



**General Assembly    Security Council**

**Distr.  
GENERAL**

**A/43/346  
S/19856  
2 May 1988**

**ORIGINAL: ENGLISH**

**GENERAL ASSEMBLY**

**Forty-third session**

**Items 42, 72, 130 and 137 of the  
preliminary list\***

**QUESTION OF PEACE, STABILITY AND  
CO-OPERATION IN SOUTH-EAST ASIA**

**REVIEW OF THE IMPLEMENTATION OF THE  
DECLARATION ON THE STRENGTHENING OF  
INTERNATIONAL SECURITY**

**PEACEFUL SETTLEMENT OF DISPUTES BETWEEN  
STATES**

**DEVELOPMENT AND STRENGTHENING OF  
GOOD-NEIGHBOURLINES BETWEEN STATES**

**SECURITY COUNCIL  
Forty-third year**

**Letter dated 2 May 1988 from the Chargé d'affaires a.i. of the  
Permanent Mission of Viet Nam to the United Nations addressed  
to the Secretary-General**

Upon instructions from my Government, I have the honour to transmit herewith the full text of a document, issued on 25 April 1988, on "the Hosng Sa and Truong Sa archipelagoes and International Law" by the Ministry of Foreign Affairs of the Socialist Republic of Viet Nam (see annex),

I would be grateful if you could have this letter and its annex circulated as an official document of the General Assembly, under items 42, 72, 130 and 137 of the preliminary list, and of the Security Council.

**(Signed) NGUYEN RINH THANH**  
**Acting Permanent Representative**

\* A/43/50.

A/43/346  
S/190 66  
English  
Page 2

**ANNEX**

**THE HOANG SA AND TRUONG SA ARCHIPELAGOES  
AND INTERNATIONAL LAW**

\*\*\*\*\*

*Ministry of Foreign Affairs  
Socialist Republic of Vietnam*

*Hanoi April 1988*

## PART ONE

### VIETNAM'S CASE VERSUS CHINA'S CASE REGARDING *THE* HOANG SA (PARACEL) AND THE TRUONG SA (SPRATLY) ARCHIPELAGOES

In the course of the settlement of disputes between various countries in the world on the sovereignty over ownerless territories (*res nullius*), a principle of international law on the assertion of territorial sovereignty has been formulated: the principle of effectivity. This principle lies at present at the core of customary international law. In Asia, Africa, Europa, America and the Pacific region, numerous disputes over territorial sovereignty have been settled on the basis of the principle of effectivity. The most famous case among these settlements was one involving the United States and the Netherlands on the status of Palmas island under the arbitration of Max Huber 60 years ago. The conclusion of this settlement and others including the *Minquiers and Ecrehor* case between Britain and France, the *Clipperton* island case between Mexico and France, the *East Greenland* case between Norway and Denmark, etc. . . . have become criteria to assert sovereignty over ownerless (*res nullius*) and abandoned (*res derelicta*) territories. Effective occupation and effective, continuous and peaceful exercise of state authority entitle to sovereignty.

Meanwhile, outdated or inappropriate views have been discarded, for example:

- The right of discovery and the right of first occupancy, the principle of fictive occupation. (A discovery will result only in an imperfect title, i.e. an "embryonic" title. To be effective, such a title needs to be perfected over a reasonable period of time through effective occupation and effective administration of the discovered territory).

- Occupation by private individual will not entitle their country to territorial sovereignty. Only the state can be the title-holder of the occupation.

- An occupation through conquest (*de bellatio*) will not entitle to territorial sovereignty over the conquered territory. To reach objective and impartial conclusion on the sovereignty over the Hoang Sa and Truong Sa archipelagos, it is necessary to set the Vietnamese and Chinese respective cases against the norm of the principle of effectivity: effective occupation, effective, continuous and peaceful exercise of state authority,

1. Vietnam's case :

Vietnam's case is that it has maintained effective occupation of the two archipelagoes at least since the 17th century when they were not *under* the sovereignty of any country and the Vietnamese state has exercised effectively, continuously and peacefully *its* sovereignty over the two archipelagoes until the time when they were invaded by the Chinese armed forces.

It was recorded in TOAN 'TAP THIEN NAM TU CHI LO DO THU (Route map from the capital to the four directions) by DO BA CONG DAO in the 17th century that at least by that century the map of Vietnam had designated the two archipelagoes by a single name BAI CAT VANG and placed them within the administrative confines of Binh Son district, Quang Nghia prefecture. BAI CAT VANG was then otherwise known as HOANG SA, CON VANG, TRUONG SA, DAI HOANG SA, DAI TRUONG SA, VAN LY TRUONG SA, etc. and now 88 HOANG SA and TRUONG SA.

Vietnam had consolidated its occupation and established *its* sovereignty by organizing Hoang Sa brigades for the purposes of exploitation in a state capacity. Each brigade comprised 70 members whose annual task it was to collect in Hoang Sa over a period of 6 months such sea products as holothurians, turtles, precious conches and retrieve from wrecked ships in the vicinity of these archipelagoes such commodities as gold and silver, coins, opium and ammunitions, tin, porcelain and glass wares ... DO BA CONG DAO's book and dozens of others like PHU BIEN TAP LUC (1776) [Miscellaneous records on the Pacification of the frontiers], DAI NAM THUC LUC TIEN BIEN VA CHINH BIEN (1844-1848) [Truthful accounts about Dai Nam former and present dynasties], DAI NAM NHAT THONG CHI (1882) [Geography of unified Dai Nam] and official annals of the National Institute of History under the Imperial Court of Hue, LICH TRIEU HIEN CHUONG LOAI CHI [Collection of regulations under successive dynasties], HOANG VIET DIA DU CHI (1883) [Geographical treaties of Imperial Viet Nam], all had written about Hoang Sa and its exploitation by Hoang Sa brigades. Regulations on recruitment, tribute, reward and remuneration of Hoang Sa brigades had all been clearly defined by the state,

The Hoang Sa brigades were later reinforced by the Bac Ha brigades and they operated continuously during the reigns of the Nguyen lords (1558-1786) and until the Tay Son (1786-1802) and Nguyen (1802-1945) dynasties. Emperor Gia Long, the founder of the Nguyen dynasty, and his successors like Minh Mang, Thieu Tri and Tu Duc took particular care to consolidate national sovereignty over the two archipelagoes.

**Hereunder are some relevant events I**

- In 1919, <sup>emperor</sup> **Gia Long** appointed **Pham Quang Anh** to lead a **Hoang Sa** brigade to explore the archipelago and survey sea routes. The survey **war** continued in the following year.

- Upon completion in 1833 of preparatory jobs on his <sup>personal</sup> order, including the provision of boats and materials, in 1834 and also in the years of 1835 and 1836, **emperor Minh Mang** successively appointed **Generals Truong Phuc Si, Pham Van Nguyen and Phrm Huu Nhrt** to carry out a cartographical survey of each of the islands and an overall survey of the sea in the vicinity, to draw maps, to build temples and place sovereignty **markers** in **Hoang Sa**. **Emperor Thieu Tri** personally examined and approved annual plans of operation of **Hoang Sa** brigades presented to him by the **Ministry of Public Works** (See Annex II). **Emperor Tu Duc** conferred upon martyrs of the **Hoang Sa** brigade the title "**Truong Sa Hero**" (See Annex III).

After the establishment of her protectorate over Vietnam by virtue of the June 6, 1884 treaty, **France** administered the two archipelagoes of **Hoang Sa** and **Truong Sa** in the name of **Vietnam**.

At the beginning, the **French authorities** had a project for a lighthouse on the **Hoang Sa** archipelago, carried out naval patrols in the waters of the two archipelagoes to ensure security and committed customs ships to combatting smuggling. They allowed the Japanese to collect guano on the **Hoang Sa** islands. Between 1925 and 1927 the Oceanographical Institute at **Nha Trang** commissioned S/S **De Laneaon** to carry out oceanographical, geological and biological studies in the two archipelagoes successively.

Between 1930 and 1932 the **Inconstant, Alerte** and **La Malicieuse** warships and also S/S **De Lanessan** made several voyages to **Hoang Sa**.

From 1930 to 1933, French naval units were stationed on the main island of the **Truong Sa** archipelago: **Truong Sa, An Bang, Ba Binh (Itu Aba)**, the **Song Tu** cluster, **Loai Ta** and **Thi Tu**. This activity was published in the official journal of the **French Republic** on July 26, 1933. Also in 1933, the **Truong Sa** archipelago was placed under the administration of **Ba Ria** province by a decree of the then **Cochinchina Governor, J. Krauthimer** (See Annex IV).

In the wake of the **Japanese** occupation of **Manchuria** (1931) and the **Lu Qiu** bridge incident (1937), initial moves

/...

**in the war of aggression against China, the danger of Japanese expansionism loomed large in Southeast Asia.** The French authorities, therefore, embarked upon a plan for the defence of Indochina including the safeguarding of the two archipelagoes of **Hoang Sa** and **Truong Sa**. As a result, the **Hoang Sa** archipelago, then belonging to **Nam Nghia province**, was made a separate administrative unit in **Thua Thien province** (later on the archipelago was split into two administrative units). In 1937, the **Lamotte Piquet** cruiser commanded by Vice-Admiral **Esteve** called at **Hoang Sa**. The **Indochinese** authorities stationed an army unit on the **Hoang Sa** archipelago, where they set up a meteorological station, a wireless station and installed more sovereignty markers and lighthouses. When in a statement in early 1939, Japan placed a number of islands in the **Truong Sa** archipelago under its jurisdiction, France lodged an official protest. Nevertheless, from 1939 till the end of the Second World War, the **Japanese army** occupied both archipelagoes.

On her return to Indochina after the Second World War, France demanded in early 1947 that the armed forces of the Republic of China be withdrawn from the archipelagoes of **Hoang Sa** and **Truong Sa** which they had illegally occupied in late 1946, and brought in French forces to replace the Chinese troops. France also had the meteorological station and the wireless station rebuilt.

At the 1951 **San Francisco Conference** attended by 51 countries - on the **Peace Treaty** with Japan, the Head of the delegation of the state of Vietnam under the protectorate of France in a statement reaffirmed Vietnamese sovereignty over the two archipelagoes. No objections were raised nor any reservations made against this statement at the conference.

The 1954 **Geneva** Agreements on Indochina recognized the independence, unity, **sovereignty** and territorial integrity of Vietnam. However, Vietnam was temporarily partitioned in two : the southern territory lying below the 17th parallel (including the **Hoang Sa** and **Truong Sa** archipelagoes) was placed under the administration of the South Vietnam authorities. Upon their withdrawal from Indochina in 1956, the French authorities transferred the territory of South Vietnam to the Saigon administration which subsequently sent troops to take over the **Hoang Sa** and **Truong Sa** archipelagoes and reorganized them administratively, setting up a village in each of them and annexing it to a district on the mainland (See Annex V), they installed **sovereignty** markers on the major islands, maintained the mete-

orological stations (listed in the network of the World Meteorological Organisation (WMO)), allowed businessmen to exploit guano in Hoang Sa and sent scientific survey teams to these two archipelagoes.

Taking advantage of the French withdrawal from Indochina, in 1956 the Beijing authorities occupied the eastern cluster of islands of the Hoang Sa archipelago. Their occupation met with a strong protest from the Saigon Administration. In 1959, a landing attempt on the western part of the archipelago made by Chinese soldiers disguised as fishermen was smashed by the Saigon forces, Eighty-two Chinese "fishermen" were captured.

In 1974, taking advantage of the situation at the time, when the army of the Saigon administration was busy coping with the attacks launched by the armed forces of the Provisional Revolutionary Government of the Republic of South Vietnam (PRGRSVN), China used its air force and navy to occupy the remaining western part of the Hoang Sa archipelago. The Saigon Administration strongly pronounced itself and informed other countries and the U.N. Security Council of this incident. Concerning this same incident the PRGRSVN made public a threat position including a proposal to hold talks between the parties concerned to settle the dispute. At a conference of the World Meteorological Organisation (WMO) held in 1975, in Colombo, the PRG resolutely defended Vietnamese sovereignty over the Hoang Sa archipelago and was determined to maintain a national meteorological station there. All other cases of violation of Vietnam's sovereignty over the two archipelagoes met with similar strong protests from the various South Vietnam Administrations,

Following the reunification of Vietnam, the Socialist Republic of Vietnam time and again reaffirmed its sovereignty over these two archipelagoes in conducting its relations with China and other countries concerned in international organizations and at international conferences as well as at the talks between the Deputy Ministers for Foreign Affairs of the two countries started in Beijing in October 1977, and on other occasions. In 1982, the Socialist Republic of Vietnam established the Hoang Sa and Truong Sa districts attached to the Quang Nam-Da Nang and Phu Khanh provinces respectively (See Annex VI).

On the strength of the above facts it can be definitely asserted that the state of Vietnam has effectively occupied

the Hoang Sa and Truong Sa archipelagoes and has exercised effectively, continuously and peacefully its state functions there for some 300 years since the 17th century till Beijing invaded the two archipelagoes.

## 2. China's case :

So far China has mainly based herself on historical occurrences to present her case : the Chinese were the first to discover, exploit and govern Juuru Luozhou, Shitang, Thianli Shitang, Wanli Shitang, Wanli Chang Sha ... which purportedly correspond to Xisha and Nansha today, and for thousands of years successive Chinese dynasties and administrations have been continuously exercising their rule over these two archipelagoes.

First a question which needs to be considered is whether the above-mentioned really are names of the islands belonging to the Hoang Sa and Truong Sa archipelagoes. This is one of the first questions that Max Huber had to deal with in the Palmas island dispute. One can see that the above-mentioned evidence produced by China is fuzzy to say the least. Not until 1787-1788 when a survey was undertaken by the Kerguelen Locmaria expedition did the western navigators realize that there existed two separate archipelagoes later called Hoang Sa (Paracel) and Truong Sa (Spratly). Even if the identification were in China's favour that would not be the fundamental issue. The fundamental issue is to examine its argumentation under the light of the principle of effectivity.

- The discovery and exploitation by the Chinese people :

In former times, it was not only the Chinese but also the Vietnamese, the Malays, the Persians, the Arabs . . . who made voyager to and from the waters of the Hoang Sa and Truong Sa archipelagoes. There is no proof that no other people had discovered these two archipelagoes before the Chinese did.

Discovery and exploitation by the people will not under international law result in the assertion of national sovereignty. Even the discovery by states confers but an embryonic, imperfect title which becomes complete only if subsequent activities are undertaken by these states to manifest their will to exercise their jurisdiction.

- On the jurisdiction exercised for thousands of years by Chinese feudal dynasties.





- Beijing has **cited** the **astronomical surveys** by the Yuan dynasty (XIIIth century) in Nanhai to conclude that the Xisha archipelago lay within **Chinese territory under the Yuan**.

Nevertheless, it is written in the official history of the Yuan dynasty itself that the **Chinese domain** under the Yuan dynasty extended only to Hainan island in the South and not beyond the **Gobi desert** in the North, that is to say, it did not include the islands which China call Xisha today. Moreover, the measurements carried out by the Yuan dynasty at 27 points, included territories of other countries, such as **Gaoli (Korea)**, **Tiele** (Soviet Siberia), **Nanhai**. If there were regarded as a legal basis for China's sovereignty, this could lead to **Chinese claim on more distant territories including** in the Democratic People's Republic of Korea and the USSR.

- China has **cited a patrol** cruise by Vice-Admiral Wu Shong in the years 1710-1712 or so during the Qing dynasty alleging that Vice-Admiral Wu Shong himself set out "from Qiongya, proceeding to Tonggu, Qizhouyang, and Sigengsha, making a three-thousand mile tour of inspection". On this basis, China asserts that Qizhouyang is the present-day Xisha archipelago which was then **controlled** by naval units of Guangtung province. All the names of Qiongya, Tonggu, Sigengsha, are names of localities on the coast of Hainan island, while Qizhouyang is a maritime zone lying between the northeastern coast of Hainan island and the group of seven islets situated to the northeast of Hainan (See the 1/500,000 scale sea map published in 1965 by China in Chinese and Vietnamese languages, the map of Lsithou peninsula and Hainan island and the topographical map of Nanhai printed by the Chinese Cartological Publishing House in May 1974) (See Annex VII).

So, that was just an inspection tour around Hainan island. Beijing's conclusion are obviously contrary to historical and geographical facts.

- About the "tour of inspection" around the Xisha archipelago by Admiral Li Zhun in 1909 referred to by Beijing: the blitz landing and pulling out of Chinese troops on some islands of the Hoang Sa archipelago ordered by Admiral Li Zhun was a violation of Vietnamese sovereignty and absolutely cannot be regarded as an exercise of Chinese "sovereignty". That "tour of inspection" and all the subsequent activities of the government of the Republic of China or the government of the People's Republic of China, supposedly aimed at asserting Chinese "rule" over the Hoang Sa or Truong Sa archipelagoes, took place at a time when these two archipelagoes had already belonged to

Vietnam. All the three above-mentioned occurrences as cited by China were, on the one hand, distortions of historical and geographical facts and, on the other, had no connection with the Hoang Sa and Truong Sa archipelagoes of Vietnam. If maritime patrol and inspection tours are prevented • e an argument proving Chinese sovereignty over the two archipelagoes, one may wonder whether China is going to claim sovereignty over such territories in relation to which Zheng He under the Ming dynasty seven times (between 1409 and 1430) dispatched a large naval fleet with more than 60 gunships and 28,000 men to impose Chinese hegemony on territories within the Indian Ocean zone and undertake territorial exploration in the Red Sea zone and along the coast of Eastern Africa?

Moreover, for an extended period of 700 years, from the Renzong reign of the Northern Song (1023-1063) to the Kangxi reign of the Qing dynasty (1654-1722) China was able to cite only three scattered unconvincing occurrences. It is therefore impossible for China to make any claim about an "effective and continuous exercise of sovereignty". Comparing the respective cases of Vietnam and China, one can see that China has never administered the Hoang Sa and Truong Sa archipelagoes, and it is all the more impossible to say that China has exercised effectively, continuously and peacefully her "sovereignty" over these islands. The claim of Chinese sovereignty is one that China has not up to now been able to prove.

The state of Vietnam has effectively occupied the two archipelagoes of Hoang Sa and Truong Sa since at least the 17th century and has effectively, continuously and peacefully exercised its sovereignty ever since.

From the 17th to the 19th century, Chinese dynasties had never protested but implicitly recognized Vietnamese jurisdiction over the archipelagoes. There was even a case when members of the Hoang Sa brigade were helped by the Chinese to get back to Thuan Hoa from Qinglan port (Hainan Island) into which their boat had been swept by a typhoon [3]. With the 1884 Franco-Chinese Treaty signed in Tientsin, China recognized French rule in Vietnam. During the nearly century-long French rule over Vietnam, only on a few occasions did China make a claim of "sovereignty" over the Hoang Sa archipelago,

[3] In pages 82B-85A of PHU BIEN TAP LUC, Le Quy Don wrote: "In the 11th month of the 18th Kianlong year, from An Vinh village, Cat Liem brigade, Chuong Nghia sub-district, Quang Ngai district of Vietnam, there were 10 servicemen who went to Wanlichangrha to collect things while the rest remained on board to look after the boat. As their boat rope was cut off by winds, they

but when France twice (in 1937 and 1947) proposed a legal solution, the Republic of China turned down the French proposals. In all Chinese maps Hainan island is drawn as the southernmost point of China. A Chinese geographical book, published in 1906 even put the southernmost point of China at 18.13.00 degrees North latitude [4]. In connection with the sinking of S/S Bellona and Imaji Maru in the waters of the Horn of Sa archipelago (in 1895-1896), the Chinese authorities in Lign Guang province in an answer to the British Consul even said that Xisha did not belong to China,

---

(Continued p.9 )

were driven off to Qinglan port where after verification the officials there sent them back home. Nguyen Phuc Chu then ordered Thuc Luong Hau who was governor of Thuan Hoa province to write them a letter of acknowledgement.

- [4] In Hoang Chao Yitong Yudi Zongtu general map of the Unified Empire published in the 20th Guangxu year 1894, Chinese territory extended only as far as Hainan island. Its annotation clearly wrote that the southernmost point of the Qing country is "Zhouya, Giongzhou Fu, Guang Tung 18.13 degrees North. In Zhongguo Dilixue Jiao Keshu written by Tu Ke in the 31st Guangxu year 1905, and published in 1906. It was clearly written in book 1 that "the southernmost point is the Yaahou coast of Qiongzhou island 18.13 degrees North latitude (page 241).

## PART TWO

### STANDS TAKEN BY OTHER COUNTRIES ON "CHINA'S SOVEREIGNTY" OVER THE TWO ARCHIPELAGOES

**Beijing** has insisted that many countries and world public opinion have recognized the Xisha and Nansha archipelagoes as **China's** territories.

The evidence as presented by Beijing *can* be classified into the following three categories :

- Recognition by governments
- Recognition by international or regional organisations,
- Recognition derived from some ● encyclopaedia and maps,

#### 1. Recognition by government :

The primary ● evidence produced by Beijing is the July 4 1938 statement of the spokesman of the Ministry of Foreign Affairs of Japan which said the Xisha archipelago was China's territory. At that time the Japanese military forces were expanding their war of ● aggression against China, in the proximity of Hainan island, Japanese warships and aircraft had just strafed Haikou City on Hainan island (January 1938) and Japanese warships had entered Yulin port on the island's southern coast in an attempt to intimidate China (January 1938). The above-mentioned Japanese statement should be replaced in the context of Japan's strategy of aggression against China and of the Japanese design to use China's territory to seize the territories under French, British, American and Dutch occupation in Southeast Asia and it *cannot* be construed as a recognition of the sovereignty of China over the Xisha archipelago. Indeed soon afterwards the Japanese military forces seized both Hainan island and the Vietnamese archipelago of Hoang Sa which was then under French occupation.

Beijing has invoked the provision of the September 1951 San Francisco Peace Treaty with Japan *under* which, in China's view, Japan renounced its title to the "Xisha" and "Nansha" ● archipelagoes, and the Soviet Union's support of the Chinese

claim. But China has deliberately ignored the November 26, 1943 Cairo Declaration, the July 26, 1945 Postdam Declaration and the decision adopted by the San Francisco Conference concerning the Peace Treaty with Japan despite the fact that they are highly important international documents relating to the question of Japanese-occupied territories.

The fact was that in November 1943, American President Franklin D. Roosevelt, British Prime Minister Winston Churchill and the President of the Republic of China, Chiang Kaishek, held a secret meeting in Cairo to discuss the conclusion of the war with Japan and the settlement of post-war issues, including those connected with other countries' territories occupied by Japan. Neither France nor Vietnam was present at the meeting. After four days of discussion, the leaders of three countries agreed:

"It is their purpose that Japan shall be stripped of all the islands in the Pacific which she has seized or occupied since the beginning of the First World War in 1914, and that all the territories Japan has stolen from the Chinese, such as Manchuria, Formosa, and the Pescadores shall be restored to the Republic of China" (Cairo Declaration).

This agreement made no mention of the Hoang Sa and Truong Sa archipelagoes though both France and Vietnam were not present at the meeting while China was among the three parties participating in the decision on the issue of territories.

In the Postdam Declaration of July 26, 1945, the leaders of the United States, the United Kingdom and the Republic of China reaffirmed: "The terms of the Cairo Declaration shall be implemented". After it declared war with Japan in the Far East, the Soviet Union endorsed this proclamation.

At the 1951 San Francisco Conference, an amendment was made to the draft Peace Treaty calling for the returning to China of the Xisha and Nanhai archipelagoes. But the conference voted for the rejection of the amendment with 46 votes in favour, 3 against and one abstention.

The Peace Treaty was signed by all the participants in the conference on September 8, 1951, according to article 2, chapter 2 of the treaty concerning the settlement of territories occupied by Japan: Japan renounces all right, title and claim to Korea (part A), to Formosa and the Pescadores of China (part B) to the Kurile islands, to part of Sakhalin and the

islands adjacent to it of the Soviet Union (part C), to the Pacific islands formerly under the trusteeship mandate of Japan (part D) to any part of the Antarctic area, derived from any Japanese activities (part E) and to the Spratly and Paracel islands (part F).

The Cairo Declaration did *not* say the Paracel and Spratly archipelagoes are under Chinese sovereignty. The Postdam Declaration confirmed the **Cairo Declaration**. Also at the San Francisco Conference, the proposal to return the Paracel and Spratly archipelagoes to China was rejected. These are clear-cut and unmistakable facts.

In addition, at the San Francisco Conference, the Head of the delegation of the state of Vietnam, in a statement asserted the long-standing national **sovereignty** of Vietnam over the Hoang Sa and Truong Sa archipelagoes, the statement aroused no objections nor reservations from any country,

On the strength of the above-mentioned historical **facts** and legal grounds, the **correct conclusions are :**

- China's claim of **sovereignty** over the Paracel (Hoang Sa) and Spratly (Truong Sa) has been **rejected at** international conferences in which the question of **Chinese** territories has been **raised**,

- The Paracel and Spratly archipelagoes remaining under French administration, France returned these **islands** to Vietnam upon its withdrawal from the country under the provisions of the 1954 **Geneva Agreements** on Vietnam.

## 2. Recognition by international specialized agencies and organizations :

Beijing has also *cited* a few decisions of the Far **Eastern Meteorological** Organization and the International Civil **Aviation** Organization. This type of evidence is not worth **considering** for it has been stipulated in the **statutes** of all international and regional **specialized** agencies that none of *their* decisions implies the recognition of a state's sovereignty over any territory.

On the other hand, China, under the pretext of "conducting scientific surveys", has used warships to occupy a number of rocks and submerged reefs in the Spratly archipelago.

3. Recognition by encyclopedias and maps of some other countries :

Beijing has quoted a number of encyclopedias and maps published between 1954 and the 1970s by some countries as indicating that the Xisha and Nansha islands are part of Chinese territory. Nevertheless, Vietnam has ancient maps from the 17th, 16th and 19th centuries which show the two archipelagoes as belonging to Vietnam. Moreover, there are books and maps of other countries which either determine that these archipelagoes belong to Vietnam or just leave their sovereignty undetermined. As a matter of fact, this carries little importance as according to international custom and practices. Geographical maps can only provide supporting evidence of minimal value [5].

All this China has brought forward as recounted above to back up her claim is not convincing enough to prove that "China's sovereignty over the Xisha and Nansha islands has been universally recognized".





Beijing stressed that Vietnam itself has "recognized" the Xisha and Nansha islands as Chinese territories. It cites as evidence a view expressed in 1956 by Vice-Minister for Foreign Affairs of the Democratic Republic of Vietnam Ung Van Kiem, a note in 1958 of Prime Minister Pham Van Dong approving the statement by the People's Republic of China of her 12-nautical-mile wide territorial waters and the statement in 1965 of the Government of the Democratic Republic of Vietnam protesting the United States delimitation of the fighting zone of the U.S. armed forces in Indochina and which laid the zone impinged on "the Xisha maritime area of China".

It is true that the above-mentioned facts have occurred. But it is necessary to replace them exactly in their historical context. These facts happened between 1956 and 1965 when Vietnam had to fight against U.S. intervention and aggression,

As stated earlier, half of Vietnam South of the 17th parallel North was placed under provisional control of the South Admin-




- [5] In his decision regarding the dispute between the United States and the Netherlands over Palmas island, arbitrator Max Huber commented that "... It is only with utmost caution that one can consider relying on maps for settling a matter of territorial sovereignty..." and that "when the arbitrator knows with certainty of the existence of decisive legal data that contradict the assertions of cartographers whose sources of information are unknown, he may altogether disregard the value of these maps no matter how numerous and highly valued". (General Journal of international public law, 3rd series, volume IX, tome XLII A, 1935, A. Pedone Publishing House, Paris, pp. 179-180).



nistration pending national reunification in accordance with the provisions of the 1954 Geneva Agreements on Indochina, The Saigon Administration (in the South) took over the Hoang Sa and Truong Sa archipelagoes from the French in 1956 upon their withdrawal from Indochina. From then up to early 1975 they made administrative units out of these islands, undertook economic survey and exploitation. They put up a resolute fight against plane and actual attempt? by Beijing or by other countries to seize the    archipelagoes. The Provisional Revolutionary Government of the Republic of South Vietnam a signatory to the 1973 Paris Agreement  longpridr with the United States and other countries, also proclaimed Vietnam's sovereignty over these two archipelagoes.

Right after the signing of the 1954 Geneva Agreements on Indochina, the Vietnamese people had to fight against U.S. intervention and aggression in South Vietnam. Since 1965 the U.S. had been waging a local war in the South and at the same time conducting an aerial war of destruction in the North with the whole of its enormous military power. The Vietnamese people therefore had to do whatever they could to defeat the war of aggression and were determined not to forfeit their country once again. To the entire nation of Vietnam, this was a matter of life and death.

During this period, China considered U.S. imperialism her chief enemy, resolutely backed Vietnam in its struggle against the U.S. and proclaimed herself "the rear of the Vietnamese people". China was among the countries which provided Vietnam with the greatest volume of aid, Vietnam and China became true allies in their common struggle against the U.S. Their relations were "as close as lips to teeth."

In such a life and death struggle against    ggrraror whose military strength far surpassed its own, the more Vietnam could rely on China's attachment to Vietnam's struggle to prevent the U.S. from using these two archipelagoes as well as the Bien Dong Sea against it, the better. In that spirit and against that background should the above-mentioned statement be understood.

Vietnam trusted China in all sincerity and believed that after the war all territorial problems would be suitably resolved between those who were "at the same time comrades and brothers".

During the war of resistance against the French, in 1949 the Vietnamese armed forces drove the Kuomintang troops out of Chusan (Chinese territory), liberated this region and

handed it over to the Chinese People's Liberation Army afterwards, in the same spirit, entitled to take over Northern Vietnam under the 1954 Geneva Agreements on Indochina, the Vietnamese Government asked China to administer on Vietnam's behalf Bach Long Vi island in the Bac Bo (Tonkin) Gulf and then regained its administration over the island in 1957. Vietnam put so much confidence in China that when the latter helped Vietnam to reconstruct the railway between Ha Noi and Dong Dang, the Vietnam Railway Board even accepted a document saying that the point of junction of the two countries railways would go "beyond the national border line" as far as 316 meters into Vietnamese territory in comparison with the official border-line between the two countries as was defined in the May 26, 1955 Sino-Vietnamese Railway Agreement,

We adopted the same attitude toward our Lao brothers. During the initial stage of its war of resistance against the U.S. and Vietnam spared part of its territory such as Na Meo (Thanh Hoa province) and Kong Du (Nghe An province) to Lao patriotic forces for use as bases, the Lao patriotic forces similarly agreed to let Vietnam build the Ho Chi Minh trail on part of Lao territory adjacent to Vietnam. After the war against the U.S. the Socialist Republic of Vietnam and the Lao People's Democratic Republic satisfactorily resolved together all related questions. Vietnam handed back to Laos all territories it had borrowed from Laos and vice-versa. On July 18, 1977, the two countries signed an Agreement on National Border Delimitation, on the basis of respect for the border line which existed in 1945 when the two countries declared independence.

However, the relations between Vietnam and China, have not developed as well as the Vietnamese people hoped. The People's Republic of China in 1972 received U.S. President's National Security Adviser Henry Kissinger, and in 1972 signed the Shanghai Joint Communiqué with President Richard Nixon. Those events resulted in China turning friend into foe and vice-versa and in China's collusion with the U.S. in its strategy against the Vietnamese people aimed at preventing the Vietnamese people from completely liberating South Vietnam and achieving national reunification. Along with the escalation of provocative acts and land-grabbing operations' along the land border, in January 1974, Beijing used a military force to attack and occupy the remaining Western group of islands of the Hoang Sa archipelago. With the war by proxy of the genocidal Pol Pot clique in Southwestern Vietnam and the war involving 600,000 Chinese troops in the Northern border regions of Vietnam Beijing has brought the Sino-Vietnamese relations to their worst. The realities of the last ten years and more have clearly shown that China has turned

the tables, switching friends and foes and brazenly carrying out *an* anti-Vietnam policy.

In short, Beijing's claims over the Hoang Sa and Truong Sa archipelagoes are without historical and legal ground. Chinese actions in the Hoang Sa archipelago previously and in the Truong Sa archipelago at present, in fact are part of China's expansionist and hegemonist policy towards Vietnam and Southeast Asia.

Throughout the past thousands of years, China had never exercised sovereignty over these two archipelagoes. What China did though was by the gradual use of military force between 1956 and 1974 to occupy the Hoang Sa archipelago, and what she has been doing since January 1989 is to begin occupying a number of rocks and reefs in Vietnam's Truong Sa again by use of military force.

Thus, China is translating into action the July 30, 1977 Declaration made by former Chinese Foreign Minister Huang Hua: "The Chinese territory spread down to the James Shoals near Sarawak (Malaysia) ... You can carry out explorations as you wish. When the time comes, however, we will retrieve those islands. There will be no need then to negotiate at all, these islands having since long ago belonged to China ...".

### PART THREE

#### PEACEFUL NEGOTIATIONS : *THE MOST APPROPRIATE WAY* OF SETTLING DISPUTES OVER THE TWO ARCHIPELAGOES

After World War II, the right to use war as provided for by *traditional* international law was repudiated by modern international law, the United Nations Charter prohibits the threat to use force or the use of force in relations between states (Article 2, paragraph 4). It is also stipulated in the United Nations Charter that the member states shall settle disputes in their mutual relations by peaceful means (Article 2; paragraph 3), the Charter devotes a whole Chapter to the peaceful settlement of disputes (Article 33 to 38).

As regards the Vietnamese archipelagoes of Hoang Sa and Truong Sa, during the last thirty-two years, China has on three occasions resorted to the use of force in order to invade them: in 1956 the Eastern sector of Hoang Sa; in 1974 the Western sector of that archipelago, and in 1988 a number of rocks and reefs in the Truong Sa archipelago. It even went as far as impudently demanding that Vietnam withdraw from the islands of Vietnam's Truong Sa archipelago. China's gunboat policy violates international law and goes counter to the trend towards the peaceful settlement of all disputes in state-to-state relations now prevailing in the world and in the region.

In the face of China's policy of reliance on the use of force, the Socialist Republic of Vietnam is determined to defend its sovereignty and territorial integrity, and at the same time, respects the principle of refraining from the threat to use force or the use of force to settle disputes, consistently advocating the settlement of all disputes between the two countries, including the one concerning the two archipelagoes, through peaceful negotiation. In line with this principled position, back in 1978 the Socialist Republic of Vietnam reached agreements with ASEAN countries, namely with Malaysia and the Philippines, to settle all differences, including territorial questions, through negotiations in a spirit of conciliation and friendship.

With China, from the outset, Vietnam has put forth proposals for the settlement of disputes through negotiations in a spirit of equality, mutual respect, friendship and good-

/...

neighbourliness (Point 3, *three-point* position of January 26, 1974, reaffirmed in 1979 and 1976 and at Vietnam - China talks at Vice-Foreign Ministerial level during 1977 and 1978). Regrettably, the Chinese side neither responded to their proposals nor put into effect the statement by Chinese leader Deng Hsiao-Ping (then Deputy Prime Minister) :

"Between the two countries there exists a dispute over the two archipelagoes which can be an object of discussion between the two sides" (talks between the late General Secretary of the Communist Party of Vietnam Le Duan and Deputy Premier Deng Hsiao-Ping, September 24, 1975).

In the face of the extremely serious situation in the Truong Sa archipelago area, since March, 1988, Vietnam has three times proposed to the Chinese side to open talks for the settlement of differences concerning the Truong Sa archipelago, and other disputes over the common border and the Hoang Sa archipelago (notes respectively dated March 17 and March 23, 1988), at the same time it proposed that pending the settlement of disputes by means of negotiations, "the two sides should refrain from the use of force to settle disputes and avoid any clashes that may aggravate the situation" (note dated March 25, 1988).

The above-mentioned proposals successively put forth by Vietnam reflect the Vietnamese people's and government's spirit of self-restraint, constructive position and attitude of good-will for the sake of peace. The Chinese authorities slanderously label the Vietnamese proposals "hypocritical" in order to reject negotiations with Vietnam and have not responded to Vietnam's proposal that the two sides undertake not to use force to settle disputes. All this shows that China continues implementing a policy of hostility against Vietnam, and continues its acts of usurpation in the Truong Sa archipelago. In the meantime, China has declared that she is prepared to rattle early border questions with other countries. This pertains to China's traditional "divide-and-rule" policy.

The developments of the situation since the March 14, 1988 incident up to the present day point to all the dangers inherent in China's policy of reliance on the use of force.

A peaceful settlement of the dispute over the archipelagoes of Truong Sa and Hoang Sa would respond to the desire for peace of the peoples of Vietnam and China, in conformity with the principles of international law and the United Nations Charter, with the interest of peace, stability and co-operation

in Southeast Asia, the Asian-Pacific region and the whole world. This is the most correct way. Public opinion in Southeast Asia and in the whole world is looking forward to China's positive response. Being one of the five Permanent Members of the United Nations Security Council, China has a major obligation to abide by the United Nations Charter. /.

---

## ANNEX I

### SOME GEOGRAPHICAL FEATURES OF THE HOANG SA AND TRUONG SA ARCHIPELAGOES

For a long time Vietnamese and Westerners have thought that in the **Bien Dong Sea** (also called **South China Sea** Of China Sea) there is a long archipelago that the Vietnamese then called **Bai Cat Vang, Con Vang, Hoang Sa, Truong Sa, Dai Truong Sa, Van Ly Truong Sa** while Western navigators And cartographers named them **Paracel, Parcel or Pracel**.

Only in 1787 - 1788 two hundred years ago, could the **Kergariou Locmaria** research expedition clearly And exactly determine the position of the **Hoang Sa (Paracel) archipelago**, which thur was hence differentiated from thr **Truong Sa archipelago** furthsr South.

Theme two archipelagoes lie 500 kilometres from each other. They consist of a large number of islands and coral reefs and shoals. The emerging area of each archipelago is about 10 square kilometres.

The value of both archipelagoes lies in their strategic positions in the **Bien Dong Sea** and their great potentials in oil and natural gas.

The **Hoang Sa archipelago** :  
(known as **Paracel** by Westerners and **Xisha** by China).  
In this archipelago, there is an island called **Hoang Sa (Pattle island)**,

The **Hoang Sa archipelago** consists of about 30 islands, reefs and shoals, all of which are scattered over an area of about 15,000 square kilometres and are divided into two clusters: the Eastern cluster of **An Vinh (Anphitrite cluster)**.

The nearest point of this archipelago is about 170 nautical miles (one nautical mile = 1.853 km) off **Danang** (of Vietnam) and about 156 nautical miles from **Hainan island** (of China). The distance from East to West and from North to South of the archipelago is about 95 and 90 nautical miles respectively.

The **Truong Sa archipelago** :  
(known as **Spratly** by Westerners and **Nansha** by China), In this archipelago, there is one island called **Truong SA (Spratly island)**.

The Truong Sa archipelago consists of about 100 islands, reefs and shoals lying over an area Of about 160,000 - 160,000 square kilometres.

The Truong Sa archipelago is situated Southeast Of the Hoang Sa archipelago. The nearest point of the Truong Sa archipelago is about 250 nautical miles from Yulin (Hainan island, China). The distance from East to West And from North to South is about 325 And 234 nautical mile8 respectively.

---

#### ANNEX

In the report of the Ministry of Public Workr submitted to Emperor Thieu Tri in 1847, it was said : " Hoang SA belongs to our country'8 territorial waters. According to customs, gunboats *are sent* there every year to better ascertain navigation routes to there islands. As there are too many engagements thir year, we submit that the *voyage* be postponed till next year.

EmperorrThieu Tri annotated : "Postpone".

---



ANNEX III

In the year of Dinh Mao, 20th year of Tu Duc's reign (1867), sailors fallen in Truong Sa were conferred the title "Hero" by the Emperor: "Truong Sa Heroes On Sea Patrol", "Truong Sa Heroes Fishing", "Truong Sa Heroes Holding Fishing Nets", "Truong Sa Guarding Stores". "Truong Sa Heroes Guarding Encampments", "Truong Sa Heroes Preparing Meals" ...

---

ANNEX V

1. Decree No 4762/CP of December 21, 1933 issued by the, Governor of Cochinchina on the incorporation of the Truong Sa archipelago into the province of Ba Ria.
  - 2, Ordinance No 10 of the 29th day of the second Lunar month, 13th year of Bao Dai's reign, (March 30, 1938) on the incorporation of the Hoang Sa archipelago into the province of Thua Thien (published in "The Official Quoc Ngu Journal of the Vietnamese Court) 8th issue of 1938, page 233).
  3. Decree No 3282 of May 5, 1939 issued by the Governor General of Indochina, J. Brevie on Amending Decree 156/SC of June 15, 1938 (misprinted as 1932) and establishing in the Hoang Sa archipelago two Administrative Agencies denominated "Crescent and Dependencies" and "Amphitrite and Dependencies" (Bulletin administratif de l'Annam, 9th issue of 1939).
- 

/...

ANNEX V

- 1, Decree No 174/NV of July 13, 1961, issued by President **Ngo Dinh Diem** of the Republic of Vietnam on the allocation of the **Hoang Sa** archipelago to the province of **Quang Nam** and the establishment in this archipelago of a commune named **Dinh Hai** as part of **Hoa Vang** district.
- 2, Decision No 420-BNV/HCDP/26 of September 6, 1973, by the Ministry of the Interior of the Republic of Vietnam on the incorporation of the **Truong Sa** archipelago into the commune of **Phuoc Hai**, Dat Do district, Phuoc Tuy province.

---

ANNEX VI

1. Decision No 193/HDBT of December 9, 1962, by the Council of Ministers of the Socialist Republic of Vietnam on the setting up of the **Truong Sa** district as part of **Dong Nai** province,
2. Decision No 194/HDBT of December 9, 1982, by the Council of Ministers of the Socialist Republic of Vietnam on the establishment of the **Hoang Sa** district as part of **Quang Nam - Da Nang** province.
3. Resolution adopted by the National Assembly (7th Legislature of the Socialist Republic of Vietnam on December 28, 1982, at its 4th Session on detaching the district of **Truong Sa** from **Dong Nai** province and incorporating it into **Phu Khanh** province.

-----