

Delimitation and Fishery Cooperation in the Tonkin Gulf

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

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

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

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

Part I. General Provisions

Article 1

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

Article 2

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

Part II. Common Fishery Zone

Article 3

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

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

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

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

Article 4

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

Article 5

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

Article 6

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

Article 7

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

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

Article 8

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

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

Article 9

1. The competent authorities of the Contracting Parties shall monitor and inspect the nationals and fishing vessels of both parties in their own water areas of the Common Fishery Zone in accordance with the regulations laid down by the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf based on the characteristics of the Common Fishery Zone and in line with the domestic laws of both parties on preservation and management of fishery resources.
2. The competent authorities of one Contracting Party, having found any breach of the regulations laid down by the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf by nationals or fishing vessels of the other Contracting Party in the Tonkin Gulf in its own water area of the Common Fishery Zone, shall have the right to deal with such breach in accordance with the regulations laid down by the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf, and shall notify the other party promptly of the relevant circumstances and the handling result through the consultation mechanism established by the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf. The detained fishing vessels or crew shall be released promptly after the appropriate bond or other kind of security has been posted.
3. The competent authorities of both parties, if necessary, may coordinate to conduct joint monitoring and inspection and to handle any breach of the regulations laid down by the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf concerning preservation and management of fishery resources.
4. Each Contracting Party shall, in accordance with its domestic law, have the right to impose punishment on fishing vessels which enter its own water area in the Common Fishery Zone without a permit, or with a permit but conduct illegal activities other than fishing activities in the Common Fishery Zone.
5. Each Contracting Party shall provide facilities for the permitted fishing vessels of the other Contracting Party in the Common Fishery Zone. The competent authorities of each Contracting Party shall not abuse its power, or hamper normal fishing activities conducted by the permitted nationals and fishing vessels of the other party in the Common Fishery Zone. Each Contracting Party, having found that the competent authorities of the other Contracting Party has conducted law enforcement in contravention against the common management measures adopted by the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf, shall have the right to request this authorities to render explanations, and to submit, if necessary, the matter to the Sino-Vietnamese Joint Committee for Fishery in the Tonkin Gulf for discussion and settlement.

Article 10

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

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

Part III. Transitional Arrangements

Article 11

1. Each Contracting Party shall make transitional arrangements for the existing fishing operations of the other Contracting Party in its exclusive economic zone north of the Common Fishery Zone (measured from 20°N.). The transitional arrangements shall be implemented from the date of the entry into force of this Agreement. The other Contracting Party shall take measures to reduce such fishing operations year by year. The transitional arrangements will end within four years from the date of the entry into force of this Agreement.

2. The extent of the water area and management measures for the transitional arrangements shall be made by the Contracting Parties in the form of a supplementary protocol, which shall constitute an integral part of this Agreement.

3. Each Contracting Party, upon the end of the transitional arrangements, shall give priority, under the same conditions, to the other party for fishing operations in its exclusive economic zone.

Part IV. Buffer Zone for Small Fishing Boats

Article 12

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

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

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

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

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

Article 13

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

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

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

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

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

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

Part VI. Miscellaneous Provisions

Article 14

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

Article 15

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

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

Article 16

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

Article 17

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

Part VII. Final Provisions

Article 18

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

Article 19

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

Article 20

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

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Article 21

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

Article 22

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

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

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

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

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