asian and Pacific Affairs. 2021. “U.S. Relations with Vietnam.” *U.S. Department of State*. <https://www.state.gov/u-s-relations-with-vietnam/>.
⁷ Ibid.

⁸ 2020. “Vietnam Backs US Role in South China Sea, Rebuffing Beijing at ASEAN Meeting.” *The Straits Times*. <https://www.straitstimes.com/asia/se-asia/vietnam-backs-us-role-in-south-china-sea-rebuffing-beijing-at-asean-meeting>.

⁹ Grossman, Derek. 2021. “What does Vietnam Want from the United States in the South China Sea?” *The Diplomat*. <https://thediplomat.com/2021/01/what-does-vietnam-want-from-the-us-in-the-south-china-sea/>.

¹⁰ Pompeo, Michael R. 2020. “U.S. Position on Maritime Claims in the South China Sea.” *U.S. Department of State*. <https://2017-2021.state.gov/u-s-position-on-maritime-claims-in-the-south-china-sea/index.html>.

¹¹ Tran, Minh V. and Stephen Wright. 2016. “Chinese Dams Blamed for Exacerbating Southeast Asian Drought.” *The Associated Press*. <https://apnews.com/article/fc09a4fb9e894951850c9a8ce168ece5>.

¹² Nguyen, Phuong. 2020. “U.S. to Give \$153 Million to Mekong Countries for Collaborative Projects.” *Reuters*. <https://www.reuters.com/article/uk-asean-summit-mekong-usa/u-s-to-give-153-million-to-mekong-countries-for-collaborative-projects-idUKKBN26221M?edition-redirect=uk>.

Initiative (BRI), Vietnam “remains rather hesitant in getting Chinese loans under this scheme.”¹³ Hanoi instead is looking for alternatives from Japan, South Korea and the United States. Experts see this as a conscious effort to reduce economic dependence on China.

Indeed, the security interests of the two countries continue to align. Perhaps the strongest indicator yet that they had truly left behind their past as Cold War adversaries came when Hanoi and Washington upgraded their relations into a comprehensive partnership in 2013. The next logical step is to elevate the relations into a formal strategic partnership, though most analysts insist the bilateral relationship is already at that level minus the official label.

Indeed, security cooperation has been on a steady trajectory. In September 2011, Hanoi and Washington signed a Memorandum of Understanding (MOU) on Advancing Bilateral Defense Cooperation, focusing on maritime security, search and rescue, U.N. peacekeeping operations, humanitarian assistance and disaster relief, and exchanges between defense universities and research institutions. The U.S.-Vietnam Political, Security, and Defense Dialogue (PSDD) has been conducted almost every year since its inception in 2008. Likewise, the U.S.-Vietnam Defense Policy Dialogue (DPD) has been an annual official track since 2010. In 2016, Washington fully lifted a decades-old embargo on the sale of lethal arms to Hanoi. In the past decade, at least three U.S. aircraft carriers have made port-calls in Vietnam – USS George Washington, USS Carl Vinson, and USS Theodore Roosevelt – in addition to other, smaller U.S. Navy vessels conducting occasional goodwill visits.

Mutual trust and people-to-people ties

Both sides remain interested and invested in increasing mutual trust and confidence. Through efforts by government entities, private individuals, and transnationally by Vietnam War veterans and interested members of the U.S. Congress, the United States has been addressing some of the difficult remnants of the war. In 2017, the United States and Vietnam successfully finished phase one of dioxin remediation at Danang International Airport. In December 2019, both countries started a decade-long remediation project at Bien Hoa Air Base. As detailed by Phan Dung Xuan in his paper, despite lack of formal recognition of legal culpability and direct reparations related to the Agent Orange issue, the United States has shown sincerity in promoting justice and reconciliation. Phan noted that the U.S. Congress “provides annual funds for environmental remediation projects

and health programs to assist persons with disabilities living in areas sprayed with Agent Orange.” In late 2019, the United States commenced a US \$65 million initiative to provide health and other assistance to persons with disabilities in conflict-affected provinces.¹⁴

People-to-people ties have also steadily progressed, facilitated by increasing educational and cultural exchanges.

“People-to-people ties have also steadily progressed, facilitated by increasing educational and cultural exchanges.”

There are almost 20,000 Vietnamese students in U.S. colleges and universities in 2019-2020, bringing in US \$1 billion to the U.S. economy.¹⁵ This makes Vietnam the largest Southeast Asian sending country to U.S.

higher education institutions, and sixth overall, just behind China, India, South Korea, Saudi Arabia, and Canada.¹⁶ In 2011, only 48,500 Vietnamese tourists visited the United States. By 2019, the year before the pandemic, this number had increased to at least 132,000. Meanwhile, at least 746,000 Americans visited Vietnam in 2019, up from just 439,000 in 2011. More than 25,000 young Vietnamese are members of the Young Southeast Asia Leaders Initiative (YSEALI) network, an initiative championed by the United States to promote leadership, cultural exchanges, and networking among Southeast Asian youth. Vietnam will also soon host American Peace Corps volunteers.

Constraints to advancing relations

Despite the steady development of bilateral security, economic and political relations, some constraints remain. Vietnam is still cautious about the impact its relations with Washington have on its equally important relations with Beijing. As with most Southeast Asian states, Vietnam does not want to appear to be choosing a side in the perceived U.S.-China strategic rivalry or competition. Washington’s foreign policy rhetoric emphasizing ‘competition with China’ when referring to the so-called Free and Open Indo-Pacific has not been helping. Some analysts point to the ‘China factor’ when explaining Hanoi’s reluctance to formally upgrade relations with Washington into a strategic partnership.

Moreover, there are still lingering trust issues. Some in Vietnam remain suspicious of U.S. intentions, viewing American pronouncements about human rights and democracy as a threat to Communist Party rule and legitimacy, and by extension, to Vietnam’s long-term political stability. In Washington, concerns on civil liberties often inhibit U.S. congressional legislation that benefits Vietnam.

¹³ Le, Hiep H. 2019. “The Belt and Road Initiative in Vietnam.” *NIDS Joint Research Series*. http://www.nids.mod.go.jp/english/publication/joint_research/series17/pdf/chapter04.pdf.

¹⁴ Phan, Dung X. and Charles Bailey. 2021. “How Public-Private Cooperation Helped Unlock US Assistance on Agent Orange.” *Pacific Forum*. <https://pacforum.org/publication/pacnet-39-how-public-private-cooperation-helped-unlock-us-assistance-on-agent-orange>.

¹⁵ 2021. “U.S. Relations with Vietnam.” *U.S. Department of State*. <https://www.state.gov/u-s-relations-with-vietnam/>.

¹⁶ Israel, Emma and Jeanne Batalova. 2021. “International Students in the United States.” *Migration Policy Institute*. https://www.migrationpolicy.org/article/international-students-united-states-2020#countries_origin.

CHARTING THE NEXT 25 YEARS

In this volume, seven next-generation scholars and policy analysts from the United States and Vietnam examined the 25 years of bilateral relations from various perspectives. They provided fresh insights and offered policy prescriptions for moving the relationship forward.

Tu Lai's chapter discusses the motivations of the two countries to embrace closer relations and reviews the evolution of bilateral ties since the Obama administration. Tu Lai argues that the bilateral relationship is already a 'strategic partnership' minus the name, and that Vietnam and the United States have more leeway to move the relations forward. Dung Xuan Phan unpacks the U.S. policy toward the Agent Orange issue, "an overlooked or less emphasized aspect of the warming U.S.-Vietnam bilateral ties that carries significant symbolic, political, legal, and humanitarian implications."

John Lichtefeld explores the evolution of U.S.-Vietnam cooperation on the Mekong, tracing its long history, from early support for the nascent Mekong Committee in the late 1950s to the creation of the Lower Mekong Initiative (LMI) in 2009 and its expansion into the Mekong-U.S. Partnership in 2020.

Laura Abbott argues that while there is potential for expanding U.S.-Vietnam strategic engagement in the coming decades, an expanded security partnership has to address three main constraints: 1) differences in governance, including on human rights; 2) Vietnam's inescapable geographic proximity to China, including economic vulnerability; and 3) Vietnam's "Three Nos" security policy: no alliances, no forward basing in Vietnam, and no aligning with a second country against a third.

Hanh Nguyen suggests that Washington and Hanoi should focus on strengthening ASEAN's strategic autonomy. She argues that doing so would help address regional challenges while also providing a more principled rationale for continued U.S. presence, engagements, and leadership in Southeast Asia, beyond merely countering China's illegal and disruptive behavior. Ki Suh Jung proposes that Washington and Hanoi should focus on policy objectives that overlap but prioritize those that are high-impact and doable given the two countries' "divergent political systems, foreign policy priorities, and immediate needs of their citizenry."

Pham Ngoc Minh Trang posits that a legal alliance for maritime security in the South China Sea is a viable pathway for stronger U.S.-Vietnam ties. Her chapter outlines several steps to realize this legal alliance, arguing that "protecting the universally recognized principles of international law, such as the principles of freedom of navigation, will further add legitimacy to U.S.-Vietnam cooperation without necessarily antagonizing or appearing to target third countries."

2. Vietnam-U.S. relations at 25: Retrospect and prospect

By Tu Lai

INTRODUCTION

In July 2015, Communist Party of Vietnam (CPV) General Secretary Nguyen Phu Trong became Vietnam's highest-ranking leader to set foot in the White House. The historic visit to the United States by the CPV chief marked an extraordinary milestone in Vietnam-U.S. relations, reaffirming the mutual commitment to respect "each other's political systems, independence, sovereignty, and territorial integrity," as reflected in the 2013 joint statement by then-President Barack Obama and then-President Truong Tan Sang of Vietnam.¹

The two countries have shared a difficult history. Millions of people on both sides lost their lives in the decade-long and most catastrophic war since World War II. Until today, traumatic memories of the Vietnam War haunt U.S. veterans, as well as their families, and on the other side of the Pacific, generations of Vietnamese people continue to suffer from the lasting effects of Agent Orange and unexploded ordnance (UXO). Against this backdrop, the evolution of Vietnam-U.S. relations in the last quarter of a century has demonstrated what former U.S. Ambassador to Vietnam, Daniel J. Kritenbrink asserted: "The sky is the limit."² Or, in the words of former Secretary of State and Senator John Kerry, "no two countries have worked harder, done more, and done better to overcome the past and work for the future" than Vietnam and the United States.³

This paper discusses the motivation of the two countries to embrace closer relations and reviews the evolution of bilateral ties since the Obama administration. This paper observes that the current status of the bilateral relations is "strategic" in the name of a "comprehensive partnership," and that Vietnam and the United States have more leeway to move the relations forward.

MOTIVATION FOR CLOSER TIES

After a long and challenging negotiation process, Vietnam and the United States officially normalized relations on July 12, 1995 (July 11 in Washington, D.C.) and the following decade witnessed the continuous and incremental improvement of bilateral ties. Under the administrations of Bill Clinton and George W. Bush, Vietnam and the United States spared

no effort to build trust through addressing Prisoners of War/Missing in Action (POW/MIA) and other humanitarian-related issues, maintaining high-level diplomatic exchanges, expanding security and defense engagement, advancing economic and commercial cooperation, and promoting people-to-people ties. Since the Obama administration, Vietnam-U.S. relations have accelerated significantly based on growing mutual interest and shared concerns. In 2013, the two countries upgraded the bilateral ties to a "comprehensive partnership," laying the foundational and overarching framework for further deepening cooperation in the future.

In assessing the nature of these bilateral relations, however, it is important to understand the underlying incentives for the two countries to embrace closer ties.

"The United States is positioned within the prioritized category of countries that Vietnam seeks to promote relations with, so improving ties with the United States would avail Vietnam twofold benefits."

Vietnamese perspective

According to the Political Report of the CPV 13th Party Congress, a central and long-standing theme in Vietnam's foreign policy is to continue to "coherently implement a foreign policy of independence and self-reliance" and to "promote and deepen (Vietnam's) bilateral relations with strategic, comprehensive, and other important partners."⁴ The promotion and deepening of bilateral relations with the United States contributes to pursuing that foreign policy line and with the adoption of the comprehensive partnership with the United States in 2013, Vietnam has succeeded in this diversification. To date, Hanoi has been able to forge comprehensive and strategic partnerships with all major powers, including all five members of the United Nations Security Council (UNSC). For a midsized country, like Vietnam, "multilateralism is a risk-averse strategy aimed at avoiding over-reliance on certain partners while preserving the nation's strategic autonomy and expanding its network of friends and partners."

Moreover, the United States is positioned within the prioritized category of countries that Vietnam seeks to promote relations with⁵ so improving ties with the United States would avail Vietnam twofold benefits. On one hand, it would further facilitate Vietnam's efforts to promote relations with other U.S. allies and partners such as Japan, South Korea, Australia, India, and ASEAN, to name a few. On the other hand, enhancing ties

¹ 2013. "Joint Statement by President Barack Obama of the United States of America and President Truong Tan Sang of the Socialist Republic of Vietnam." *The White House*. <https://obamawhitehouse.archives.gov/the-press-office/2013/07/25/joint-statement-president-barack-obama-united-states-america-and-preside>.

² 2020. "Transcript: The U.S.-Vietnam Relationship and War Legacies: 25 Years into Normalization." *The Stimson Center*. https://www.stimson.org/wp-content/uploads/2020/07/July-15-Transcript_The-US-Vietnam-Relationship-and-War-Legacies.pdf.

³ Vinh, Pham Quang. 2015. "U.S. and Vietnam: From Foes to Friends." *The Diplomat*. <https://thediplomat.com/2015/03/us-and-vietnam-from-foes-to-friends/>.

⁴ "Bao cao chinh tri cua Ban Chap hanh Trung uong Dang khoa XII tai Dai hoi dai bieu toan quoc lan thu XIII cua Dang." Translated to "Political Report of the 12th Party Central Committee at the 13th Congress of the Communist Party of Vietnam." *Dang Cong san Viet Nam*, pp. 44-45.

⁵ Minh, Pham Binh. 2016. "Nhung diem moi va nhung noi dung cot loi cua duong loi doi ngoai trong Van kien Dai hoi XII cua Dang." Translated to "New developments and the central themes of foreign policy guideline in the Document of the 12th Congress of the Communist Party of Vietnam." *Bao Nhan dan*. <https://nhandan.com.vn/dang-va-cuoc-song/nhung-diem-moi-va-nhung-noi-dung-cot-loi-cua-duong-loi-doi-ngoai-trong-van-kien-dai-hoi-xii-cua-dang-261382/>.

with such partners would elevate the strategic value of Vietnam for the United States.

Another important motivation for Hanoi to pursue better ties with the United States is to strengthen and expand Vietnam's defense and deterrence capability, especially in maritime security, amid growing uncertainties related to China's assertiveness in the South China Sea. Since the latter years of President Obama's first term, China has stepped up its expansive claims over the

United States in the UNSC and other United Nations agencies holds tremendous value. Closer cooperation between Hanoi and Washington in multilateral mechanisms would promote Vietnam's reputation as a proactive and responsible member of the international community, contributing to peace, security, development, and multilateralism.

The American perspective

The United States has numerous motivations to strengthen

“There is no other country in the region that has to face China's threats on a daily basis, both on land and at sea, like Vietnam.”

vague and ambiguous “nine-dash line.” It has conducted extensive and illegal land reclamation, as well as militarized features in the Spratly Islands, raising concerns among Southeast Asian countries and the United States. There is no other country in the region that has to face China's threats on a daily basis, both on land and at sea, like Vietnam. Given this context, promoting cooperation with the U.S., which is said to have the world's most capable navy, would enhance Vietnam's capabilities in protecting its sovereignty and territorial integrity.

Economic and development benefits also play a key role in Vietnam's decision to seek closer ties with the United States. For a century now, the U.S. economy has been the largest in the world, with a total gross domestic product (GDP) in 2019 of US \$21.4 trillion (accounting for approximately 24 percent of the global GDP).⁶ The American consumer market, the largest in the world, is also attractive to an export-oriented economy like Vietnam's. Besides this, the United States plays a pivotal role in global and regional economic and financial institutions such as the World Bank (WB), the International Monetary Fund (IMF), the World Trade Organization (WTO), the Asian Development Bank (ADB), and the Asia-Pacific Economic Cooperation (APEC). Establishing a mature economic and trade relationship with the United States would support Vietnam in getting access to and boosting economic cooperation with other U.S. trading partners and further integrating into the global economy. Last but not least, to fulfill the goal of “elevating [Vietnam's] multilateral diplomacy, and being active and proactive in joining and bringing into play the role of multilateral institutions,”⁷ Vietnam leverages enhanced relations with the United States and other major global and regional powers. To this effect, the key role of the

its engagement with Vietnam.

First and foremost, Vietnam's geostrategic position at the heart of the Indo-Pacific makes it pivotal to U.S. engagement in the region.⁸ Vietnam is located at the junction connecting Southeast and Northeast Asia, as well as mainland and maritime Southeast Asia. After the Sept. 11 attacks, many pundits and scholars saw the United States “abandoning” Southeast Asia.⁹ China's increasing influence in Asia and the growing U.S.-China rivalry required a shift in American strategic focus in order to re-engage with the region. The Obama administration adopted a “rebalance” strategy to strengthen U.S. relations with its Asian allies and partners through a range of economic, diplomatic, and military initiatives. Speaking at the Australian parliament on Nov. 17, 2011, then-President Obama reaffirmed that “the United States has been, and always will be, a Pacific nation.”¹⁰

Even while trying to shy away from Obama's legacies, then-President Donald Trump continued to place significant focus on the region with his Indo-Pacific strategy. In his November 2017 speech at the APEC CEO Summit in Da Nang, Vietnam, Trump offered “a renewed partnership with America to work together to strengthen the bonds of friendship and commerce between all of the nations of the Indo-Pacific.”¹¹ And in his Interim National Security Strategic Guidance, President Joe Biden claimed that the United States “will recognize that our vital national interests compel the deepest connection to the Indo-Pacific... and we will deepen our partnership with India and work alongside New Zealand, as well as Singapore, Vietnam, and other Association of Southeast Asian Nations (ASEAN) member states, to advance shared objectives.”¹² Despite differences in name and priorities, Obama's “rebalance” strategy, Trump's Indo-Pacific strategy, and Biden's strategic guidance all seek to

⁶ The World Bank. <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD>.

⁷ “Bao cao chinh tri cua Ban Chap hanh Trung uong Dang khoa XII tai Dai hoi dai bieu toan quoc lan thu XIII cua Dang.” Translated to “Political Report of the 12th Party Central Committee at the 13th Congress of the Communist Party of Vietnam.” *Dang Cong san Viet Nam*. pp. 44-45.

⁸ Lai, Tu. 2020. “Looking beyond symbolism in U.S.-Vietnam defence cooperation.” *East Asia Forum*. <https://www.eastasiaforum.org/2020/04/18/looking-beyond-symbolism-in-us-vietnam-defence-cooperation/>.

⁹ Bellacqua, James. 2012. “The China Factor in U.S.-Vietnam Relations.” *CNA China Studies*. <https://apps.dtic.mil/sti/pdfs/ADA560712.pdf>.

¹⁰ Obama, Barack. 2011. “Speech to the Australian Parliament.” *Real Clear Politics*. http://www.realclearpolitics.com/articles/2011/11/17/obamas_speech_to_the_australian_parliament_112124.html.

¹¹ Trump, Donald. 2017. “Remarks by President Trump at APEC CEO Summit.” *The White House*. <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-apec-ceo-summit-da-nang-vietnam/>.

¹² Biden, Joe. “Interim National Security Strategic Guidance.” *The White House*, p.10.

improve ties with countries in the Indo-Pacific, among which Vietnam is a key partner.

Second, from an economic and commercial perspective, after the *Doi moi* economic reform in 1986, Vietnam has become a vibrant and fast-growing economy. Vietnam's GDP reached US \$262 billion in 2019, with an average growth rate of approximately 6 percent annually for the last 20 years.¹³ With a population of more than 95 million, Vietnam is the third most populous country in Southeast Asia after Indonesia and the Philippines,¹⁴ making it a highly attractive market and investment destination for American companies. According to Murray Hiebert et al., "the United States sees Vietnam as a promising trade partner and seeks to use regional economic integration as a key driver of its rebalance toward the Asia Pacific."¹⁵ Also, if the U.S.-China trade war persists, Vietnam and other countries in the region may become an alternative destination for China-based supply chains and U.S. businesses.

Third, as China expands its regional influence, the United States has to maintain its presence in the region and strengthen partnerships with regional players such as ASEAN. After joining ASEAN in August 1995, Vietnam has evolved into an increasingly influential member state, successfully chairing the organization twice in 2010 and 2020. In 2015, the United States and ASEAN established a strategic partnership, with the United States committing to support ASEAN centrality, peace, security, and the prosperity of the region.¹⁶ Strengthening this partnership with Vietnam would benefit the United States by improving ties with other Southeast Asian countries and ASEAN in general, as former U.S. Secretary of State Hillary Clinton observed, "We see this relationship not only as important on its own merits, but as part of a strategy aimed at enhancing American engagement in the Asia Pacific and in particular Southeast Asia."¹⁷

Taken together, Vietnam and the United States share many common geopolitical, economic, and security interests and concerns. The growing convergence of interests explains the quick transformation of relations between Vietnam and the United States and the need for both countries to seek closer ties in the future.

DEVELOPMENT AND PROGRESS IN KEY PILLARS

Political-diplomatic ties

It is not an exaggeration to describe the high-level diplomatic exchanges between Vietnam and the United States as

one of the most salient achievements in political-diplomatic relations since the rapprochement. In 2000, Bill Clinton became the first U.S. president to visit Vietnam since the war and since then, every U.S. president has visited Vietnam. In 2017, Trump became the first U.S. president to visit Vietnam in the first year of his first term and the only U.S. president to visit Vietnam twice in a single presidential term, in 2017 and 2019. One-tenth of all U.S. senators visited Vietnam in 2019, a considerable number even for a U.S. ally. Vietnam-U.S. relations also enjoy bipartisan support in Congress. The late-Senator John McCain, Senator Patrick Leahy, and former-Senator John Kerry, are the most important contributors to the reconciliation process and improvement of bilateral relations.

“Even while trying to shy away from Obama’s legacies, President Donald Trump continued to place significant focus on the region with his Indo-Pacific strategy.”

For Vietnam, most state and government leaders have visited the United States since normalization. In 2005, Prime Minister Phan Van Khai was the first high-ranking leader of Vietnam to visit the United States and following his visit, Vietnam's state and government leaders have travelled to the United States regularly. In 2013, Vietnam's then-President Sang visited Washington and joined then-President Obama to declare the comprehensive partnership between the two countries.

Following this milestone, in 2015, to commemorate the 20th anniversary of the normalization of diplomatic relations, General Secretary of the CPV Nguyen Phu Trong, the highest-ranking leader of Vietnam, made a historic visit to the United States. He did so as the CPV chief and without an official state title. In their 70-minute meeting in the Oval Office, General Secretary Trong and President Obama discussed a wide range of issues and set the vision for Vietnam and the United States to advance "a deepened, sustained, and substantive relationship on the basis of respect for the United Nations Charter, international law, and each other's political systems, independence, sovereignty, and territorial integrity."¹⁸ Following that trajectory, in May 2017, Prime Minister Nguyen Xuan Phuc was the first Southeast Asian leader to visit Washington and meet with then-President Trump, only four months after his inauguration.

What makes these high-level exchanges between Vietnam and the United States distinctive is the substantive yet symbolic nature of the visits. Since normalization, Vietnam and the United

¹³ The World Bank. <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=VN>

¹⁴ Worldometer. <https://www.worldometers.info/world-population/south-eastern-asia-population/>.

¹⁵ Hiebert, Murray, Phuong Nguyen and Gregory B. Poling. 2014. "A New Era in U.S.-Vietnam Relations: Deepening Ties Two Decades After Normalization." *CSIS*, June 2014, p.22

¹⁶ U.S. Mission to ASEAN. 2020. "United States-ASEAN Strategic Partnership." <https://asean.usmission.gov/fact-sheet-united-states-asean-strategic-partnership/>.

¹⁷ Manyin, Mark E. 2011. "U.S.-Vietnam Relations in 2010: Current Issues and Implications for U.S. Policy." *Congressional Research Service*. p.6.

¹⁸ 2015. "United States – Vietnam Joint Vision Statement." *The White House*. <https://obamawhitehouse.archives.gov/the-press-office/2015/07/07/united-states-%E2%80%93-vietnam-joint-vision-statement>.

States have issued eight joint statements with tangible outcomes and deliverables and the political and diplomatic ties between the two countries have expanded remarkably since the Obama administration.

Annually, apart from high-level exchanges, there are many visits at senior, ministerial, and vice-ministerial levels for dialogues on bilateral, regional, and international issues. For instance, in 2020, despite the travel restrictions caused by COVID-19, U.S. Secretary of State Mike Pompeo and National Security Advisor Robert C. O'Brien visited Hanoi and met with Vietnamese government leaders to commemorate the 25th anniversary of the bilateral relations.

Regular high-level exchanges have contributed considerably to the confidence-building between the two countries and this greater mutual trust resulted in the United States choosing Hanoi as the venue for the second U.S.-DPRK Summit between Trump and DPRK leader Kim Jong Un in February 2019. Hanoi's hosting of the summit demonstrated Vietnam's commitment to improve and deepen relations with its key partner. It also improved Vietnam's image as a responsible and constructive member of the international community.

Economic and trade relations

Vietnam and the United States signed the Bilateral Trade Agreement (BTA) in 2001 after nearly five years of negotiation to enhance economic and trade linkages between the two countries. In 2006, the United States granted Vietnam the Permanent Normal Trade Relations (PNTR) status, paving the way for the signing of the Trade and Investment Framework Agreement (TIFA) and Vietnam's accession to the WTO in 2007. Vietnam's decision to improve bilateral economic relations with the United States, according to Frederick Z. Brown, unfolded in two phases. First, Hanoi capitalized on political rapprochement to achieve the BTA; second, Vietnam took full advantage of the BTA to get into the WTO, applying procedural changes on the ground.¹⁹

As a veteran scholar of U.S.-Vietnam relations, Mark E. Manyin observed, "economic ties arguably are the most mature aspect of the bilateral relationship."²⁰ In the early years

after normalization, boosting economic growth and trade was a practical and less sensitive area to cooperate on, given the still low level of mutual trust between the two countries. These achievements in economic ties had a spillover effect on other areas of bilateral relations, which drew Vietnam and the United States closer together.

In October 2015, Vietnam and the United States joined 10 other regional countries to sign the Trans-Pacific Partnership (TPP), which had the goal of making the largest economic and trade bloc in Asia. However, after Trump took office, the

United States pulled out from the high standard trade deal that would have significantly benefited Vietnam's economy.

Although figures seem to showcase a positive trajectory in the bilateral economic ties, Vietnam has had mixed results

in its trade relations with the United States.²¹ Annual trade volume between Vietnam and the United States increased significantly from US \$450 million in 1995 to a record high of US \$90.8 billion in 2020, representing growth in trade volume of approximately 200% within 25 years.²² In 2019, Vietnam was the United States' 13th largest trading partner in goods, while the United States ranked second (only after China) in the list of Vietnam's.²³

However, the Trump administration's complaints related to Vietnam's trade surplus and market access issues negatively affected other areas of the relationship. The decision by the Treasury Department and U.S. Trade Representative to investigate Vietnam's alleged currency manipulation and the Department of Commerce's imposition of anti-subsidy tariffs on automobile tires from Vietnam have further complicated bilateral trade relations. In his meeting with U.S. International Development Finance Corporation (DFC) head Adam Boehler, Vietnamese Prime Minister Phuc made it clear that Vietnam has no intention of using its currency to create a competitive advantage for its manufacturing sectors.²⁴ Vietnam insisted that the issue is simply structural. Economist David Dapice argued, "the main 'crime' of Vietnam is to be in the right place at the right time and to take advantage of global developments in which they have little influence."²⁵

Vietnam, however, spared no effort addressing the trade

¹⁹ Brown, Frederick Z. 2010. "Rapprochement Between Vietnam and the United States." *Contemporary Southeast Asia*. Vol.32, No.3, America Re-engages Southeast Asia, p. 322.

²⁰ Manyin, Mark E. 2014. "U.S.-Vietnam Relations in 2014: Current Issues and Implications for U.S. Policy." *Congressional Research Service*. p.12.

²¹ Kurlantzick, Joshua. 2018. "Making U.S.-Vietnam Ties a Model for a Free and Open Indo-Pacific." *Council on Foreign Relations*.

²² Dung, Thuy. 2021. "VN-U.S. Trade Expected To Reach US\$100 bln In 2021." *VGP News*. <http://news.chinhphu.vn/Home/VNUS-Trade-Expected-To-Reach-US100-bl-In-2021/20214/43381.vgp>.

²³ Martin, Michael F. 2020. "U.S.-Vietnam Economic and Trade Relations: Issues in 2020." *Congressional Research Service*. <https://fas.org/sgp/crs/row/IF11107.pdf>.

²⁴ Boudreau, John. 2020. "U.S. Imposes Duty on Vietnam Tires, Cites 'Undervalued' Dong." *Bloomberg*. <https://www.bloomberg.com/news/articles/2020-11-05/u-s-imposes-duty-on-vietnam-tires-cites-undervalued-dong>.

²⁵ Dapice, David. 2020. "Debunking Vietnam's currency manipulation." *East Asia Forum*. <https://www.eastasiaforum.org/2020/11/10/debunking-vietnams-currency-manipulation/>.

deficit with the United States as a means to make the bilateral trade relationship healthier. During Prime Minister Phuc's visit to Washington in May 2016, Vietnam reportedly signed some US \$8 billion commercial deals with the United States.²⁶ In 2019, when Trump visited Vietnam and attended the second U.S.-DPRK Summit, Vietnam's Bamboo Airways and VietJet Air signed deals worth US \$20.9 billion to buy Boeing 737 Max airplanes as well as engines from General Electric.²⁷

At the 2020 Indo-Pacific Business Forum, then-Secretary of State Pompeo announced that the Virginia-based AES Corporation would complete an almost US \$3 billion deal to develop a liquefied natural gas (LNG) import terminal and a power plant in Son My.²⁸ Also at the Forum, Delta Offshore Energy and its contractors Bechtel, General Electric, and McDermott signed a US \$3 billion agreement for the development of an LNG-to-power project in Bac Lieu.²⁹

Another important source of Vietnam's efforts to address the trade deficit with the United States lies in education exchange. In 2019, with nearly 25,000 students, Vietnam was the sixth leading country of origin for all international students studying in the United States. Vietnamese students contributed about US \$1 billion to the U.S. economy.³⁰

Defense and security cooperation

In any bilateral relations, trust is not measured by the level of economic cooperation but by the scope and depth of defense ties, and the Vietnam-U.S. relationship is no exception,³¹ however, defense and security cooperation has fallen behind other areas of cooperation. Nevertheless, it is progressing, albeit incrementally.³² Since 1995, there have been 12 ministerial-level visits by the two countries' minister of defense and secretary of defense. The first visit by a U.S. secretary of defense was in 2000 by then-Secretary William Cohen. Three years later, General Pham Van Tra was the first Vietnamese minister of defense to visit the United States. In June 2012, Secretary Leon Panetta

became the first U.S. secretary of defense since the Vietnam War to visit Cam Ranh Bay, a U.S. naval base during the war.

Vietnam-U.S. defense and security ties began to thrive under the Obama administration. The two strategic documents that served as the guiding framework for defense cooperation

“In the early years after normalization, boosting economic growth and trade was a practical and less sensitive area to cooperate on, given the still low level of mutual trust between the two countries.”

in the years that followed — the 2011 Memorandum of Understanding on Advancing Bilateral Defense Cooperation and the 2015 Joint Vision Statement on Defense Relations — were signed during the Obama presidency. In October 2014, the United States partially lifted the ban on the sale of lethal weapons to

its former enemy and in May 2016, during his visit to Hanoi, Obama announced to fully lift the embargo on sales of lethal weapons to Vietnam. The decision contributed to trust-building between the two militaries, and removed “another remaining vestige of distrust between the two new partners.”³³

By virtue of the defensive nature of Vietnam's defense strategy of “Four Nos” (no military alliances, no foreign military bases or troops on Vietnamese territory, no alignment with one country to fight another, and no use of force or threatening to use force in international relations) and “One Flexibility” (Vietnam reserves the right to promote defense ties with any country were its sovereignty, territorial integrity and independence threatened), Vietnam-U.S. defense and security ties focus most on non-combat areas. These include addressing war legacy issues, cooperation on peacekeeping operations, capacity building and training, humanitarian assistance and disaster relief, search and rescue, and defense and security dialogues.³⁴

On Vietnam's participation in UN peacekeeping operations, under the Global Peace Operations Initiative (GPOI), the United States has spent more than US \$10 million on building Vietnam's Peacekeeping Center facilities and providing training equipment for Vietnamese peacekeepers. On capacity building and training, in May 2019, Captain Dang Duc Toai became the first Vietnamese student to graduate from the Aviation Leadership Program, a U.S. Air Force-funded program that provides

²⁶ Joshua Kurlantzick, *op cit.* p.3.

²⁷ Obe, Mitsuru. 2019. “Vietnam greets Trump with \$20.9bn worth of Boeing and GE jet deals,” *Nikkei Asia*. <https://asia.nikkei.com/Business/Companies/Vietnam-greets-Trump-with-20.9bn-worth-of-Boeing-and-GE-jet-deals>.

²⁸ Department of State. 2019. “2019 Indo-Pacific Business Forum Showcases High-Standard U.S. Investment.” *Fact Sheet*. <https://www.state.gov/2019-indo-pacific-business-forum-showcases-high-standard-u-s-investment/>.

²⁹ Vu, Khanh and James Pearson. 2020. “AES, PetroVietnam Gas to sign \$2.8 bln LNG deal – Pompeo,” *Nasdaq*. <https://www.nasdaq.com/articles/aes-petrovietnam-gas-to-sign-%242.8-bln-lng-deal-pompeo-2020-10-27>.

³⁰ 2019. U.S. Embassy Hanoi. “Number of Vietnamese Higher Education Students in the United States Increases for 18th Straight Year.” The U.S. Embassy in Vietnam. <https://vn.usembassy.gov/number-of-vietnamese-higher-education-students-in-the-united-states-increases-for-18th-straight-year/>.

³¹ Tuan, Hoang Anh and Do Thi Thuy. “U.S.-Vietnam Security Cooperation: Catalysts and Constraints.” *Asian Politics & Policy*.

³² Tu Lai, *op. cit.*

³³ Hiebert, Murrey. 2016. “Fully Lifting the U.S. Lethal Arms Ban Will Add Momentum to U.S.-Vietnam Relations.” *CSIS*. <https://www.csis.org/analysis/fully-lifting-us-lethal-arms-ban-will-add-momentum-us-vietnam-relations>.

³⁴ Tu Lai, *op. cit.*

students of partner and developing countries with undergraduate pilot training scholarships.³⁵ High-level defense dialogues such as the Defense Policy Dialogue (DPD), and Political, Security, and Defense Dialogue (PSDD) are held regularly for the two militaries where defense officials discuss defense and security issues of mutual concern.

On maritime security, the United States and Vietnam signed an agreement on coast guard cooperation in 2013, with Washington committing to provide training for Vietnamese coast guard personnel.³⁶ Through the Excessive Defense Articles Program, the United States later transferred two Hamilton-class cutters to the Vietnamese coast guard in 2017 and 2020, with an aim to strengthen Vietnam's maritime capacities amid rising tensions in the South China Sea. In signaling closer Vietnam-U.S. defense and security cooperation to the region, the USS Carl Vinson aircraft carrier made a historic port call to Da Nang in March 2018 and in March 2020, the USS Theodore Roosevelt aircraft carrier visited Da Nang during the COVID-19 pandemic.

However, the Vietnam War left many outstanding issues still waiting to be resolved. In Vietnam-U.S. relations, addressing war legacy issues plays a pivotal role in building mutual trust and laying the groundwork for improving bilateral cooperation and is one of the nine pillars in the Vietnam-U.S. comprehensive partnership.

Cooperation on the POW/MIA issue was one of the prerequisites for the United States to normalize relations with Vietnam. Over the past 25 years, Vietnam has made great efforts to account for and repatriate 726 of 1,973 American MIAs. In the joint statement with Vietnam's Prime Minister Phuc at the White House in May 2017, Trump "expressed appreciation for Vietnam's continuing cooperation in the humanitarian mission of accounting for United States personnel still missing from the war, and pledged to cooperate with Vietnam in its efforts to locate its missing soldiers."³⁷

Meanwhile, the Agent Orange issue continues to be a priority for Vietnam. According to Le Dinh Tinh, "it was not until 2013 that the two sides began working on the Agent Orange issue," but the clean up of Da Nang airport was "considered a success story by both sides."³⁸ In five years, Vietnam's Ministry of National Defense and the United States Agency for International Development (USAID) succeeded in remediating roughly 90,000 square meters of dioxin-contaminated soil and

sediment. Following the success of the Da Nang project, the two countries started the remediation project at Bien Hoa Air Base, which was estimated to last for 10 years and cost between US \$800 million and \$1.4 billion.³⁹

The prospect

In just 20 years since normalization, Vietnam and the United States have been able to build a mature and vibrant relationship. The comprehensive partnership established in 2013 laid a firm foundation for the two countries to move the relations forward, and now Vietnam and the United States engage and cooperate on almost every major bilateral and multilateral issue. The scope of cooperation is broad, ranging from economics, trade, defense, and

“Regular high-level exchanges have contributed considerably to the confidence-building between the two countries.”

security to education, training, science, and technology, among many other areas. The regular high-level diplomatic exchanges and coordination at all levels — bilateral, regional, and global — are a testament to how close the relationship has become.

However, as with any bilateral ties, Vietnam-U.S. relations have to deal with challenges and uncertainties. For Vietnam, the first and most critical challenge is how to balance its relations with major powers in the region: to avoid being pulled into and forced to take sides in the U.S.-China rivalry, maintain its independence, and protect its sovereignty and territorial integrity. The second is finding ways to make the most out of its improved relations with the United States to advance its economic and security interests. The third challenge is continuously building mutual trust and sustaining cooperation with the United States and these other major powers.

CONCLUSION

Since the normalization of diplomatic relations 25 years ago, Vietnam-U.S. linkages have grown into a comprehensive, enduring, and forward-looking bilateral relationship based on trust, mutual respect, and growing convergence of interests. The two countries have forged closer ties through a broad spectrum of cooperative engagements. This is not a miracle but, as CPV Secretary General Nguyen Phu Trong observed, "the result of hard work by the leaders and people of both countries in the spirit of putting behind the past, overcoming differences, maximizing

³⁵ Gross, Christopher. 2019. "First Vietnamese student graduates from U.S. Aviation Leadership Program." *U.S. Air Forces in Europe and Air Forces Africa*. <https://www.usafe.af.mil/News/Article-Display/Article/1868168/first-vietnamese-student-graduates-from-us-aviation-leadership-program/>.

³⁶ Murray Hiebert, Phuong Nguyen, Gregory B. Poling, *op. cit.* p.6.

³⁷ 2017. "Joint Statement for Enhancing the Comprehensive Partnership between the United States of America and the Socialist Republic of Vietnam." *The White House*. <https://www.whitehouse.gov/briefings-statements/joint-statement-enhancing-comprehensive-partnership-united-states-america-socialist-republic-vietnam/>.

³⁸ Tinh, Le Dinh. 2020. "Boosting Vietnam-U.S. Relations: The Agent Orange Issue – Analysis," *Eurasia Review*. <https://www.eurasiareview.com/27082020-boosting-vietnam-us-relations-the-agent-orange-issue-analysis/>.

³⁹ Ibid.

commonalities and looking to the future.”⁴⁰ Given the breadth and depth of the bilateral relations, Vietnam and the United States are promoting a comprehensive and strategic partnership. The bilateral relations have more leeway to improve, but the windows of opportunity are not permanent and the future of Vietnam-U.S. relations will depend largely on mutual commitment and how far each country wants to move forward together.

⁴⁰ 2015. “Address by His Excellency General Secretary of Vietnam Communist Party Nguyen Phu Trong at the Center for Strategic and International Studies.” *cogitASIA*. <https://www.cogitasia.com/general-secretary-nguyen-phu-trongs-historic-speech-at-csis/>.

3. Evolution of U.S.-Vietnam cooperation on the Mekong

By John Lichtefeld

INTRODUCTION

Over the past 25 years, U.S.-Vietnam relations have seen growth across nearly every facet of engagement. Complementary forces have driven this expansion: Washington's desire to build new partnerships and enhance its influence in the Indo-Pacific and Hanoi's interest in securing a strategic and economic hedge *vis-à-vis* Beijing. Now, less than 50 years after the conclusion of the Second Indochina War, Vietnam has become one of the United States' most vital partners and a critical element of Washington's calculus concerning growing strategic competition with Beijing.

Among the many areas of increased cooperation, the sustainable management of the Mekong River and its resources has become an increasingly salient feature over the past decade. Though issues related to the river are regional in nature, they carry special importance to Hanoi given the unique vulnerabilities Vietnam faces as the downstream riparian. The river and its associated ecosystems provide tens of millions of Vietnamese with food, water, and livelihoods, and its health and survival are vital to the country's future. Developments impacting the Mekong have also taken on a strategic character for Hanoi, as the accelerating pace of Chinese-led projects on and around the river is seen as a potential threat to Vietnam's "Western front."

The United States has had a long history of supporting development along the Mekong, from early support for the nascent Mekong Committee in the late 1950s through its evolution into the Mekong River Commission (MRC) in 1995, to the creation of the Lower Mekong Initiative (LMI) in 2009 and its expansion into the Mekong-U.S. Partnership (MUSP or the Partnership) in late 2020. While the river has not always been a focal point of bilateral engagement, the existential nature of the challenges facing Vietnam's Mekong Delta and the fact that a number of these challenges emanate from Chinese actions upstream have led to increasing awareness and alignment of interests.

This paper will assess the history of U.S. engagement with Vietnam on issues related to the Mekong, focusing on the last twenty-five years of cooperation since normalization. Against this historical backdrop, it will evaluate recent announcements associated with the Partnership and provide recommendations for how enhanced engagement and strategic diplomacy can be leveraged to expand and strengthen cooperation on the Mekong in the Biden administration, amid increasing climatic, environmental, and geopolitical pressures.

EARLY HISTORY OF U.S. ENGAGEMENT ON THE MEKONG

For many observers, U.S. engagement on the Mekong

River appears to be a relatively new phenomenon, beginning roughly in the late 2000s, as Washington became increasingly concerned with the expansion of Beijing's influence throughout the region. In reality, U.S. involvement with the river stretches back to the early days of the Cold War. Following the French defeat at Dien Bien Phu in 1954, Washington began deploying advisors – including experts on water management and infrastructure – to support the fledgling government of the Republic of Vietnam. The strategic thinking behind this initiative was underpinned by a view that successful economic and technolog-

“Less than 50 years after the conclusion of the Second Indochina War, Vietnam has become one of the United States' most vital partners.”

ical development of the basin could help ignite local economies and lift populations out of poverty, providing a positive and competing vision to contrast with the prospect of Communist revolution.¹ To execute this policy, Washington leveraged regionally-targeted diplomatic efforts through the United Nations (UN) and expended U.S. aid and technical support to help assess and develop individual projects.

During this period, Washington encouraged the countries of the region to participate in a formal dialogue mechanism focused on collaborative development of the river. It pledged technical and financial support for what would become the Mekong Committee for Coordination of the Lower Mekong River Basin (Mekong Committee). Established in 1957 with UN sponsorship and in line with recommendations put forward by the UN Economic Commission for Asia and the Far East, the Mekong Committee was the first transnational governing body in Southeast Asia. It was principally funded by the United States, along with Japanese and European partners – outlays which were justified within the broader strategy of utilizing development assistance to undermine the spread of communist influence.²

Beyond enabling regional cooperation, Washington also supported the planning and construction of a basin-wide infrastructure system. The U.S. approach to water management at the time reflected the country's own experience in augmenting its river basins with heavy infrastructure and dams for power production, agricultural irrigation, and economic development.³ Looking to the infrastructure-intensive Tennessee Valley Authority (TVA) program as inspiration, policymakers in Washington hoped to replicate domestic successes throughout the Lower Mekong Basin. However, as it became clear political-security hurdles, as well as financial constraints, would prevent the United States and its allies from advancing a basin-wide development scheme, U.S. advisors scaled back their ambitions, and chose

¹ Binh, Nguyen Phuong. 2006. "Geopolitics and Development Cooperation in the Mekong Region." *The Mekong Press*.

² Jacobs, Jeffrey. 2002. "The Mekong River Commission: Transboundary Water Resources Planning and Regional Security." *The Geographical Journal*, Vol 168. No. 4, 356-7.

³ *Ibid.*

to concentrate their efforts on Vietnam's Mekong Delta.

David Lilienthal, a chief architect of U.S. energy and natural resource policy throughout the first half of the 20th century and one of the creators of the TVA scheme, was tapped to develop an integrated, delta-wide plan dubbed the Mekong Delta Development Program (MDDP).⁴ Through the implementation of the MDDP, the United States hoped to use hard infrastructure development to spur a "green revolution" in Vietnam, thereby boosting rural development, with the broader strategic objective of pacifying the restive countryside. The vast majority of the projects within the MDDP never progressed beyond the planning and feasibility assessment stage, however, as setbacks in U.S. counterinsurgency efforts undermined the security situation and prevented construction. By the close of U.S. involvement in the Second Indochina War, only a handful of projects had come to fruition.

As the United States began to withdraw from the region, Washington's engagement on the river was largely put on hold; however, the Mekong Committee it had helped establish continued operating. In 1975, the Committee approved the Joint Declaration of Principles for Utilization of the Waters of the Mekong River Basin, which was a non-binding treaty signed by all four Lower Mekong countries that incorporated principles of equitable use that informed the foundational agreement of the modern-day MRC.⁵ After the conflict in Cambodia disrupted the Committee's operations, an Interim Mekong Committee under UN supervision was put in place to maintain technical operations and eventually resume strategic planning. In 1987, this Interim Committee released an updated Indicative Basin Plan that shifted focus away from heavy infrastructure development and towards environmental sustainability and resettlement issues.

While multilateral engagement on the river continued through the Interim Mekong Committee, U.S. relations with Vietnam from 1975 to 1990 were effectively frozen.⁶ Washington imposed stringent restrictions on Hanoi following the fall of Saigon in 1975, including a comprehensive trade embargo and a ban on U.S. foreign assistance (including the kind that would support development or river management). With the election of Jimmy Carter in 1976, Washington attempted a soft reset in relations, but quickly reversed following Hanoi's renewed demands for reconstruction aid – a non-starter in Congress at the time. Vietnam's invasion of Cambodia in 1978 and growing strategic alignment with the Soviet Union halted further progress under Carter, whose administration normalized relations with Beijing in 1979. When the conservative Reagan administration came into power in 1981, Washington took an even more hardline

posture towards Vietnam, as political and economic relations with China continued to warm. With Reagan in office, any future discussions would be predicated on Vietnamese withdrawal from Cambodia, as well as on accelerated progress on POW-MIA issues. It wasn't until the Cold War was drawing to a close and the perceived threat of global communism was waning, that substantive talks would resume.

THE PATH TO NORMALIZATION AND EARLY YEARS OF RENEWED BILATERAL ENGAGEMENT

In the latter half of the first Bush administration, progress towards normalization began in earnest. Throughout the early years of the process, issues regarding the Mekong River remained largely in the background, if they were considered at all. Rather, shifting geopolitical dynamics, increased cooperation on POW-MIA issues, support from the U.S. business community and gestures of American good faith in the form of increasing aid pledges were the key drivers enabling reengagement.⁷ With its economy severely impacted by the collapse of the Soviet Union, Vietnam withdrew from Cambodia and threw its support behind a UN-led peace initiative. Meanwhile, Hanoi's agreement to create a field office for the U.S. Office of MIA Affairs enabled accelerated progress on the POW-MIA issue, as leadership from veterans John McCain and John Kerry in the U.S. Senate helped dispel concerns that POWs remained imprisoned in Vietnam.

Momentum continued to build as President Clinton took office in 1992, as his administration took steps to pave the way for the return of international and expanded U.S. financial aid programs. In 1994, Clinton lifted the trade embargo and formally re-established diplomatic ties, enabling the reopening of embassies in Hanoi and Washington. Four years later, he worked with Congress to secure a waiver allowing the Overseas Private Investment Corporation (OPIC) and Export-Import (ExIm) Bank to support U.S. investment in Vietnam.⁸ Still, his greatest success was securing the passage of the U.S.-Vietnam Bilateral Trade Agreement (BTA) in July 2000. While the agreement's economic impact was not immediately felt, the positive diplomatic signal it sent to Hanoi was unmistakable.⁹

The reestablishment of bilateral ties coincided with a period of U.S. strategic drift. The collapse of the Soviet Union left Washington without a major power competitor and domestic political circumstances limited the focus of senior officials on non-core foreign policy objectives. With a variety of competing priorities, the Clinton administration lacked a wholly coherent Southeast Asia strategy, while in Vietnam, lingering distrust

⁴ Kakonen, Mira. 2008. "Mekong Delta at the Crossroads: More Control or Adaptation?" *Ambio* 37, No. 3), 206.

⁵ Boer, Ben, Philip Hirsch, Fleur Johns, Ben Saul and Natalia Scurrah. 2016. "The Mekong: A Socio-Legal Approach to River Basin Development." *Earthscan Studies in Water Resource Management*.

⁶ Manyin, Mark E. 2008. "U.S.-Vietnam Relations: Background and Issues for Congress." *CRS Reports*.

⁷ Ibid.

⁸ Ibid.

⁹ Hung Nguyen, former political specialist at the U.S. Embassy in Hanoi, personal interview by author, 2020.

among the older Soviet-trained cadres limited Hanoi's desire for engagement.¹⁰ As a result, the years immediately following normalization were dominated by the very issues that had enabled rapprochement: POW-MIA cooperation and business opportunities. Discussions were carefully advanced only on priority issues, and high-level engagement on the river remained absent during this period.

While U.S.-Vietnam relations proceeded slowly throughout the 1990s, regional actors were advancing internal negotiations through the Mekong Committee and, in 1995, signed the Mekong Agreement founding the MRC. Based largely on the Mekong Committee model, the MRC was granted an expanded mandate, which included policy and technical matters. While the Mekong Agreement lacked an effective enforcement mechanism, it enshrined within the MRC the symbolic authority to require member countries to engage in notification processes ahead of the construction of heavy infrastructure impacting the river's mainstream. The MRC would become an important vehicle, and in some ways a blueprint, for future cooperation on the river, with its emphasis on regional engagement and integration, as well as data sharing, reemerging in the LMI nearly 15 years later.¹¹

The second Bush administration came into office with U.S.-Vietnam relations on a positive trajectory. President George W. Bush picked up where his predecessor left off, becoming personally involved with the complex process of working towards permanent normal trade relations (PNTR). Recognizing the growing economic and strategic importance of bilateral ties, the administration pushed forward, finally achieving congressional approval to extend PNTR to Vietnam in December 2006, shortly after which Vietnam was also granted accession to the WTO.¹² It is difficult to overstate the value in terms of trust-building of the succession of approvals of the BTA and PNTR, followed shortly thereafter by WTO accession. These actions set the stage for future engagement and the flourishing of bilateral ties during the Obama and Trump years.

Despite growing bilateral cooperation during the Bush years, environmental issues were not yet priorities for Hanoi or Washington. At the time, the impact of China's damming of the Mekong was not well understood, and Beijing's broader infrastructure push was still nascent. Although the Vietnamese harbored traditional concerns around their northern neighbor, they primarily focused on maritime threats in the South China Sea. As a result, there was little urgency on Mekong issues, even as Washington continued its support for the MRC, and Mekong-focused initiatives were carried out by agencies like the U.S. Geological Survey and Army Corps of Engineers. While there were isolated initiatives driven by working-level U.S.

officials to demonstrate the Bush administration's concern for environmental protection, the Mekong did not emerge as a key topic of engagement until the Obama administration.

THE OBAMA YEARS AND THE LOWER MEKONG INITIATIVE

By the close of the Bush years, regional scientists and policy experts were beginning to raise concerns about infrastructure proposals for the river, including the expansion of Chinese dams on the upstream reaches of the river, as well as Laos' "battery of Southeast Asia" development initiative. Though not tracked closely by Washington, these developments caught the attention of several U.S. officials in-region who would go on to lay the groundwork for the U.S. approach to riverine issues.¹³ At the same time, the United States was struggling to escape the quagmire of conflict in the Middle East and South Asia, as the U.S. economy teetered on the edge of crisis. These situations distracted from U.S. engagement in Asia and opened a space for Beijing to launch a charm offensive while more assertively pressing its interests, reminding regional states of its proximity and permanence, while simultaneously raising fears of U.S. withdrawal. Against this backdrop, other U.S. officials in Washington began to believe that a new initiative with a geographic focus on Mainland Southeast Asia was needed to reassert U.S. relevance and preeminence in the region and address the growing concerns of riparian countries.¹⁴

Several U.S. officials in particular played important roles in laying the groundwork for a Mekong-focused platform for U.S. engagement. The most critical of these was Greg Smith, of the U.S. Geological Survey, who helped initiate the DRAGON Project. DRAGON – an acronym for the Delta Research and Global Observation Network – was launched in the aftermath of Hurricane Katrina in 2005 to connect scientists from ten countries to share information on the management of river deltas under threat from changing climates. The Vietnamese delegation to the network became a primary partner for the USGS and ahead of Prime Minister Nguyen Tan Dung's 2008 visit to Washington, a proposal was put forward with the support of U.S. Ambassador to Vietnam Michael Michalak to establish a Dragon Institute at Can Tho University. The launch of the Dragon Institute marked a new high-water mark for U.S.-Vietnam cooperation on climate change and Mekong issues. It gained significant attention as a key deliverable during a senior official visit.¹⁵

In addition to the work of Smith, two other figures feature prominently in early engagement on the river. Ted Osius, who later became a celebrated U.S. Ambassador to Vietnam, served as the regional environmental officer (REO) out of Bangkok from

¹⁰ Ibid.

¹¹ Brian Eyler, director of the energy, water, and sustainability and Southeast Asia programs at the Stimson Center, personal interview by author, 2021.

¹² Michael Green, senior vice president for Asia and Japan chair for the Center for Strategic and International Studies, personal interview by author, 2021.

¹³ Michael W. Michalak, former U.S. ambassador to Vietnam, personal interview by author, 2021.

¹⁴ Scot Marciel, former principal deputy assistant secretary for East Asia and the Pacific at the U.S. State Department, personal interview by author, 2021.

¹⁵ Ibid.

2001-2004, where he worked to build trust with his Vietnamese counterparts by engaging them on the soft security issues under his purview, including issues around the Mekong. During his tenure as REO, Osius traveled along the river meeting with local researchers and officials. They developed a theory that Washington could advance bilateral relations by addressing these growing concerns.¹⁶ Shortly after Osius' time as REO, a Washington-based researcher with the Congressional Research Service, Dr. Richard Cronin, began his own investigation into the situation on the Mekong. Beginning in 2005, Cronin traveled to the region and traversed the river, meeting with U.S. and other friendly embassies, as well as local officials, gathering information and sharing his own research on the food and water security concerns posed by the mainstream dams in China, as well as by newly proposed dams in Laos. In 2007, Cronin met with representatives from Vietnam's Ministry of Foreign Affairs, as well as a Deputy Prime Minister, to discuss the implications of upstream damming, demonstrating the high level of importance Vietnam accorded to these issues from an early time.¹⁷

While threats to the Mekong were growing in the consciousness of researchers and working-level officials, the change-over from the Bush administration to the Obama administration opened space for an even bolder rethink of the U.S. approach to Asia. Among the career officials preparing proposals for the incoming leadership team was Scot Marciel, who at the time was serving as Deputy Assistant Secretary for the Bureau of East Asian and Pacific Affairs (EAP), with responsibility for engagements with Southeast Asia and Association of Southeast Asian Nations (ASEAN). Marciel, who would later serve terms as U.S. Ambassador to ASEAN, Indonesia, and Myanmar, was aware of growing concerns around the Mekong and particularly interested in the efforts of U.S. partners, notably Japan, to engage with the region through multilateral efforts. Recognizing that the United States was notably absent outside of a set of discrete, and at times, disparate efforts directed towards supporting regional development, Marciel tasked several colleagues, including Deputy Director for Mainland Southeast Asia Matt Palmer and Vietnam Desk Officer Brett Blackshaw, with developing a holistic concept to help formalize U.S. regional engagement.¹⁸

The concept, which eventually would become the LMI, aimed to fulfill several strategic objectives. Key among these

were the improvement of regional cooperation and capacity to ensure sustainable development, the creation of a positive set of issues on which to engage the region, and the enhancement of U.S. presence in the region more generally. At the heart of the LMI was a desire to empower regional countries with the capacity to effectively coordinate development, with a special focus on cooperation on technical and scientific matters related to the Mekong, with the hope that this would build confidence towards cooperation on non-riparian matters.¹⁹ At the outset, the LMI primarily served to rebrand existing efforts carried out in the region by the State Department, USAID, and others, as little new funding was set aside for the overall effort. These collected programs were sorted into four distinct categories or pillars: environment, health, education, and infrastructure development.

Cooperation in the first three areas was more robust, given the relatively low-cost nature of human capacity building and knowledge sharing in each area. In contrast, substantive cooperation on infrastructure development

remained difficult owing to the complexities of investment in projects requiring substantial land in the region.

One notable early LMI program in Vietnam was Forecast Mekong – a platform-based initiative utilizing data integration, modeling, and visualization systems to support water management and help address climate variability. As with most LMI programs at the time, there was little dedicated funding added to the project by the initiation of the LMI. Despite this, Forecast Mekong served as an early flagship for the LMI and was positively received in Vietnam.²⁰ Another early program aimed at bolstering riparian cooperation was signing a “sister river” agreement between the MRC and the Mississippi River Commission to enable partnership and knowledge-sharing on the management of transboundary water resources.²¹ Though not a major commitment of resources, the agreement demonstrated Washington's willingness to provide expertise and facilitate data sharing.

Beyond providing technical support and expertise, the United States also deployed diplomatic capital to position itself as a convener for regional partners. In this sense, the LMI represented a new approach to Washington's relations with ASEAN, in which engagement would be sought more frequently, proactively, and at more senior levels than in the past.²² The program was enthusiastically adopted and advanced by senior

“From the Vietnamese perspective, U.S. presence in the region provides a bulwark against Chinese dominance...while American investment serves as a hedge against Beijing's economic influence.”

¹⁶ Ted Osius, former U.S. ambassador to Vietnam, email conversation with the author, 2021.

¹⁷ Richard Cronin, distinguished fellow with the Stimson Center, personal interview by author, 2021.

¹⁸ Scot Marciel, former principal deputy assistant secretary for East Asia and the Pacific at the U.S. State Department, personal interview by author, 2021.

¹⁹ Joe Yun, former deputy assistant secretary for Southeast Asian Policy, personal interview by author, 2021.

²⁰ Anonymous source, who is a U.S. official familiar with the program and is referred to as “U.S. official #1,” personal interview by author.

²¹ Bureau of East Asian and Pacific Affairs. 2019. “Lower Mekong Initiative.” U.S. Department of State. <https://www.state.gov/lower-mekong-initiative/>

²² Anonymous source, who is a U.S. official familiar with the program and is referred to as “U.S. official #2,” personal interview by author.

State Department officials, including the architect of the “Pivot” – the rebalancing of U.S. strategic attention to American priorities in Asia – Assistant Secretary for East Asia and Pacific Kurt Campbell. Campbell helped win the support of Secretary of State Hillary Clinton, who hoped to utilize LMI as part of her larger effort to expand engagement with Asian partners. Although developed before the public unveiling of the Pivot, the LMI served an integral role as part of the broader project by signaling renewed U.S. interest in engagement with states in mainland Southeast Asia that previously had received less attention than their maritime counterparts. At the same time, renewed interest in the Asia-Pacific that accompanied the Pivot bolstered the LMI substantially, with additional senior attention flowing to the initiative as a result.²³

In terms of engagement with Vietnamese partners, the LMI served as an extension of cooperation into new areas following the series of primarily economic milestones achieved during the Clinton and Bush administrations. With the BTA and PNTR achieved and bilateral defense relations moving positively, the LMI demonstrated that Washington could also offer effective partnership in areas of unique importance to Vietnam, including the Mekong.²⁴ Although LMI was not intended to target Chinese infrastructure, its programmatic aims reflected concerns around growing Chinese influence and threats to the sustainable development posed by mainstream dams. The Vietnamese welcomed cooperation in this area and worked to gain the support of Laos by convincing the authorities in Vientiane that the LMI did not intend to undermine its “battery of Southeast Asia” development plans.²⁵

The strategic framing and senior-level participation associated with the LMI also confirmed for Vietnamese partners that Washington was serious about expanding engagement with regional diplomatic architecture, including ASEAN, the East Asia Summit, and Asia-Pacific Economic Cooperation (APEC) forum. The introduction of the LMI coincided with efforts by ASEAN diplomats, especially Vietnamese and Singaporean officials, to create a larger role for Washington in regional forums. From the Vietnamese standpoint, growing concerns over Chinese behavior necessitated an increased U.S. presence in-region, and the LMI presented another opportunity for senior-level engagement. This was confirmed by the launch of the LMI at the 2009 ASEAN Foreign Ministers’ Meeting in Phuket, where Secretary Clinton championed the initiative.²⁶

Over time, the LMI evolved through various structures under which regionally targeted programs would be placed. In 2012, to account for the accession of Myanmar to the LMI, a fifth “Agriculture and Food Security” pillar was added. Shortly

thereafter, Thailand proposed adding an “Energy Security” pillar, leading to six total pillars of engagement, as well as a catch-all for “gender and other cross-cutting issues.” Vietnam served as co-chair of the “Environment and Water” pillar, under which the majority of water management efforts occurred. Among other things, programs under the pillar covered disaster risk reduction, water security, and natural resources conservation. Later, the six pillars were once again reduced to two – the “Nexus Pillar” (covering environment, water, energy, and food) and the “Human Development and Connectivity Pillar” (covering STEM education, health, women’s empowerment, and economic integration).²⁷

By 2013, decreasing focus from senior U.S. officials on the LMI had led the project to become increasingly programmatic. Part of this was due to a changeover in leadership at the State Department, where Secretary Clinton, who strongly supported the Pivot, was replaced by Secretary John Kerry. Despite his long personal history with Vietnam, the latter recalibrated engagement and returned U.S. focus to the Middle East peace process and initiatives aimed at addressing climate change globally. The lack of focused senior-level support led to some critiques that the initiative had become overly bureaucratized and lacked strategic direction. At the same time, China launched the Lancang-Mekong Cooperation (LMC) mechanism in early 2016, promising “bulldozer-led” projects that would result in investment dollars and development. The substantial capital investment included in the LMC drew a stark contrast compared with the LMI’s limited budget and declining senior support.²⁸

TRUMP ADMINISTRATION AND EVOLUTION FROM LMI TO THE MEKONG-U.S. PARTNERSHIP

At the beginning of the Trump administration, there was significant concern among U.S.-Asia experts as to whether President Trump would alter or reverse the positive trajectory of U.S. engagement with Asia, as he had done with other Obama-led initiatives. Within days of taking office, Trump dealt a significant blow to improving economic connectivity with Asia by withdrawing from the politically controversial Trans-Pacific Partnership (TPP) trade agreement. Trump’s “America First” rhetoric and tough talk on deficits – aimed both at China, as well as regional allies, like Japan and South Korea – led some observers to question whether Washington would turn its back on Asia altogether.²⁹

Contrary to these early indicators, Asia became a focal point for U.S. foreign policy during the Trump years. Driven by concerns among the president and several of his closest advisers around growing Chinese assertiveness, the Trump administration maintained the essence of the Obama administration’s Pivot,

²³ Anonymous source, who is a U.S. official familiar with the program and is referred to as “U.S. official #1,” personal interview by author.

²⁴ Ted Osius, former U.S. ambassador to Vietnam, email conversation with the author, 2021.

²⁵ Pham Quang Vinh, former Vietnamese ambassador to the U.S., personal interview by author, 2021.

²⁶ Anonymous source, who is a former Vietnamese official familiar with the program, personal interview by author, 2021.

²⁷ Anonymous source, who is a U.S. official familiar with the program and is referred to as “U.S. official #1,” personal interview by author.

²⁸ Anonymous source, who is a U.S. official familiar with the program and is referred to as “U.S. official #2,” personal interview by author.

²⁹ Taylor, Adam. 2017. “Trump’s incoherent message to America’s allies in Asia.” *The Washington Post*. <https://www.washingtonpost.com/news/worldviews/wp/2017/11/13/trumps-incoherent-message-to-americas-allies-in-asia/>

even as it developed its own Free and Open Indo-Pacific (FOIP) formulation focused on sovereignty and the rule of law. Trump took an interest in engaging directly with Asian heads of state and government, notably striking up working relationships with China's Xi Jinping, Japan's Shinzo Abe, and Vietnam's Nguyen Xuan Phuc, and he also was convinced to attend important ASEAN, APEC, and East Asia Summits early in his term.

Despite early outreach and engagement by the president, the Trump administration had difficulty developing sophisticated tactical measures to implement the broad strokes of its FOIP framework. At the same time, restructuring at the State Department under Secretary Rex Tillerson led to an exodus of talented career officials and hindered early progress on new strategic initiatives. There were also substantial delays in appointing new officials, and many ambassadorships remained empty during the early years of the Trump presidency. Posts in-region anecdotally reported receiving little guidance from Washington. While this left embassy teams relatively free to pursue their initiatives, it sapped momentum from strategic efforts that require strong coordination with Washington.

With respect to the LMI, there were some early successes in the Trump era despite the aforementioned challenges. Career officials and civil servants who remained, preserved existing programs and advanced new ideas for engagement, like the Mekong Water Data Initiative (MWDI), LMI Young Scientist Program, and the Foundations for Strategic Lower Mekong Hydropower and Water Resources Management.³⁰ Work on existing programs, like the Sustainable Infrastructure Partnership and LMI Nexus Futures Program, continued to expand and generate interest among partners in-region.³¹ While strategic guidance from senior officials was lacking, the LMI maintained its programmatic thrust, and Secretary Tillerson attended the 2017 LMI Ministerial meeting, during which he launched the MWDI. Initial concerns that the Administration's climate skepticism might hinder environmentally focused work proved unfounded, and programs by and large continued unimpeded.³²

In early 2018, Tillerson was replaced by Mike Pompeo, and the Trump administration slowly began to build out its FOIP concept. New programs focused on supporting U.S. economic engagement (in lieu of the scuttled TPP) began to emerge, like the Asia Enhancing Development and Growth through Energy (EDGE) program and the Japan-U.S. Mekong Power Partnership. These programs promised to support regional countries to secure clean and reliable power by providing alternatives to Chinese-fi-

nanced coal power investments. Meanwhile, the congressionally led BUILD Act revitalized OPIC, relaunching the organization as the International Development Finance Corporation (DFC) with \$60 billion in funding. Though not formally connected to the LMI, these programs dramatically expanded the scope and character of U.S. engagement with Mekong partners.

In late 2020, the LMI was relaunched as the Mekong-U.S. Partnership, to build on the past successes to advance integrated sub-regional cooperation. Responding to regional feedback, the Partnership was designed to expand and enhance cooperation achieved through the LMI by making it easier for local stakeholders to seek U.S. support for domestic priorities.³³ The Partnership also widens the aperture of U.S. engagement to include non-traditional security issues, such as transnational crime, trafficking of people, narcotics, wildlife, and timber, and broader environmental security matters. In the early months of the Biden administration, climate engagement was added as a priority area.³⁴

As part of this expansion, a wider range of U.S. actors is anticipated to play a role in Partnership activities, including officials from the Department of Defense, Federal Bureau of Investigation, and other more security-oriented agencies.³⁵ Additionally, the Partnership emphasizes complementarity with other regional organizations and initiatives, including ASEAN, the Ayeyarwady-Chao Phraya-Mekong Economic Cooperation Strategy (ACMECS), and the MRC. One other important change is a loosening of rules under the LMI that required programs to have a pan-regional impact such that bilateral efforts can now be included. Taken as a whole, the Partnership represents a significant effort to recontextualize U.S. engagement with Mekong partners in a manner that aligns a wide array of programmatic activities with overarching U.S. strategic aims, while at the same time meeting the priorities of U.S. partners, including in Hanoi.

Among the most prominent of the Partnership efforts to date has been the launch of the Stimson Center's Mekong Dam Monitor project. Launched in December 2020 and built on an Eyes on Earth report released earlier in the year that demonstrated the impact of Chinese dams on the Mekong's natural flow via satellite imagery and remote sensing data, the Dam Monitor is an online platform that reliably estimates river flow conditions in near real-time.³⁶ Data is shared online via the Dam Monitor website, as well as on social media. The project has already spurred China to commit to greater transparency on water management.³⁷ It has been well-received by populations along

³⁰ Mekong-U.S. Partnership. "Helping the People of the Lower Mekong." *U.S. Department of State*. <https://mekonguspartnership.org/projects/>.

³¹ Brian Eyster, director of the energy, water, and sustainability and Southeast Asia programs at the Stimson Center, personal interview by author, 2021.

³² Anonymous source, who is a U.S. official familiar with the program and is referred to as "U.S. official #1," personal interview by author.

³³ Brian Eyster, director of the energy, water, and sustainability and Southeast Asia programs at the Stimson Center, personal interview by author, 2021.

³⁴ Mekong-U.S. Partnership. "Helping the People of the Lower Mekong." *U.S. Department of State*. <https://mekonguspartnership.org/projects/>.

³⁵ Anonymous source, who is a U.S. official familiar with the program and is referred to as "U.S. official #1," personal interview by author.

³⁶ 2021. "Mekong Dam Monitor." *Stimson Center*. <https://www.stimson.org/project/mekong-dam-monitor/>; 2021. "Our Reports." *Eyes on Earth*. <https://www.eyesonearth.org/reports>.

³⁷ Reuters Staff. 2020. "China commits to share year-round water data with Mekong River Commission." *Reuters*. <https://www.reuters.com/article/us-mekong-river/china-commits-to-share-year-round-water-data-with-mekong-river-commission-idUSKBN277135>.

the Mekong as it provides an additional source of information regarding conditions impacting river flow.³⁸ Representatives from Vietnam have particularly supported the project as it responds to a long-standing request from Hanoi for obtaining accurate data on the impact of upstream dams on downstream flow.

STATE OF U.S.-VIETNAM RELATIONS AND THE ROLE OF THE MEKONG

Over the past 25 years, U.S.-Vietnam relations have trended positively, accelerating from the Obama administration onward, as Washington and Hanoi found increasing alignment over a more emboldened Beijing. From the Vietnamese perspective, U.S. presence in the region provides a bulwark against Chinese dominance, especially in the South China Sea, while American investment serves as a hedge against Beijing's economic influence, as well as a source of clean capital and access to advanced technologies. Meanwhile, from Washington's standpoint, Vietnam is one of the few countries in the region willing to stand up to China's provocations that holds the military strength to give Beijing pause. While there are irritants in the bilateral trade relationship, Vietnam is also an attractive market for U.S. goods and investment, with a population nearing 100 million and a rapidly growing middle class.

In recent years, the Mekong has taken on greater salience in bilateral affairs for both partners. For Vietnam, the health and sustainability of the river are existential issues. Tens of millions of Vietnamese rely on the Mekong and its associated ecosystems for water, food, and livelihoods. The survival and viability of the delta – which accounts for over 17 percent of the country's GDP and over half of all agricultural production – depends on the maintenance of the river's natural cycles.³⁹ The river's disruption and degradation have significant implications for Vietnam's public welfare, economy, and security. China's ability to control aspects of flow also presents a serious strategic liability for Vietnam and provides new means for Beijing to pressure Hanoi along its "Western front."

For the United States, Vietnam is increasingly becoming a key regional partner, with aspects of bilateral relations on par with, or in some cases, surpassing those with regional treaty allies. In recent years, U.S. officials have come to appreciate the serious challenges posed by unchecked development of the Mekong to Vietnam's security, as well as its long-term economic outlook. A collapse of the Mekong ecosystem would be devastating for Vietnam. It would seriously destabilize the country and the region. Even the ability to threaten to restrict water flows provides Beijing substantial leverage over Hanoi. In short, U.S. officials now recognize that the protection of the Mekong is in Washington's strategic interest as the river's

health and viability are inextricably linked to the security and independence of Vietnam.

CRITIQUES OF THE LMI AND RECOMMENDATIONS FOR EXPANSION OF MUSP

The LMI as a concept was well-received in Vietnam and among other partners when it was announced and as programs were implemented in the years that followed. While overall, the initiative has been widely praised, it has also been critiqued by regional partners, as well as by some observers in Washington.

Chief among partner complaints has been that the initiative has been relatively underfunded, and while it has provided valuable capacity building and training, it has lacked the financial heft of Chinese initiatives. This criticism only grew following the initiation of China's LMC mechanism with its "bulldozer-ready" projects tied to the Belt and Road Initiative. Regional partners have also raised concerns that LMI programs have sometimes failed to address their priorities. Specifically, the focus on civil society development has caused tensions with partner governments that prefer direct technical capacity building and support for adaptation measures over programs designed to enhance political organizing outside state auspices.

While some aspects of these critiques reflect the unique U.S. approach towards partnership and development in the region, others reflect internal coordination difficulties on the American side. The two key institutions driving forward the LMI – the State Department and USAID – have had a complex partnership, due in large part to divergences in their primary missions, as well as their unique approaches to engagement, and operational and funding cycles.⁴⁰

The State Department's diplomatic mission has driven a focus within LMI on programs that reflect U.S. strategic interests. State programs have often emphasized diplomatic engagement and have tended to be briefer in duration and more discrete in nature than those advanced by USAID. There has also typically been a strong sense of ownership within the State Department over how projects are carried out and relatively strict guidelines provided to implementing partners with whom the department has collaborated. By contrast, USAID has been motivated by achieving specific development outcomes, and while it has supported the diplomatic mission and values emphasized by the State Department, these have not been key driving factors. USAID programs and funding cycles have typically extended over longer timeframes and involved third-party technical implementing partners – usually international NGOs or private development implementing organizations – who have not always acknowledged or advertised U.S. support for their programs, which has at times undercut the messaging value of LMI.

³⁸ Peter, Zsombor. 2020. "China Strikes Deal with Fellow Mekong River Countries for Year-Round Data." *Voice of America*. <https://www.voanews.com/east-asia-pacific/china-strikes-deal-fellow-mekong-river-countries-year-round-data>

³⁹ Thong, Vien. 2020. "Mekong Delta economy struggles to grow." *VN Express International*. <https://e.vnexpress.net/news/business/economy/mekong-delta-economy-struggles-to-grow-4207153.html>

⁴⁰ Ben Amick, former senior coordinator for LMI Coordination Hub with USAID, personal interview by author, 2021.

As a result of these divergences in mission and approach, it has not always been clear what programs are included in the LMI and which are separate USAID efforts. This lack of clarity and coordination has hindered messaging and arguably resulted in a less effective program overall. It has also undercut the goal of demonstrating U.S. presence and commitment to the region by undercounting the significant sums of aid Washington has provided.

Beyond coordination difficulties between the State Department and USAID, there have also been structural and resourcing challenges that have limited the potential of the LMI. Notably, coordinating between teams in Washington and at post has been challenging as well as between U.S. embassies in-region. While the regional environmental officer (REO) position based in Bangkok has had oversight of the LMI across posts, this has always been only one of the REO's many responsibilities and not a key component of day-to-day duties. From 2012 to 2016, there was a USAID-backed coordinator position at the LMI Coordination Hub in Bangkok; however, the role was limited in authority, and while the coordination officer was able to

Appointing an envoy for the Mekong

While regional partners appreciated the intention behind the LMI, they have criticized Washington for failing to provide proper funding or consistent political support. To address these critiques, President Biden should appoint a Special Envoy for the Mekong-U.S. Partnership to enable more effective coordination, ensure sustained, high-level focus, and demonstrate U.S. commitment through consistency of funding and presence.

To achieve these ends, an envoy would need a high degree of political backing, autonomy, and credibility, both with external partners and Washington's bureaucracy. They should be based in-region and provided with appropriate staff to augment the existing MUSP team in Washington. This arrangement would free up time for embassy and USAID staff who have previously been tasked with administering aspects of the Partnership and relieve strain on the MUSP team in Washington by adding bandwidth. Ideally, an envoy would have a strong economic background, as the success of programs focused on the broader Mekong region will hinge on Washington's ability to provide compelling alternatives to Chinese-led development

“In announcing the Mekong as a key area of cooperation, Washington and Hanoi can underscore mutual efforts across multiple channels.”

travel between posts, he was not empowered to seek improved alignment of efforts between posts, especially with respect to roles held by the State Department. These difficulties speak to the larger challenge posed by a lack of dedicated funding and the relatively small staff in Washington tasked with overseeing a sprawling set of projects and programs. Because of the nature of State Department funding cycles, the team responsible for the LMI has often been understaffed and unable to take on long-term projects for which funding was not assured.

RECOMMENDATIONS FOR FUTURE ENGAGEMENT

With the launch of the Partnership, Washington has recommitted its support for sustainable development of the Mekong while adopting greater flexibility around branding to demonstrate the depth of U.S. engagement. The program remains the key channel for engagement with Hanoi on the river. With the Biden administration coming into office, Washington has an opportunity to enhance its engagement with Hanoi by taking on lessons learned and leveraging new circumstances to make the most out of the Partnership. In particular, the Biden team should consider 1) appointing a Special Envoy for the Mekong-U.S. Partnership to improve the efficacy of the initiative, 2) highlighting the Mekong in a formal upgrade of U.S.-Vietnam relations, and 3) leveraging Secretary Kerry's connection to Vietnam and role as Special Presidential Envoy for Climate to make U.S.-Vietnam cooperation a flagship component of the broader U.S. mission to combat global climate change.

initiatives. Private sector experience or the ability to convene key private sector firms and investors from the United States, as well as partner countries, will be critical. The envoy's staff should also include individuals with a diversity of backgrounds – environmental, security, economic, trade, etc. – to inform the wide range of MUSP programs.

From a management standpoint, tasking a single, empowered official with overseeing all projects under the Partnership would help improve partner coordination, overcome internal disputes, and ensure coherence in messaging and approach. Being based in-region, this envoy could improve U.S. convening capabilities, represent Washington at high-level regional engagements, including with ASEAN, and serve as a useful point of contact for partners. The envoy could also coordinate with DFC and partners from Japan, Australia, and Korea, among others, to help advance complex infrastructure projects that would provide a real alternative to Chinese-led development. Additionally, the appointment of an envoy to manage the broader Mekong portfolio would raise the salience of Mekong River issues with U.S. partners by signaling Washington's commitment and providing a politically empowered point of contact. This would be useful for increasing meaningful sub-regional cooperation and elevating issues impacting the Mekong within ASEAN and other fora.

For Vietnam, an envoy would be a welcome expansion of U.S. presence in-region. It would draw attention to the risks facing the Mekong – not just for Vietnam, but for the region – and provide new opportunities for multilateral engagement to address Vietnamese concerns. It would also mean another

high-level U.S. actor to engage in economic cooperation, particularly for projects in the power and energy space. Further, the appointment of an envoy would improve the overall effectiveness of the Partnership, which would benefit Vietnam's interests in the Mekong and help support the livelihoods of Vietnamese dependent on the river.

Leveraging climate change cooperation to address concerns on the Mekong

The Biden administration has made clear that addressing climate change is among its key diplomatic priorities.⁴¹ Hanoi is aware of this and, in initial engagements, has signaled a desire to expand cooperation in this area. The Mekong Delta is facing numerous climate-induced challenges and efforts to address and mitigate these should be included in the broader scope of collaborative efforts on climate change. While the focus of U.S.-Vietnam climate cooperation is likely to center on support for the build-out of clean energy infrastructure, Washington should also take this opportunity to provide support on adaptive measures for the Delta. This could include technology and training for forecasting and modeling, technical capacity building for nature-based solutions, and providing innovative agricultural technologies and practices so that Delta residents can adapt their practices to rapidly shifting conditions.

Secretary Kerry's unique relationship with Vietnam provides an added impetus for enhanced engagement. Given his important role in advancing normalization, he has long had substantial credibility in Hanoi. Following his term as Secretary of State, he returned to Vietnam in a private capacity to encourage government officials to consider the adoption of renewable technologies, like wind and solar, with financing from the private sector. With Kerry currently serving as the Special Presidential Envoy for Climate, Washington should utilize his credibility in-country to develop a holistic plan to support Vietnam's transition to clean energy. This plan could be developed collaboratively with the Special Envoy for the Mekong U.S.-Partnership and should bring to bear the full complement of U.S. tools and capabilities to advance a holistic approach that could serve as a flagship of U.S. engagement and a model for cooperative efforts globally.

Explicitly include the Mekong as an aspect of the strategic partnership

The U.S.-Vietnam Comprehensive Partnership announced in 2013 referenced the Mekong under the broader category of bilateral cooperation on the environment and climate change.⁴² As Washington and Hanoi consider upgrading relations to a

strategic partnership, Washington should propose highlighting the Mekong as a key area of cooperation. This will demonstrate to the Vietnamese that the United States recognizes the increasing importance of the river and related issues and ensure that the Mekong plays a prominent role in high-level engagements (including by serving as a target for major deliverables). In announcing the Mekong as a key area of cooperation, Washington and Hanoi can underscore mutual efforts across multiple channels, including on adopting smart agriculture in the Delta, encouraging information sharing and advanced forecasting, supporting livelihoods of Vietnamese dependent on the river, ensuring sustainable development with regional partners, and accelerating the introduction of clean energy technology as part of the broader effort to mitigate climate risks.

⁴¹ 2021. "Fact Sheet: President Biden sets 2030 Greenhouse Gas Pollution Reduction Target Aimed at Creating Good-Paying Union Jobs and Securing U.S. Leadership on Clean Energy Technologies." *The White House*. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/22/fact-sheet-president-biden-sets-2030-greenhouse-gas-pollution-reduction-target-aimed-at-creating-good-paying-union-jobs-and-securing-u-s-leadership-on-clean-energy-technologies/>.

⁴² Office of the Spokesperson. 2013. "U.S.-Vietnam Comprehensive Partnership. U.S. Department of State." *U.S. Department of State*. <https://2009-2017.state.gov/r/pa/prs/ps/2013/218734.html>.

4. U.S. ex-gratia approach toward the Agent Orange Legacy in Vietnam

By Dung Xuan Phan

INTRODUCTION

From Cold War enemies to partners, the United States and Vietnam have come a long way in restoring and fostering bilateral relations since normalization in 1995.

However, the path toward rapprochement was not easy. It was an arduous process for those involved, ridden with a myriad of sensitive subjects, among which were the environmental and health consequences of the Agent Orange herbicide used by U.S. forces during the Vietnam

War. Even after re-establishing formal diplomatic relations, the two countries failed to reach a common ground on the issue. During the stalemate, in 2002, the U.S. ambassador to Vietnam called Agent Orange the “one significant ghost” of the war that hindered complete reconciliation.¹ Not until 2007 did the United States and Vietnam finally agree to jointly address this war legacy.

This paper unpacks the U.S.’ response to the Agent Orange fallout, an overlooked or less emphasized aspect of the warming U.S.-Vietnam bilateral ties that carries significant symbolic, political, legal, and humanitarian implications. The paper answers the following questions: What are the harmful effects of this chemical substance? Who are the victims of Agent Orange in Vietnam? How is Washington assisting Hanoi with mitigation efforts? How should U.S. assistance be conceptualized, and what is the rationale for the current approach? Why did the United States change tack after so many years of intransigence? Most importantly, what do the victims need and what more can the United States do to promote reconciliation with the Vietnamese whose lives have been debilitated by the toxic herbicide?

After providing an overview of the Agent Orange legacy in Vietnam, this paper elucidates the research’s theoretical underpinnings, which revolve around the concept of reparative justice. Subsequently, the paper examines the material and symbolic component of U.S. policies toward the issue of Agent Orange in Vietnam. Regarding material redress, there is no direct compensation or reparations. Instead, the U.S. Congress provides annual funds for environmental remediation projects and health programs to assist persons with disabilities living in areas sprayed with the herbicide. In terms of symbolic justice, Washington has not accepted culpability for the use of toxic

defoliants. U.S. leaders avoid drawing causation between Agent Orange and the health effects seen in Vietnam but implicitly acknowledge this through their statements and actions. This *ex-gratia*² approach allows Washington to evade the domestic political costs while securing strategic gains through improved

bilateral relations with the Southeast Asian country. The paper argues that initiatives by a transnational network of victims’ supporters, including NGOs and American state actors, helped end the deadlock in bilateral

negotiations and prompted American assistance. In the final section, the paper explores the perspective of Vietnamese Agent Orange victims and offers some policy recommendations for the United States. The paper underlines the need for a more victim-centered response, which will build long-term trust and confidence between the two countries and promote a more genuine relationship between the United States and the victims.

THE AGENT ORANGE LEGACY IN VIETNAM

It all began when the United States launched an aerial herbicide campaign, codenamed Operation *Ranch Hand* (1961-1971), during the Vietnam War to deprive Vietnamese forces of forest cover and food supplies. Six defoliants were deployed, and three of them — Agent Orange, Pink, and Purple³ contained dioxin⁴ — are extremely toxic organic pollutants. The most extensively sprayed herbicide was Agent Orange, and therefore, its name is now used to describe the environmental and health tragedy resulting from these herbicides in Vietnam. The U.S. Air Force sprayed approximately 75 million liters (19.5 million gallons) of herbicides over nearly 15% of Vietnam’s territory,⁵ 45.6 million liters (12 million gallons) of which was Agent Orange.⁶ Based on estimates, more than four million Vietnamese and nearly three million U.S. service members may have been exposed to the substance.⁷

Decades after the war, Agent Orange’s adverse effects linger and continue to devastate the ecology and people’s health in Vietnam. It destroyed a significant portion of Vietnamese mangrove forests and caused irreversible alterations to marine habitats. This led to the loss of biodiversity and usable cropland and the contamination of food chains. Years of rainfall and sunlight have dissolved the toxicant, mixing it with soils

“Decades after the war, Agent Orange’s adverse effects linger and continue to devastate the ecology and the people’s health in Vietnam.”

¹ 2002. “Scientists to Discuss Agent Orange Fallout.” *CBC News*. <https://www.cbc.ca/news/world/scientists-to-discuss-agent-orange-fallout-1.307836>.

² The paper draws an analogy to the concept of *ex-gratia* payment, whereby a party provides compensation out of a moral obligation, rather than because of legal compulsion. It is not uncommon for states to provide *ex-gratia* payment as a diplomatic and humanitarian gesture. See, for example, Harold G. Maier, “Ex Gratia Payments and the Iranian Airline Tragedy,” *American Journal of International Law* 83, no. 2 (1989): 325-332.

³ Le, Ke Son and Charles R. Bailey. 2017. “From Enemies to Partners: Vietnam, the U.S. and Agent Orange.” *Anton Publisher*.

⁴ The full scientific name of dioxin is 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD). For more information on dioxin and how it is produced during the manufacturing of Agent Orange, see Le and Bailey, *From Enemies to Partners*, pp. 173-175; Hammond, Susan. 2014. “Redefining Agent Orange, Mitigating Its Impacts.” *NUS Press*.

⁵ Le, Ke Son and Charles R. Bailey. 2017. “From Enemies to Partners: Vietnam, the U.S. and Agent Orange.” *Anton Publisher*.

⁶ *Ibid.*, p. 6.

⁷ *Ibid.*

and sediments. As a result, the most polluted areas have been former American bases (Agent Orange storage sites) in Da Nang, Bien Hoa, and Phu Cat, where dioxin levels exceed Vietnamese safety thresholds.⁸

A plethora of epidemiological and epigenetic studies by scientists from Vietnam and other countries have looked into the harmful health effects of dioxin in sprayed areas.⁹ These negative impacts can be divided into those linked to direct and indirect exposure. Direct exposure to dioxin is associated with several types of cancer, heart disease, diabetes, and others. Indirect exposure refers to the transmission of health effects to later generations. The offspring of those exposed to dioxin can experience mental disorders and/or congenital disabilities. These conditions now manifest in post-war generations and estimates from some experts suggest that harm to human health could persist through generations to come. Besides the negative impact on physical health, there is also the psychological trauma of Agent Orange that has been documented in both American and Vietnamese victims.

The Vietnam Association for Agent Orange Victims (VAVA) claims that 4.8 million people might have been exposed to dioxin and according to the Vietnam Red Cross, 3 million Vietnamese, including 150,000 children, are victims of the harmful health effects.¹⁰ However, because of the complex nature of dioxin toxicity and exposure, the large-scale impact, and limited scientific capabilities, knowing with certainty the actual number of Agent Orange victims is an impossible task.¹¹ In reality, experts can rely only on two identifying factors: (1) proof of exposure¹² and (2) diseases and disabilities typically associated with dioxin. The Vietnamese and U.S. governments have their own list of dioxin-related health effects to determine beneficiaries for social welfare benefits or compensation.¹³ This practical method has allowed Vietnam to estimate the number of Agent Orange victims residing in particular locales.

RECONCILIATION AND REPARATIVE JUSTICE

Post-war rapprochement is about restoring official rela-

tions and focuses on how perpetrators of wartime wrongdoing can make peace with their victims. Hence, this paper posits that reconciliation should be understood as “building relations today that is not haunted by the conflicts and hatreds of yesterday, where previous atrocities and injustices could be openly discussed in public without bitterness.”¹⁴ The lack of remorse, such as denial of wrongdoing, glorifying past crimes, and forgetting past abuses from the perpetrator state, can result in backlash from the victimized state, which in turn generates mutual hostility and thereby stymies long-term reconciliation.¹⁵ Conversely, through means such as official statements, reparations, and commemoration, remembrance can signal benign intention and induce more cooperative behaviors. Therefore, the perpetrator state’s

“To make amends for past wrongdoing, the perpetrator state needs to regain trust from the government of the offended state and its people, especially the victims.”

atonement for the physical and emotional pains caused by the wrongdoing is key to overcoming historical animosity. Success in this regard will lead to an amicable relationship between former enemies and between the perpetrator and the victims.

State rectification of wartime misdeeds can be examined through the lens of reparative justice — mechanisms that seek to recognize victims of wartime wrongdoing as right-holders and repair in some way the harms done to them by dealing with the causes and consequences of such wrongdoing.¹⁶ Pundits and scholars alike describe the contemporary era as the “age of apology” as there are strong domestic and international normative expectations that perpetrators of wartime wrongdoing have to offer some forms of reparations to the victimized population.¹⁷ Provision of reparative justice is also a quintessential diplomatic tool for states that previously engaged in conflict to promote reconciliation.

There are two key components of reparative justice: material reparations and symbolic reparations. Material reparations are payments to make up for the wrongful act and alleviate its material or physical consequences. Examples of this are monetary compensation for abuse, restitution, and development programs in places suffering from harms caused by historical

⁸ As of 2021, decontamination work in Phu Cat and Da Nang is completed.

⁹ Le, Ke Son and Charles R. Bailey. 2017. “From Enemies to Partners: Vietnam, the U.S. and Agent Orange.” *Anton Publisher*; Hammond, Susan. 2014. “Redefining Agent Orange, Mitigating Its Impacts.” *NUS Press*.

¹⁰ Bailey, Charles. 2010. “Tackling the Agent Orange Legacy in Vietnam.” *Alliance Magazine*. <https://www.alliancemagazine.org/feature/tackling-the-agent-orange-legacy-in-vietnam/>.

¹¹ For a detailed explanation of the challenges of victim classification, see Le and Bailey, *From Enemies to Partners*, pp. 47-49; see also Hammond, “Redefining Agent Orange, Mitigating Its Impacts,” pp. 201-205.

¹² Evidence showing that the patient got exposed to dioxin in the past and/or lives in areas that have been proved to be heavily contaminated with dioxin.

¹³ Le, Ke Son and Charles R. Bailey. 2017. “From Enemies to Partners: Vietnam, the U.S. and Agent Orange.” *Anton Publisher*.

¹⁴ Wolfe, Stephanie. 2014. “The Politics of Reparations and Apologies.” *Springer*.

¹⁵ Lind, Jennifer. 2008. “Sorry States: Apologies in International Politics.” *Cornell University Press*; He, Yinan. 2009. “The Search for Reconciliation.” *Cambridge University Press*.

¹⁶ Muddell, Kelli and Sibley Hawkins. 2018. “Reparative Justice.” *Gender and Transitional Justice - A Training Module Series*. https://www.ictj.org/sites/default/files/3_Gender%20%26%20TJ%20-%20Reparative%20Justice%20-%20Speaker%20Notes.pdf; Jones, Shannon. 2011. “Apology Diplomacy: Justice for All?” *Netherlands Institute of International Relations*.

¹⁷ Wolfe, Stephanie. 2014. “The Politics of Reparations and Apologies.” *Springer*.

wrongs.¹⁸ States can provide official reparations or unofficial, *de-facto* reparations through private firms or NGOs. Symbolic reparations refer to formal acknowledgment, official apologies, monuments, memorials, and museums commemorating the victims, among others.¹⁹ The ultimate goal of symbolic reparations is to acknowledge that injustice or an atrocity occurred, recognize the victims' grievances, and restore their dignity and sense of self-worth.²⁰ A state can express regret, a desire to reconcile, or even sympathy toward the victims but stop short of admitting responsibility. This response is what Shannon Jones describes as "ambiguous symbolic reparations."²¹

In some cases, guilty states eschew reparative justice because of costly reparations and political implications.²² However, a more contrite stance is possible under certain conditions. There are two pertinent schools of thought within the literature on state provision of reparative justice: instrumentalism and transnational political activism. The instrumentalist explanation posits that a perpetrator state is likely to offer reparative justice if doing so advances its security and/or economic interests.²³ By sending reassuring signals of its benign intentions through reconciliation efforts, the perpetrator state stands to benefit materially or strategically from improved diplomatic ties with its former enemy. For example, the need to cooperate in the face of a mutual threat can prompt erstwhile foes to compromise and seek rapid rapprochement through a reparation arrangement.

Meanwhile, scholars subscribing to the second approach see demands for reparative justice as a form of social movement.²⁴ They argue that influence from a transnational network of activists and powerful allies can shape the way states respond to past injustice claims.²⁵ Society actors such as NGOs and progressive civil groups in the perpetrator country can play an important role in lobbying for state restitution for the victims. These groups utilize their resources and connections with the media, international organizations, and state actors to enhance the effectiveness of their activism.²⁶

Having laid out the relevant theoretical underpinnings, this paper will now examine the U.S. response to the Agent Orange legacy through the lens of reparative justice, looking at both the material and symbolic components. Subsequently, the paper will

explain the rationale behind the U.S. provision of reparative justice and show that initiatives by a group of transnational actors are behind the breakthroughs on the issue. The final section will look at the current victim-perpetrator dynamics to provide recommendations on how the United States can improve its response.

U.S. PROVISION OF REPARATIVE JUSTICE FOR VIETNAMESE AGENT ORANGE VICTIMS

The United States argues that Agent Orange is a tactical, not a chemical weapon and was not used to deliberately target human populations. Nonetheless, Agent Orange and other herbicides destroyed the Vietnamese ecosystem and led to the suffering of millions of Vietnamese people, creating the need for state redress, contrition, and reconciliation. Agent Orange victims, their domestic and foreign allies, and the Vietnamese government have long requested reparative justice from the United States. Since 2007, Washington has responded to this demand through a combination of *de facto* material reparations and ambiguous symbolic reparations.

De facto Material Reparations

Since 2007, the U.S. Congress has been appropriating annual funds for Agent Orange assistance in Vietnam. As of 2021, the amount has totaled US \$381.4 million, with 75% for environmental cleanup and 25% for disability assistance (see Table 1). The United States Agency for International Development (USAID) spent US \$110 million for the 2012-2018 cleanup project at Da Nang Airport, which saw the remediation of 90,000 cubic meters of contaminated soil and sediment.²⁷ Following this project's success, in 2019, USAID and Vietnamese authorities inaugurated a remediation program at Bien Hoa Air Base, the largest remaining dioxin hotspot with 500,000 cubic meters of contaminated soil and sediment. Washington has committed US \$300 million for this project, which is expected to be completed by 2030.²⁸ Environmental cleanup is an essential aspect of material reparations for the Agent Orange legacy because it prevents further dioxin exposure and improves the livelihood of those living and working in these areas. Since Da Nang airport is dioxin-free, commercial activities in this busy terminal have been conducted

¹⁸ Jones. "Apology Diplomacy."

¹⁹ Ibid.

²⁰ Verdeja, Ernesto. 2008. "A Critical Theory of Reparative Justice." *Constellations* 15, no. 2: 231; Wolfe, *The Politics of Reparations and Apologies*.

²¹ Jones. "Apology Diplomacy."

²² Jones, Shannon. 2011. "Apology Diplomacy: Justice for All?" *Netherlands Institute of International Relations*.

²³ Ku, Yangmo. 2015. "National Interest or Transnational Alliances? Japanese Policy on the Comfort Women Issue." *Journal of East Asian Studies* 15, no. 2 (2015): 243-269, p. 246; He, Yanan. 2009. "The Search for Reconciliation." *Cambridge University Press*.

²⁴ Wolfe. "The Politics of Reparations and Apologies." pp.13-16.

²⁵ Berger, Thomas. 2012. "War, Guilt, and World Politics after World War II." *Cambridge University Press*. p. 28; Ku, "National Interest or Transnational Alliances?"; and Wolfe, *The Politics of Reparations and Apologies*.

²⁶ Carpenter Charli. 2016. "Network Relations and Human Security Norm Development: Agenda-Setting and Agenda-Vetting around Collateral Damage Control." *The New Power Politics: Networks and Transnational Security Governance*.

²⁷ 2018. "United States and Vietnam Complete Environmental Remediation at Danang Airport." *U.S. Embassy & Consulate in Vietnam*. <https://vn.usembassy.gov/20181107-united-states-and-vietnam-complete-environmental-remediation-at-danang-airport/>.

²⁸ USAID. 2020. "Fact Sheet: Dioxin Remediation at Bien Hoa Airbase Area: Fact Sheet: Vietnam." <https://www.usaid.gov/vietnam/documents/fact-sheet-dioxin-remediation-bien-hoa-airbase-area>.

without fear of harmful effects from toxic chemicals.²⁹

The U.S. Congress specifically appropriated funds for health-related activities in Vietnam for the first time in 2011 with US \$3 million. The subsequent years saw increased funding from Washington, which reached US \$14.5 million in the latest Consolidated Appropriations Act of 2021.³⁰ The health and disabilities programs have been implemented in eight provinces

promising developments. In 2019, to enhance coordination with Vietnamese agencies in supporting persons with disabilities, USAID and the National Committee on the Settlement of Post-War Unexploded Ordnance and Toxic Chemical Consequences (Office 701), under Vietnam's Ministry of Defense, signed a 5-year Memorandum of Intent (MOI). The MOI provided US \$65 million toward the implementation of direct services in the

Table 1. U.S. Congressional Appropriations for Agent Orange/Dioxin Remediation and Health-Related Activities in Vietnam (2007-2020) (in millions of U.S. dollars)

Public Law	Public Law	Total Amount	Environmental Remediation	Health-related Activities
P.L. 110-28	2007	3.0	n.a	n.a
P.L. 111-8	2008	3.0	n.a	n.a
P.L. 111-117	2009	3.0	n.a	n.a
P.L. 111-212	2010	12.0	n.a	n.a
P.L. 112-10	2011	18.5	15.5	3.0
P.L. 112-74	2012	20.0	15.0	5.0
P.L. 113-6	2013	19.3	14.5	4.8
P.L. 113-76	2014	29.0	22.0	7.0
P.L. 113-235	2015	22.5	15.0	7.5
P.L. 114-113	2016	32.0	25.0	7.0
P.L. 115-31	2017	30.3	20.0	10.0
P.L. 115-141	2018	45.0	35.0	10.0
P.L. 115-141	2019	15.0	15.0	
P.L. 116-6	2019	32.5	20.0	12.0
P.L. 116-92	2020	15.0	15.0	
P.L. 116-92	2020	33.0	20.0	13.0
P.L. 116-260	2021	33.5	19.0	14.5
P.L. 116-283	2021	15.0	15.0	
Total		381.4	266.0	94.4

Source: Micheal, F. Martin, US Agent Orange/Dioxin Assistance to Vietnam, (CRS Report No. R44268), (Congressional Research Service, Jan 15, 2021), p. 6, <https://fas.org/sgp/crs/row/R44268.pdf>

heavily sprayed with Agent Orange (Quang Tri, Thua Thien Hue, Quang Nam, Binh Dinh, Dong Nai, Binh Phuoc, Tay Ninh, and Kon Tum).³¹ Through these programs, USAID works with local NGOs and authorities in three types of activities: (1) policy development - support for disability legislation and rights, (2) capacity building - training for health workers, and (3) direct services to affected individuals and their caregivers.³² Most USAID-funded initiatives have been centered around the first two activities, while some funding has been dedicated to direct services, arguably the most important aspect of material reparations in this case. However, as of late, there have been

eight priority provinces.³³ Shortly after reaching the agreement, both parties visited three priority provinces to study the needs of persons with disabilities and the currently available disability services for program planning.³⁴

The United States promotes these programs as a humanitarian act for persons with disabilities, regardless of cause. Washington has never mentioned that Agent Orange or dioxin was the reason behind the disabilities, nor referred to the aid recipients as "Agent Orange victims." However, the evolving legislative language in the U.S. Congress' appropriation bills points to an intention to mitigate the human impacts of Agent

²⁹ Le, Tinh Dinh. 2020. "Boosting Vietnam-US Relations: The Agent Orange Issue." *ISEAS Yusof Ishak Institute*.

³⁰ US Congress, House, *Making consolidated appropriations for the fiscal year ending September 30, 2021, providing coronavirus emergency response and relief, and for other purposes (Consolidated Appropriations) Act of 2021*, HR 133, 116th Cong., 2nd sess, introduced in House January 3, 2020, p. 597. <https://www.congress.gov/116/bills/hr/133/BILLS-116hr133enr.pdf>

³¹ USAID. 2020. "Fact Sheet: Support to Persons with Disabilities." <https://www.usaid.gov/vietnam/documents/fact-sheet-support-persons-disabilities>.

³² Le and Bailey, *From Enemies to Partners*, p. 99.

³³ USAID. 2019. "The United States and Vietnam Strengthen Partnership to Address War Legacies," *Press Release: Vietnam*. <https://www.usaid.gov/vietnam/press-releases/dec-5-2019-united-states-and-vietnam-strengthen-partnership-address-war-legacies>.

³⁴ USAID. 2019. "USAID and Vietnamese Government Partners Chart a Joint Plan for Upcoming Disability Program." *Program Update: Vietnam*. <https://www.usaid.gov/vietnam/program-updates/jun-14-2019-usaid-and-vietnamese-government-partners-chart-joint-plan-upcoming-disability>.

Orange.³⁵ Initially, the funds were directed to health activities near contaminated areas, but since the 2016 fiscal year, all appropriation acts have specified that the funds “be made available for health and disability programs in areas sprayed with Agent Orange and otherwise contaminated with dioxin, to assist individuals with severe upper or lower body mobility impairment and/or cognitive or developmental disabilities.”³⁶ This description is akin to the practical definition of Agent Orange victims in Vietnam. In sum, the U.S. appropriations for environmental remediation and health-related activities constitute *de facto* material reparations, given the congressional guidelines and these programs’ aims.

Ambiguous Symbolic Reparations

Similar to the language used in congressional appropriation acts for Agent Orange assistance, U.S. symbolic gestures have been somewhat ambivalent as Washington has not officially admitted responsibility for the health damages caused by Agent Orange in Vietnam. While there is no outright denial of wrongdoing, American politicians avoid drawing direct causation between dioxin and congenital disabilities and mental disorders seen in later generations of victims.

Nonetheless, recent U.S. administrations have signaled Washington’s cordial intent to jointly address war remnants with the understanding that the health consequences of Agent Orange are among them. In 2010, at a press conference in Hanoi, then-Secretary of State Hillary Clinton noted that she and the Vietnamese prime minister had “discussed the concern that both Vietnam and the United States have about Agent Orange and *the consequences that it produced in the people here* [emphasis added].”³⁷ In his 2016 visit to Vietnam as part of his Asia tour, then-President Barack Obama mentioned U.S. assistance to Vietnamese persons with disabilities alongside U.S.-sponsored dioxin cleanup projects, which reflects an implicit acknowledgment of the linkage between disabilities and dioxin:

[...] We continue to assist Vietnamese with disabilities, including children. We are also continuing to help remove Agent Orange/dioxin so that Vietnam can reclaim more of your land. We’re proud of our work together in Danang, and we look forward to supporting your efforts in Bien Hoa.³⁸

Following then-President Donald Trump’s 2017 visit to Vietnam, the two former adversaries released the first joint statement that recognizes both dioxin remediation projects and assistance for disabled people as bilateral efforts to overcome war legacies.³⁹ The statement reads:

Both leaders reaffirmed the importance of continued cooperation to address the legacies of war. In this regard, President Quang expressed appreciation for the contribution of the United States to the successful dioxin remediation at Da Nang Airport, and welcomed the United States’ commitment to contribute to remediation at Bien Hoa Airport. He welcomed further United States assistance for persons with disabilities.⁴⁰

This indicated a greater degree of recognition because joint statements hitherto had always separated health-related activities and cleanup efforts, with the former dubbed as a human rights or humanitarian matter while the latter was considered an Agent Orange issue.⁴¹ On a lower governmental level, some American politicians and officials have admitted that the United States has a moral obligation to help the victims in Vietnam and raised the importance of the health component.⁴² Nonetheless, the absence of a formal acknowledgment of the health-related damages confirms that the U.S. response so far constitutes ambiguous symbolic reparations at best.

Why Ex-gratia? - The Cost of Reporative Justice

The lack of formal acknowledgment and direct compensation by the United States can be attributed to the perceived domestic political costs. An issue brief by U.S. Congressional Research Service (CRS) suggests that if the United States agreed to reparation obligations to Vietnam, Laos and Cambodia might demand similar treatment for their purported Agent Orange victims, raising the potential overall expense of addressing war legacies abroad.⁴³ Another CRS report posits that admitting legal responsibility for the use of chemical defoliants would set a precedent by which other states might start demanding U.S. post-conflict assistance.⁴⁴ Uncertainties surrounding the actual number of victims may also fuel concerns over a potentially expensive reparation scheme. In addition, there is no substantial domestic push for reparative justice. Findings of a 2009 national

³⁵ Martin, Micheal F. 2021. “US Agent Orange/Dioxin Assistance to Vietnam.” *Congressional Research Service*.

³⁶ Ibid.

³⁷ 2010. “Remarks With Vietnam Deputy Prime Minister And Foreign Minister Pham Gia Khiem.” *U.S. Department of State*. <https://2009-2017.state.gov/secretary/20092013clinton/rm/2010/07/145034.htm>.

³⁸ National Archives and Records Administration. 2016. “Remarks by President Obama in Address to the People of Vietnam.” *Obama White House Archives*. <https://obamawhitehouse.archives.gov/the-press-office/2016/05/24/remarks-president-obama-address-people-vietnam>.

³⁹ Le and Bailey, *From Enemies to Partners*, p. 162

⁴⁰ The White House. 2017. “Joint Statement between the United States of America and the Socialist Republic of Vietnam,” *Statements and Releases*. <https://www.whitehouse.gov/briefings-statements/joint-statement-united-states-america-socialist-republic-vietnam/>.

⁴¹ Embassy of the Socialist Republic of Vietnam in the U.S.. “President Truong Tan Sang Visits United States in July 2013.” <http://vietnamembassy-usa.org/news/2013/07/president-truong-tan-sang-visits-united-states-july-2013>; and National Archives and Records Administration. 2016. “Joint Statement: Between the United States of America and the Socialist Republic of Vietnam.” *Obama White House Archives*. <https://obamawhitehouse.archives.gov/the-press-office/2016/05/23/joint-statement-between-united-states-america-and-socialist-republic>.

⁴² Martin, Micheal F. 2012. “Vietnamese Victims of Agent Orange and US-Vietnam Relations.” Congressional Research Service. <https://fas.org/sgp/crs/row/RL34761.pdf>.

⁴³ See Ibid., p. 38.

⁴⁴ Manyin, Mark E. 2008. “U.S.-Vietnam Relations: Background and Issues for Congress.” Congressional Research Service. <https://fas.org/sgp/crs/row/RL33316.pdf>.

survey by the Agent Orange in Vietnam Information Initiative (AOVII) indicated that many Americans were not even aware of the lingering effects of Agent Orange in Vietnam.⁴⁵ The same survey found that a considerable portion of American voters did not favor U.S. Agent Orange assistance to Vietnam, accounting for 54% of the respondents.⁴⁶ Many were opposed to U.S. help because they want their political leaders to prioritize domestic issues, in particular the needs of American veterans.⁴⁷

Monetary cost is not the only barrier in coming to terms

“The U.S. government has recognized the dioxin-related illnesses suffered by American war veterans but refused to do the same for those in Vietnam.”

with past wrongdoing. While there have always been efforts from U.S. politicians, war veterans, and citizens to recognize wrongdoing and promote healing, there is an entrenched narrative that U.S. actions in the war, including the Agent Orange use, were necessary to defend American interests and values overseas. Hence, a formal apology and acknowledgment will most likely trigger a conservative or nationalist backlash. In her book *U.S. Foreign Policy and the Politics of Apology*, Gerstbauer attributes U.S. refusal to admit wrongdoing in past conflicts to a need to preserve its proclaimed identity as the champion of human rights, and a beacon of democracy at home and abroad.⁴⁸ This need for identity reaffirmation requires justification of controversial foreign policy initiatives. A series of interviews with former U.S. officials conducted by Gerstbauer denotes this mindset of ‘the end justifies the means’.⁴⁹ This also explains the preference to promote Agent Orange assistance as a humanitarian act. Such framing obscures the question of liability and resonates with how the United States tends to see itself as a force for good in the world.

Enhanced Defense Cooperation: The Benefit of Reparative Justice

Despite the aforementioned costs, the need to enhance diplomatic ties with Vietnam precipitates U.S. interests in tackling the remaining “significant ghost.” Even though Hanoi does not actively demand American provision of reparative justice, Vietnamese leaders have always stressed the importance of re-

solving Agent Orange’s fallout in enhancing the Vietnam-U.S. comprehensive partnership. In official meetings, Vietnamese leaders signal to the United States that dealing with the Vietnam War legacies can go a long way in increasing Vietnam’s confidence in security cooperation with the United States. For example, in 2019, the Vietnamese deputy defense minister told the USAID director that: “Addressing war legacies is a priority in the U.S.-Vietnam defense cooperation. There will be no foundation for present and future collaboration if we don’t tackle this issue.”⁵⁰ Washington seems to acknowledge this as well. According to the U.S. State Department, “U.S. efforts to address legacy issues such as UXO/demining, MIA accounting, and remediation of Agent Orange [...] provided the foundations for the U.S.-Vietnam defense relationship.”⁵¹

The United States began to allocate separate funding to remedy the health effects of Agent Orange in 2011, against the backdrop of the Obama administration’s pivot or rebalance policy toward Asia. Since Hanoi was strategically valuable for Washington’s response to China’s rapid rise in the region, the United States sought to expand its partnership with Vietnam in the security realm. In the Trump era, U.S.-Vietnam relations continue to thrive amid growing threats from China’s increasing militarization and expansionism in the South China Sea. Vietnam arguably occupies an even more prominent position in the U.S. geopolitical chessboard in Asia, this time under the Free and Open Indo-Pacific Strategy. Looking to boost bilateral defense ties with Hanoi, the United States continues to send strong signals about its intention to heal the wounds of war both in words and deeds. Most recently, when Trump’s National Security Advisor Robert O’Brien visited Vietnam in November 2020 to reaffirm Vietnam’s importance in U.S. foreign policy, he also announced an additional US \$20 million toward current funding for the Bien Hoa Airbase dioxin remediation project.⁵² There is no reason to believe that this trend will cease under the Biden administration. Biden’s Interim National Security Strategic Guidance mentions Vietnam, reaffirming that Washington will deepen its partnership with Hanoi to advance shared objectives.⁵³

⁴⁵ Le and Bailey, *From Enemies to Partners*, p. 82.

⁴⁶ *Ibid.*, p. 83.

⁴⁷ *Ibid.*, p. 87.

⁴⁸ Gerstbauer, Loramy. 2017. “U.S. Foreign Policy and the Politics of Apology.” *Routledge, Taylor & Francis Group*.

⁴⁹ See *Ibid.*, p. 109.

⁵⁰ An, Thái. 2019. “Thượng Tướng Nguyễn Chí Vịnh Nói Về ‘Cam Kết Đến Cuối Cùng’ Việt - Mỹ.” Translated to “Senior Lieutenant General Nguyen Chi Vinh talks about Vietnam-US ‘Full Commitment.’” *VietNamNet*. <https://vietnamnet.vn/vn/thoi-su/chinh-tri/thuong-tuong-nguyen-chi-vinh-noi-ve-cam-ket-den-cuoi-cung-viet-my-584064.html>.

⁵¹ U.S. Department of State. 2020. “US Relations With Vietnam.” <https://www.state.gov/u-s-relations-with-vietnam/>.

⁵² USAID. 2020. “National Security Advisor Robert O’Brien Announces \$20 Million in USAID Funding to Clean Up Agent Orange Contamination in the Socialist Republic of Vietnam.” <https://www.usaid.gov/news-information/press-releases/nov-24-2020-national-security-advisor-robert-obrien-announces-20-million-usaid>.

⁵³ Biden, Joe. 2021. “Interim National Security Strategic Guidance.” *The White House*. <https://www.whitehouse.gov/wp-content/uploads/2021/03/NSC-1v2.pdf>.

BREAKING THE DEADLOCK: INITIATIVES BY TRANS-NATIONAL ALLIES

Notwithstanding the current ambiguous U.S. stance, progress in U.S.-Vietnam cooperation on Agent Orange is remarkable, especially considering the daunting history of bilateral negotiations. During the latter years of the Cold War, geopolitical circumstances made rapprochement difficult, with both sides belonging to two opposing blocs. A former Vietnamese diplomat recalled that discussions on war legacies only focused on the Prisoner of War/Missing in Action (POW/MIA) topic as the United States refused to hear about Agent Orange.⁵⁴ Normalization in 1995 resulted in nascent discussions, but the two countries talked past each other, holding on to their desired narratives. The U.S. government maintained that there was insufficient scientific evidence to link Agent Orange to Vietnam's claimed congenital disabilities. Many considered it an intractable problem due to the seemingly immense magnitude of the impact and the political sensitivities surrounding wartime accountability. Because of these complications, for 32 years after the end of the Vietnam War (1975-2007), there was no U.S. provision of reparative justice for Vietnamese Agent Orange victims.

Breakthroughs finally occurred in 2006 and 2007. During his 2006 visit to Hanoi, then-U.S. President George W. Bush and then-Vietnamese President Nguyen Minh Triet issued a joint statement in which the two sides officially recognized, for the first time, the need to jointly address Agent Orange consequences. One year later, the U.S. Congress approved the first funding for dioxin remediation in Vietnam. Conversation on Agent Orange cooperation is now a key feature in bilateral defense dialogues. Given how far both countries have come on the issue of Agent Orange, it is worth investigating the turning points in negotiation and the drivers behind the U.S. response. While a conducive geopolitical environment and converging security and economic interests played a crucial role in inducing U.S.-Vietnam overall rapprochement,⁵⁵ transnational allies, consisting of third-party stakeholders and American state actors, were key to ending the logjam.

Third-party Stakeholders

The Vietnamese government reached out to international

NGOs to cooperate on dioxin research and remediation during the impasse. From 1994 to 1999, the 10-80 Committee of Vietnam's Ministry of Health (MOH) and Hatfield Consultants, a Canadian environmental firm, conducted the first comprehensive long-term research project on dioxin remnants in Vietnam.⁵⁶ The study confirmed that dioxin still existed in the environment and had found its way into humans through food.⁵⁷ Published in an international peer-reviewed journal, the study introduced the first plausible empirical evidence of the continuing threat to public health posed by residual dioxin from Agent Orange. The study also led to the 'dioxin hotspot hypothesis' which posits that former American bases are the most contaminated sites. In 2006, the Vietnamese government and Hatfield Consultants presented findings of another joint study that proved this hypothesis,⁵⁸ showing that dioxin contamination was not as widespread as many had feared. This development prompted the first breakthrough on Agent Orange as it identified the scope of the environmental hazards, paving the way for U.S.-Vietnam dialogue and actions on dioxin remediation.

The 2006 Hatfield study was made possible because of funding from the Ford Foundation, a leading American philanthropy.⁵⁹ The Ford Foundation first got involved in raising the profile of the Agent Orange issue in 1991 when the foundation received an invitation from the Vietnamese government.⁶⁰ From 2006 to 2011, the organization provided grants to several studies on dioxin residuals, dioxin exposure, and dioxin-related disabilities in Vietnam.⁶¹ The Ford Foundation funded scientific research and financially aided dioxin remediation efforts and other projects on best practices for disability services. They persuaded American and international NGOs and U.N. agencies to receive their grants to kickstart assistance programs for Agent Orange victims. The Ford Foundation's initiatives and the work of their partners garnered attention from the media. More importantly, they rekindled the interests of some American leaders in the issue, encouraging them to channel money to USAID for use in Vietnam. In 2007, in another turning point, the Ford Foundation helped establish the U.S.-Vietnam Dialogue Group on Agent Orange/Dioxin, which comprised eminent citizens, supporters of the victims, scientists, and policymakers from both countries.⁶²

⁵⁴ Le and Bailey, *From Enemies to Partners*, p. 145.

⁵⁵ Brown, Frederick Z. 2010. "Rapprochement Between Vietnam and the United States." *Contemporary Southeast Asia* 32, no. 3; Anh Tuan Hoang. 2010. "Rapprochement Between Vietnam and the United States: A Response." *Contemporary Southeast Asia* 32, no. 3.

⁵⁶ Le and Bailey, *From Enemies to Partners*, p. 151.

⁵⁷ Hatfield Consultants and 10-80 Committee. 2000. "Development of Impact Mitigation Strategies Related to the use of Agent Orange Herbicide in the Aluoi Valley, Vietnam." <https://www.hatfieldgroup.com/wp-content/uploads/2020/05/cida849-agent-orange-v1-report-main.pdf>

⁵⁸ Hatfield Consultants and 10-80 Committee. 2006. "Identification of New Agent Orange / Dioxin Contamination Hot Spots in Southern Vietnam." <https://www.hatfieldgroup.com/wp-content/uploads/2020/05/vn1071-final-ford-report-jan-2006.pdf>.

⁵⁹ Ford Foundation is a third-party actor because they operate independently from the U.S. government.

⁶⁰ Le and Bailey, *From Enemies to Partners*, p. 145.

⁶¹ For the full list of Ford Foundation-funded projects, see, Le and Bailey, *From Enemies to Partners*, pp. 181-188.

⁶² Members of the group provided recommendations for the two governments on dioxin remediation and assistance to persons with disabilities, and raised public awareness. For information about the group, see "The US-Vietnam Dialogue Group on Agent Orange and Dioxin," *Aspen Institute*, accessed December 22, 2020, <https://www.aspeninstitute.org/programs/agent-orange-in-vietnam-program/the-u-s-vietnam-dialogue-group-on-agent-orang-and-dioxin/>.

American State Actors

In this case, the presence of elite allies, American state actors was also critical to the positive outcome of the redress and reparation movements for Agent Orange victims. The most prominent advocate was Senator Patrick Leahy from Vermont, who used Hatfield dioxin hotspot studies to push for U.S. involvement in environmental remediation and disability assistance in Vietnam.⁶³ His seniority as the longest-serving Democrat in the U.S. Congress and position as chair and ranking member of the Committee on State, Foreign Operations, and Related Programs under the U.S. Senate Committee on Appropriations enabled him to spearhead these initiatives. Leahy believes that the United States has “a moral obligation to do something about it [the Agent Orange legacy].”⁶⁴

Meanwhile, Tim Rieser, Senator Leahy’s foreign policy advisor, and Michael W. Marine, American ambassador to Vietnam from 2004 to 2007, led the effort to appropriate funding on the ground. After having witnessed first-hand the damages of Agent Orange in Vietnam and after speaking to Vietnamese representatives, they were determined to bring about joint U.S.-Vietnam actions in mitigating dioxin consequences. Both Rieser and Marine worked closely with Charles Bailey, the Ford Foundation representative in Vietnam from 1997 to 2007, to realize this objective. Marine gave Bailey a no objection letter so that the Ford Foundation could establish the U.S.-Vietnam Dialogue Group on Agent Orange/Dioxin without any legal obstacles.⁶⁵ On Reiser and Senator Leahy’s role in breaking the Agent Orange stalemate, Bailey commented:

Tim was, and is, the Democratic Clerk of the Senate Appropriations subcommittee dealing with U.S. foreign assistance and has drafted appropriations bills year after year containing funding and directives on U.S. policy with respect to Agent Orange and Vietnam. He took my advice on the wording of the directives. Tim was backed by his boss, Senator Patrick Leahy [...] Senator Leahy and Tim Rieser brought the heft of the U.S. government to bear on beginning to implement a solution to Agent Orange in Vietnam. Without them there would be no US-funded Agent Orange program in Vietnam today.⁶⁶

VIETNAMESE VICTIMS’ PERSPECTIVE AND POLICY RECOMMENDATIONS

To make amends for past wrongdoing, the perpetrator

state needs to regain trust from the government of the offended state and its people, especially the victims. Only when those wronged start to forgive the perpetrators and accept restitution can the victim-perpetrator relationship move away from the initial hostile stage toward a more positive future.⁶⁷ To attain forgiveness and promote state-victim reconciliation, it is crucial that leaders put the victims at the center and heed their concerns. In the case of Vietnamese Agent Orange victims, two areas require close attention: health and disability needs and the ongoing struggle for justice.

Health and Disabilities Needs

Studies have found that most Vietnamese Agent Orange victims, especially children, and young adults, suffer from severe disabilities, including malformations of the upper and lower body, development delays, and mental disorders.⁶⁸ In addition to health detriments, victims also experience socio-economic hardship since they cannot work and have difficulties integrating into society.⁶⁹ Moreover, they reside in poorer parts of Vietnam. To make matters worse, for families with children indirectly exposed to dioxin, their situation precipitates a considerable loss of household income because at least one member must stay home to provide full-time care.⁷⁰ They require material support, in the form of social and disability services, and financial empowerment.

USAID-sponsored activities are still severely limited and leave out many victims both inside and outside of the current priority provinces. The U.S. government should increase funding for annual appropriations and direct USAID to expand local services and improve the quality and delivery of assistance to people with disabilities, especially direct rehabilitation. USAID should reach out to foreign donors and organizations and encourage them to partner with the organization in these programs. More efforts to lower the burden on families with victims who are in the third and fourth generation are imperative as the Vietnamese government’s Agent Orange monetary benefits policy has not included these cases. USAID could utilize its partnership with local authorities to design in-kind assistance programs to strengthen their economic resilience and help the affected individuals meet their specific needs.

⁶³ Charles R. Bailey. 2018. “Agent Orange - a Humanitarian Concern We Can Do Something About.” *The Hill*. <https://thehill.com/opinion/healthcare/375421-agent-orange-a-humanitarian-concern-we-can-do-something-abou>.

⁶⁴ Leahy, Patrick. 2015. “Senator Patrick Leahy Remarks for Center for Strategic and International Studies Addressing the Legacy of Agent Orange in Vietnam.” *US Senator Patrick Leahy of Vermont*. <https://www.leahy.senate.gov/press/senator-patrick-leahy-remarks-for-center-for-strategic-and-international-studies-addressing-the-legacy-of-agent-orange-in-vietnam>.

Senator Leahy’s contribution to assisting the disabled in Vietnam began far earlier. In 1989 he suggested to President George H.W. Bush about promoting reconciliation through the Leahy War Victims Fund, which had been providing assistance to victims of armed conflict around the world. Bush agreed to use the program to donate prosthetic devices to Vietnamese who suffer from mobility-related physical harms from landmines and unexploded ordnance.

⁶⁵ Abrahamson, Eric John. 2019. “Charles R. Bailey Oral History of Ford and Agent Orange in Vietnam.” *Ford Foundation Oral History Project*.

⁶⁶ *Ibid.*, p. 13.

⁶⁷ Wolfe, *The Politics of Reparations and Apologies*, p. 80.

⁶⁸ Le and Bailey, *From Enemies to Partners*, pp. 56-59.

⁶⁹ Ungerfeld, Sharon. 2014. “The Lingerin Killer: Agent Orange.” *Themis: Research Journal of Justice Studies and Forensic Science* 2. <https://scholarworks.sjsu.edu/cgi/viewcontent.cgi?referer=https://www.google.ch/&httpsredir=1&article=1010&context=themis>.

⁷⁰ Martin, *Vietnamese Victims of Agent Orange and U.S.-Vietnam Relations*, p. 23.

The Ongoing Struggle for Justice

Many Vietnamese Agent Orange victims and their advocates believe the perpetrator of the wrongdoing in question is not just the U.S. government but also American companies that produced the herbicide. As Tran Thi Hoan, a Vietnamese Agent Orange victim stated in her testimony to the U.S. Congress in 2010:

What do the victims need and want? We want those responsible for the terrible consequences of Agent Orange to hear our pain and then to respond as members of the human family. The chemical manufacturers who made the Agent Orange and the U.S. Government who sprayed and dumped it in our country should respond to this human tragedy by doing the right thing. This is a matter of justice and humanity.⁷¹

The online publication of VAVA has a *Đấu tranh đòi công lý* (struggle for justice) tab, in which updates on the organization's latest efforts in holding the U.S. government and companies accountable are detailed. This is the organization's primary mission and *raison d'être*. U.S.-sponsored dioxin remediation and assistance for persons with disabilities have not put an end to the quest for justice.

One of the drivers of the ongoing movement has been frustration over the different ways the United States treats Vietnamese and American victims. In 1979, American veterans sued Agent Orange producers for dioxin-related illness and secured a pretrial settlement of US \$180 million from the defendants.⁷² Twenty-five years later, in 2004, Vietnamese victims and the VAVA filed a class-action lawsuit against Monsanto, Dow Chemical, and other Agent Orange producers in the same court that heard the 1979 case. However, Vietnamese victims' compensation claims were dismissed by the judge on the grounds of insufficient scientific evidence. Subsequent appeals also failed. The ruling has allowed the companies in question to refuse compensation to Vietnamese victims.

The U.S. government has recognized the dioxin-related illnesses suffered by American war veterans but refused to do the same for those in Vietnam. Since 1991, under the Agent Orange Act, the United States has disbursed billions of dollars to compensate for American Agent Orange victims every year.⁷³ This stands in contrast with the meager US \$14.5 million annual funding for health and disability programs in Vietnam. Such

a conspicuous gap is not lost on Vietnam. Le Van Dang, the head of the VAVA chapter in Quang Tri province, said that the Vietnamese were keenly aware of the compensation made for American veterans and that it was "unfair to the people who suffer from disabilities caused by Agent Orange in Vietnam."⁷⁴ To the victims, this apparent double standard seriously undercuts the United States' avowed moral obligation.

There are two recent notable developments in the fight for justice. First, discussions on legal actions have gained new momentum following the latest decisions by U.S. courts on Monsanto's herbicides. From 2018 to 2019, there were two cases in which Monsanto was ordered to pay hundreds of millions of dollars to Americans who claimed the firm's products were responsible for their cancer illness.⁷⁵ These cases reminded the Vietnamese of their failed attempt to challenge U.S. chemical companies in court in 2004. While the products in question do not contain the dioxin made infamous by Agent Orange, many in Vietnam believe that these rulings reflect American courts' double standard and provide a new legal argument for the struggle for justice.

The second development concerns current legal actions by Tran To Nga, a 79-year-old former Vietnamese-French war correspondent. In 2014, she filed a lawsuit against U.S. Agent Orange manufacturers to the High Court of Ervy in Paris, accusing these firms of causing harm to her, her children, and countless other individuals. Nga was not interested in receiving compensation for herself but claimed to fight on behalf of all Vietnamese victims. Her quest for justice has sparked a wave of transnational solidarity and prompted renewed discourse on the Agent Orange legacy. Shortly after the trial commenced, activists used Twitter hashtags (#ForAOVictims, #JusticeForTranToNga) and organized a rally in Paris to garner international attention. The rally was mobilized by a French-based NGO called *Collectif Vietnam Dioxin*, whose primary goal is to obtain official recognition of and reparation for the effects of Agent Orange in Vietnam. The VAVA publicly backed her in Vietnam and collected more than 400,000 supporting signatures from its members and the victims' allies.⁷⁶ The Vietnamese government and civil society also welcomed the efforts of Nga and other victims in holding dioxin producers responsible. Commenting on Nga's lawsuit, Le Thi Thu Hang, foreign ministry spokesperson, said, "Vietnam

⁷¹ U.S. Congress, House of Representatives, Committee on Foreign Affairs, *Agent Orange in Vietnam: Recent Developments in Remediation, 111th Congress*, 2nd sess., July 2010,

<https://www.govinfo.gov/content/pkg/CHRG-111hhrg57498/html/CHRG-111hhrg57498.htm>

⁷² Le and Bailey, *From Enemies to Partners*, p. 133.

⁷³ The Aspen Institute. 2020. "Agent Orange and US Veterans." <https://www.aspeninstitute.org/programs/agent-orange-in-vietnam-program/agent-orange-and-u-s-veterans/>.

For details on the US Department of Veteran Affairs's disability compensation policy regarding Agent Orange exposure, see Veterans Affairs, "Agent Orange Exposure and VA Disability Compensation," accessed December 27, 2020, <https://www.va.gov/disability/eligibility/hazardous-materials-exposure/agent-orange/>.

⁷⁴ Schoenberger, Sonya. 2019. "Victims Left Behind in US Agent Orange Cleanup Efforts." *The Diplomat*. <https://thediplomat.com/2019/09/victims-left-behind-in-us-agent-orange-cleanup-efforts/>.

⁷⁵ Lynh, Khanh. 2019. "Vietnam Points to US Court Verdict, Demands Agent Orange Compensation from Monsanto." *VnExpress International*. <https://e.vnexpress.net/news/news/vietnam-points-to-us-court-verdict-demands-agent-orange-compensation-from-monsanto-3901631.html>.

⁷⁶ VAVA. 2021. "Thư Của Chủ Tịch Nguyễn Văn Rinh Gửi Bà Trần Tô Nga." Translated to "Letter from VAVA President Nguyen Van Rinh to Miss Tran To Nga." *Da Cam Việt Nam*. <https://vava.org.vn/tin-tuc-su-kien/thu-cua-chu-tich-nguyen-van-rinh-gui-ba-tran-to-nga-bay-to-su-ung-ho-nhan-viec-toa-an-evry-quyet-dinh-dua-ra-xet-xu-vu-kien-173.html>.

believes that these companies must assume responsibilities in mitigating the consequences of Agent Orange/dioxin in Vietnam.”⁷⁷ Nga’s victory would be a symbolic win for the victims, as it would have marked a win against U.S. chemical giants in an Agent Orange trial. However, as many had anticipated, in May 2021, the Evry Court dismissed the lawsuit, saying that it had no jurisdiction over cases concerning U.S. wartime actions.⁷⁸ But Nga was not discouraged. She has announced the intention to appeal the court’s decision and continue the ‘fight of her life.’

Nga’s lawsuit and Vietnamese bitterness over rulings on Monsanto indicate that, from the victims’ perspective, the United States is not doing enough in terms of material redress and symbolic recognition. In addition to increased funding for the health and disability programs, financial contributions from American producers of Agent Orange might assuage the pertinacious demand for a legal settlement. But the most difficult impediment to state-victim reconciliation, in this case, will still be the United States’ refusal to confront the facts about Agent Orange outrightly. Some experts have warned that “Vietnamese people’s generally positive attitude towards the United States could change for the worse if the U.S. government is perceived to be insensitive or intransigent about Agent Orange and its associated problems.”⁷⁹ If American leaders are serious about addressing this war legacy in the long run, they should strive to reach a shared understanding of the nature of dioxin toxicity and dioxin-related health effects, particularly severe physical and mental disabilities, with Vietnam. The United States should propose joint comprehensive research on this matter to develop a standard list of dioxin-linked diseases and conditions experienced by people on both sides. Third-party organizations and actors with relevant expertise and experience should also be invited to provide advice and mediation or be provided with grants to conduct the research themselves. Undoubtedly, overcoming sensitivities in this regard will not be easy, but the same was true for initial negotiations on Agent Orange cooperation two decades ago.

The U.S. government should also take more steps toward symbolic justice by engaging in direct dialogue and interacting with the victims and the VAVA. For example, American leaders can invite members of the VAVA to testify at congressional hearings or pay visits to persons with disabilities living in sprayed areas.

These gestures will reassure the victims of U.S. commitment and allow them to articulate their thoughts and feelings directly to American leaders. During Obama’s 2016 visit to Vietnam, campaigners urged him to meet the victims to offer symbolic redress, but this did not happen.⁸⁰ Joe Biden should be the first American president to fulfill this expectation. His administration champions the rights of persons with disabilities, and Biden understands what it is like to have a family member maimed by war chemicals. He believes that his late son, who served in Iraq, contracted cancer from exposure to burn pits.⁸¹

CONCLUSION

Discourse on U.S.-Vietnam post-war reconciliation has centered around how the two countries managed to move from “foes to friends”⁸² and “put the past behind and look ahead to the future.”⁸³ The U.S.-Vietnam partnership in addressing remnants of war, including Agent Orange consequences, epitomizes this overarching narrative. At first, the two sides were at odds over the actual damage of toxic herbicides in Vietnam and how to move forward on the issue. However, several turning points in 2006 and 2007 ended the impasse and convinced the United States to come to grips with the Agent Orange tragedy. Hatfield Consultants and the Ford Foundation played a significant role in raising the profile of dioxin hotspots and the health effects linked to dioxin. This led to a shared understanding of the impacts and what measures are required to mitigate them. Senator Patrick Leahy, Tim Rieser, and Ambassador Michael Marine were critical in making U.S.-funded Agent Orange assistance a reality at the state level. Since 2007, joint actions in dioxin decontamination and supporting persons with disabilities living in sprayed areas have constituted an important pillar in the strengthening of U.S.-Vietnam bilateral relations and defense ties. American provision of reparative justice so far has been largely welcomed and has made the war legacy less of a “significant ghost.”

“We have come a long way, and we have further to go.” These were the words of Senator Leahy in his 2019 remark on U.S.-Vietnam reconciliation at the U.S. Peace Institute.⁸⁴ Indeed, as the United States and Vietnam celebrate the remarkable transformation of official relations, the more difficult task of reconciling with individuals bearing the brunt of the Agent Orange legacy should not be overlooked. Positive changes can

⁷⁷ Nga, Minh. 2021. “Vietnam Backs Woman in International Trial against Dioxin Producers.” *VnExpress International*. <https://e.vnexpress.net/news/news/vietnam-backs-woman-in-international-trial-against-dioxin-producers-4231991.html>.

⁷⁸ Vidalon, Dominique. 2021. “French Court Rejects Claim for ‘Agent Orange’ Damage in Vietnam War.” *Reuters*. <https://www.reuters.com/world/asia-pacific/french-court-rejects-claim-agent-orange-lawsuit-2021-05-10/>.

⁷⁹ Martin, *Vietnamese Victims of Agent Orange*, p. 36.

⁸⁰ Rayner, Tom. 2016. “Obama Urged To Meet Agent Orange Victims.” *Sky News*, May 22, 2016, <https://news.sky.com/story/obama-urged-to-meet-agent-orange-victims-10290774>.

⁸¹ Copp, Tara. “Biden Suspects Toxic Exposure in Iraq Killed His Son. He Has a Plan for Ill Veterans.” 2020. *Military.com*. <https://www.military.com/daily-news/2020/11/12/biden-suspects-toxic-exposure-iraq-killed-his-son-he-has-plan-ill-veterans.html>.

⁸² Taylor, Adam. 2019. “Vietnam and America’s Surprising Turn from Foes to Friends,” *The Washington Post*. <https://www.washingtonpost.com/news/world-views/wp/2016/05/23/vietnam-and-americas-surprising-turn-from-foes-to-friends/>.

⁸³ Phuong, Thu. 2020. “Quan Hệ Việt Nam-Hoa Kỳ: Khép Lại Quá Khứ, Hướng Tới Tương Lai.” Translated to “Vietnam-US Relations: Putting the Past Behind and Looking Ahead to the Future.” *VietnamPlus*. <https://www.vietnamplus.vn/quan-he-viet-namhoa-ky-khep-lai-qua-khu-huong-toi-tuong-lai/651214.vnp>.

⁸⁴ 2019. “Guest Column: War Legacies And The Expanding U.S.-Vietnam Partnership.” *US Senator Patrick Leahy of Vermont*. <https://www.leahy.senate.gov/press/guest-column-war-legacies-and-the-expanding-us-vietnam-partnership>.

continue with a victim-centered approach, which calls for greater U.S. material and symbolic reparations. A perennial hurdle has been both sides' inability to reach a consensus on the facts about Agent Orange. Facing the truth squarely and fairly is the least leaders can do for the victims, including children with dioxin-related diseases and disabilities, whose plight reminds us that much more work needs to be done to put this ghost to rest once and for all.

5. Challenges and opportunities for U.S.-Vietnam security cooperation

By Laura A. Abbott

INTRODUCTION

U.S.-Vietnam relations have improved over the past 25 years with the removal of the U.S. arms embargo on Vietnam, increased diplomatic visits between Hanoi and Washington, and expanded bilateral maritime assistance. Meanwhile, Sino-Vietnamese relations are increasingly strained over Chinese territorial claims in the South China Sea — a shared security concern with the United States. There is potential for expanding strategic engagement between the United States and Vietnam in the coming decades, however, an expanded security partnership has three main obstacles that need to be addressed.

First, despite the current alignment of interests, the United States and Vietnam are not necessarily ‘natural allies.’ The Socialist Republic of Vietnam is a one-party, authoritarian state with a record of human rights violations — this poses a potential barrier to the congressional approval necessary to significantly expand U.S. security assistance. Second, while Hanoi attempts to defend its territorial and maritime claims in the South China Sea, the internal calculus of its response inevitably includes Vietnam’s geographic proximity to and economic dependence on China. This may severely limit its resolve to counter China. Third, Vietnam historically held a “Three Nos” security policy: no alliances, no forward basing in Vietnam, and no aligning with a second country against a third.¹ This is notwithstanding its 2019 Defense White Paper, in which Vietnam expresses openness to participating in security and defense mechanisms in the Indo-Pacific.² Vietnam’s nonalignment stance and historical emphasis on self-reliance raises doubts about a stronger partnership with the United States. In advancing the United States’ free and open Indo-Pacific (FOIP) strategy, Washington must assess how it intends to move the security relationship with Hanoi forward in light of human rights concerns, Vietnam’s relationship with China, and Vietnam’s nonalignment policy.

This paper analyzes these three obstacles to expanding U.S. security cooperation with Vietnam and explores Vietnam’s perspective on each of these topics. For every American restraint, there is a corresponding Vietnamese restraint that limits how fast and how far the bilateral defense relationship can grow. The paper concludes with recommendations for strengthening U.S.-Vietnam security relations by promoting mutual security interests and ensuring a free and open Indo-Pacific.

THE HUMAN RIGHTS DILEMMA

According to the Department of State’s 2019 Human Rights Report on Vietnam, the country’s major human rights violations constitute a significant list of unacceptable government behavior:

Unlawful or arbitrary killings by the government; forced disappearance; torture by government agents; arbitrary arrests and detentions by the government; political prisoners; significant problems with the independence of the judiciary; arbitrary or unlawful interference with privacy; the worst forms of restrictions on free expression, the press, and the internet, including arbitrary arrest and prosecution of government critics, censorship, site blocking, and criminal libel laws; substantial interference with the rights of peaceful assembly and freedom of association; significant restrictions on freedom of movement including exit

“There is potential for expanding strategic engagement between the United States and Vietnam in the coming decades, however, an expanded security partnership has three main obstacles that need to be addressed.”

bans on activists; restrictions on political participation; significant acts of corruption; outlawing of independent trade unions; trafficking in persons; and use of compulsory child labor.³

This litany of offenses has caused the U.S. Congress to reconsider extending military sales to Vietnam. Some members of Congress have even proposed sanctions. The proposed Vietnam Human Rights Sanctions Act of 2019, for example, stated that “... increased bilateral engagement between the United States and Vietnam, has not been matched by greater political freedom or substantial improvements in basic human rights for the people of Vietnam.”⁴ It further opined that “the relationship between the United States and Vietnam cannot progress while the record of the Government of Vietnam with respect to human rights and the rule of law continues to deteriorate.”⁵

Nonetheless, the United States has prioritized increased security cooperation with Vietnam over the country’s human rights record. This was demonstrated in the Obama administration’s decision to lift the U.S. ban on lethal weapon sales to Vietnam in 2016 and the steady increase in U.S.-funded capacity building initiatives to date. This marks a visible shift in policy. In 2014, lifting the ban on lethal weapon sales was still a matter of domestic debate in the United States. It required balancing national security interests in light of China’s increasingly assertive actions in the South China Sea with concerns about increasing

¹ Huong, Le Thu. 2018. “Vietnam’s Persistent Foreign Policy Dilemma: Caught between Self-Reliance and Proactive Integration.” *Asia Policy* 13, no. 4 : 126 DOI:10.2307/26533133.

² “2019 Viet Nam National Defence.” *Socialist Republic of Vietnam Ministry of Defence*. <http://mod.gov.vn/wps/wcm/connect/08963129-c9cf-4c86-9b5c-81a9e2b14455/2019VietnamNationalDefence.pdf?MOD=AJPERES&CACHEID=08963129-c9cf-4c86-9b5c-81a9e2b14455>.

³ U.S. Department of State. 2020. “Vietnam 2019 Human Rights Report.” <https://www.state.gov/wp-content/uploads/2020/03/VIETNAM-2019-HUMAN-RIGHTS-REPORT.pdf>.

⁴ Vietnam Human Rights Sanctions Act, S. 1369, 116th Cong. (2019), 2.

⁵ Ibid.

aid to Hanoi absent progress on political freedoms and human rights.⁶ The 2016 decision to lift the ban came at a time when the Obama administration was attempting to rebalance U.S. foreign policy towards Asia. Vietnam was a strategic partner in the region in need of improved maritime security.

Hanoi, however, is sensitive to discussions about its human rights record. This is driven in part by the Vietnamese Communist Party's (VCP) overriding concern for regime security and survival. A note on the webpage of the Vietnamese Embassy in Washington, D.C., exhibits this sensitivity. It emphasizes both Hanoi's willingness to "proactively participate in the common struggle for human rights" as well as its resolve to "... resolutely foil schemes and acts of distortion and abuse of issues of 'democracy,' 'human rights,' 'ethnicity' and 'religion' to interfere in our internal affairs and encroach upon Vietnam's independence, sovereignty, territorial integrity, security and political stability."⁷ The Vietnamese politburo seems to suspect that the United States' true intention is to topple the VCP through a process of "peaceful evolution."⁸ That fear is not completely unwarranted considering the U.S. foreign policy emphasis on spreading democracy and its historical legacy of promoting regime change.

U.S. concern over Vietnam's human rights record and Vietnam's wariness and reluctance to enter that conversation with the United States are not new developments. These barriers have long factored into the calculus of the relationship. However, they have not prevented security cooperation between the two countries, which has progressed significantly over the years.

With the normalization of diplomatic ties between Vietnam and the United States in 1995, both the U.S. and Vietnamese militaries initially adopted a conservative approach to the relationship focusing on easy-to-justify, non-sensitive military cooperation initiatives such as official visits, multilateral conferences, and activities such as demining, military medicine, and search and rescue.⁹ After eight years, relations warmed enough to allow a U.S. Navy port call to Vietnam in 2003.¹⁰ By 2017, the closeness of the bilateral relationship can be seen in the transfer of a U.S. Coast Guard (USCG) Hamilton-class cutter to Vietnam. Throughout the 25-year defense relationship, the United States and Vietnam have slowly, yet consistently, strengthened bilateral, diplomatic, and military relations. This has required many confidence-building activities and incremental expansion to build trust and understanding between the two countries.

The evolution of the U.S. approach to Vietnam is evident. The lifting of an arms embargo in 2016 is a signal of waning Congressional concern over human rights violations and issues of governance in Vietnam in relation to the increased alarm at Chinese actions in the South China Sea and renewed focus on ensuring a free and open Indo-Pacific. Even domestic opponents of expanding U.S. support for Vietnam recognize the strategic geopolitical importance of building Vietnam's maritime security capacity. A bill introduced in the House in 2019 recommended that the United States not sell Vietnam lethal defense articles unless it improves its human rights record. However, an exception was built in for the "...sale of such articles or services with respect to which the President determines is directly related to ensuring United States interests in the free and open navigation of the South China Sea."¹¹

The United States has not abandoned its commitment to human rights, however. U.S. security cooperation comes with built-in restrictions to ensure that the transfer of military equipment and training promotes a military culture focused on good governance and the protection of human rights. For example, although the Obama administration lifted the ban on lethal weapon sales to Vietnam, any application to export defense items, lethal or non-lethal, must still receive case-by-case approval from the Department of State's Directorate of Defense Trade Controls.¹² Additionally, depending on the type of military equipment, Vietnam would have to comply with regular end-use monitoring conducted by the United States. Moreover, U.S.-bound foreign military students and units receiving training or material support are vetted for gross human rights violations.¹³

In describing the "circumspect courtship" between the United States and Vietnam in the late 1990s and early 2000s, Lewis Stern recounts some of the initial hesitations of the Vietnamese to participate in the Leahy Vetting required to receive U.S. military training.¹⁴ Ultimately, Vietnam agreed to have training participants undergo this human rights vetting—a demonstration of a pragmatic approach to embracing the terms attached to U.S. security cooperation and evidence of the value that Vietnam places on U.S. military training and equipment.¹⁵ It is reasonable to assume then that, by 2017, with the transfer of the USCG Hamilton-class cutter, Vietnam agreed to U.S. requirements for receipt of Excess Defense Articles (EDA).

In summary, while human rights concerns factor into the U.S.-Vietnam relationship, both countries seem to have settled

⁶ Brown, David. 2014. "Vietnam's Pivot: How Hanoi Learned to Stop Worrying and Love the United States." *Foreign Affairs*. <https://www.foreignaffairs.com/articles/east-asia/2014-09-09/vietnams-pivot>.

⁷ "Foreign Policy." *Embassy of the Socialist Republic of Vietnam in the U.S.* <http://vietnambassya-usa.org/vietnam/foreign-policy>.

⁸ Manyin, Mark and Michael Martin. "U.S.-Vietnam Relations." *Congressional Research Service*. <https://fas.org/sgp/crs/row/IF10209.pdf>.

⁹ Stern, L.M. 2019. "U.S.-Vietnam Defense Relations: Deepening Ties, Adding Relevance." *Strategic Forum*. <https://www.files.ethz.ch/isn/121075/SF246.pdf>.

¹⁰ *Ibid.*, 1.

¹¹ Vietnam Human Rights Act, S. 1383, 116th Cong. (2019).

¹² Manyin and Martin, *U.S.-Vietnam Relations*, 2.

¹³ 2021. "Golden Sentry End-use Monitoring Program." Defense Security Cooperation Agency. <https://www.dsca.mil/golden-sentry-end-use-monitoring-program#:~:text=The%20Golden%20Sentry%20End%2DUse,agreement%20or%20other%20applicable%20agreement>.

¹⁴ Stern, "U.S.-Vietnam Defense Relations," 3.

¹⁵ *Ibid.*

on an uneasy compromise that allows for increased security cooperation. The United States has adopted a more permissive attitude over the years while Vietnam has grown to accept the checks-and-balances built into U.S. security cooperation. Ultimately, it is likely that both sides are preoccupied with issues they consider far more prejudicial to security cooperation. From the U.S. perspective, Hanoi's relationship with Beijing and Pyongyang or its approach to cybersecurity are problematic. On the Vietnamese side, concern over the impact that overt military cooperation beyond the historical U.S.-Vietnamese baseline could have on Sino-Vietnamese relations ensures that Hanoi remains consistently skittish.

THE SINO-VIETNAMESE RELATIONSHIP

Vietnam has a checkered relationship with China. Both countries are led by Communist party governments with similar world views and a historically close relationship. China is Vietnam's largest trading partner, geographic neighbor, and only "comprehensive strategic cooperative partner."¹⁶ However, tensions in the relationship do periodically flare up. In the 1980s, China shelled Vietnam on their shared border, isolated the country diplomatically, and supported the Khmer Rouge in its protracted war with Vietnam.¹⁷ More recently, China's pursuit of regional hegemony under President Xi Jinping has complicated Vietnam's historical posture of deference to Beijing.

China's "nine-dash line claim" in the South China Sea intrudes extensively into Vietnam's Exclusive Economic Zone (EEZ). Beijing bolsters this claim through aggressive actions that threaten Vietnam's sovereignty and maritime rights, notably targeting its offshore oil sector. In 2009 and 2012, Beijing successfully pressured BP and ConocoPhillips — oil companies with significant investments in China — into abandoning concessions in Vietnam's EEZ.¹⁸ In 2012, China's Offshore Oil Corporation (CNOOC) invited foreign companies to bid for rights to explore territory overlapping with Vietnam's EEZ.¹⁹ In May 2014, China deployed an oil drilling rig into Vietnam's EEZ which Hanoi protested via diplomatic overtures and which spurred anti-China protests in Vietnam.²⁰ In 2017, China again pressured Vietnam to revoke drilling rights to major oil companies in Vietnam's

EEZ — an estimated billion dollar loss to Vietnam.²¹ In 2020, China sank a Vietnamese fishing vessel in the contested maritime zone near the Paracel Islands.²² Shortly after this incident, Chinese Coast Guard vessels escorted a geological survey ship into Vietnam's EEZ and China announced administrative control over the disputed Spratly and Paracel Islands.²³

Despite these aggressive actions, Vietnam maintains a policy of "cooperating and struggling," dealing with tensions while allowing other aspects of the bilateral relationship with China to remain cordial.²⁴ On April 21, 2020, despite a series of South China Sea conflicts just days before, Vietnam proceeded with joint coast guard patrols with China in the Gulf of Tonkin.²⁵ While Vietnam has taken legal steps to counter China's claims over the Spratly and Paracel Islands, for instance by submitting a *Note Verbale* to the United Nations Security Council protesting China's claims, it has not taken direct action to deter China and has so far refrained from initiating an arbitration case.²⁶

The mercurial relationship between Hanoi and Beijing also touches upon domestic Vietnamese politics. Vietnamese conservatives, known as anti-imperialists, are intent on maintaining VCP regime security and thus keen on ensuring that China remains a strategic ally. They are also more likely to view U.S. efforts with suspicion. The reformer integrationists, however, view China more as a threat for its size, proximity, and aggression in territorial disputes. Many see the VCP's survival as contingent on Chinese support.²⁷ Meanwhile, a significant portion of the population, driven by historical wariness and recent Chinese aggression, maintains anti-China sentiment. This creates a fine line for the VCP to tread as it seeks to maintain its relationship with Beijing while remaining sensitive to public opinion in Vietnam.

Vietnam's fear of a repeat of the Sino-Vietnamese War weighs heavily on the strategic calculus of how to deal with disputes that arise between the two countries. A peaceful and stable relationship with China would promote regional stability and not divert Vietnam's attention away from internal development and growth.²⁸ Although China's actions in the South China Sea have increased Vietnamese cooperation with the United States, Hanoi regularly factors in Chinese perceptions

¹⁶ Grossman, Derek. 2020. "Reviewing China's 'Struggle' Options in the South China Sea." *The Rand Blog*. <https://www.rand.org/blog/2020/05/reviewing-vietnams-struggle-options-in-the-south-china.html>.

¹⁷ Le, Hong Hiep. 2012. "Vietnam's Strategic Trajectory." *Strategic Insights*. https://www.files.ethz.ch/isn/161731/SI59_Vietnam.pdf.

¹⁸ Brown. "Vietnam's Pivot: Reviewing China's 'Struggle' Options in the South China Sea."

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ Hayton, Bill. 2020. "China's Pressure Costs Vietnam \$1 Billion in the South China Sea." *The Diplomat*. <https://thediplomat.com/2020/07/chinas-pressure-costs-vietnam-1-billion-in-the-south-china-sea/>.

²² Grossman. "Reviewing China's 'Struggle' Options in the South China Sea."

²³ Brown. "Vietnam's Pivot: Reviewing China's 'Struggle' Options in the South China Sea."

²⁴ Huong, Le Thu. 2020. "Rough Waters Ahead for Vietnam-China Relations." *Carnegie Endowment for International Peace*. <https://carnegieendowment.org/2020/09/30/rough-waters-ahead-for-vietnam-china-relations-pub-82826>.

²⁵ Grossman, "Reviewing China's 'Struggle' Options in the South China Sea."

²⁶ *Ibid.*

²⁷ Dosch, Jorn and Alexander Vuving. 2008. "The Impact of China on Governance Structures in Vietnam." *German Development Institute Discussion Paper*. https://www.die-gdi.de/uploads/media/DP_14.2008.pdf.

²⁸ Le, "Vietnam's Strategic Trajectory," 6.

before undertaking any overt foreign policy moves, especially those involving the United States.²⁹ In 2012, Le Thu Huong predicted that “Vietnam will continue to pursue a policy of walking the line between China and the United States.³⁰ It will consider its relationship with the two great powers as part of its overall strategy of ‘diversifying and multilateralizing’ its foreign relations for the sake of domestic development.”³¹

“Nonetheless, if a red line does exist for Vietnam regarding Chinese behavior in the South China Sea, it would have presumably already been crossed...”

To date, that has largely been an accurate assessment of the Vietnamese position.

Vietnam could conceivably take a number of steps to increase the costs on China for its aggressive behavior in the South China Sea.³² As identified by Derek Grossman, an analyst at the American global policy think tank the RAND Corporation, these include bringing the matter before an international tribunal, downgrading the partnership with China, responding militarily as Indonesia did in the Natuna Islands in December 2019, using its membership and influence in ASEAN to shape the South China Sea Code of Conduct, increasing security cooperation with the United States, or participating in multilateral exercises in the South China Sea with the Quadrilateral Security Dialogue (Quad) or other partners.³³ However, many of these actions run counter to Vietnam’s penchant for ensuring autonomy and continued domestic development by maintaining regional stability at all costs. Vietnam’s refusal to increase costs on China aligns with its defense policy as outlined in its 2019 Defense White Paper:

Viet Nam’s national defence policy is peaceful and self-defensive in nature. Viet Nam resolutely and consistently settles all disputes and divergences through peaceful means on the basis of international law, actively and proactively prevents and repulses the risks of war, realises the motto of defending the Homeland from afar, and is prepared to fight against wars of aggression. Viet Nam consistently advocates neither joining any military alliances, siding with one country against another, giving any other countries permission to set up military bases or use its territory to carry out military activities against other countries nor using force or threatening to use force in international relations.³⁴

Vietnam’s 2019 Defense White Paper included a caveat

that may provide an opening for change in the Sino-Vietnamese relationship to the benefit of the United States:

Depending on circumstances and specific conditions, Viet Nam will consider developing necessary, appropriate defence and military relations with other countries on the basis of respecting each other’s independence, sovereignty, territorial unity and integrity as well as fundamental principles of international law, cooperation for mutual benefits and common interests of the region and international community.³⁵

Nonetheless, if a red line does exist for Vietnam regarding Chinese behavior in the South China Sea, it would have presumably already been crossed given Chinese militarization of islands in disputed territory, harassment of Vietnamese fishing vessels and oil rigs, and bullying of investors in Vietnam’s EEZ. This close, restrained, and non-confrontational relationship with China raises the question of whether Vietnam can engage in a robust defense relationship with the United States, inevitably requiring that it take a much harder stance on China. That same 2019 Defense White Paper added a fourth ‘no’ to Vietnam’s legacy “Three Nos” policy: no use of force in international relations. This likely further fueled existing U.S. skepticism of the claim that Vietnam is a regional partner in the mission to temper Chinese aggression in the South China Sea.

Perhaps other less-discussed Chinese security threats, such as Chinese control of water flow to the Mekong region from the Mekong-Lancang headwaters or Chinese military projection to the Gulf of Thailand, could become red line issues for Hanoi.³⁶ However, notwithstanding the fact that Vietnam’s geography makes it a de facto obstacle to Chinese maritime expansion, the question of whether change can be expected in Sino-Vietnamese relations may remain open if Vietnam is unwilling to use force or overtly align against China. Short of a significant increase in Chinese aggression forcing Hanoi to break with the status quo, it is likely that Vietnam will maintain its historical response to Chinese aggression, hindering the security relationship with the United States.

NONALIGNMENT AND MULTIDIRECTIONAL FOREIGN POLICY

Related to yet distinct from the issue of Vietnam’s close relationship with China is its nonalignment stance, best encapsulated in its legacy “Three Nos” policy of “neither joining any military alliances, siding with one country against another,

²⁹ Manyin and Martin, *U.S.-Vietnam Relations*, 1.

³⁰ Le, “Vietnam’s Strategic Trajectory,” 8-9.

³¹ *Ibid.*

³² Grossman, “Reviewing China’s ‘Struggle’ Options in the South China Sea.”

³³ *Ibid.*

³⁴ Socialist Republic of Vietnam Ministry of Defence. “2019 Viet Nam National Defence.”

³⁵ *Ibid.*

³⁶ This idea originated from an email correspondence with Derek Grossman, Senior Defense Analyst, RAND, on 8 April 2021; Walter Lohman, “Vietnam’s Place in the U.S.-China Great Power Competition,” *Geopolitical Intelligence Services*, September 25, 2020, <https://www.gisreportsonline.com/vietnams-place-in-the-us-china-great-power-competition,defense,3317.html>.

[nor] giving any other countries permission to set up military bases or use its territory to carry out military activities against other countries.”³⁷

The “Three Nos” policy may have originated as a means by which Hanoi could provide assurance to Beijing that it did not pose a threat to Chinese security and national interests.³⁸ However, the first ‘no’ does not imply that Vietnam cannot enter into defense relationships with other countries—on the contrary, Vietnam maintains numerous such relations at various levels of cooperation. Rather, Vietnam’s nonalignment policy in practice appears specifically targeted at avoiding the great power competition unfolding between China and the United States.

Vietnamese supporters of nonalignment believe that Vietnam has more to gain from neutrality than siding with the United States and raising China’s ire.³⁹ Therefore, rather than characterizing it as solely a stance of nonalignment, some scholars propose that it is more helpful to view Vietnam’s foreign policy as multidirectional or a form of proactive integration.⁴⁰ That is, Vietnam seeks numerous defense relationships at varying levels of engagement to prevent appearances of siding with one superpower or one middle power over another.

This foreign policy has its roots in the 1986 VCP *Doi Moi* reforms enacted to reverse the country’s international isolation and address its dire economic situation.⁴¹ Under this policy, the VCP sought to ensure peaceful relations with other nations to gain access to foreign resources, technology, and financial markets. In that spirit, the VCP announced its “friend-to-all” foreign policy in 1991, normalizing relations with China and the United States in 1991 and 1995 respectively. Since then, Vietnam has succeeded in diversifying its membership to several multilateral fora, including ASEAN and the World Trade Organization, and has established diplomatic relations with 172 nations.⁴² Vietnam extends this same strategy of diversification to its defense relations.

This predilection for multilateral engagement is demonstrated in how Vietnam addresses maritime disputes with China and how Vietnam rallies the United States to its cause. Rather than attempting to resolve conflict with China through direct, bilateral means, Hanoi hedges by choosing to address the South China Sea disputes through multilateral fora such as ASEAN.⁴³ Unfortunately, ASEAN is severely constrained on the South China Sea issue because of its consensus-based decision-making. Additionally, ASEAN efforts to send a unified message to China

are undermined by individual Southeast Asian states competing in brokering better bilateral deals with China.

While Vietnam tries to deal with China multilaterally, it also extends the same strategy to the United States. Vietnam has encouraged U.S. engagement with ASEAN to counter China on South China Sea disputes. Essentially, trying to move U.S. policy focus from the bilateral relationship to a multilateral forum that would be harder for China to peg the blame on Vietnam for initiating. From Lewis Stern’s experience with Vietnam in the early 2000s, he recalls that “Hanoi also made the case that the United States should take a higher profile position on South China Sea issues, perhaps moving out in front of an ASEAN consensus (if one could ever be developed) by cautioning China of the potential political consequences of continuing its trajectory on this issue in the face of a united ASEAN,” essentially trying to use U.S. interactions with ASEAN as an amplifier for its China concerns.⁴⁴

To the United States, Vietnam’s multilateral approach to China is vexing. The United States would like to see Vietnam stand up directly to China’s aggressive behavior in the South China Sea but that may not be a fair expectation considering Vietnam’s geographic proximity and economic dependence on China. Additionally, with the recently declassified “U.S. Strategic Framework for the Indo-Pacific,” we can identify the United States’ desired end state with Vietnam at least as of 2020. One, that Vietnam would see the United States as its preferred partner over China. Two, that Vietnam would uphold principles that contribute to regional prosperity and stability, including sovereignty, freedom of navigation and overflight, standards of trade and investment, respect for individual rights and rule of law, and transparency in military activities. Three, that regional disputes be resolved lawfully and without coercion. Four, that Vietnam would strengthen its economic and security ties with other Southeast Asian countries, especially in regard to strengthening ASEAN to uphold the principles previously listed and to work closely with the United States and allies.⁴⁵

By analyzing these desired aims with the limits we have discussed in this paper, we can see that some of these are problematic and some are shared objectives for Vietnam and the United States. For the first desired end state, that Vietnam would see the United States as its preferred partner, this paper’s discussion of the Sino-Vietnamese relationship and Vietnam’s preference for multilateral engagement directly applies. Viet-

³⁷ Socialist Republic of Vietnam Ministry of Defence, “2019 Viet Nam National Defence,” 23.

³⁸ Huong, “Rough Waters Ahead for Vietnam-China Relations.”

³⁹ Chapman, Nicholas. 2012. “Mechanisms of Vietnam’s Multidirectional Foreign Policy,” *Journal of Current Southeast Asian Affairs*. Volume 36, no. 2, 32. <https://journals.sagepub.com/doi/pdf/10.1177/186810341703600202>.

⁴⁰ *Ibid.*

⁴¹ Chapman, Nicholas. 2012. “Mechanisms of Vietnam’s Multidirectional Foreign Policy,” *Journal of Current Southeast Asian Affairs*. Volume 36, no. 2, 32. <https://journals.sagepub.com/doi/pdf/10.1177/186810341703600202>.

⁴² Le, “Vietnam’s Strategic Trajectory,” 3.

⁴³ Le, “Vietnam’s Strategic Trajectory,” 5.

⁴⁴ *Ibid.*

⁴⁵ 2021. “U.S. Strategic Framework for the Indo-Pacific.” Trump White House. <https://trumpwhitehouse.archives.gov/wp-content/uploads/2021/01/IPS-Final-Declass.pdf>

nam's preferred foreign policy stance would be the appearance of neutrality between the United States and China. The United States pressuring Vietnam to pick sides will not be a productive use of diplomatic resources and could reverse some progress made to date in the defense relationship. Instead, an end state in which Vietnam aligns overtly with the United States against China will only come from China's own doing by adopting an overly threatening stance towards Vietnam.

For the second desired end state, there is certainly consensus between Vietnam and the United States that ensuring regional prosperity and stability is important, and both parties can agree to the need for upholding sovereignty and freedom of navigation and overflight in the South China Sea. However, there may be reservations on the Vietnamese side that U.S. emphasis on "standards of trade and investment, respect for individual rights and rule of law, and transparency in military activities" could be construed as attacks on Vietnam's autonomy or cause fears regarding peaceful evolution. Nor does it seem probable that Vietnam will forcefully defend its sovereignty against China. For the third and fourth end state, the United States and Vietnam equally support promoting regional stability, peace and commitment to the centrality of ASEAN.

Although Vietnam may consistently steer conflict resolution to multilateral forums and avoid direct conflict with China, there are still benefits to the United States for enabling Vietnam to defend its maritime domain. Increasing security cooperation between Vietnam and the United States builds greater trust, prepares both sides for working together during regional disasters and conflicts, and equips Vietnam to better monitor and secure its territorial waters.

CONCLUSIONS

The constraints that have shaped the U.S.-Vietnam defense relationship have remained largely constant. U.S. reluctance in assisting a regime with a questionable human rights record is matched with Vietnam's fear that the United States seeks regime change. U.S. concern about Vietnam's relationship with China is matched by Vietnam's instinct to maintain an amicable relationship with China or risk backlash from Beijing. Vietnam's commitment to a hedging strategy of nonalignment that focuses on multidirectional engagements — rather than overtly committing to sides in the great power competition unfolding in its backyard — conflicts with the U.S. desire to be seen as the preferred partner in the region.

An understanding of these long-standing trends is critical to crafting successful policies that achieve the deeper relationship with Vietnam that the Biden administration envisions in its Interim National Security Strategic Guidance.⁴⁶ To that end, a few policy recommendations could be surmised. Knowing Hanoi's continued commitment to its nonalignment stance,

the United States would be wise not to pressure Vietnam into taking sides. Instead, it should allow the positive trajectory of the bilateral defense relationship to grow at a pace that Hanoi is comfortable with.

Recognizing Vietnam's concerns with sovereignty and the VCP's suspicions of U.S. motives, the United States should focus on what role it can play in the Indo-Pacific to empower Vietnam to assert its sovereignty and legitimate rights and interests in the South China Sea. This could include shifting military resources to Asia, providing foreign military financing to frontline states like Vietnam, continuing freedom of navigation operations, supporting judicial settlements for maritime and territorial disputes, and enhancing ASEAN's strategic autonomy.

The United States should also exploit opportunities presented by fundamental shifts in historical dynamics. The developing geopolitical situation in the South China Sea gives the United States and Vietnam greater overlap in national security concerns centered on Chinese aggression. Maritime security capacity building is a key area of growth for U.S.-Vietnam cooperation. Although it remains unproven that Vietnam will independently and militarily confront Chinese bullying in the South China Sea, the United States could take a two-pronged approach such as incrementally building up Vietnam's maritime security resources through security cooperation efforts while also increasing freedom of navigation operations and multilateral exercises in the South China Sea.

The U.S.-Vietnam security relationship, starting with less-sensitive security cooperation and humanitarian assistance in the 1990s and evolving to high-impact transfer of U.S. Coast Guard vessels in 2017 and 2021, has been heading in the right direction. It can continue to do so as long as the United States pursues modest and incremental growth in its defense relationship with Vietnam and maintains realistic expectations for how Vietnam will interact with China.

⁴⁶ 2021. "Interim National Security Strategic Guidance." *The White House*. <https://www.whitehouse.gov/wp-content/uploads/2021/03/NSC-1v2.pdf>.

6. U.S.-Vietnam partnership in the post-COVID era: A recalibration towards intra- ASEAN integration

By Hanh Nguyen

INTRODUCTION

Forty-five years after the end of the Vietnam War, U.S.-Vietnam relations have been transformed into a growing and sustained partnership. United by shared concerns over China's rise and its implications for regional order, Vietnam and the United States have accelerated cooperation in multiple fields, from addressing lingering war legacy issues and trade tensions to boosting defense partnerships. The relationship is likely to continue on an upward trajectory as China doubles down on its assertive foreign policy.

Nonetheless, the road towards a robust partnership will be bumpy, lined with several major obstacles. Aside from recent trade frictions, U.S.-Vietnam relations will have to confront institutional constraints.

The shadow of China, Vietnam's most critical economic and political partner, looms over Vietnam's foreign policy. Divergences in political ideology and system serve as another barrier to a robust partnership based on shared values.

Finally, U.S. commitment to the region, often sporadic and inconsistent, raises concerns about the credibility of its engagement, which became more pronounced during the Trump administration. However, the impact of the COVID-19 pandemic on the regional security environment provides unique opportunities to further advance U.S.-Vietnam partnership by recalibrating cooperation towards strengthening ASEAN and the strategic autonomy of Southeast Asian states. This new direction towards a multilateral framework serves to anchor the U.S.' presence in the region in a direction that all ASEAN states, including Vietnam, prefer, by giving them an alternative to China's rising influence in the region but doesn't force them to take sides in a great competition for power.

OVERVIEW OF U.S.-VIETNAM RELATIONS

After the end of the Vietnam War in 1975, U.S.-Vietnam relations remained frosty with Washington imposing a trade embargo against Hanoi.¹ Relations started to thaw due to cooperation on war legacy issues, particularly on returning the remains of American Prisoners of War/Missing in Action (POW/MIA). Moreover, in the 1980s, Vietnam faced a grave

crisis because of economic mismanagement and strict central planning, further exacerbated by diplomatic isolation brought about by its military adventurism in Cambodia, and decreased support from the crisis-stricken Soviet Union.² These factors posed a threat to the survival of the Vietnamese Communist Party (VCP), prompting it to find a way to end diplomatic isolation and facilitate economic development through reforms and improving relations with neighboring countries and major powers.³ At the sixth Party Congress in 1986, the VCP launched the so-called *Doi Moi* reform (English: "Renovation"). The transformation in strategic thinking and foreign policy direction precipitated Vietnam's efforts to reach out to other countries beyond the communist bloc and develop bilateral relations with major powers, including the United States.

After the lifting of trade sanctions in 1994, Vietnam and the United States officially normalized bilateral relations in 1995.⁴ After the conclusion of the U.S.-Vietnam Bilateral Trade

Agreement in 2001 and Vietnam's accession to the World Trade Organization (WTO) in 2007, trade and investments became the central focus in bilateral cooperation. The United States quickly became Vietnam's most important export market with export volume rising to a record of US \$69.34 billion in 2019.⁵ However, bilateral economic ties remained imbalanced as Vietnam enjoyed a trade surplus of US \$47 billion in 2019.⁶ Furthermore, the United States is also an important investor in Vietnam. U.S. investments totaled US \$2.6 billion in 2019.⁷

Diplomatic ties were strengthened with high-level visits and dialogues. The last four U.S. presidents visited Vietnam during their terms. At the same time, Vietnam's senior leaders also made high-profile trips to Washington D.C., including the historical visit by VCP's General Secretary Nguyen Phu Trong in 2015. The two countries also established several annual Track One dialogue mechanisms, such as the prominent Vietnam-U.S. Political, Security and Defense Dialogue.

Furthermore, Vietnam has actively cooperated with the United States in addressing regional challenges. For instance, Hanoi and Washington are active proponents of the Lower Mekong Initiative.⁸ Under the Trump administration, the level

“Vietnam is accordingly inclined to see China as a source of both insecurity and prosperity.”

¹ Albert, Eleanor. 2019. "The Evolution of U.S.-Vietnam Ties." *Council on Foreign Relations*. <https://www.cfr.org/background/evolution-us-vietnam-ties>.

² Abuza, Zachary. 2002. "The Lessons of Le Kha Phieu: Changing Rules in Vietnamese politics." *Contemporary Southeast Asia* 24, no. 1: 127. DOI: 10.1355/CS24-1H.

³ Hiep, Le Hong. 2012. "Performance-based Legitimacy: The Case of the Communist Party of Vietnam and Doi Moi." *Contemporary Southeast Asia* 24, no. 2: 158., DOI: 10.1355/cs34-2a.

⁴ Hiebert, Murray, Phuong Nguyen and Gregory Poling. 2014. "A New Era in U.S.-Vietnam Relations: Deepening ties two decades after normalization." *Center for Strategic and International Studies*. https://cis-website-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/publication/140609_Hiebert_USVietnamRelations_Web.pdf.

⁵ Ministry of Industry and Trade. 2019. "Report on Vietnam's Imports and Exports in 2019." *Hanoi: Industry and Trade Publisher*. https://conghuong.vn/stores/customer_file/phuonglan/042020/24/Noi_dung_sach_Bao_cao_XNK_2019.pdf.

⁶ Furman, Jason. 2020. "Branding Vietnam a 'currency manipulator' epitomizes what's wrong with the concept." *Peterson Institute for International Economics*. <https://www.piie.com/blogs/realtime-economic-issues-watch/branding-vietnam-currency-manipulator-epitomizes-whats-wrong>.

⁷ Office of the United States Trade Representative. "Countries & Regions: Vietnam." <https://ustr.gov/countries-regions/southeast-asia-pacific/vietnam#:~:text=U.S.%20goods%20and%20services%20trade,was%20%2454.5%20billion%20in%202019.>

⁸ U.S. Embassy in Vietnam. 2019. "Strengthening the U.S.-Mekong Partnership." <https://vn.usembassy.gov/strengthening-the-u-s-mekong-partnership/>.

of exchanges intensified with a flurry of visits from U.S. senior officials and talks about elevating bilateral relations from a comprehensive to a strategic partnership.⁹

By contrast, the development of military ties was cautious, with cooperation limited within high-ranking visits, policy dialogues and cooperation in non-controversial areas.¹⁰

challenges are deep-seated issues, rooted in each country's political ideology, proximity to and strategic interests with China.

First, Vietnam and the United States hold divergent perceptions about China and its role in the region.¹⁶ American national interest has been premised on preventing any power from establishing exclusive hegemonic control over Asia and the

“China’s efforts to constrain ASEAN’s ability to collectively deal with security challenges, such as the South China Sea disputes, also alarmed both countries.”

Nevertheless, bilateral security cooperation continued to expand and has even accelerated since 2014 because of China's assertiveness in the South China Sea.¹¹ The United States also assisted Vietnam in bolstering its maritime domain awareness and maritime law enforcement capacity in equipment transfer and maritime defense assistance.¹² Vietnam was invited to participate in the Rim of Pacific (RIMPAC) exercise, the world's largest maritime exercise, in 2018 and 2020. Despite limits imposed by Vietnam's concerns over China's reactions, U.S.-Vietnam defense cooperation is likely to continue its upward trajectory.

INSTITUTIONAL CONSTRAINTS ON COOPERATION

Vietnam and the United States are currently comprehensive partners, seen as beneath “strategic partnership” and “comprehensive strategic partnership” in Vietnam's lexicon of foreign affairs terminology. However, these designations do not necessarily correspond to the degree of cooperation.¹³ Even though China is granted the title “comprehensive strategic cooperative partner,” the highest in Vietnam's diplomatic relations, bilateral cooperation in defense and security remains circumscribed.¹⁴ By contrast, the comprehensiveness of U.S.-Vietnam cooperation suggests that diplomatic ties are at least at the level of strategic partnership.¹⁵ Nevertheless, formidable obstacles continue to limit interactions between Vietnam and the United States. These

Pacific, thus ensuring that the Pacific Ocean remains a conduit for American goods and ideas to flow freely, not for threats to flow eastward to the homeland.¹⁷ China's rise as a potential regional hegemon poses a danger for the United States because China is a peer competitor that can end U.S. primacy and threaten U.S. security interests in the region. The United States initially sought to manage risks by pursuing a mix of balancing and engagement policies to dispel security uncertainties and integrate China into the U.S.-led international system.¹⁸ However, as China's conduct under President Xi Jinping has become more assertive, a new consensus emerged in Washington. China is now regarded as a competitor and the era of ‘blind engagement’ with China seems to be over.¹⁹ Consequently, U.S. strategy *vis-à-vis* China has gradually evolved towards competition and containment.

Vietnam's perception of China, by contrast, is more ambivalent. Vietnam has a remarkably high threat perception of China, shaped by its historical interactions with its northern neighbor and its unique position of facing Chinese threats coming from both the mainland (water management along the Mekong River) and the maritime domain (the South China Sea disputes).²⁰ At the same time, China played an outsized role in Vietnam's culture, national identity, and economic development.²¹ Both countries share the same political ideology and system, which leads to a mutual interest in strengthening

⁹ Jennings, Ralph. 2020. “High level U.S. visits to Asia seen as locking in Trump's tough China policy.” *Voice of America*. <https://www.voanews.com/east-asia-pacific/high-level-us-visit-asia-seen-locking-trumps-tough-china-policy>.

¹⁰ Cam Tu, Dang and Nguyen Thi Thuy Hang. 2019. “Understanding U.S.-Vietnam security relationship, 2011-2017.” *The Korean Journal of Defense Analysis* 31, no. 1: 123. DOI: 10.22883/kjda.2019.31.1.007.

¹¹ Hiep, Le Hong. 2020. “The Vietnam-U.S. security partnership and the rules-based international order in the age of Trump.” *Trends in Southeast Asia*, no. 1: 8. https://www.iseas.edu.sg/wp-content/uploads/pdfs/TRS1_20.pdf.

¹² U.S. Department of State. 2020. “U.S. security cooperation with Vietnam.” <https://www.state.gov/u-s-security-cooperation-with-vietnam-2/>.

¹³ Anonymous Source, who is a Vietnamese expert on Vietnam's relations with China and the U.S., personal interview by author. 2019.

¹⁴ Grossman, Derek. 2020. “Regional responses to U.S.-China competition in the Indo-Pacific: Vietnam.” RAND Corporation. <https://doi.org/10.7249/RR4412.6>.

¹⁵ Nguyen, Hanh. 2020. “The emerging U.S.-Vietnam partnership: Function over formality.” *9DashLine*. <https://www.9dashline.com/article/the-emerging-us-vietnam-partnership-function-over-formality>.

¹⁶ Tuan, Hoang Anh and Do Thi Thuy. 2016. “U.S.-Vietnam security cooperation: Catalysts and constraints.” *Asian Politics & Policy* 8, no. 1: 188. DOI:10.1111/aspp.12229.

¹⁷ Green, Michael. 2017. “By More Than Providence: Grand Strategy and American Power in the Asia Pacific Since 1783.” *Columbia University Press*.

¹⁸ Medeiros, Evan. 2005. “Strategic hedging and the future of Asia-Pacific stability.” *The Washington Quarterly* 29, no. 1: 147. DOI: 10.1162/016366005774859724.

¹⁹ Westad, Odd Arne. 2019. “The Sources of Chinese Conduct: Are Washington and Beijing fighting a new Cold War?” *Foreign Affairs*. <https://www.foreignaffairs.com/articles/china/2019-08-12/sources-chinese-conduct>.

²⁰ Womack, Brantly. 2006. “China and Vietnam: The politics of asymmetry.” *Cambridge University Press*.

²¹ French, Howard. 2017. “Everything under the Heavens: How the past helps shape China's push for global power.”

their respective regimes. Vietnam is accordingly inclined to see China as a source of both insecurity and prosperity.²² This explains Vietnam's strategy of hedging *vis-à-vis* China. Mindful of geographical proximity, trade dependency and power asymmetry, Hanoi nurtures robust commercial and diplomatic ties with Beijing, while also forging security and defense cooperation with other major powers.²³ This hedging strategy allows Vietnam to maintain good relations with China despite simmering tensions in the South China Sea.²⁴

The divergence of perceptions and strategy with China points to a potential mismatch in expectations. As the United States increasingly considers Vietnam a rising security partner in its Indo-Pacific Strategy to counter China, it might want Vietnam to publicly take sides, such as through participation in security cooperation mechanisms that explicitly or

“The United States has emphasized the importance of private sector participation, something that differentiates the U.S. approach from that of China, which is state-led, unsustainable and often prone to corruption.”

implicitly target China. However, as signified by Vietnam's cancellation of 15 defense engagements with the United States in 2019, Hanoi will hesitate at any security engagement with an overtly anti-China tone.²⁵ Vietnam prefers its balancing approach between China and the United States in a security environment characterized by great power competition and uncertainty. Vietnamese leaders want the United States to diversify its regional engagements, for instance, by offering credible incentives in non-military areas to meet Vietnam's urgent needs and priorities. Such actions will go much further in strengthening bilateral relations.²⁶

The second barrier is the low level of trust on the Vietnamese side about U.S. intentions, which relates to both countries' varying political ideologies and systems. As the United States is a democracy with a robust belief in liberal

values and individual rights while Vietnam is a communist one-party state, the two nations naturally hold contrasting views on various issues, among which human rights is the most prominent. Vietnam's records on human rights have become a frequent target of criticisms from U.S. congressional members, bolstered by grassroots activities by the Vietnamese-American community.²⁷ However, this issue has become less pronounced under the Trump administration.²⁸

Furthermore, Vietnam's deepening ties with the United States do not always generate enthusiasm within the party. The conservative segment of VCP is more wary of U.S.-Vietnam ties deepening too quickly as they consider past and current U.S. efforts to promote human rights and democracy a grave risk for the party.²⁹ This view is a legacy of the Vietnam War, and U.S. criticisms of Vietnam's human rights record further fuel this suspicion.

While this mistrust will not be eliminated, it has become less pronounced lately. In this regard, China plays an important role in reducing mistrust. Notably, China's assertive posture in the region, especially in the South China Sea, has emphasized the convergence of interests between Vietnam and the United States — preventing China from establishing effective control over the entire South China Sea. China's efforts to constrain ASEAN's ability to collectively deal with security challenges, such as the South China Sea disputes, also alarmed both countries.³⁰ Finally, security implications from China-led infrastructure investment in mainland Southeast Asia also encouraged Vietnam to look for alternative partners.³¹ Simultaneously, mutual trust was bolstered by other factors, such as Vietnamese society's favorable view of the United States, and the remarkable attraction of U.S. soft power among Vietnamese youth.³² Cooperation in wide-ranging domains, from addressing war legacy to promoting cultural exchanges, also fosters mutual understanding.

Finally, U.S. engagements in the region, often sporadic and distracted, raised concerns among regional states, including

²² Strangio, Sebastian. 2020. “In the Dragon's Shadow: Southeast Asia in the Chinese century.” *Yale University Press*.

²³ Hiep, Le Hong. “The Vietnam-US security partnership and the rules-based international order in the age of Trump.”

²⁴ Grossman, Derek. “Regional responses to US-China competition in the Indo-Pacific: Vietnam.”

²⁵ Hiep, Le Hong. 2018. “Why did Vietnam cancel its defense engagement with the U.S.?” *ISEAS Yusof Ishak Institute*. <https://www.iseas.edu.sg/media/commentaries/why-did-vietnam-cancel-its-defence-engagements-with-the-us-by-le-hong-hiep/>.

²⁶ Nguyen, Hanh. 2020. “What will Vietnam look for from the next U.S. administration?” *The Diplomat*. <https://thediplomat.com/2020/10/what-will-vietnam-look-for-from-the-next-u-s-administration/>.

²⁷ Collet, Christian. 2018. “Vietnamese Americans and the Socialist Republic of Vietnam: The Grassroots Lobby Takes on the Corporatized State.” *State University of New York Press*.

²⁸ Editorial Board. 2017. “The Trump administration fails to call out Vietnam on its dismal human rights record.” *The Washington Post*. https://www.washingtonpost.com/opinions/global-opinions/the-trump-administration-fails-to-call-out-vietnam-on-its-dismal-human-rights-record/2017/06/22/fc7a316e-574e-11e7-b38e-35fd8e0c288f_story.html.

²⁹ Hai, Do Thanh. 2017. “Vietnam and the South China Sea: Politics, security and legality.” *Routledge*.

³⁰ Le Thu, Huong. 2019. “China's Dual Strategy of Coercion and Inducement Towards ASEAN.” *The Pacific Review* 32, no. 1: 20-36. DOI: 10.1080/09512748.2017.1417325.

³¹ Grossman, Derek. “Regional responses to US-China competition in the Indo-Pacific: Vietnam.”

³² ISEAS Yusof Ishak Institute. 2020. “The State of Southeast Asia: 2020 Survey Report.” https://www.iseas.edu.sg/wp-content/uploads/pdfs/TheStateofSEA-SurveyReport_2020.pdf.

Vietnam, about the durability of American commitment.³³ Under the Bush administration, U.S. attention was on the Middle East.³⁴ Under President Obama, U.S. foreign policy rhetoric shifted and declared Asia the new priority. Nevertheless, Obama's rebalancing strategy was often criticized as inconsistent and poorly coordinated.³⁵

In contrast, the Trump administration's Asia strategy explicitly singled out China as a strategic rival. Driving this change in approach is the unmet expectation of previous generations of U.S. policymakers that economic openness and engagement would shape China's behavior to American preferences.³⁶ While the shift in U.S. policy reassured regional states, including Vietnam, increasingly worried about the negative consequences of China's rise, the execution was often handicapped by Trump himself. Apart from the lack of credible non-security initiatives, Trump's subversion of the U.S. alliance network and disdain for multilateralism allowed China to take center stage as a credible regional actor and deepened the perception of a U.S. decline and withdrawal.³⁷ In Vietnam's case, even though the United States' more hardline approach to China is appreciated, these contradictions generated uncertainty along with Trump's perceived erratic leadership.

COVID-19 AND NEW OPPORTUNITIES FOR U.S.-VIETNAM COOPERATION

The COVID-19 pandemic, which originated in Wuhan, China in late 2019, has morphed into global public health and economic crises, leading to the death of more than four million people, the collapse of medical systems even in wealthy nations, and the most severe economic downturn since the Great Depression. As the first country to experience the pandemic's devastation, China has largely been seen as successful in containing the outbreak, which boosted its economy after a steep decline in early 2020.³⁸ In contrast, the United States flunked its initial response resulting in the deaths of hundreds of thousands, tens of millions of cases, and depressed economic output.³⁹ In Southeast Asia, while several countries like Vietnam and Thailand were initially successful in containing the spread of the virus,

they all eventually struggled to contain it.⁴⁰

The pandemic left a trail of economic and social destruction in Southeast Asia. Restrictions to movement, including domestic and international travel bans and forced closure of businesses, dealt a heavy blow to the region's export and tourism industries, the two main pillars of Southeast Asian economies.⁴¹ Since

“Beijing’s leverage over several ASEAN members has been and continues to pose a challenge for Vietnam, preventing it from advancing its strategic interests through the regional grouping.”

economic development underpins political legitimacy in many Southeast Asian states, many political leaders are desperate to return to growth. China is well-positioned to deliver this through deeper integration with its economy thanks to a relatively quick recovery and expansive footprint in the region. However, this development carries risks of increasing Southeast Asian reliance on China, bolstering the asymmetry in China's favor and further reducing regional states' strategic autonomy in the long term.

Against this backdrop, how should the United States engage with Vietnam and the wider Southeast Asia? A focus on strengthening the region's strategic autonomy will go a long way in advancing U.S. national interest related to moderating Chinese ambitions and building a firmer foundation through which to ground American leadership in Southeast Asia. This new direction means re-orienting U.S.-Vietnam cooperation towards a multilateral framework. Such a principled and collaborative approach to regional and global issues makes it easier for regional states to cooperate with Washington without giving an anti-China impression. Hanoi and Washington should begin discussing challenges that affect the entire region and can generate region-wide consensus and buy-ins from other countries. Common challenges posed by the pandemic are a good start. Cooperation can center on vaccine distribution and health sector reforms, and supporting the informal economy and quality infrastructure. This new direction should also be inclusive by welcoming participation from like-minded partners such as Japan, Australia, India, UK, and the European Union.

Why should strengthening Southeast Asian strategic

³³ Shambaugh, David. 2018. “U.S.-China rivalry in Southeast Asia: Power shift or peaceful coexistence?” *International Security* 42, no. 4: 104. DOI:10.1162/ISEC_a_00314.

³⁴ Campbell, Kurt M. 2016. “The Pivot: The Future of American statecraft in Asia.” *Hachette*.

³⁵ Löffmann, Georg. 2016. “The Pivot between Containment, Engagement, and Restraint: President Obama's Conflicted Grand Strategy in Asia.” *Asian Security* 12, no. 2: 105. DOI: 10.1080/14799855.2016.1190338.

³⁶ Campbell, Kurt M. and Ely Ratner. 2018. “The China Reckoning: How Beijing defied American expectations.” *Foreign Affairs*. <https://www.foreignaffairs.com/articles/china/2018-02-13/china-reckoning>.

³⁷ Tellis, Ashley J. 2020. “Waylaid by contradictions: Evaluating Trump's Indo-Pacific Strategy.” *The Washington Quarterly* 43, no. 4: 130, 135. DOI: 10.1080/0163660X.2020.1849992.

³⁸ Burki, Talha. 2020. “China's successful control of COVID-19.” *The Lancet* 20, no. 11: 1240-1241. DOI: 10.1016/S1473-3099(20)30800-8.

³⁹ Yong, Ed. 2020. “How the pandemic defeated America.” *The Atlantic*. <https://www.theatlantic.com/magazine/archive/2020/09/coronavirus-american-failure/614191/>.

⁴⁰ ASEAN Secretariat. 2020. “ASEAN Rapid Assessment: The impact of COVID-19 on livelihoods across ASEAN.” https://asean.org/storage/ASEAN-Rapid-Assessment_Final-23112020.pdf.

⁴¹ ASEAN Secretariat. “ASEAN Rapid Assessment: The impact of COVID-19 on livelihoods across ASEAN.”

autonomy be an area for U.S.-Vietnam cooperation? One would assume that deepening or expanding collaboration is enough to push the relationship to a higher level. Yet, a consolidation of the *status quo* will inevitably meet the constraints mentioned in the third section, which cap the growth of bilateral cooperation, especially in defense. For example, since Vietnam and the United States will never be treaty-allies, several types of close cooperation, such as intelligence sharing, co-development of defense equipment, or sharing of operational concepts and doctrines, will be difficult

to achieve. Also, while Vietnam can align its policies closer to those of the United States, some of its neighbors can still be drawn closer into China's orbit. Beijing's leverage over several ASEAN members has been and continues to pose a challenge for Vietnam, preventing it from advancing its strategic interests through the regional grouping. Finally, putting Southeast Asian strategic autonomy on the top agenda of U.S.-Vietnam cooperation solves a conundrum for U.S. presence in the region. Chiefly, that it is a distant power with a robust military presence and a significant stake in regional stability, yet it is without a solid foundation of economic engagement.⁴² Focusing on strengthening Southeast Asian strategic autonomy helps the United States diversify its engagements, create a more credible and effective counterweight to China, and present a sound justification for continued American presence and leadership in the Indo-Pacific.

Furthermore, strengthening Southeast Asian strategic autonomy has become an urgent matter amidst the rapidly growing Chinese economic and diplomatic clout in the region. The asymmetry in capacity and capabilities between China and Southeast Asian countries often leads to a defeatist vision that Southeast Asia is destined to fall into China's orbit. However, agency is not exclusive to the strong.⁴³ While Southeast Asian states are weaker relative to China and the United States, they still have agency. They can craft their own responses to the behavior of great powers, based on their national interests.⁴⁴ Far from being passive recipients of Chinese coercion and incentives, Southeast Asian states have demonstrated a certain degree of capability to avoid being smothered by their interactions with China. The United States should encourage this capability by

collaborating with Vietnam to strengthen ASEAN and offer collaborative solutions to their challenges. Doing so would overcome strategic constraints and significantly enhance U.S.-Vietnam cooperation. American interest in seeing Vietnam and Southeast Asia maintain their strategic autonomy would also be a potent

counter to the notion that the United States sees regional states as mere proxies in its strategic competition with China.⁴⁵

Using U.S.-Vietnam cooperation as a springboard, this endeavor will be based on American core competencies and Vietnam's growing diplomatic

clout post-pandemic. On the one hand, despite significant setbacks to its regional standing brought by the Trump administration's inconsistent approach, the United States retains an advantage over China in certain aspects. U.S. soft power attraction remains despite misgivings about the Trump administration's policies.⁴⁶ Furthermore, China has not made any substantial gains despite American stumbles. China remains unable to generate goodwill from the region despite its economic influence and much-touted pandemic diplomacy.⁴⁷ Indeed, its assertiveness in the South China Sea and use of coercive measures are to blame.

Vietnam's relatively impressive handling of COVID-19 for most of 2020 and 2021, before the Delta variant, posed a challenge, and its leadership of ASEAN during a time of crisis further enhanced its diplomatic standing in the region and beyond.⁴⁸ Vietnam also registered positive economic growth despite the pandemic. Hanoi has championed initiatives within ASEAN to promote deeper economic integration and reduce development gaps between new and original ASEAN members.⁴⁹

Vaccine distribution and strengthening of public health

Gaps in development and institutional capacity between and among Southeast Asian countries create an uneven picture of pandemic response, particularly the ability to purchase and distribute vaccines, develop indigenous versions that will cost less in the future, and provide for therapeutics and medical equipment necessary for an effective response to newer and more transmissible COVID-19 variants. While Singapore, Malaysia, Thailand, the Philippines, Vietnam, and Indonesia have the financial means to procure vaccines from Western

“Far from being passive recipients of Chinese coercion and incentives, Southeast Asian states have demonstrated a certain degree of capability to avoid being smothered by their interactions with China.”

⁴² Brandon, John J. and Catharin E. Dalpino. 2021. “Urgent issues in U.S.-Southeast Asian relations for 2021.” *The Asia Foundation*. <https://asiafoundation.org/wp-content/uploads/2021/01/Urgent-Issues-in-US-Southeast-Asian-Relations-for-2021.pdf>.

⁴³ Emmerson, Donald K. 2020. “The Deer and The Dragon: Asymmetry versus autonomy.” *Brookings Institution Press*.

⁴⁴ Strangio, Sebastian. 2020. “In the Dragon's Shadow: Southeast Asia in the Chinese Century.” *Yale University Press*.

⁴⁵ Feigenbaum, Evan A. 2020. “Meeting the challenge in Asia.” *National Interest*. <https://nationalinterest.org/feature/meeting-challenge-asia-174917>.

⁴⁶ Lowy Institute. 2020. “Asia Power Index 2020 Edition: Cultural Influence.” <https://power.lowyinstitute.org/data/cultural-influence/>.

⁴⁷ Shambaugh, David. 2020. “The Southeast Asian crucible: What the region reveals about the future of U.S.-Chinese competition.” *Foreign Affairs*. <https://www.foreignaffairs.com/articles/asia/2020-12-17/southeast-asian-crucible>.

⁴⁸ Lowy Institute. “Asia Power Index 2020 Edition: Vietnam.” <https://power.lowyinstitute.org/countries/vietnam/>.

⁴⁹ Emmers, Ralf and Huong Le Thu. 2020. “Vietnam and the search for security leadership in ASEAN.” *Asian Security*. DOI: 10.1080/14799855.2020.1769068.

pharmaceutical companies like Pfizer and AstraZeneca, especially as supply backlogs get resolved, others in the region will remain fully reliant on donations from richer countries.⁵⁰ This situation opens a new opportunity for China to improve its regional standing and portray itself as a reliable partner by offering its COVID-19 vaccines.

While China's move is certainly welcome to mitigate the impact of COVID-19 quickly, there are concerns over how China leveraged providing vaccines to soften opposition against its policies and operations in issues like the South China Sea.⁵¹ Another concern is the risk of medical supply chain dependence on China. COVID-19 vaccines need more than one dose to be effective. Early research indicates that booster shots may be required. Such will effectively require states to continue to purchase vaccines or collaborate with China to co-develop cheaper, indigenous versions.⁵² During the Trump administration, the United States pulled out of the World Health Organization. It resisted calls to lead the world in vaccination efforts through COVAX, a global initiative that aims to ensure affordable and equal access to vaccines.

Helping improve Southeast Asian countries' public health sectors is another valuable initiative for U.S. engagements in the region. Historically, public health has been important for ASEAN cooperation since the 2003 Severe Acute Respiratory Syndrome (SARS) outbreak. Recently, a shift in focus is occurring, from the preoccupation on pandemic preparedness to a broader framework for regional health governance, emphasizing universal access to quality healthcare, non-communicable diseases, climate change-related health, and antimicrobial resistance.⁵³ While COVID-19 has spotlighted the importance of pandemic preparedness, international cooperation should be expanded to deal with other pressing health concerns in the region. In April 2020, the Trump administration introduced the U.S.-ASEAN Health Futures, built on existing cooperation on public health with ASEAN over the last 20 years and part of the U.S.-ASEAN Strategic Partnership.⁵⁴ The Biden administration would be wise to continue and build on this initiative to engage with ASEAN, preferably with other like-minded allies and partners.

To this end, some potential bilateral initiatives between

the United States and Vietnam include:

- Encourage U.S. pharmaceutical companies to outsource vaccine production in Southeast Asia with existing capacity and capability to bring the cost of vaccines down in the region and accelerate recovery for Southeast Asia.
- Provide logistical assistance in the distribution of vaccines. Vaccines generally require careful maintenance and transportation (e.g., Pfizer's COVID-19 vaccine requires storage temperature conditions of -70°C), which will, in turn, require special equipment and vehicles. Furthermore, some ASEAN countries with challenging geographic conditions like Indonesia, or mired in internal conflicts like Myanmar, will require more support.
- Provide continued support for the U.S.-ASEAN Health Futures via the U.S.-ASEAN Strategic Partnership framework with a strong focus on preventing future infectious disease outbreaks through continued research collaboration, training of health professionals, and exchanges of best practices.

Supporting the informal economy

One common challenge among ASEAN members is the high rate of informal employment. A worker in informal employment is defined as not having access to at least one type of social security scheme or employment benefit.⁵⁵ Besides the lack of social welfare, workers in the informal economy often have to work longer hours and earn less than workers in the formal sector.⁵⁶ Their jobs are vulnerable to external changes and there are limited opportunities for them to take permanent positions or improve their skills to seek more stable employment.⁵⁷

The majority of ASEAN members have high rates of informal employment. Some extreme cases include Cambodia (90.3 percent) and Myanmar (84.1 percent).⁵⁸ However, the COVID-19 pandemic and its implications to regional economies threaten to push these rates higher. Unlike workers in the formal sector, informal workers are affected significantly by pandemic response measures, such as lockdowns, social distancing mandates, and movement restrictions.⁵⁹ Informal workers do

⁵⁰ Dezan Shira & Associates. 2021. "COVID-19 vaccine rollouts in ASEAN & Asia - Live updates by country." <https://www.aseanbriefing.com/news/covid-19-vaccine-roll-outs-in-asean-asia-live-updates-by-country/>.

⁵¹ Strangio, Sebastian. 2020. "China's Southeast Asian 'vaccine diplomacy' comes into relief." *The Diplomat*. <https://thediplomat.com/2020/11/chinas-south-east-asian-vaccine-diplomacy-comes-into-relief/>.

⁵² Tan, CK and Erwida Maulia. 2020. "Red pill? Behind China's COVID-19 vaccine diplomacy." *Nikkei Asia*. <https://asia.nikkei.com/Spotlight/The-Big-Story/Red-Pill-Behind-China-s-COVID-19-vaccine-diplomacy>.

⁵³ Caballero-Anthony, Mely. 2019. "Health and Human Security Challenges in Asia: New Agendas for Strengthening Regional Health Governance." *Australian Institute of International Affairs*. <https://www.internationalaffairs.org.au/australianoutlook/health-human-security-challenges-asia-new-agendas/>.

⁵⁴ U.S. Department of State. 2020. "U.S.-ASEAN Health Futures." <https://www.state.gov/u-s-asean-health-futures/>.

⁵⁵ ASEAN Secretariat. 2019. "Regional study on informal employment statistics to support decent work promotion in ASEAN." <https://asean.org/storage/2012/05/13-Regional-Study-on-Informal-Employment-Statistics-to-Support-Decent-Wo...pdf>.

⁵⁶ ASEAN Secretariat. "Regional study on informal employment statistics to support decent work promotion in ASEAN."

⁵⁷ General Statistics Office of Vietnam & International Labor Organization. "2016 Report on informal employment in Vietnam." https://www.gso.gov.vn/wp-content/uploads/2019/05/Bao-cau-phi-chinh-thuc-2016_Eng_in.pdf.

⁵⁸ ASEAN Secretariat. "Regional study on informal employment statistics to support decent work promotion in ASEAN."

⁵⁹ 2020. "COVID-19 crisis and the informal economy: Immediate responses and policy challenges." *International Labor Organization*. https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/briefingnote/wcms_743623.pdf.

not have the same labor benefits and social safety nets as their counterparts in the formal sector.

As more people see their income reduced or lose their formal jobs due to COVID-19, the rate of informal employment is expected to climb. Consequently, the pandemic threatens to roll back regional progress in poverty reduction and exacerbate inequalities.⁶⁰ This is an alarming scenario for many Southeast Asian governments, whose political legitimacy is underpinned by economic performance and social development. The United States and Vietnam should promote bilateral cooperation to address this issue and expand it to include other countries facing the same challenges, especially in Vietnam's immediate neighborhood – Cambodia, Laos and Myanmar. Cooperation can include:

- Providing expertise for ASEAN to develop shared definitions and standards of informal employment: ASEAN countries have different interpretations regarding informal employment, complicating efforts to propose a comprehensive package of solutions.⁶¹
- Supporting the ASEAN Secretariat with expertise and funding to develop, maintain, and update an ASEAN-wide database on informal employment. A shared, up-to-date database based on a common template of standards allows policymakers to evaluate the region-wide situation and adjust policies when necessary.
- Supporting ASEAN-level initiatives to promote decent work for informal workers. These initiatives might include vocational training programs that are accessible, cost-effective and linked with employment; enhancing access to investment and credit to encourage businesses/households to make the transition from informal to the formal sector; consultation for informal workers about their employment rights, social benefits and regulations on labor contracts.

The United States Agency for International Development and U.S. Missions in the region can lead all these efforts in partnership with governments, local civil society organizations, research institutions, and non-governmental organizations.

Quality infrastructure and connectivity

The Asian Development Bank (ADB) estimated that the region would require US \$26 trillion worth of infrastructure investment between 2016 and 2030, or US \$1.7 trillion per

year, to maintain a robust growth rate, eradicate poverty and respond to climate change.⁶² However, Southeast Asia can only provide US \$881 billion per year for infrastructure, with 92% of the total funding coming from the public sector.⁶³ The wide gap in terms of need and available resources threatens to stall regional economic growth. The COVID-19 pandemic has further widened this gap as infrastructure funding gets re-channeled to vaccine purchases, emergency social safety nets and other pandemic responses.

Japan and China have been responding to the region's needs with infrastructure investment initiatives. Japan has long been a critical Official Development Assistance (ODA) donor in Southeast Asia and has recently accelerated these efforts by creating favorable institutional frameworks and initiatives to encourage Japanese private businesses to participate in infrastructure projects abroad.⁶⁴ With its grand Belt and Road Initiative (BRI), China has also emerged as another critical player, providing loans for developing countries in Southeast Asia to undertake ambitious projects. Brookings estimates China's official infrastructure financing from 2008-2016 to be around US \$42 billion, slightly higher than the total financial commitments of Japan, Australia, and the United States.⁶⁵

The United States also joined the infrastructure game by introducing the Blue Dot Network, a multilateral initiative jointly formed with Japan and Australia to certify infrastructure projects that meet financial transparency and environmental sustainability standards. Furthermore, the United States overhauled its Overseas Private Investment Corporation (OPIC) into a new International Development Finance Corporation (IDFC) with improved financing capabilities. It increased its total funding portfolio ceiling to US \$60 billion.⁶⁶

The United States has emphasized the importance of private sector participation, something that differentiates the U.S. approach from that of China, which is state-led, unsustainable and often prone to corruption. Nevertheless, there has been limited progress in encouraging greater private investment due to various risks.⁶⁷ Furthermore, despite a projected slowdown in BRI expansion, China is still perceived to be more responsive to the region's infrastructure needs. U.S.-Vietnam cooperation should consider the following suggestions:

- Clarify the technical aspects of the Blue Dot Network. As of December 2020, The Blue Dot Network remains a proposal. The United States should coordinate with Viet-

⁶⁰ ASEAN Secretariat. "ASEAN Rapid Assessment: The impact of COVID-19 on livelihoods across ASEAN."

⁶¹ ASEAN Secretariat. "Regional study on informal employment statistics to support decent work promotion in ASEAN."

⁶² Asian Development Bank. 2017. "Meeting Asia's infrastructure needs: Highlights." <https://www.adb.org/sites/default/files/publication/227496/special-report-infrastructure-highlights.pdf>.

⁶³ Ibid.

⁶⁴ Kikuchi, Tomoo and Sayaka Unzaki. 2019. "Japanese infrastructure investment in Southeast Asia." *S. Rajaratnam School of International Studies*. https://www.rsis.edu.sg/wp-content/uploads/2019/05/PR190503_Japanese-Infrastructure-Investment-in-SEA.pdf.

⁶⁵ Rajah, Roland. 2020. "Mobilizing the Indo-Pacific infrastructure response to China's Belt and Road Initiative in Southeast Asia." *Brookings Institution*. https://www.brookings.edu/wp-content/uploads/2020/04/FP_20200429_mobilize_compete_rajah.pdf.

⁶⁶ Runde, Daniel F. and Romina Bandura. 2018. "The BUILD Act has passed: What's next?" *Center for Strategic and International Studies*. <https://www.csis.org/analysis/build-act-has-passed-whats-next>.

⁶⁷ Rajah, Roland. "Mobilizing the Indo-Pacific infrastructure response to China's Belt and Road Initiative in Southeast Asia."

nam to address issues such as the scope of the initiative, incentives for countries receiving Blue Dot Network certificates, or funding for the certification process.

- Provide technical support to help Vietnam and ASEAN countries to evaluate and manage infrastructure projects. While China and Japan might dominate infrastructure funding and construction, the United States can contribute to Southeast Asia's development through feasibility studies and project assessments, such as reviews on environmental impacts and long-term financial risks. The Blue Dot Network can carve out a role for itself by providing these value-adds.
- Increase funding in niche infrastructure investments. While it will be impossible for the United States alone to match China's largesse dollar-to-dollar, Lead Economist and Director of the International Economics Program at the Lowy Institute, Roland Rajah showed that the margin narrows significantly when combined with commitments from Japan and Australia.⁶⁸ This small gap showed that even with a slight increase in funding, the United States and other like-minded partners can still contribute to Southeast Asian infrastructure development and connectivity. Moreover, the United States can let Japan counter China in the areas of transport infrastructure. Washington can focus on infrastructure projects that help boost human capital and alleviate poverty, such as classrooms and public school buildings, IT infrastructure for efficient delivery of public services, including health services and farm-to-market roads in poverty-stricken areas.
- Get involved in communication infrastructure. Promoting commerce also requires quality connectivity. In collaboration with Vietnam and other like-minded partners, the United States can contribute to Southeast Asia's communication needs by leveraging its technological prowess for smart city technologies and other initiatives to mitigate climate change. This can be done through a range of initiatives such as the Trilateral Partnership for Infrastructure Investment in the Indo-Pacific (with Japan and Australia) and the Supply Chain Resilience Initiative (with Japan, Australia, and India).

U.S.-Vietnam relations to help address regional challenges while also providing a more principled rationale for continued U.S. presence, engagements, and leadership in Southeast Asia, beyond countering China.

CONCLUSION

As the region's geopolitical, economic, and security environment continues to evolve, the relationship between Washington and Hanoi is likely to continue its upward trajectory. Nevertheless, the lack of shared values and divergent perceptions on various issues continue to cap bilateral cooperation.

The COVID-19 pandemic has opened up new opportunities to further advance U.S.-Vietnam relations towards strengthening ASEAN's strategic autonomy. This approach aims to leverage

⁶⁸ Rajah, Roland. "Mobilizing the Indo-Pacific infrastructure response to China's Belt and Road Initiative in Southeast Asia."

7. Noise and signal: Pursuing common objectives to optimize security cooperation between the United States and Vietnam

By Ki Suh Jung

INTRODUCTION

The United States has explicitly identified China as a great power competitor in the 2017 National Security Strategy, pointing to Beijing's global influence and attempts to deny the United States access to "critical commercial zones," including in the South China Sea.¹ Vietnam is among several countries that lay claim to disputed territories and maritime zones in the South China Sea and has been involved in confrontations with China.

The United States and Vietnam have clear reasons to enhance bilateral and multilateral cooperation to counter Chinese encroachments in Southeast Asia. They have indeed improved their relations in the past 25 years. Since the former adversaries normalized diplomatic relations in 1995, they have become significant trading partners, with two-way commercial exchanges valued at an estimated US \$81.3 billion in 2019.² While the United States and Vietnam have made impressive gains in advancing diplomatic and economic partnerships, their military cooperation remains limited. Although two U.S. aircraft carriers have visited Vietnam in recent years and the Vietnam People's Navy has participated in the past two Rim of the Pacific (RIMPAC) maritime exercises, the extent of their military-to-military relations largely ends there. The reality remains that, as it is for many other countries in the Indo-Pacific, China is a top trading partner of Vietnam. Hanoi is cautious of military operations, including cooperation with third-party states, which can be interpreted as targeting China.

Given the geopolitical sensitivities, what can the United States and Vietnam do to improve their military interoperability and capabilities while considering Hanoi's economic relations with Beijing? While minimizing the noise that typically accompanies large-scale combined military exercises, the two countries should pursue other means of high-impact security cooperation, including arms transfers and training programs, and in addressing less sensitive nontraditional security threats such as humanitarian assistance and disaster relief (HA/DR), and cybersecurity. By improving military relations in these various areas, the United States and Vietnam can still demonstrate mutual resolve to defend freedom of the seas and international law in the South China Sea and to maintain a free, open, inclusive, and rules-based region at large.

This paper first describes the current world order in the context of the relationship between the United States and China,

refuting the comparison to the Cold War of the 20th century. Then it explains the balancing act that many Indo-Pacific countries are maintaining between the United States and China, due to the interconnected nature of the current global society. Finally, the paper delves into the progress made thus far in the U.S.-Vietnam military-to-military relationship and explores future areas of cooperation.

THE WORLD IS NOT EXPERIENCING A SECOND COLD WAR

Although some officials, academics, and journalists have termed the current tension between the United States and China "a new Cold War" or "second Cold War," these designations mischaracterize the relations between the two great powers and their relations with other countries in the region and around the world, and thereby risk fueling conflict. For one, the Cold War between the United States

"The United States cannot ignore its Indo-Pacific partners' economic relations with, and geographic proximity to China."

and the Soviet Union was fundamentally characterized by the desire of each side to propagate its respective politico-economic ideology — liberalism for the United States and communism for the Soviet Union — around the world and, correspondingly, the fear that the other side's ideology would grow to dominate international affairs. Also, while there was no direct, large-scale military confrontation between Washington and Moscow, countries allied or partnered with each side did engage in various proxy wars, of which the Vietnam War was one. In the current tense environment between the United States and China, neither characteristic of the Cold War is present.

One of the most significant differences between the Soviet Union and China is their integration into the global economy. For most of the Cold War, the Soviet Union pursued a policy of self-sufficiency and limited its foreign trade; for example, in 1985, Soviet exports and imports only amounted to four percent of its gross national product.³ The majority of its limited trade was with other communist countries, primarily those in Eastern Europe.

On the other hand, China is deeply entrenched in global commerce, with trade amounting to 36% of its gross domestic product in 2019.⁴ It has also grown to be the largest trading partner of many of its neighbors in the Indo-Pacific region, including Japan, the Republic of Korea (ROK), Australia, Thailand, Singapore, Taiwan, New Zealand, Mongolia, and Indonesia.⁵ For Vietnam, its largest export partner is the United States, and

¹ 2017. "National Security Strategy of the United States of America." *The White House*. <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>.

² Office of the United States Trade Representative. <https://ustr.gov/countries-regions/southeast-asia-pacific/vietnam>.

³ Federal Research Division of the Library of Congress. 1991. "Soviet Union a country study." *U.S. Government Printing Office*. <https://tile.loc.gov/storage-services/master/frd/frdctdy/so/sovietunioncount00zick/sovietunioncount00zick.pdf>.

⁴ The World Bank. "Trade (% of GDP)." <https://data.worldbank.org/indicator/NE.TRD.GNFS.ZS>.

⁵ World Integrated Trade Solution. "Trade statistics by country / region." <https://wits.worldbank.org/countrystats.aspx?lang=en>.

its largest import partner is China, as of 2017. And with close economic relations comes economic influence.

THE SOUTH KOREAN EXPERIENCE

An example that demonstrates this complex relations between Indo-Pacific countries and China is the Republic of Korea. Like Vietnam, Korea was divided immediately after World War II, although for different reasons and by different means. And as in Vietnam, during the Cold War, Korea endured a war between North Korea, supported by China and the Soviet Union, and South Korea, supported by the United States. Unlike in Vietnam, the Korean War ended in an armistice, and the Korean peninsula remains divided.

Following the Korean War, the United States and the Republic of Korea entered into a mutual defense treaty, and U.S. forces remained in South Korea. Due to its relatively long history and founding in a war, the military alliance is often referred to as “the relationship forged in blood.” Even so, Seoul and Washington do not necessarily see eye-to-eye when it comes to China. Besides considering China a competitor, the United States has also publicly criticized Beijing’s aggressive behavior in disputed waters. The U.S. Navy has frequently conducted freedom of navigation operations (FONOPs)⁶ in many of the region’s maritime commons to operationally challenge new and illegal restrictions to movements at sea. While other U.S. partners, including Australia, Japan, and the United Kingdom, have conducted their own navigational operations in contested maritime domains, South Korea has been slow to publicly accept the “Free and Open Indo-Pacific” concept, which was first introduced by Japan and then adapted by the United States. Most academics and pundits point to South Korea’s economic dependence on China as the biggest determinant of its cautious approach to U.S.-led efforts. Indeed, the export-oriented South Korean economy is vulnerable to any economic coercion by China, its largest export destination.

CAUTIOUSNESS OF U.S. PARTNERS IN THE INDO-PACIFIC

The United States cannot ignore its Indo-Pacific partners’ economic relations with, and geographic proximity to China. Current tensions between the two great powers are not about opposing ideologies behind which others can neatly line up. On one hand, many authoritarian countries, China and Vietnam included, have robust capitalist economies. On the other hand, most, if not all democratic countries, have some socialist characteristics, such as extensive welfare programs and government-run universal health care.

One of the pillars of the 2017 U.S. National Security Strategy is to “advance American influence.”⁷ To effectively do so and develop counterstrategies, the United States needs to recognize how China is also exerting influence over U.S. partners. For one, if U.S. partners are too economically dependent on China, the United States should create incentives to reduce that dependency. Actively pursuing bilateral and multilateral free trade agreements, championing regional and global rules on intellectual property, and collaborating with regional countries on cyber norms are some of the ways often cited by experts to reduce the Indo-Pacific’s economic dependence on China while creating opportunities for economic growth. Even so, the United States must recognize that complete decoupling is unlikely, and its influence over other countries may have waned.

The Quadrilateral Security Dialogue (Quad), the strategic forum among the region’s largest and most capable democracies — the United States, Japan, Australia, and India — is seen by many as a mechanism to respond to China. While there has been speculation over the potential expansion of the Quad membership, so far, it remains confined to the four countries. The Quad did hold a conference call with Vietnam, South Korea, and New Zealand in March 2020 to share information on responding to COVID-19; similar collaborations on a case-by-case basis may be more likely in the near future unless China forces the hands of neighboring countries to seek Quad membership.

U.S.-VIETNAM MILITARY COOPERATION

Since 1998, Vietnam has maintained the “Three Nos” defense policy: no military alliances, no aligning with one country against another, and no foreign military bases on Vietnamese soil. Vietnam’s 2019 Defense White Paper introduced a fourth “no,” and a “depends”: no starting a war, and “depending on the circumstances and specific conditions, Vietnam will consider developing necessary, appropriate defense and military relations with other countries.”⁸

The original “Three Nos” precludes a traditional security relationship between the United States and Vietnam akin to the U.S.-ROK Alliance. However, the one “depends” appears to be a response to China’s bad behavior in the South China Sea and leaves room for greater cooperation with the United States.

Security cooperation between the United States and Vietnam is not new, although it is a more recent development compared to the diplomatic ties that started in 1995 or the bilateral trade agreement signed in 2000. Since 2008 and 2010, respectively, the United States and Vietnam have held the Political, Security, and Defense Dialogue and Defense Policy Dialogue. Furthermore, in 2011, the two countries signed the

⁶ The U.S. Freedom of Navigation program specifically challenges states’ “excessive maritime claims” that are inconsistent with the UN Convention on the Law of the Sea. 2019. “Department of Defense Report to Congress: Annual Freedom of Navigation Report.” <https://policy.defense.gov/Portals/11/Documents/FY19%20DoD%20FON%20Report%20FINAL.pdf?ver=2020-07-14-140514-643×tamp=1594749943344>.

⁷ National Security Strategy of the United States of America.

⁸ Socialist Republic of Viet Nam Ministry of National Defense. 2019. “Viet Nam National Defense.” *National Political Publishing House*. http://news.chinhphu.vn/Uploaded_VGP/phamvanthua/20191220/2019VietnamNationalDefence.pdf.

Memorandum of Understanding (MOU) on Advancing Bilateral Defense Cooperation, which focused on maritime security, search and rescue, United Nations peacekeeping operations, HADR, and collaboration between defense universities and research institutions. In 2015, the United States and Vietnam issued a Joint Vision Statement on Defense Relations, which reaffirmed the areas for cooperation outlined in the 2011 MOU and listed as common interests “addressing nontraditional security threats” and expanding defense trade between the two countries.⁹

Combined military training and exercises have been relatively limited, likely due to Vietnam’s defense policy of non-alignment. Besides the two recent RIMPAC exercises, the Vietnam People’s Navy and the U.S. Navy have previously conducted non-combatant exercises called Naval Engagement Activities, the latest of which was in 2017 and focused on diving, salvage operations, and undersea medicine.¹⁰

Security cooperation can take many different forms besides the relatively highly visible combined exercises and training. Personnel exchanges, international military education, and provision of defense articles are some of the categories of security cooperation, and each functions to achieve specific objectives. Countries can determine which types of security cooperation to engage in based on their distinct defense policies and objectives. Given Vietnam’s current defense policies and budding military relations with the United States, the two countries should seek to expand the United States’ military sales program to Vietnam.

U.S. DEFENSE TRADE AND ARMS TRANSFER PROGRAMS

Foreign Military Sales (FMS) is a U.S. government program for transferring defense articles, services, and training to other nations and organizations. Although the Department of Defense’s (DOD) Defense Security Cooperation Agency administers the program, the Department of State approves individual programs on a case-by-case basis. Under the FMS program, the U.S. government procures defense articles and services for the foreign customer, who pays for these goods and services. If the U.S. government provides loans or grants to assist the foreign customer in purchasing the products, that

process is called Foreign Military Financing (FMF). Another method of arms transfer from the United States to a partner nation is via Direct Commercial Sales, in which U.S. companies obtain commercial export licenses from the Department of State, which allows them to negotiate with and sell directly to partner nations. In the fiscal year 2019, the Department of State approved US \$67.9 billion in arms sales to 28 partner nations and a North Atlantic Treaty Organization consortium.¹¹

The United States has already been engaging Vietnam through both FMS and FMF programs. From 2015 to 2019, Vietnam purchased over US \$130 million of defense articles via

“Since 1998, Vietnam has maintained the “Three Nos” defense policy: no military alliances, no aligning with one country against another, and no foreign military bases on Vietnamese soil.”

FMS, and from the fiscal years 2016 to 2019, the United States transferred two former U.S. Coast Guard cutters, 24 patrol boats, unmanned aerial systems (UAS), and a coastal radar system via FMF. Coupled with various training opportunities, the FMF totaled more than US \$150 million.¹² While significant, these numbers pale in comparison to those of other partners. Middle Eastern countries, for instance, continue to receive more FMFs than those in other regions.

Those numbers also pale compared to the costs of military equipment that Vietnam purchases from other countries, namely Russia and India. In 2018, Vietnam signed a US \$1 billion military acquisition deal from its long-time submarine and aircraft supplier, Russia. In 2016, India extended to Vietnam US \$500 million in credit for military purchases.¹³

Arms transfer programs such as FMS and FMF are ideal methods of security cooperation between the United States and Vietnam for three reasons. First, they do not attract attention and scrutiny as military exercises and maneuvers do. China often sends intelligence collection ships to monitor extensive U.S. and joint exercises, protesting U.S. FONOPs. Although arms transfers are self-publicized or reported, they typically do not draw complaints from China (a notable exception being U.S. arms sales to Taiwan). Not only are these transactions less visible, but they also do not necessarily signify obvious political or military alignment between the sender and recipient countries.¹⁴

⁹ The White House Office of the Press Secretary. 2015. “United States-Vietnam Joint Vision Statement.” <https://obamawhitehouse.archives.gov/the-press-office/2015/07/07/united-states-vietnam-joint-vision-statement>.

¹⁰ Task Force 73 Public Affairs. 2017. “8th annual Naval Engagement Activity kicks off in Vietnam.” *Commander, U.S. Pacific Fleet*. <https://www.cpf.navy.mil/news.aspx/130162>.

¹¹ Mehta, Aaron. 2019. “Here’s how many foreign military sales the US State Department OK’d in FY19.” *Defense News*. <https://www.defensenews.com/global/2019/10/04/heres-how-many-foreign-military-sales-the-state-department-okd-in-fy19/>.

¹² U.S. Department of State Bureau of Political-Military Affairs. 2020. “U.S. Security Cooperation with Vietnam.” <https://www.state.gov/u-s-security-cooperation-with-vietnam-2/>.

¹³ Jennings, Ralph. 2020. “Vietnam Explores Increasing Foreign Military Cooperation to Resist China.” *VOA*. <https://www.voanews.com/east-asia-pacific/vietnam-explores-increasing-foreign-military-cooperation-resist-china>.

¹⁴ 2021. “Trends in International Arms Transfers, 2020.” *SIPRI Fact Sheet*. https://sipri.org/sites/default/files/2021-03/fs_2103_at_2020.pdf.

Second, there are more to arms transfers than meets the eye. For example, FMS is not a simple transfer of products. An FMS purchase also includes training, spare parts, and other support needed to sustain a system. Because U.S. products are transferred to partner nations, FMS increases the opportunity for interoperability and access to joint doctrine and training. Arms transfers require developing a long-term relationship, constant communication, and cooperation over maintenance, training, and operations of specific equipment, which can build the foundation for expanded and deepened cooperation over time.

AREAS OF SECURITY COOPERATION

Given Chinese assertiveness in the South China Sea, an obvious area of cooperation between the United States and Vietnam is maritime security. Indeed, as noted above, Vietnam has already received various assets, equipment, and training via the U.S. arms transfer program. These efforts will continue under the U.S. Southeast Asia Maritime Security Initiative and the new Pacific Deterrence Initiative. One of DOD's top priorities in the Indo-Pacific is "to promote greater maritime domain awareness"¹⁵ among its partner nations, and Vietnam's acquisition of U.S.-manufactured UAS, such as Boeing's ScanEagle,¹⁶ is in direct support of Vietnam and the United States improving their common operating picture in the South China Sea.

Another area of cooperation is HADR. Vietnam's geography and topography make the country especially prone to typhoons, flooding, and landslides.¹⁷ Acquisition of appropriate electronics and imaging equipment to support HADR efforts and instruction on the operations and maintenance of the equipment would further bolster U.S.-Vietnam military-to-military ties. While this area is not in direct response to China, the two partner countries should encourage all forms of military cooperation that are driven by common security needs and vision, as they will set the groundwork for emergent or unanticipated issues that may arise in the future, in addition to building mutual trust and confidence. Suppose the lines of communication and familiarity at all levels of the two militaries are not already established. In that case, precious time could be wasted doing so in the event of a crisis.

The U.S. National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021, which specifies the budget, expenditures, and policies of the U.S. DOD and became law on Jan. 1, 2021, contains several other provisions besides the Pacific Deterrence Initiative that support or direct deepening cooperation with Vietnam. The FY 2021 NDAA has a separate section commemorating the 25th anniversary of the normalization of

diplomatic relations between the two countries, which also encourages greater defense cooperation with Vietnam. It also allows the U.S. Secretary of Defense to establish a pilot program for cyber cooperation with Vietnam, Thailand, and Indonesia. The program would include cyber training for military and civilian officers and regular dialogues to build resiliency against cyber-attacks between the United States and each of the three countries. Cyber-attacks are becoming increasingly common for all nations, and cooperation to counter such threats would bring measurable benefits to both the United States and Vietnam.¹⁸

CONCLUSION

Countries will first and foremost act in their own national interests, and the United States and Vietnam are no exceptions. Considering their divergent political systems, foreign policy priorities, and immediate needs of their citizenry, among myriad other factors, the United States and Vietnam will not be completely aligned in responding to China and shaping the Indo-Pacific security environment. Nevertheless, policymakers in Washington and Hanoi can focus on policy objectives that overlap. Most obvious among those is the need for an effective response to an aggressive China. The United States and Vietnam need not aim for headline-grabbing mechanisms such as combined military exercises. Other high-impact cooperation such as arms transfers, especially through increased FMFs, education and training for Vietnamese armed services, and high-level dialogues can be pursued to help Vietnam uphold a rules-based order in Southeast Asia while advancing broader U.S. interest in a free and open Indo-Pacific.

Mutual trust is a prerequisite to closer military-to-military cooperation. There are other areas of cooperation that, on the surface, are not explicitly in response to Chinese actions but will still prove to be immensely beneficial in strengthening U.S.-Vietnam relations. Whether in HADR, cybersecurity, or other areas that have yet to be explored, the increased partnership will promote mutual confidence and send a clear signal to China and other countries in the region that the United States and Vietnam support a rules-based order in all domains. Just as the rest of the world recognizes China's increasing outreach, China is sure to also notice the U.S.-Vietnam cooperation. It would serve Beijing well to understand that the defense relationship between Washington and Hanoi did not grow from a vacuum. It can play an important role in assuaging any concerns about a rising China via both words and actions.

¹⁵ "United States of America Department of Defense." *Asia-Pacific Maritime Security Strategy*. https://dod.defense.gov/Portals/1/Documents/pubs/NDAA%20A-P_Maritime_Security_Strategy-08142015-1300-FINALFORMAT.PDF.

¹⁶ Ahn, Vu. 2019. "Vietnam to buy six military drones from Boeing: US defense department." *VNExpress International*. <https://e.vnexpress.net/news/news/vietnam-to-buy-six-military-drones-from-boeing-us-defense-department-3932760.html>.

¹⁷ "Disaster in Vietnam." *World Health Organization*. <https://www.who.int/vietnam/health-topics/disasters>.

¹⁸ "H.R.6395 - National Defense Authorization Act for Fiscal Year 2021." *United States Congress*. <https://www.congress.gov/bill/116th-congress/house-bill/6395/text/enr>.

8. A legal alliance for maritime security in the South China Sea: a pathway for stronger U.S. and Vietnam ties

By Pham Ngoc Minh Trang

INTRODUCTION

On July 11, 2020, the United States and Vietnam celebrated 25 years of diplomatic relations. Since the rapprochement in 1995, their partnership has substantially developed and continues to grow. Washington has committed to helping realize a strong and independent Vietnam and a peaceful and prosperous Indo-Pacific region.¹ Hanoi welcomed Washington's expression of support, appreciating the value of deeper and stronger ties between the two.² China sees it differently. Five days after the 25th anniversary commemoration, the *Global Times*, a Chinese state-owned newspaper, claimed that U.S.-Vietnam cooperation is fragile, and is based on containing China. The newspaper warned that Vietnam would be left in a precarious situation on the South China Sea issue if the balance between China and the United States breaks.³

Maritime security in the South China Sea is undoubtedly one of the main concerns shared by the United States and Vietnam. Both Washington and Hanoi have national interests at stake in the South China Sea disputes. For the former, it is about maintaining its primacy in the region and preserving freedom of the seas. For the latter, it is about national security related to territorial integrity and economic development. China is the common challenge to U.S. and Vietnamese national interests in the South China Sea. The more aggressive China becomes, the closer the relationship is between the United States and Vietnam. Indeed, after China deployed the Hai-Yan 981 oil rig into the waters of Vietnam in 2014,⁴ Vietnamese ports welcomed two U.S. Navy aircraft carriers and the number of high-level talks between defense officials from both countries has concomitantly increased.

While it is reasonable to claim that the China factor constitutes a strong force driving the United States and Vietnam closer together, this paper argues that pursuing cooperation around shared legal norms and ideas to advance maritime security in the South China Sea will be a more proactive approach to deepening the U.S.-Vietnam partnership. The paper is divided into two parts. The first part briefly outlines the progress in U.S.-Vietnam relations *vis-à-vis* maritime security. It proves that while the China factor is critical, it is not (and should not)

be the only reason for closer cooperation between Washington and Hanoi on the South China Sea issue. There is the element of preserving international rules and norms — a clear overlap in the two countries' national interests — that also plays a significant role. The second part of the paper explains the rationale behind deepening U.S.-Vietnam relations based on legal norms.

U.S.-VIETNAM COOPERATION IN THE SOUTH CHINA SEA *The importance of the South China Sea to Vietnam and the U.S.*

The South China Sea is one of the most important bodies of water in the world.⁵ This large semi-enclosed sea surrounded by six countries — Brunei, China, Indonesia, Malaysia, the Philippines, and Vietnam — connects the Indian and the Pacific Oceans and is often regarded as the world's most important trading route.⁶ It is also rich in natural resources. The U.S. Energy Information Administration (EIA) estimated that this sea area contains around 11 billion barrels of oil and 190 trillion cubic feet of natural gas, in proven and probable reserves.⁷ The rich biodiversity in this maritime environment means there are also abundant fisheries and an extensive coral system.⁸ Every year, the South China Sea accounts for 12% of the world's fish catch.⁹ Politically, the significance of the South China Sea cannot be overstated. The Paracels in the North and the Spratlys in the South are contested territories. Between those archipelagoes are sea-lines of communication (SLOCs) important for Southeast Asian coastal states and user states in and beyond the region.

Vietnam is a coastal state in the South China Sea with a long coastline (3,600 km). More than 50% of Vietnam's population lives in coastal communities directly facing the South China Sea. Hanoi sees the sea as critical to its national economic development, so much so that the standing Committee of the National Assembly passed legislation mandating a grand plan for a sustainable ocean economy.¹⁰

In addition, Vietnam also claims sovereignty over certain parts of the South China Sea. Those claims have two parts. First, per the 1982 UN Convention on the Law of the Sea (UNCLOS), to which Vietnam is a party, and the 2012 Law of the Sea of Vietnam, the maritime zones of the country extending into the South China Sea include: territorial sea, contiguous zone,

¹ Pompeo, M. 2021. "25th Anniversary of U.S.-Vietnam Bilateral Relations." <https://vn.usembassy.gov/our-relationship/25th-anniversary/>.

² Embassy of the Socialist Republic of Vietnam in the United States of America. "The 25th anniversary of establishment diplomatic relations between Vietnam and the United States of America." <http://vietnamembassy-usa.org/vi/tin-tuc/2020/07/le-ky-niem-truc-tuyen-25-nam-thiet-lap-quan-he-ngoai-giao-viet-nam-hoa-ky-tai>.

³ Jiangang, L. 2021. "How close can the U.S. and Vietnam be?" <https://www.globaltimes.cn/content/1194721.shtml>.

⁴ Green, M., Hicks, K., Zach, C., John, S. and Douglas, J. 2017. "Counter-coercion series: China- Vietnam Oil Rig Standoff." <https://amti.csis.org/counter-coil-rig-standoff/>.

⁵ Yergin, D. 2020. "The world's most important body of water." <https://www.theatlantic.com/international/archive/2020/12/south-china-sea-us-ghosts-strategic-tensions/617380/>.

⁶ Rougheah, G. 2014. "Defining Maritime Asia." <https://amti.csis.org/defining-maritime-asia/>.

⁷ The U.S. Energy Information Administration. "South China Sea." <https://www.eia.gov/beta/international/regions-topics.cfm?RegionTopicID=SCS>.

⁸ McManus, J. W. 2017. "Offshore Coral Reef Damage, Overfishing, and Paths to Peace in the South China Sea." *International Journal of Marine and Coastal Law*, 32(2), 199-237. <https://doi.org/10.1163/15718085-12341433>.

⁹ Bale, R. 2016. "One of the World's Biggest Fisheries Is on the Verge of Collapse." <https://www.nationalgeographic.com/animals/article/wildlife-south-china-sea-overfishing-threatens-collapse>.

¹⁰ "Government Resolution no. 26/NQ-CP on Strategy for Sustainable development of Vietnam's Maritime Economy to 2030, vision to 2045." http://www.chinhphu.vn/portal/page/portal/chinhphu/hethongvanban?class_id=509&_page=1&mode=detail&document_id=199353.

exclusive economic zone (EEZ), and continental shelf.¹¹ Those are maritime zones where Vietnam is exercising sovereignty, sovereign rights, and jurisdictions according to the country's ocean law and policy and pursuant to international law.

Vietnam also claims sovereignty over land features in the Spratlys and the Paracels and has been reiterating the following statements in various *note-verbales* to the United Nations:

“Viet Nam has sufficient historical evidence and legal foundation to prove its undeniable sovereignty over the Parcel and the Spratly Islands and sovereign rights in the Exclusive Economic Zone (EEZ) and continental shelf in the East Sea. Viet Nam resolutely and consistently protects sovereignty, sovereign rights, and jurisdiction over its waters as provided in international law.”¹²

Subsequently, Hanoi also claims maritime zones legally generated by those features.¹³

But Vietnam has been struggling to protect its maritime rights and interests in the South China Sea amidst growing Chinese assertiveness. First, Vietnam has two separate territorial disputes: one is with China over the Paracels¹⁴, and the other is with China and other neighboring countries over the Spratlys¹⁵. Second, Vietnam's maritime zones, generated from its undisputed landmass, overlap with China and Malaysia's, which have not been delimited yet.¹⁶

As such, Hanoi has been struggling to exercise its sovereign rights at sea. In 2020, several Vietnamese fishing boats were sunk by Chinese vessels.¹⁷ In the past several years, contracts with international oil companies operating in the South China Sea had to be canceled because of pressures from Beijing.¹⁸ Two serious confrontations between Hanoi and Beijing have occurred, triggered by China's deployment of a mobile oil rig and a survey ship escorted by Chinese coast guard vessels in the Vietnamese EEZ in 2014 and 2019¹⁹.

In its 2019 Defense White Paper, Hanoi confirmed that the country is facing serious “national defense struggles” in the South China Sea, mostly attributed to Chinese assertiveness.²⁰

For the United States, the South China Sea presents a different set of challenges. This sea area is strategically important to Washington for two reasons. First, a free and open South China Sea signifies a favorable balance of power in Asia for the United States, a distant power. Robert Ross argued that the absence of a regional balance of power in the Pacific in the first half of the 20th century when the rise of Japan was left unchecked resulted in war.²¹ Therefore, keeping this area open and not subject to control by any single Asian power is important for U.S. national security. Second, an open South China Sea means U.S. military vessels and aircraft in this region will enjoy freedom of movement and can project power when needed. In his famous book *The Influence of Sea Power upon History: 1660 – 1783*, Admiral Alfred Thayer Mahan argued that dominating the sea was one of the key elements for an insular country (like the United States) to secure the superpower position.²² This doctrine has shaped the U.S. maritime outlook since Roosevelt.²³ The United States, at the moment, is without doubt, the most powerful naval actor in the international system.

Second, China's attempt to control the South China Sea, represented by the notorious nine-dash-line, challenges the longstanding principle of “freedom of the seas” championed by the United States since its founding.²⁴

There have been a good number of U.S.-China encounters at sea and each time, Beijing's responses have become increasingly aggressive. On Oct. 21, 2016, the guided-missile destroyer USS Decatur sailed within 12 nautical miles of the Paracels, an operational challenge to China's excessive and illegal claims related to movements at sea.²⁵ Beijing called it provocative.²⁶ On Aug. 28, 2019, another guided-missile destroyer, the USS

¹¹ 2012. “Vietnam Law of the Sea.” <https://vanbanphapluat.co/law-no-18-2012-qh13-on-vietnamese-sea>.

¹² “Note Verbale of Vietnam to the Commission on the Limits of the Continental Shelf 2020.” https://www.un.org/Depts/los/clcs_new/submissions_files/mys_12_12_2019/VN20200330_ENG.pdf

¹³ Ibid.

¹⁴ China has also claimed sovereignty over Parcel Islands; this claim has been reiterated in a number of their Note Verbales to the CLCS. An example of this is noted on “Note Verbale on March 23th 2020.” https://www.un.org/Depts/los/clcs_new/submissions_files/mys_12_12_2019/China_Philippines_ENG.pdf.

¹⁵ Beckman, Robert. 2013. “The U.N. Convention on Law of the Sea and the maritime disputes in South China Sea.” *American Journal of International Law*. http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DEPOSIT/communicationsredeposit/mzn69_2009_chn.pdf.

¹⁶ Asian Maritime Transparency Initiative. “Maritime Claims of the Indo-Pacific.” <https://amti.csis.org/maritime-claims-map/>.

¹⁷ The Maritime Executive. 2020. “Chinese Vessel Rams Vietnamese Fishing Boats in South China Sea.” <https://www.maritime-executive.com/article/report-chinese-vessel-rams-vietnamese-fishing-boat-in-s-china-sea>.

¹⁸ Hayton, B. 2020. “China's pressure costs Vietnam 1 billion on the South China Sea.” *The Diplomat*. <https://thediplomat.com/2020/07/chinas-pressure-costs-vietnam-1-billion-in-the-south-china-sea/>.

¹⁹ Fook, L. and Ha, H. 2019. “The Vanguard Bank Incident: Developments and What Next?” *ISEAS-Yusof Ishak Institute*. <https://www.iseas.edu.sg/articles-commentaries/iseas-perspective/201969-the-vanguard-bank-incident-developments-and-what-next-by-lye-liang-fook-and-ha-hoang-hop/>.

²⁰ “Vietnam Defence White Paper.” http://news.chinhphu.vn/Uploaded_VGP/phamvanthua/20191220/2019VietnamNationalDefence.pdf

²¹ Ross, R. 2013. “U.S. Grand Strategy, the Rise of China, and US National Security Strategy for East Asia.” *Strategic Studies Quarterly*, 7(2), 20-40.

²² Mahan, A. 2010. “The Influence of Sea Power upon History, 1660–1783.” *Cambridge University Press*. DOI:10.1017/CBO9780511783289, p. 33.

²³ Yergin, D. 2020. “The world's most important body of water.” <https://www.theatlantic.com/international/archive/2020/12/south-china-sea-us-ghosts-strategic-tensions/617380/>

²⁴ U.S. Department of Defence. 2019. “Report to Congress: Annual Freedom of Navigation Report.” <https://policy.defense.gov/Portals/11/Documents/FY19%20DoD%20FON%20Report%20FINAL.pdf?ver=2020-07-14-140514-643×tamp=1594749943344>.

²⁵ LaGrone, S., “U.S. Warship Conducts South China Sea Freedom of Navigation Operation.” <https://news.usni.org/2016/10/21/u-s-warship-conducts-south-china-sea-freedom-navigation-operation>.

²⁶ Leigh, K., Martin, P. and Leung, P. 2020. “Troubled Waters: Where the U.S. and China Could Clash in the South China Sea.” *Bloomberg*. <https://www.bloomberg.com/graphics/2020-south-china-sea-miscalculation/>.

Wayne E. Meyer (DDG 108), sailed into the waters of Fiery Cross and Mischief Reefs in the Spratlys, features occupied by China.²⁷ Beijing conducted surveillance and asked the vessel

20, 2011, the Deputy Assistant Secretary of Defense for South and Southeast Asia and Vietnam's Deputy Defense Minister signed a memorandum of understanding (MOU) on "advancing

“The more aggressive China becomes, the closer the relationship is between the United States and Vietnam.”

to leave.²⁸ These were just some of the incidents related to U.S. Freedom of Navigation Operations (FONOPs) that generated some form of Chinese response. More serious incidents may happen in the future that can escalate into an armed conflict at sea, especially after the passing of China's 2021 coast guard law. The legislation allows Chinese coast guard personnel to be more proactive in using force against warships in the waters claimed by Beijing.

Hence, the new maritime strategy of the United States identified Beijing as one of the two "determined rivals" of Washington²⁹. In the previous two documents on national maritime strategy in 2007 and 2015, the expansion of the Chinese navy was still considered as "both opportunities and challenges." However, the latest document described China as "the most pressing long term strategic threat [to the U.S.]."

The development of cooperation between Vietnam and the U.S. in the South China Sea

Both the United States and Vietnam consider China a threat to their national security and maritime interests. Their shared concern has led to closer security cooperation, especially since 2010. From 1995 to 2009, U.S.-Vietnam security relations saw some modest development, which focused largely on less sensitive matters such as joint search and rescue exercises, provision of opportunities for Vietnamese officers to attend U.S. military academies, and research and training programs related to military medicine and information technology.³⁰

Vietnam's chairmanship of the ASEAN Regional Forum in 2010 served as the turning point. During the meeting, then-U.S. Secretary of State Hillary Clinton stated U.S. national interest in freedom of navigation in the South China Sea and pushed to upgrade U.S. relations with Vietnam into a "strategic partnership."³¹ More importantly, on September

bilateral defense cooperation." This is the first institutionalized document outlining defense cooperation between Hanoi and Washington. The document identified five areas in which both sides would expand cooperation: (1) maritime security, (2) search and rescue, (3) United Nations Peacekeeping Operations (UNPKO), (4) humanitarian and disaster relief (HADR), and (5) collaboration between defense universities and research institutes. The matter of "maritime security" was first.

In 2012, a U.S. guided-missile destroyer, the USS Vandergrift, visited the port of Ho Chi Minh City. It was the first time that U.S. warships and soldiers visited Vietnam since the conclusion of the Vietnam War.

In 2013, U.S.-Vietnam relations were upgraded to a "comprehensive partnership." In a joint statement between then-U.S. President Barack Obama and the Vietnam President Truong Tan Sang, "the two leaders reaffirmed their support for the settlement of disputes by peaceful means following international law, including as reflected in the United Nations Convention on the Law of the Sea. The two presidents also reaffirmed their support for the principle of non-use of force or threat-of-force in resolving territorial and maritime disputes".³²

In 2014, the Haiyang Shiyou incident almost resulted in an armed conflict between Chinese and Vietnamese navies. This incident also exacerbated the already tense relationship between Beijing and Hanoi concerning South China Sea issues.

In 2015, one year after the incident, the United States and Vietnam signed a Joint Vision Statement on Defense Relations, with the first two guiding themes relevant to the South China Sea: (1) maintaining security and stability within each country and the region, (2) defending international law and principles.³³

In 2016, Obama lifted the ban on lethal weapon sales to Vietnam.³⁴ In October 2016, the USS John S. McCain and the

²⁷ Eckstein, M. "Destroyer USS Wayne E. Meyer Sails Past Fiery Cross, Mischief Reefs in Latest FONOP." [https://news.usni.org/2019/08/28/destroyer-uss-wayne-e-meyer-sails-past-fiery-cross-mischief-reefs-in-latest-fonops#:~:text=Meyer%20\(DDG%20108\)%20conducted%20a,as%20governed%20by%20international%20law](https://news.usni.org/2019/08/28/destroyer-uss-wayne-e-meyer-sails-past-fiery-cross-mischief-reefs-in-latest-fonops#:~:text=Meyer%20(DDG%20108)%20conducted%20a,as%20governed%20by%20international%20law).

²⁸ Leigh, K., Martin, P., and Leung, P. 2020. "Troubled Waters: Where the U.S. and China Could Clash in the South China Sea." *Bloomberg*. <https://www.bloomberg.com/graphics/2020-south-china-sea-miscalculation/> <https://www.bloomberg.com/graphics/2020-south-china-sea-miscalculation/>.

²⁹ U.S. Department of Defense. "Advantage at Sea – Prevailing with Integrated All-Domain Naval Power." <https://media.defense.gov/2020/Dec/16/2002553074/-1/-1/0/TRISERVICESTRATEGY.PDF>.

³⁰ Tu, D.C. and Nguyen, H.T.T. 2019. "Understanding the U.S.-Vietnam security relationship, 2011–2017." *Korean Journal of Defense Analysis*.

³¹ Ross, R. 2012. "The problem with the Pivot: Obama's New Asia Policy is Unnecessary and counterproductive." *Foreign Affairs*.

³² The White House. "Joint Statement by President Barack Obama of the United States of America and President Truong Tan Sang of the Socialist Republic of Vietnam." <https://obamawhitehouse.archives.gov/the-press-office/2013/07/25/joint-statement-president-barack-obama-united-states-america-and-president-truong-tan-sang>.

³³ The White House. "United States – Vietnam Joint Vision Statement." <https://obamawhitehouse.archives.gov/the-press-office/2015/07/07/united-states-vietnam-joint-vision-statement>.

³⁴ Harris, G. 2016. "Vietnam Arms Embargoes to be fully lifted, Obama says in Hanoi." *The New York Times*. <https://www.nytimes.com/2016/05/24/world/asia/vietnam-us-arms-embargo-obama.html>.

USS Frank Cable became the first commissioned U.S. Navy ships since the Vietnam War to be anchored at Cam Ranh Bay.³⁵

In 2017, the two countries discussed the possibility of U.S. aircraft carriers making port calls in Vietnam.³⁶

In 2018, the USS Carl Vinson visited Da Nang Port as the first U.S. aircraft carrier to visit Vietnam after the Vietnam War.³⁷

In 2019, an intruding Chinese survey ship escorted with armed coast guard vessels was confronted by Vietnamese coast guards in the EEZ of Vietnam.³⁸ In the same year, Vietnam's Defense White Paper signaled the possibility of cooperating with another country to defend its sovereignty despite the traditional "three nos" defense policy of "(1) no joining any military alliances, (2) no siding with one country against another, (3) no foreign military bases or use of territory to carry out military activities against other countries". The 2019 White Paper stated: "depending on circumstances and specific conditions, Viet Nam will consider developing necessary, appropriate defense and military relations with other countries [...] regardless of differences in political regimes and levels of development."³⁹

From the chronological list of events above, it is plausible to posit that the relationship of the U.S. and Vietnam concerning cooperation at sea has been steadily developing since 2010, and there is no sign of slowing down.

Despite being driven largely by Chinese assertiveness, closer U.S.-Vietnam bilateral security cooperation can still advance on the basis of a more principled approach — maintaining and defending international maritime rules and norms. Indeed, South China Sea issues are not solely about the rise of China threatening U.S. primacy in Asia and the national security of Vietnam. Chinese claims and activities are illegal under international law and undermine the rules-based system that the international community has been trying to achieve since World War II. Guilfoyle considers Beijing's strategy as "lawfare in the South China Sea," asserting that China is trying to reform the geopolitical reality and legal order of

the South China Sea for its own selfish gains.⁴⁰ Therefore, South China Sea issues also pertain to protecting the primacy of international law — an attractive premise through which U.S.-Vietnam security relations can be framed.

BUILDING U.S.-VIETNAM RELATIONS BASED ON SHARED LEGAL NORMS

Certainly, the need to effectively respond to China in the South China Sea can bolster cooperation but a partnership based on shared views on legal norms is more solid and beneficial in the long term.

First, theoretically, legal norms are relatively static. The backbone of ocean governance is the United Nations Convention on the Law of the Sea (UNCLOS). The norms and principles of the law of the sea stipulated in this Convention were negotiated for over two decades through three international conferences with the participation of most countries in the world. The 1982 UNCLOS is considered the veritable constitution of the seas and oceans and has universal application.⁴¹

Second, the implementation of UNCLOS by the parties is annually reviewed by the United Nations (U.N.). Every year, the U.N. convenes a meeting of state parties to hear reports on every aspect of the law of the sea.⁴² The annual reports of the Secretary-General of the U.N. on oceans and the law of the sea are important documents to check on the compliance of state parties and other countries to the general international law of the sea.⁴³

Third, there is a system of international courts and tribunals that helps achieve a consistent, fair, and uniform interpretation of the norms and principles of the law of the sea. According to article 287 of UNCLOS, four international courts and tribunals can determine legal issues at sea, among which are the International Court of Justice, composed of 18 judges and the International Tribunal for the Law of the Law Sea (ITLOS), with 21 judges. The latter was specifically created to settle disputes related to UNCLOS.

“There have been a good number of U.S.-China encounters at sea, and each time, Beijing's responses have become increasingly aggressive.”

³⁵ Slavin, E. 2016. "McCain, Cable First Navy Warships to Port at Cam Ranh Bay since War." *The Stripes*, <https://www.stripes.com/news/mccain-cable-first-navy-warships-to-port-at-cam-ranh-bay-since-war-1.432235>.

³⁶ The White House. "Joint Statement enhancing Comprehensive Partnership between the United States and Vietnam." <https://www.whitehouse.gov/briefings-statements/joint-statement-enhancing-comprehensive-partnership-united-states-america-socialist-republic-vietnam/>.

³⁷ Buchanan, M. 2018. "U.S. aircraft carrier makes historic visit to Vietnam." <https://share.america.gov/aircraft-carrier-carl-vinson-makes-historic-visit-to-vietnam/>.

³⁸ Fook, L. and Ha, H. 2019. "The Vanguard Bank Incident: Developments and What Next?" *ISEAS-Yusof Ishak Institute*. <https://www.iseas.edu.sg/articles-commentaries/iseas-perspective/201969-the-vanguard-bank-incident-developments-and-what-next-by-lye-liang-fook-and-ha-hoang-hop/>.

³⁹ Vietnam Ministry of National Defence. 2019. "Vietnam National defence." http://news.chinhphu.vn/Uploaded_VGP/phamvanthua/20191220/2019Vietnam-NationalDefence.pdf.

⁴⁰ Guilfoyle, D. 2019. "The Rule of Law and Maritime Security: Understanding Lawfare in the South China Sea." Social Science Research Network. <https://ssrn.com/abstract=3378904>.

⁴¹ Nordquist, Myron H., John Norton Moore and Kuen-chen Fu. 2005. "Recent Developments in the Law of the Sea and China." *Brill | Nijhoff*. <https://doi.org/10.1163/ej.9789004148413.i-516>.

⁴² Reports of Meetings of State Parties to the 1982 United Nations Convention on the Law of the Sea are available at https://www.un.org/depts/los/meeting_states_parties/meeting_states_parties.htm.

⁴³ Reports of the Secretary-General of the United Nations on Ocean and the Law of the Sea are available at https://www.un.org/Depts/los/general_assembly_general_assembly_reports.htm.

Therefore, the scope of altering or changing a legal norm is limited. Such efforts may even lead to adverse consequences for the party trying to reinterpret the convention's provisions.

From a practical perspective, cooperation between Vietnam and the United States based on shared legal norms will promote an element of legitimacy for both countries. For Vietnam, "taking sides" in a superpower rivalry is not a prudent choice. Hanoi is not comfortable with the idea of choosing to be the exclusive

lient points of the law of the sea. One of the major differences pertains to the navigational rights and freedoms of warships. On one hand, the United States has long held the view that warships enjoy the rights of innocent passage without any further restrictions than those provided in UNCLOS. For Washington, the right of innocent passage of warships forms part of the principle of freedom of navigation.⁴⁷ The 1989 Uniform Interpretation of Norms of International Law Governing Innocent Passage

"The U.S. and Vietnam both have a strong commitment to international law and recognize the importance of the principle of freedom of navigation in the South China Sea."

partner of either Washington or Beijing.⁴⁴ However, if Vietnam's positions were based on defending international rules and norms, and if its partnership with the U.S. was built around advancing a rules-based maritime order, then such an approach would not violate the principle of "siding with one country against another."

For the U.S., legitimacy is an important factor in achieving foreign policy objectives in Asia, especially under the Biden administration.⁴⁵ Cooperation with Vietnam and the broader region that emphasizes the primacy of international law will give legitimacy to U.S. presence and operations in the South China Sea and beyond. This would strengthen regional support for the principle of freedom of navigation, a U.S. national security priority in the Indo-Pacific supported by UNCLOS and customary international law, and is applicable to all states, including non-parties to the convention, such as the United States. This is a strong and valid legal justification for the U.S.' military presence and operations in the South China Sea.

The U.S. and Vietnam both have a strong commitment to international law and recognize the importance of the principle of freedom of navigation in the South China Sea. These ideas were reiterated in a number of joint statements between the two countries. For example, the 2013 joint statement by then-President Barack Obama and then-President Truong Tan Sang reads: "the two leaders reaffirmed their support for the settlement of disputes by peaceful means following international law, including as reflected in the United Nations Convention on the Law of the Sea."⁴⁶

Nevertheless, while both countries agree on the primacy of international law, they still have disagreements on some sa-

between the United States and the former Soviet Union stated:

"All ships including warships, regardless of cargo, armament or means of propulsion, enjoy the right of innocent passage through the territorial sea following international law, for which neither prior notification nor authorization is required."⁴⁸

On the other hand, Vietnam requires foreign warships to seek prior notification before exercising the right of innocent passage in Vietnam's territorial sea.⁴⁹ This Vietnamese requirement can arguably be justified through article 21 of UNCLOS, which allows states to adopt laws and regulations that help to guarantee the safety of navigation and maritime traffic.

Hanoi is highly cautious about delivering views on the exercises of U.S. warships in the South China Sea. Vietnam usually issues broad statements calling every state to respect the international law of the sea and contribute to the region's peace and stability without any direct reference to U.S. activity.⁵⁰

The two countries' conflicting views on innocent passage for military vessels may hinder progress towards a deeper U.S.-Vietnam partnership and cooperation at sea. However, judging from a legal point of view, those differences are not antipodal and are possibly justified per UNCLOS. Related parties can negotiate the specific scope of coastal states' discretion in deciding laws applicable to the navigational rights of warships in the territorial sea. That was what the United States and the former Soviet Union did when they established the 1989 Uniform Interpretation of Norms of International Law Governing Innocent Passage. Washington and Hanoi could (and should) conclude a similar agreement addressing this issue.

⁴⁴ Lee, J. 2021. "Vietnam, ASEAN, and the US-China rivalry in the Indo-Pacific." *The Diplomat*. <https://thediplomat.com/2021/03/vietnam-asean-and-the-us-china-rivalry-in-the-indo-pacific/>.

⁴⁵ Campbell, K., & Doshi, R. 2021. "How America Can shore up Asian Order." *Foreign Affairs*. <https://www.foreignaffairs.com/articles/usa/2021-01-12/how-america-can-shore-up-asian-order>.

⁴⁶ The White House. "Joint Statement by President Barack Obama of the United States of America and President Truong Tan Sang of the Socialist Republic of Vietnam." <https://obamawhitehouse.archives.gov/the-press-office/2013/07/25/joint-statement-president-barack-obama-united-states-america-and-preside>.

⁴⁷ U.S. Department of Defence. 2019. "Report to Congress: Annual Freedom of Navigation Report." <https://policy.defense.gov/Portals/11/Documents/FY19%20DoD%20FON%20Report%20FINAL.pdf?ver=2020-07-14-140514-643×tamp=1594749943344>.

⁴⁸ Tanaka, Y. 2019. "The International Law of the Sea." *Cambridge, Cambridge University Press*.

⁴⁹ 2012 Law of the Sea of Vietnam, Article 12.2.

⁵⁰ Nguoi Lao Dong. 2021. "Vietnam issues statement concerning the U.S. warships entering the South China Sea for the first time under the Biden administration." <https://laodong.vn/the-gioi/viet-nam-noi-ve-viec-tau-chien-my-lan-dau-va-bien-dong-thoi-ong-biden-883522.ldo>.

CONCLUSION

Relations between Washington and Hanoi have developed steadily over the past 25 years. One of the most notable areas of cooperation is maritime security. While Chinese assertiveness in the South China Sea has been a major reason for closer security cooperation between the two Cold War adversaries, this paper argues that Washington and Hanoi should also focus on a shared goal of defending international law. International legal norms and principles, especially those related to the maritime domain, are relatively static variables with little room for changes, so they can be considered a solid foundation to develop U.S.-Vietnam partnership further. In addition, protecting the universally recognized principles of international law, such as the principles of freedom of navigation, will further add legitimacy to U.S.-Vietnam cooperation without necessarily antagonizing or appearing to target third countries. Indeed, such an approach would assuage Vietnamese concerns on “taking sides” between the two rival superpowers. It also provides a solid and valid justification for continued U.S. military presence and operations in the South China Sea. However, certain differences concerning the navigational rights of foreign warships in coastal state territorial seas must be addressed through an agreement between Hanoi and Washington. This issue and other potentially diverging interpretations of the law of the sea need to be promptly addressed by the two countries so as not to hinder progress towards a stronger bilateral partnership built around the idea of advancing a more rules-based Indo-Pacific.

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