

ARBITRATION UNDER ANNEX VII OF THE UNITED NATIONS  
CONVENTION ON THE LAW OF THE SEA

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**REPUBLIC OF THE PHILIPPINES**

**v.**

**PEOPLE'S REPUBLIC OF CHINA**

SUPPLEMENTAL WRITTEN SUBMISSION OF THE PHILIPPINES

VOLUME VIII  
ANNEXES

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16 MARCH 2015





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- Annex 475 *Republic of China, National Defense Committee Secretariat, Statement of Opinions Based on Research of Military Relevance and Methods Regarding the Nine French-Occupied Islands (1 Sept. 1933), reprinted in Archival Compilation on South China Sea Islands by Ministry of Foreign Affairs, Vol. 1, Doc. No. II(1):072 (Republic of China Ministry of Foreign Affairs Research & Planning Committee, ed.) (1995)*
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- Annex 479 Republic of China, Executive Yuan [Branch], *Order* (29 Sept. 1946), reprinted in *Archival Compilation on South China Sea Islands by Ministry of Foreign Affairs*, Vol. 2, Doc. No. III(1):007 (Republic of China Ministry of Foreign Affairs Research & Planning Committee, ed.) (1995)
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- Annex 485 Fu Zhu, *Regarding the Issue of Territorial Waters of China* (1959)
- Annex 486 *Letter* from the Permanent Mission of the People's Republic of China to the United Nations to the Secretary-General of the United Nations (14 May 1979), reprinted in U.N. General Assembly, Thirty-fourth Session, *Report of the Security Council*, U.N. Doc. A/34/235 (14 May 1979) (with attachment)
- Annex 487 "May 4, 1979 Speech by Han Nianlong, Head of the Government Delegation of China, at the Fourth Plenary Meeting of the Sino-Vietnamese Negotiations at the Vice-Foreign Minister Level", reprinted in *Beijing Review*, Vol. 22, No. 21 (25 May 1979)

- Annex 488 Chen Tiqiang and Zhang Hongzeng, “The Issue of Delimiting the Beibu Gulf Sea -- Rebuttal of Vietnamese Errors from the Perspective of International Law”, *Guangming Daily* (2 Dec. 1980)
- Annex 489 Ministry of Foreign Affairs of the People’s Republic of China, *Spokesman’s Statement of 28 November 1982* (28 Nov. 1982), reprinted in *Law of the Sea Bulletin*, No. 1 (1983)
- Annex 490 People’s Republic of China, *Declaration of the Government of the People’s Republic of China on the baselines of the territorial sea* (15 May 1996)
- Annex 491 Ministry of Foreign Affairs of the People’s Republic of China, “Spokesperson’s Comment on China-Asean Consultation” (30 Aug. 2000)
- Annex 492 Office of the President of the Taiwan Authority of China, “The President Attended the Opening Ceremony for ‘Republic of China Southern Historical Exhibition’” (1 Sept. 2014)

## CHINESE GOVERNMENT DOCUMENTS (TAIWAN AUTHORITIES)

- Annex 493 Office of the President of the Taiwan Authority of China, “Opening Ceremony for the Exhibition of Historical Archives on the Southern Territories of the Republic of China”, YouTube Video (remarks of President Ma Wing-jeou begin at 47:10) (1 Sept. 2014), available at <https://www.youtube.com/watch?v=h89dhJWqViw> (accessed 27 Jan. 2015)
- Annex 494 Office of the President of the Taiwan Authority of China, “Excerpts from Remarks at Opening Ceremony for the Exhibition of Historical Archives on the Southern Territories of the Republic of China” (1 Sept. 2014), available at <http://www.president.gov.tw/Default.aspx?tabid=131&itemid=33125&rmid=514> (accessed 27 Jan. 2015)
- Annex 495 Transcript of Office of the President of the Taiwan Authority of China, President Ma Ying-jeou, “Excerpts from Remarks at Opening Ceremony for the Exhibition of Historical Archives on the Southern Territories of the Republic of China” (1 Sept. 2014), available at <http://www.president.gov.tw/Default.aspx?tabid=131&itemid=33125&rmid=514> (accessed 27 Jan. 2015)
- Annex 496 Office of the President of the Taiwan Authority of China, “President Ma attends opening ceremonies of Exhibition of Historical Archives on the Southern Territories of the Republic of China” (1 Sept. 2014), available at <http://english.president.gov.tw/Default.aspx?tabid=491&itemid=33215&rmid=2355> (accessed 25 Feb. 2015)
- Annex 497 Taipei Economic and Cultural Office in Malaysia, “President Ma vows Taiwan will play important role in South China Sea talks” (2 Sept. 2014)

## ASEAN DOCUMENTS

- Annex 498 Association of Southeast Asian Nations, *Report of the Third Meeting of the Working Group of ASEAN-China Senior Official Consultations on the Code of Conduct in the South China Sea* (11 Oct. 2000)

## THIRD-PARTY GOVERNMENT DOCUMENTS

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Socialist Republic of Viet Nam, National Boundary Commission, “On Viet Nam’s Sovereignty over Hoang Sa and Truong Sa Archipelagoes”, in *Paracel & Spratly Islands Belong to Viet Nam: Historical Evidence and Legal Grounds*

**Annex 466**

*Letter* from Francis H. Jardeleza, Solicitor General of the Republic of the Philippines, to Judith Levine, Registrar, Permanent Court of Arbitration (30 July 2014)



Republic of the Philippines

**Office of the Solicitor General**

30 July 2014

**Ms. Judith Levine**Registrar  
Permanent Court of Arbitration  
Peace Palace, Carnegieplein 2  
2517 KJ The Hague  
The Netherlands

Re: *Arbitration between the Republic of the Philippines  
and the People's Republic of China*

Dear **Ms. Levine**:

I write on behalf of the Government of the Philippines to draw the attention of the Arbitral Tribunal to the deep concerns of the Republic of the Philippines about China's activities at several features in the South China Sea whose maritime entitlements are at issue in this case. In particular, China is undertaking extensive land reclamation activities at four of these features: McKennan (Hughes) Reef, Johnson Reef, Gaven Reef and Cuarteron Reef.

Recent aerial and satellite imagery showing China's activities at each of these features is attached hereto. The images reveal that China is using dredgers to pile huge amounts of sand around its existing structures, thereby expanding the size of the artificial "islands" China previously constructed on top of those reefs. It appears from the attached imagery that China is, among other things, constructing a landing strip at McKennan (Hughes) Reef.

The information available to the Philippines indicates that China began its land reclamation activities in or around December 2013, well after the Philippines presented its Notification and Statement of Claim to China in January 2013.

The Philippines is concerned about China's conduct for several reasons. *First*, China's activities appear designed to change and/or mask the physical characteristics of each of the reefs in question. As detailed in the Philippines' Memorial, the existing evidence shows that McKennan and Gaven Reefs are submerged features, no part of which is above water at high tide. Johnson and Cuarteron Reefs each consist of one or more tiny rocks protruding just above sea level. In their natural state, all four features are therefore incapable of generating independent entitlement to an exclusive economic zone or continental shelf. China, however, appears to be attempting to transform the situation by converting them into more sizable entities.

In the view of the Philippines, neither China's recent actions nor its prior artificial enhancements of the four features, as described in the Philippines' Memorial, can have any effect on their maritime entitlements. To the contrary,



the entitlements, if any, of these features are determined by reference to their natural state, and not by any “improvements” made by China.

*Second*, the Philippines is concerned about the effect of China’s activities on the fragile marine environment in the vicinity of these sites. In its Memorial, and in particular the expert report of Dr. Kent E. Carpenter<sup>1</sup>, the Philippines explained that the reefs of the South China Sea have one of the greatest concentrations of marine life on Earth, and are important habitat and breeding grounds for many endangered marine species. The reefs serve as the key means for replenishing fisheries and reef life throughout the South China Sea, meaning that harm done to the reefs creates significant ripple effects throughout the ecosystem. The reefs’ recovery from such damage, if it is possible at all, can take decades. Construction on the scale China is now undertaking inevitably entails substantial impacts to this delicate environment.

*Third*, China’s actions represent another significant departure from the status quo. The Philippines has already made the Arbitral Tribunal aware of China’s provocative conduct at and around Second Thomas Shoal.<sup>2</sup> Recent confrontations between China and Vietnam in areas adjacent to the Vietnam coast, which have been widely reported, constitute further signs of China’s increasingly assertive behavior in regard to law of the sea disputes in the South China Sea.

*Fourth*, China’s reclamation activities are inconsistent with the 2002 Declaration on the Conduct of Parties in the South China Sea (the “2002 DOC”) signed by China and ASEAN member States pursuant to which China and ASEAN member States indicated that they would “exercise self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability.”

*Fifth*, all States party to a judicial or arbitral proceeding are under an obligation not to take action that might aggravate or extend the dispute while it remains pending, and not to act in a manner that would frustrate the purpose of the proceeding by presenting the other party and the tribunal with a *fait accompli*.

The Philippines has lodged repeated protests with China concerning its activities. China has rejected these protests, asserting that it “has indisputable sovereignty over the Nansha Islands and their adjacent waters,” including the features and waters in question.

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<sup>1</sup> See Memorial of the Philippines, Vol. VII, Annex 240.

<sup>2</sup> See Letters from Solicitor General Francis H. Jardeleza, Agent of the Republic of the Philippines, to Ms. Judith Levine, Registrar, Permanent Court of Arbitration dated 18 March and 7 April 2014.



For these reasons, the Government of the Philippines considers that the Arbitral Tribunal should be made aware of these developments. The Philippines continues to evaluate its options in the face of China's actions, and respectfully reserves all of its rights in these proceedings.

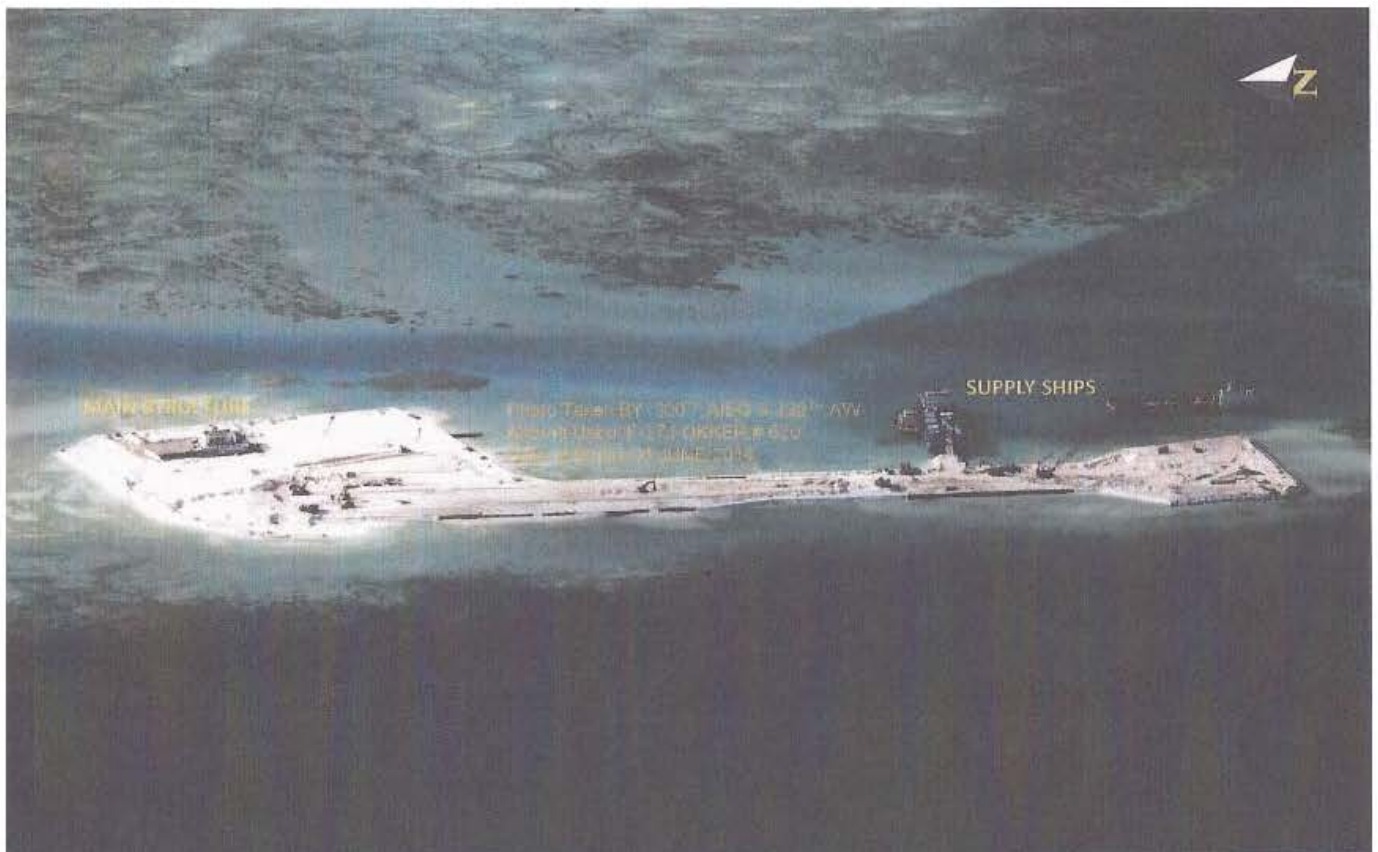
Please accept assurances of my highest consideration.

Sincerely,



**Francis H. Jardeleza**  
Solicitor General  
*Agent of the Republic of the  
Philippines*

**McKenna (Hughes) Reef**



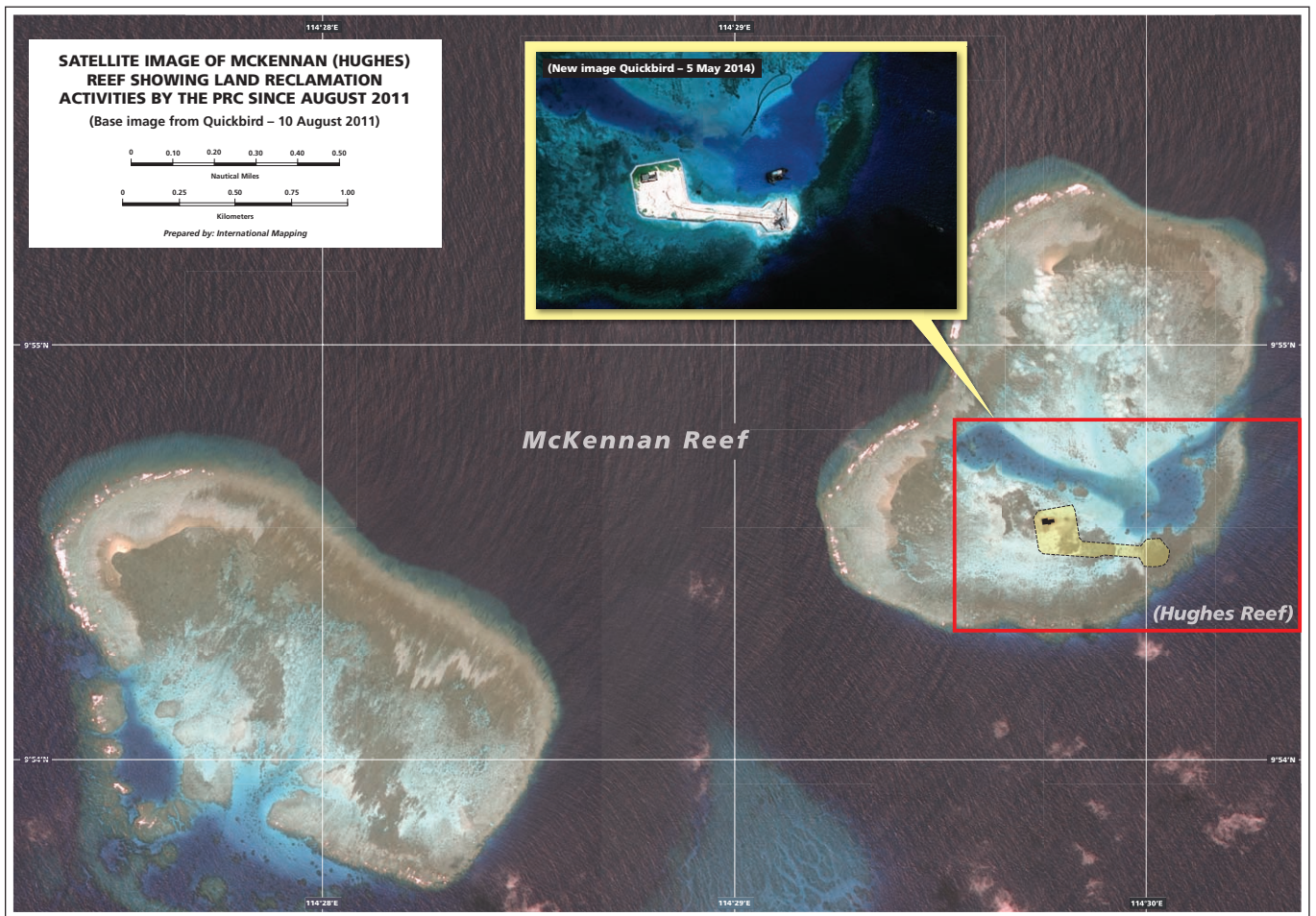
# KEENAN (CHIGUA) REEF

OCCUPIED BY CHINA

LAT/LONG: N 09° 55' 33.30" E 114° 28' 16.30"

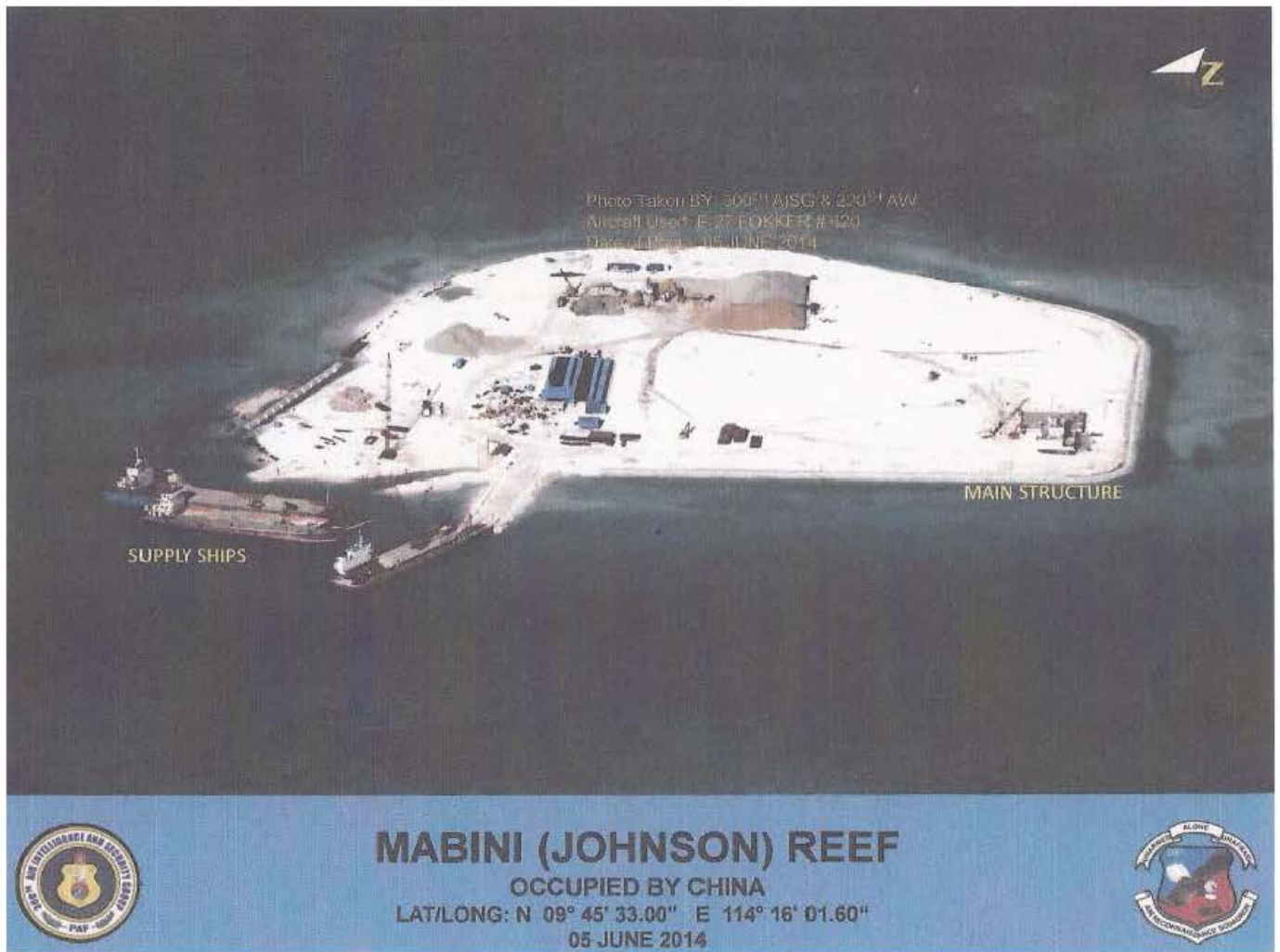
05 JUNE 2014





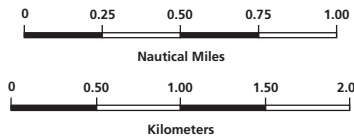
**Johnson South Reef**



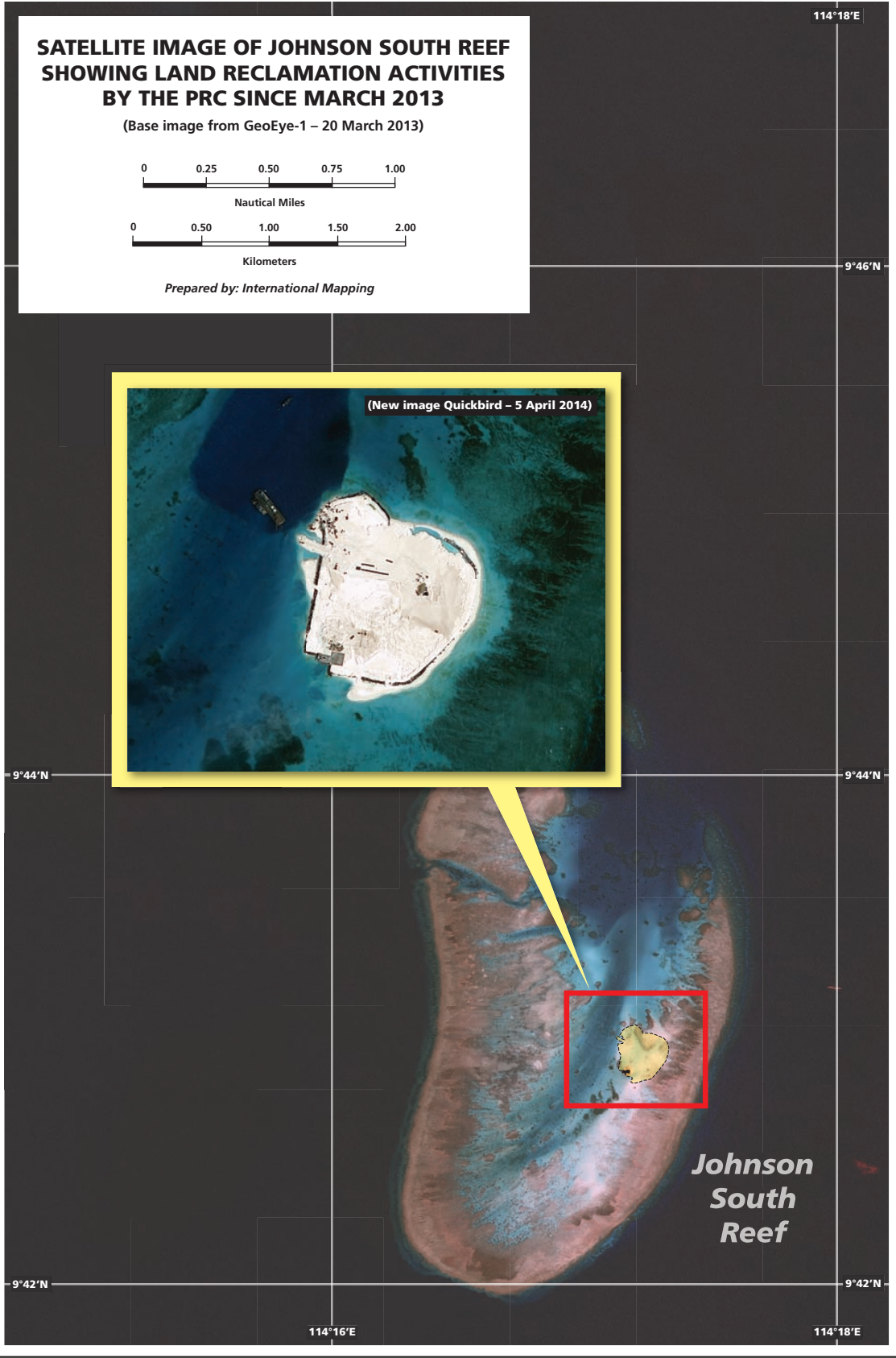


**SATELLITE IMAGE OF JOHNSON SOUTH REEF  
SHOWING LAND RECLAMATION ACTIVITIES  
BY THE PRC SINCE MARCH 2013**

(Base image from GeoEye-1 – 20 March 2013)

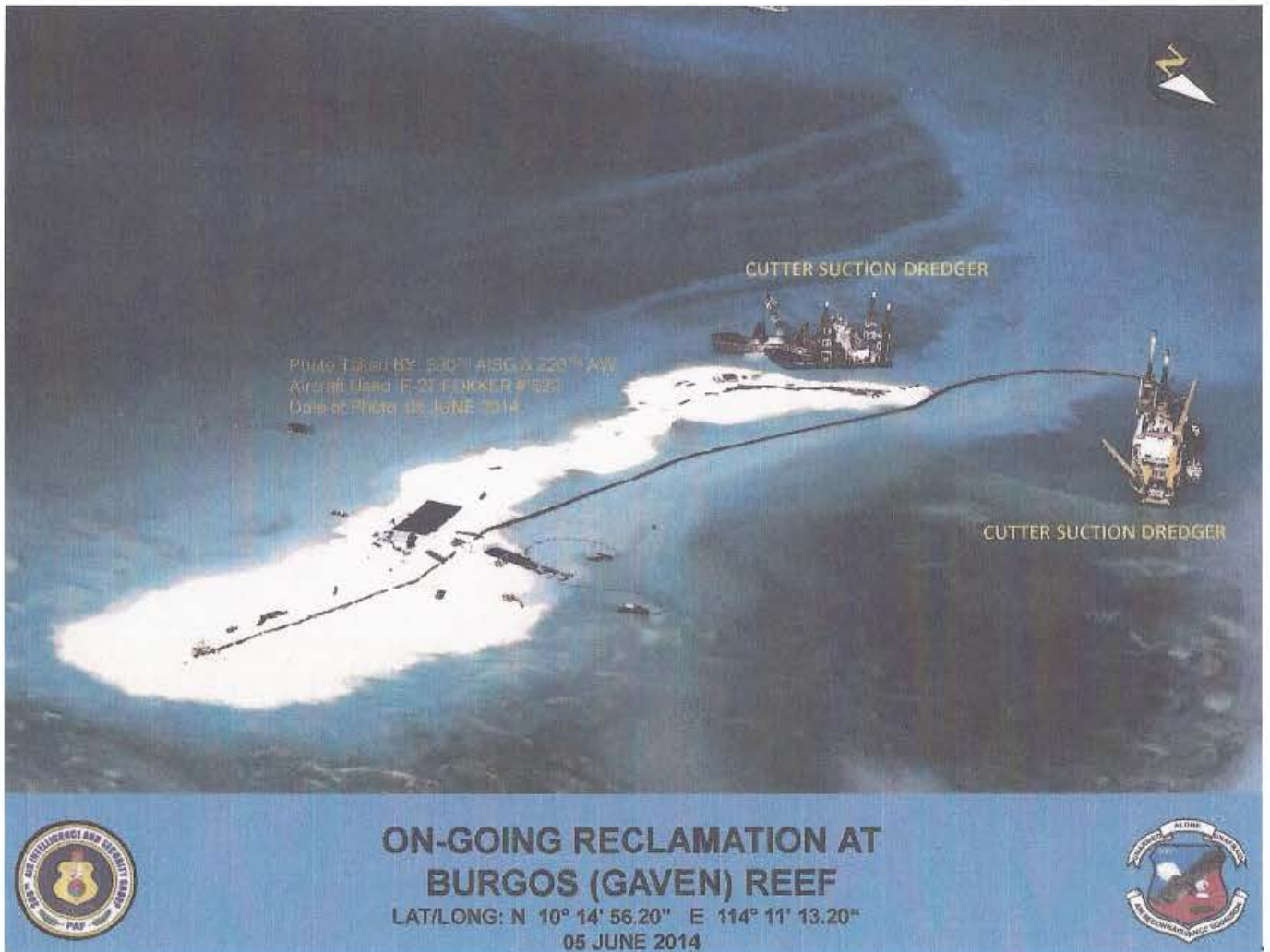


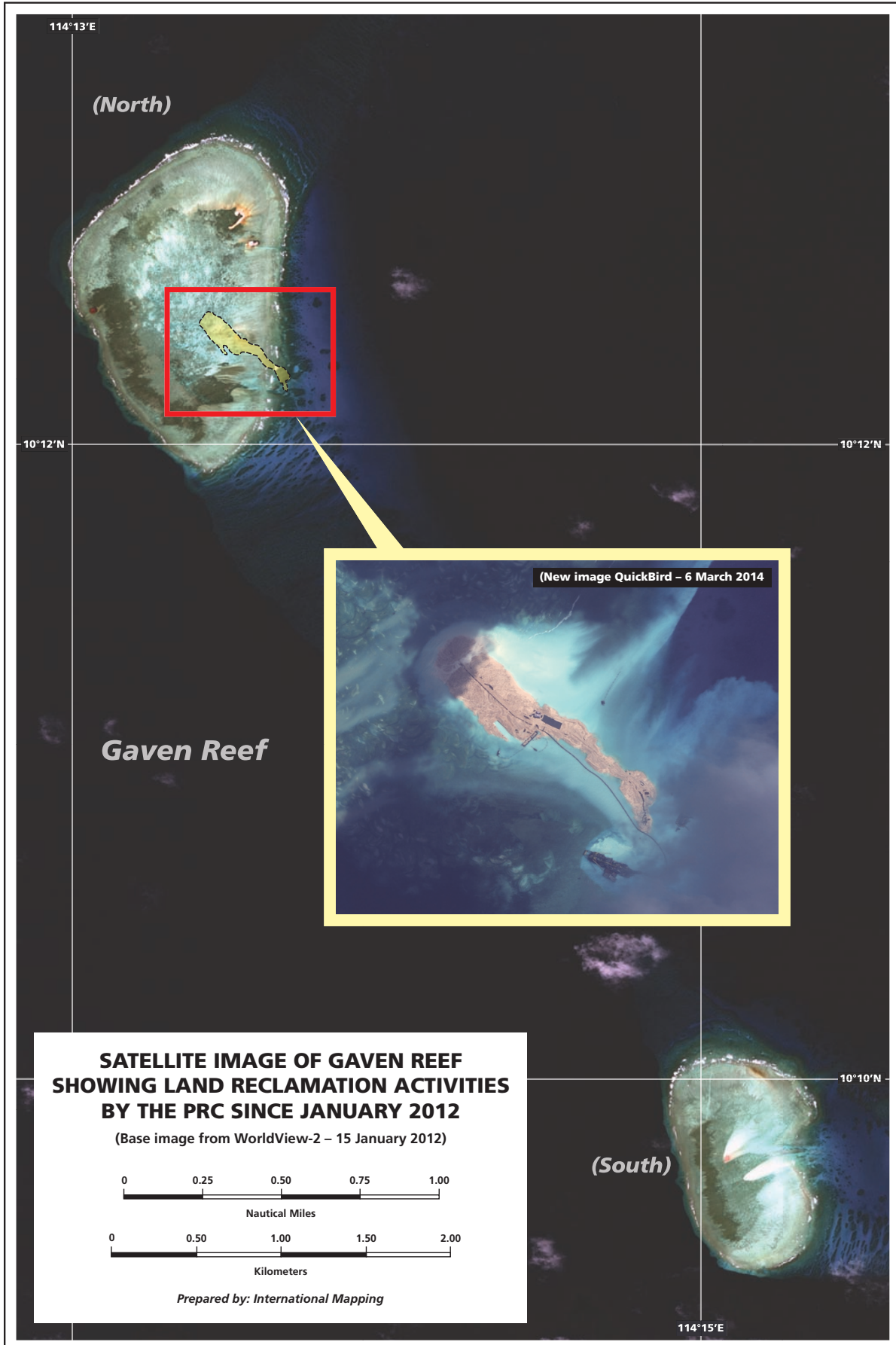
Prepared by: International Mapping



## **Gaven Reef**







## **Cuarteron Reef**

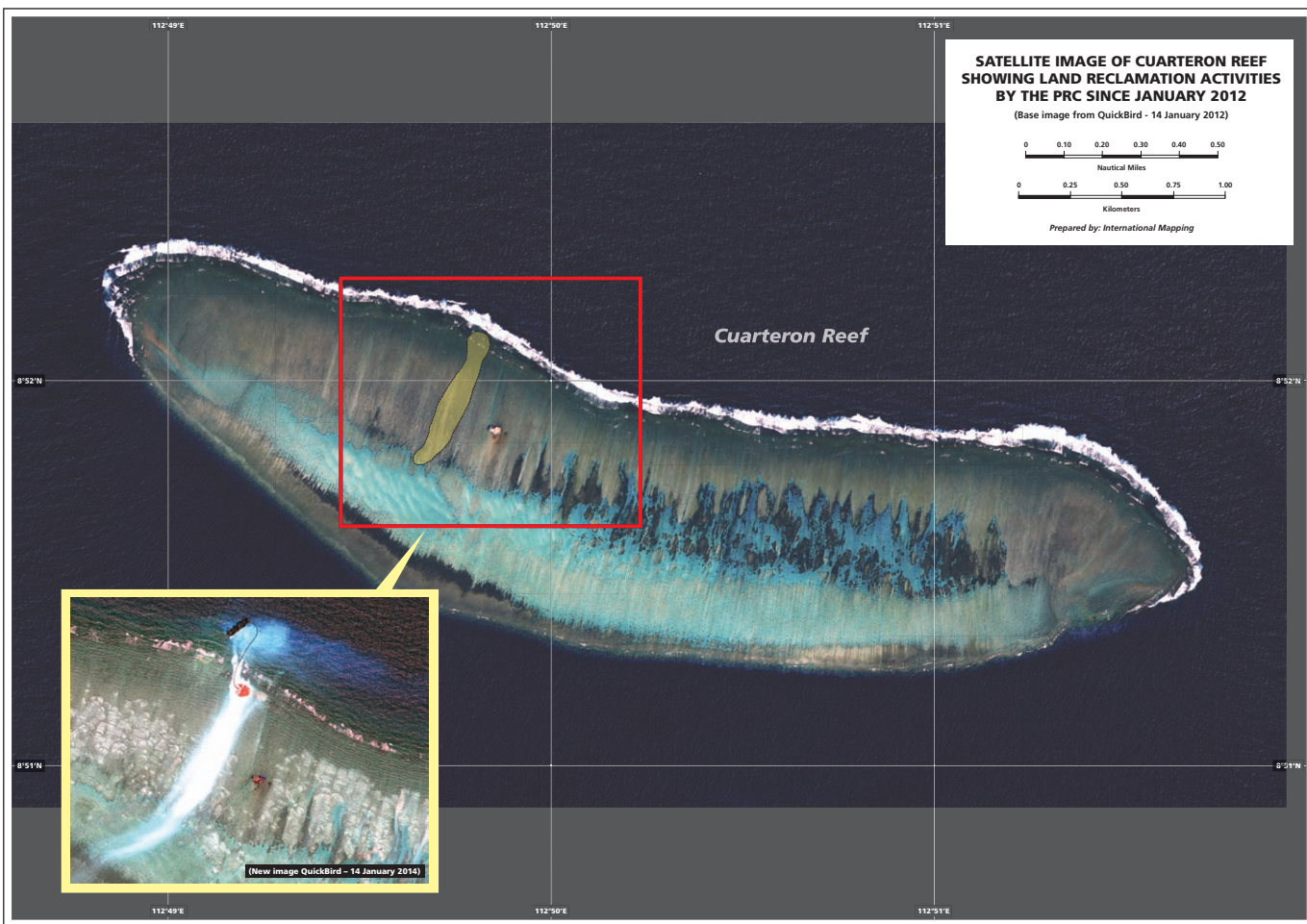
# CUARTERON (CALDERON) REEF

Photo Taken BY: 300<sup>TH</sup> AIRSG & 220<sup>TH</sup> AW  
Aircraft Used: N-22 NOMAD # 68  
Date of Photo: 05 MAY 2014



**CUARTERON (CALDERON) REEF**  
05 May 2014







**Annex 467**

People's Republic of China, *Position Paper of the Government of the People's Republic of China on the Matter of Jurisdiction in the South China Sea Arbitration Initiated by the Republic of the Philippines* (7 Dec. 2014)







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## Position Paper of the Government of the People's Republic of China on the Matter of Jurisdiction in the South China Sea Arbitration Initiated by the Republic of the Philippines

2014/12/07

7 December 2014

### I. Introduction

1. On 22 January 2013, the Department of Foreign Affairs of the Republic of the Philippines presented a note verbale to the Embassy of the People's Republic of China in the Philippines, stating that the Philippines submitted a Notification and Statement of Claim in order to initiate compulsory arbitration proceedings under Article 287 and Annex VII of the United Nations Convention on the Law of the Sea ("Convention") with respect to the dispute with China over "maritime jurisdiction" in the South China Sea. On 19 February 2013, the Chinese Government rejected and returned the Philippines' note verbale together with the attached Notification and Statement of Claim. The Chinese Government has subsequently reiterated that it will neither accept nor participate in the arbitration thus initiated by the Philippines.

2. This Position Paper is intended to demonstrate that the arbitral tribunal established at the request of the Philippines for the present arbitration ("Arbitral Tribunal") does not have jurisdiction over this case. It does not express any position on the substantive issues related to the subject-matter of the arbitration initiated by the Philippines. No acceptance by China is signified in this Position Paper of the views or claims advanced by the Philippines, whether or not they are referred to herein. Nor shall this Position Paper be regarded as China's acceptance of or participation in this arbitration.

3. This Position Paper will elaborate on the following positions:

- The essence of the subject-matter of the arbitration is the territorial sovereignty over several maritime features in the South China Sea, which is beyond the scope of the Convention and does not concern the interpretation or application of the Convention;
- China and the Philippines have agreed, through bilateral instruments and the Declaration on the Conduct of Parties in the South China Sea, to settle their relevant disputes through negotiations. By unilaterally initiating the present arbitration, the Philippines has breached its obligation under international law;
- Even assuming, *arguendo*, that the subject-matter of the arbitration were concerned with the interpretation or application of the Convention, that subject-matter would constitute an integral part of maritime delimitation between the two countries, thus falling within the scope of the declaration filed by China in 2006 in accordance with the Convention, which excludes, *inter alia*, disputes concerning maritime delimitation from compulsory arbitration and other compulsory dispute settlement procedures;
- Consequently, the Arbitral Tribunal manifestly has no jurisdiction over the present arbitration. Based on the foregoing positions and by virtue of the freedom of every State to choose the means of dispute settlement, China's rejection of and non-participation in the present arbitration stand on solid ground in international law.

### II. The essence of the subject-matter of the arbitration is the territorial sovereignty over several maritime features in the South China Sea, which does not concern the interpretation or application of the Convention

4. China has indisputable sovereignty over the South China Sea Islands (the Dongsha Islands, the Xisha Islands, the Zhongsha Islands and the Nansha Islands) and the adjacent waters. Chinese activities in the South China Sea date back to over 2,000 years ago. China was the first country to discover, name, explore and exploit the resources of the South China Sea Islands and the first to continuously exercise sovereign powers over them. From the 1930s to 1940s, Japan illegally seized some parts of the South China Sea Islands during its war of aggression against China. At the end of the Second World War, the Chinese Government resumed exercise of sovereignty over the South China Sea Islands. Military personnel and government officials were sent

via naval vessels to hold resumption of authority ceremonies. Commemorative stone markers were erected, garrisons stationed, and geographical surveys conducted. In 1947, China renamed the maritime features of the South China Sea Islands and, in 1948, published an official map which displayed a dotted line in the South China Sea. Since the founding of the People's Republic of China on 1 October 1949, the Chinese Government has been consistently and actively maintaining its sovereignty over the South China Sea Islands. Both the Declaration of the Government of the People's Republic of China on the Territorial Sea of 1958 and the Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone of 1992 expressly provide that the territory of the People's Republic of China includes, among others, the Dongsha Islands, the Xisha Islands, the Zhongsha Islands and the Nansha Islands. All those acts affirm China's territorial sovereignty and relevant maritime rights and interests in the South China Sea.

5. Prior to the 1970s, Philippine law had set clear limits for the territory of the Philippines, which did not involve any of China's maritime features in the South China Sea. Article 1 of the 1935 Constitution of the Republic of the Philippines, entitled "The National Territory", provided that "The Philippines comprises all the territory ceded to the United States by the Treaty of Paris concluded between the United States and Spain on the tenth day of December, eighteen hundred and ninety-eight, the limits which are set forth in Article III of said treaty, together with all the islands embraced in the treaty concluded at Washington between the United States and Spain on the seventh day of November, nineteen hundred, and the treaty concluded between the United States and Great Britain on the second day of January, nineteen hundred and thirty, and all territory over which the present Government of the Philippine Islands exercises jurisdiction." Under this provision, the territory of the Philippines was confined to the Philippine Islands, having nothing to do with any of China's maritime features in the South China Sea. Philippine Republic Act No. 3046, entitled "An Act to Define the Baselines of the Territorial Sea of the Philippines", which was promulgated in 1961, reaffirmed the territorial scope of the country as laid down in the 1935 Constitution.

6. Since the 1970s, the Philippines has illegally occupied a number of maritime features of China's Nansha Islands, including Mahuan Dao, Feixin Dao, Zhongye Dao, Nanyao Dao, Beizi Dao, Xiyue Dao, Shuanghuang Shazhou and Siling Jiao. Furthermore, it unlawfully designated a so-called "Kalayaan Island Group" to encompass some of the maritime features of China's Nansha Islands and claimed sovereignty over them, together with adjacent but vast maritime areas. Subsequently, it laid unlawful claim to sovereignty over Huangyan Dao of China's Zhongsha Islands. In addition, the Philippines has also illegally explored and exploited the resources on those maritime features and in the adjacent maritime areas.

7. The Philippines' activities mentioned above have violated the Charter of the United Nations and international law, and seriously encroached upon China's territorial sovereignty and maritime rights and interests. They are null and void in law. The Chinese Government has always been firmly opposed to these actions of the Philippines, and consistently and continuously made solemn representations and protests to the Philippines.

8. The Philippines has summarized its claims for arbitration in three categories:

First, China's assertion of the "historic rights" to the waters, sea-bed and subsoil within the "nine-dash line" (i.e., China's dotted line in the South China Sea) beyond the limits of its entitlements under the Convention is inconsistent with the Convention.

Second, China's claim to entitlements of 200 nautical miles and more, based on certain rocks, low-tide elevations and submerged features in the South China Sea, is inconsistent with the Convention.

Third, China's assertion and exercise of rights in the South China Sea have unlawfully interfered with the sovereign rights, jurisdiction and rights and freedom of navigation that the Philippines enjoys and exercises under the Convention.

9. The subject-matter of the Philippines' claims is in essence one of territorial sovereignty over several maritime features in the South China Sea, which is beyond the scope of the Convention and does not concern the interpretation or application of the Convention. Consequently, the Arbitral Tribunal has no jurisdiction over the claims of the Philippines for arbitration.

10. With regard to the first category of claims presented by the Philippines for arbitration, it is obvious that the core of those claims is that China's maritime claims in the South China Sea have exceeded the extent allowed under the Convention. However, whatever logic is to be followed, only after the extent of China's territorial sovereignty in the South China Sea is determined can a decision be made on whether China's maritime claims in the South China Sea have exceeded the extent allowed under the Convention.

11. It is a general principle of international law that sovereignty over land territory is the basis for the determination of maritime rights. As the International Court of Justice ("ICJ") stated, "maritime rights derive from the coastal State's sovereignty over the land, a principle which can be summarized as 'the land dominates the sea'" (Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain), Merits, Judgment of 16 March 2001, I.C.J. Reports 2001, p. 97, para. 185; cf. also North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands), Judgment of 20 February 1969, I.C.J. Reports 1969, p. 51, para. 96; Aegean Sea Continental Shelf (Greece v. Turkey), Jurisdiction of the Court, Judgment of 19 December 1978, I.C.J. Reports 1978, p. 36, para. 86). And, "[i]t is thus the terrestrial territorial situation that must be taken as starting point for the determination of the maritime rights of a coastal State" (Qatar v. Bahrain, I.C.J. Reports 2001, para. 185; Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras), Judgment of 8 October 2007, I.C.J. Reports 2007, p. 696, para. 113). Recently the ICJ again emphasized that "[t]he title of a State to the continental shelf and to the exclusive economic zone is based on the principle that

the land dominates the sea", and that "the land is the legal source of the power which a State may exercise over territorial extensions to seaward" (Territorial and Maritime Dispute (Nicaragua v. Colombia), Judgment of 19 November 2012, I.C.J. Reports 2012, p. 51, para. 140).

12. The preamble of the Convention proclaims "the desirability of establishing through this Convention, with due regard for the sovereignty of all States, a legal order for the seas and oceans". It is apparent that "due regard for the sovereignty of all States" is the prerequisite for the application of the Convention to determine maritime rights of the States Parties.

13. As far as the present arbitration is concerned, without first having determined China's territorial sovereignty over the maritime features in the South China Sea, the Arbitral Tribunal will not be in a position to determine the extent to which China may claim maritime rights in the South China Sea pursuant to the Convention, not to mention whether China's claims exceed the extent allowed under the Convention. But the issue of territorial sovereignty falls beyond the purview of the Convention.

14. The Philippines is well aware that a tribunal established under Article 287 and Annex VII of the Convention has no jurisdiction over territorial sovereignty disputes. In an attempt to circumvent this jurisdictional hurdle and fabricate a basis for institution of arbitral proceedings, the Philippines has cunningly packaged its case in the present form. It has repeatedly professed that it does not seek from the Arbitral Tribunal a determination of territorial sovereignty over certain maritime features claimed by both countries, but rather a ruling on the compatibility of China's maritime claims with the provisions of the Convention, so that its claims for arbitration would appear to be concerned with the interpretation or application of the Convention, not with the sovereignty over those maritime features. This contrived packaging, however, fails to conceal the very essence of the subject-matter of the arbitration, namely, the territorial sovereignty over certain maritime features in the South China Sea.

15. With regard to the second category of claims by the Philippines, China believes that the nature and maritime entitlements of certain maritime features in the South China Sea cannot be considered in isolation from the issue of sovereignty.

16. In the first place, without determining the sovereignty over a maritime feature, it is impossible to decide whether maritime claims based on that feature are consistent with the Convention.

17. The holder of the entitlements to an exclusive economic zone ("EEZ") and a continental shelf under the Convention is the coastal State with sovereignty over relevant land territory. When not subject to State sovereignty, a maritime feature per se possesses no maritime rights or entitlements whatsoever. In other words, only the State having sovereignty over a maritime feature is entitled under the Convention to claim any maritime rights based on that feature. Only after a State's sovereignty over a maritime feature has been determined and the State has made maritime claims in respect thereof, could there arise a dispute concerning the interpretation or application of the Convention, if another State questions the compatibility of those claims with the Convention or makes overlapping claims. If the sovereignty over a maritime feature is undecided, there cannot be a concrete and real dispute for arbitration as to whether or not the maritime claims of a State based on such a feature are compatible with the Convention.

18. In the present case, the Philippines denies China's sovereignty over the maritime features in question, with a view to completely disqualifying China from making any maritime claims in respect of those features. In light of this, the Philippines is putting the cart before the horse by requesting the Arbitral Tribunal to determine, even before the matter of sovereignty is dealt with, the issue of compatibility of China's maritime claims with the Convention. In relevant cases, no international judicial or arbitral body has ever applied the Convention to determine the maritime rights derived from a maritime feature before sovereignty over that feature is decided.

19. Secondly, in respect of the Nansha Islands, the Philippines selects only a few features and requests the Arbitral Tribunal to decide on their maritime entitlements. This is in essence an attempt at denying China's sovereignty over the Nansha Islands as a whole.

20. The Nansha Islands comprises many maritime features. China has always enjoyed sovereignty over the Nansha Islands in its entirety, not just over some features thereof. In 1935, the Commission of the Chinese Government for the Review of Maps of Land and Waters published the Map of Islands in the South China Sea. In 1948, the Chinese Government published the Map of the Location of the South China Sea Islands. Both maps placed under China's sovereignty what are now known as the Nansha Islands as well as the Dongsha Islands, the Xisha Islands and the Zhongsha Islands. The Declaration of the Government of the People's Republic of China on the Territorial Sea of 1958 declared that the territory of the People's Republic of China includes, inter alia, the Nansha Islands. In 1983, the National Toponymy Commission of China published standard names for some of the South China Sea Islands, including those of the Nansha Islands. The Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone of 1992 again expressly provides that the Nansha Islands constitutes a part of the land territory of the People's Republic of China.

21. In Note Verbale No. CML/8/2011 of 14 April 2011 addressed to Secretary-General of the United Nations, the Permanent Mission of China to the United Nations stated that "under the relevant provisions of the 1982 United Nations Convention on the Law of the Sea, as well as the Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone (1992) and the Law on the Exclusive Economic Zone and the Continental Shelf of the People's Republic of China (1998), China's Nansha Islands is fully entitled to Territorial Sea, Exclusive Economic Zone (EEZ) and Continental Shelf." It is plain that, in order to determine China's maritime entitlements based on the Nansha Islands under the Convention, all maritime features comprising the

Nansha Islands must be taken into account.

22. The Philippines, by requesting the Arbitral Tribunal to determine the maritime entitlements of only what it describes as the maritime features "occupied or controlled by China", has in effect dissected the Nansha Islands. It deliberately makes no mention of the rest of the Nansha Islands, including those illegally seized or claimed by the Philippines. Its real intention is to gainsay China's sovereignty over the whole of the Nansha Islands, deny the fact of its illegal seizure of or claim on several maritime features of the Nansha Islands, and distort the nature and scope of the China-Philippines disputes in the South China Sea. In addition, the Philippines has deliberately excluded from the category of the maritime features "occupied or controlled by China" the largest island in the Nansha Islands, Taiping Dao, which is currently controlled by the Taiwan authorities of China. This is a grave violation of the One-China Principle and an infringement of China's sovereignty and territorial integrity. This further shows that the second category of claims brought by the Philippines essentially pertains to the territorial sovereignty dispute between the two countries.

23. Finally, whether or not low-tide elevations can be appropriated is plainly a question of territorial sovereignty.

24. The Philippines asserts that some of the maritime features, about which it has submitted claims for arbitration, are low-tide elevations, thus being incapable of appropriation as territory. As to whether those features are indeed low-tide elevations, this Position Paper will not comment. It should, however, be pointed out that, whatever nature those features possess, the Philippines itself has persisted in claiming sovereignty over them since the 1970s. By Presidential Decree No. 1596, promulgated on 11 June 1978, the Philippines made known its unlawful claim to sovereignty over some maritime features in the Nansha Islands including the aforementioned features, together with the adjacent but vast areas of waters, sea-bed, subsoil, continental margin and superjacent airspace, and constituted the vast area as a new municipality of the province of Palawan, entitled "Kalayaan". Notwithstanding that Philippine Republic Act No. 9522 of 10 March 2009 stipulates that the maritime zones for the so-called "Kalayaan Island Group" (i.e., some maritime features of China's Nansha Islands) and "Scarborough Shoal" (i.e., China's Huangyan Dao) be determined in a way consistent with Article 121 of the Convention (i.e., the regime of islands), this provision was designed to adjust the Philippines' maritime claims based on those features within the aforementioned area. The Act did not vary the territorial claim of the Philippines to the relevant maritime features, including those it alleged in this arbitration as low-tide elevations. In Note Verbale No. 000228, addressed to Secretary-General of the United Nations on 5 April 2011, the Philippine Permanent Mission to the United Nations stated that, "the Kalayaan Island Group (KIG) constitutes an integral part of the Philippines. The Republic of the Philippines has sovereignty and jurisdiction over the geological features in the KIG." The Philippines has maintained, to date, its claim to sovereignty over 40 maritime features in the Nansha Islands, among which are the very features it now labels as low-tide elevations. It is thus obvious that the only motive behind the Philippines' assertion that low-tide elevations cannot be appropriated is to deny China's sovereignty over these features so as to place them under Philippine sovereignty.

25. Whether low-tide elevations can be appropriated as territory is in itself a question of territorial sovereignty, not a matter concerning the interpretation or application of the Convention. The Convention is silent on this issue of appropriation. In its 2001 Judgment in *Qatar v. Bahrain*, the ICJ explicitly stated that, "International treaty law is silent on the question whether low-tide elevations can be considered to be 'territory'. Nor is the Court aware of a uniform and widespread State practice which might have given rise to a customary rule which unequivocally permits or excludes appropriation of low-tide elevations" (*Qatar v. Bahrain*, I.C.J. Reports 2001, pp. 101-102, para. 205). "International treaty law" plainly includes the Convention, which entered into force in 1994. In its 2012 Judgment in *Nicaragua v. Colombia*, while the ICJ stated that "low-tide elevations cannot be appropriated" (*Nicaragua v. Colombia*, I.C.J. Reports 2012, p. 641, para. 26), it did not point to any legal basis for this conclusory statement. Nor did it touch upon the legal status of low-tide elevations as components of an archipelago, or sovereignty or claims of sovereignty that may have long existed over such features in a particular maritime area. On all accounts, the ICJ did not apply the Convention in that case. Whether or not low-tide elevations can be appropriated is not a question concerning the interpretation or application of the Convention.

26. As to the third category of the Philippines' claims, China maintains that the legality of China's actions in the waters of the Nansha Islands and Huangyan Dao rests on both its sovereignty over relevant maritime features and the maritime rights derived therefrom.

27. The Philippines alleges that China's claim to and exercise of maritime rights in the South China Sea have unlawfully interfered with the sovereign rights, jurisdiction and rights and freedom of navigation, which the Philippines is entitled to enjoy and exercise under the Convention. The premise for this claim must be that the spatial extent of the Philippines' maritime jurisdiction is defined and undisputed, and that China's actions have encroached upon such defined areas. The fact is, however, to the contrary. China and the Philippines have not delimited the maritime space between them. Until and unless the sovereignty over the relevant maritime features is ascertained and maritime delimitation completed, this category of claims of the Philippines cannot be decided upon.

28. It should be particularly emphasized that China always respects the freedom of navigation and overflight enjoyed by all States in the South China Sea in accordance with international law.

29. To sum up, by requesting the Arbitral Tribunal to apply the Convention to determine the extent of China's maritime rights in the South China Sea, without first having ascertained sovereignty over the relevant maritime features, and by formulating a series of claims for arbitration to that effect, the Philippines contravenes the general principles of international law and international jurisprudence on the settlement of international maritime disputes. To

decide upon any of the Philippines' claims, the Arbitral Tribunal would inevitably have to determine, directly or indirectly, the sovereignty over both the maritime features in question and other maritime features in the South China Sea. Besides, such a decision would unavoidably produce, in practical terms, the effect of a maritime delimitation, which will be further discussed below in Part IV of this Position Paper. Therefore, China maintains that the Arbitral Tribunal manifestly has no jurisdiction over the present case.

### **III. There exists an agreement between China and the Philippines to settle their disputes in the South China Sea through negotiations, and the Philippines is debarred from unilaterally initiating compulsory arbitration**

30. With regard to disputes concerning territorial sovereignty and maritime rights, China has always maintained that they should be peacefully resolved through negotiations between the countries directly concerned. In the present case, there has been a long-standing agreement between China and the Philippines on resolving their disputes in the South China Sea through friendly consultations and negotiations.

31. Under the Joint Statement between the People's Republic of China and the Republic of the Philippines concerning Consultations on the South China Sea and on Other Areas of Cooperation, issued on 10 August 1995, both sides "agreed to abide by" the principles that "[d]isputes shall be settled in a peaceful and friendly manner through consultations on the basis of equality and mutual respect" (Point 1); that "a gradual and progressive process of cooperation shall be adopted with a view to eventually negotiating a settlement of the bilateral disputes" (Point 3); and that "[d]isputes shall be settled by the countries directly concerned without prejudice to the freedom of navigation in the South China Sea" (Point 8).

32. The Joint Statement of the China-Philippines Experts Group Meeting on Confidence-Building Measures, issued on 23 March 1999, states that the two sides reiterated their commitment to "[t]he understanding to continue to work for a settlement of their difference through friendly consultations" (para. 5), and that "the two sides believe that the channels of consultations between China and the Philippines are unobstructed. They have agreed that the dispute should be peacefully settled through consultation" (para. 12).

33. The Joint Statement between the Government of the People's Republic of China and the Government of the Republic of the Philippines on the Framework of Bilateral Cooperation in the Twenty-First Century, issued on 16 May 2000, states in Point 9 that, "The two sides commit themselves to the maintenance of peace and stability in the South China Sea. They agree to promote a peaceful settlement of disputes through bilateral friendly consultations and negotiations in accordance with universally-recognized principles of international law, including the 1982 United Nations Convention on the Law of the Sea. They reaffirm their adherence to the 1995 joint statement between the two countries on the South China Sea ...".

34. The Joint Press Statement of the Third China-Philippines Experts' Group Meeting on Confidence-Building Measures, dated 4 April 2001, states in Point 4 that, "The two sides noted that the bilateral consultation mechanism to explore ways of cooperation in the South China Sea has been effective. The series of understanding and consensus reached by the two sides have played a constructive role in the maintenance of the sound development of China-Philippines relations and peace and stability of the South China Sea area."

35. The mutual understanding between China and the Philippines to settle relevant disputes through negotiations has been reaffirmed in a multilateral instrument. On 4 November 2002, Mr. Wang Yi, the then Vice Foreign Minister and representative of the Chinese Government, together with the representatives of the governments of the member States of the Association of Southeast Asian Nations ("ASEAN"), including the Philippines, jointly signed the Declaration on the Conduct of Parties in the South China Sea ("DOC"). Paragraph 4 of the DOC explicitly states that, "The Parties concerned undertake to resolve their territorial and jurisdictional disputes by peaceful means ... through friendly consultations and negotiations by sovereign states directly concerned, in accordance with universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea."

36. Following the signing of the DOC, the leaders of China and the Philippines have repeatedly reiterated their commitment to the settlement of disputes by way of dialogue. Thus, a Joint Press Statement between the Government of the People's Republic of China and the Government of the Republic of the Philippines was issued on 3 September 2004 during the State visit to China by the then Philippine President Gloria Macapagal-Arroyo, which states in paragraph 16 that, "They agreed that the early and vigorous implementation of the 2002 ASEAN-China Declaration on the Conduct of Parties in the South China Sea will pave the way for the transformation of the South China Sea into an area of cooperation."

37. Between 30 August and 3 September 2011, President Benigno S. Aquino III of the Philippines paid a State visit to China. On 1 September 2011, the two sides issued a Joint Statement between the People's Republic of China and the Republic of the Philippines, which, in paragraph 15, "reiterated their commitment to addressing the disputes through peaceful dialogue" and "reaffirmed their commitments to respect and abide by the Declaration on the Conduct of Parties in the South China Sea signed by China and the ASEAN member countries in 2002". The Joint Statement, consequently, reaffirmed Paragraph 4 of the DOC relating to settlement of relevant disputes by negotiations.

38. The bilateral instruments between China and the Philippines repeatedly employ the term "agree" when referring to settlement of their disputes through negotiations. This evinces a clear intention to establish an obligation between the two countries in this regard. Paragraph 4 of the DOC employs the term "undertake", which is also frequently used in international agreements to commit the parties to their obligations. As the ICJ observed in its Judgment in *Bosnia and Herzegovina v. Serbia and Montenegro*, "[t]he ordinary meaning of the word 'undertake' is to give a formal promise, to bind or engage oneself,

to give a pledge or promise, to agree, to accept an obligation. It is a word regularly used in treaties setting out the obligations of the Contracting Parties .... It is not merely hortatory or purposive" (Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment of 26 February 2007, I.C.J. Reports 2007, p. 111, para. 162). Furthermore, under international law, regardless of the designation or form the above-mentioned instruments employ, as long as they intend to create rights and obligations for the parties, these rights and obligations are binding between the parties (Cf. Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain), Jurisdiction and Admissibility, Judgment of 1 July 1994, I.C.J. Reports 1994, pp. 120-121, paras. 22-26; Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening), Judgment of 10 October 2002, I.C.J. Reports 2002, pp. 427, 429, paras. 258, 262-263).

39. The relevant provisions in the aforementioned bilateral instruments and the DOC are mutually reinforcing and form an agreement between China and the Philippines. On that basis, they have undertaken a mutual obligation to settle their relevant disputes through negotiations.

40. By repeatedly reaffirming negotiations as the means for settling relevant disputes, and by emphasizing that negotiations be conducted by sovereign States directly concerned, the above-quoted provisions of the bilateral instruments and Paragraph 4 of the DOC obviously have produced the effect of excluding any means of third-party settlement. In particular, the above-mentioned Joint Statement between the People's Republic of China and the Republic of the Philippines concerning Consultations on the South China Sea and on Other Areas of Cooperation of 10 August 1995 stipulates in Point 3 that "a gradual and progressive process of cooperation shall be adopted with a view to eventually negotiating a settlement of the bilateral disputes". The term "eventually" in this context clearly serves to emphasize that "negotiations" is the only means the parties have chosen for dispute settlement, to the exclusion of any other means including third-party settlement procedures. Although the above-mentioned bilateral instruments and Paragraph 4 of the DOC do not use such an express phrase as "exclude other procedures of dispute settlement", as the arbitral tribunal in the Southern Bluefin Tuna Case stated in its Award, "the absence of an express exclusion of any procedure ... is not decisive" (Australia and New Zealand v. Japan, Award on Jurisdiction and Admissibility, 4 August 2000, p.97, para. 57). As discussed earlier, in respect of disputes relating to territorial sovereignty and maritime rights, China always insists on peaceful settlement of disputes by means of negotiations between the countries directly concerned. China's position on negotiations was made clear and well known to the Philippines and other relevant parties during the drafting and adoption of the aforementioned bilateral instruments and the DOC.

41. Consequently, with regard to all the disputes between China and the Philippines in the South China Sea, including the Philippines' claims in this arbitration, the only means of settlement as agreed by the two sides is negotiations, to the exclusion of any other means.

42. Even supposing that the Philippines' claims were concerned with the interpretation or application of the Convention, the compulsory procedures laid down in section 2 of Part XV of the Convention still could not be applied, given the agreement between China and the Philippines on settling their relevant disputes through negotiations.

43. Article 280 of the Convention states that, "Nothing in this Part impairs the right of any States Parties to agree at any time to settle a dispute between them concerning the interpretation or application of this Convention by any peaceful means of their own choice." Article 281 (1) provides that, "If the States Parties which are parties to a dispute concerning the interpretation or application of this Convention have agreed to seek settlement of the dispute by a peaceful means of their own choice, the procedures provided for in this Part apply only where no settlement has been reached by recourse to such means and the agreement between the parties does not exclude any further procedure."

44. As analysed above, through bilateral and multilateral instruments, China and the Philippines have agreed to settle their relevant disputes by negotiations, without setting any time limit for the negotiations, and have excluded any other means of settlement. In these circumstances, it is evident that, under the above-quoted provisions of the Convention, the relevant disputes between the two States shall be resolved through negotiations and there shall be no recourse to arbitration or other compulsory procedures.

45. The Philippines claims that, the two countries have been involved in exchanges of views since 1995 with regard to the subject-matter of the Philippines' claims for arbitration, without however reaching settlement, and that in its view, the Philippines is justified in believing that it is meaningless to continue the negotiations, and therefore the Philippines has the right to initiate arbitration. But the truth is that the two countries have never engaged in negotiations with regard to the subject-matter of the arbitration.

46. Under international law, general exchanges of views, without having the purpose of settling a given dispute, do not constitute negotiations. In Georgia v. Russian Federation, the ICJ held that, "Negotiations entail more than the plain opposition of legal views or interests between two parties, or the existence of a series of accusations and rebuttals, or even the exchange of claims and directly opposed counter-claims. As such, the concept of 'negotiations' ... requires - at the very least - a genuine attempt by one of the disputing parties to engage in discussions with the other disputing party, with a view to resolving the dispute" (Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), Preliminary Objections, Judgment of 1 April 2011, I.C.J. Reports 2011, p. 132, para. 157). In addition, the ICJ considered that "the subject-matter of the negotiations must relate to the subject-matter of the dispute which, in turn, must concern the substantive obligations contained in the treaty in question" (Ibid., p. 133, para. 161).

47. The South China Sea issue involves a number of countries, and it is no easy task to solve it. Up to the present, the countries concerned are still working



together to create conditions conducive to its final settlement by negotiations. Against this background, the exchanges of views between China and the Philippines in relation to their disputes have so far pertained to responding to incidents at sea in the disputed areas and promoting measures to prevent conflicts, reduce frictions, maintain stability in the region, and promote measures of cooperation. They are far from constituting negotiations even on the evidence presented by the Philippines.

48. In recent years, China has on a number of occasions proposed to the Philippines the establishment of a China-Philippines regular consultation mechanism on maritime issues. To date, there has never been any response from the Philippines. On 1 September 2011, the two countries issued a Joint Statement between the People's Republic of China and the Republic of Philippines, reiterating the commitment to settling their disputes in the South China Sea through negotiations. But, before negotiations could formally begin, the Philippines sent on 10 April 2012 a naval vessel to the waters of China's Huangyan Dao to seize Chinese fishing boats together with the Chinese fishermen on board. In the face of such provocations, China was forced to take response measures to safeguard its sovereignty. Thereafter, China once again proposed to the Philippine Government that the two sides restart the China-Philippines consultation mechanism for confidence-building measures. That proposal again fell on deaf ears. On 26 April 2012, the Philippine Department of Foreign Affairs delivered a note verbale to the Chinese Embassy in the Philippines, proposing that the issue of Huangyan Dao be referred to a third-party adjudication body for resolution and indicating no willingness to negotiate. On 22 January 2013, the Philippines unilaterally initiated the present compulsory arbitration proceedings.

49. The previous exchanges of views regarding the South China Sea issue between the two countries did not concern the subject-matter of the Philippines' claims for arbitration. For instance, the Philippines cited a statement released by the Chinese Foreign Ministry on 22 May 1997 regarding Huangyan Dao, in order to show that there exists between the two countries a dispute concerning the maritime rights of Huangyan Dao and that the two countries had exchanged views with regard to that dispute. However, the Philippines deliberately omitted a passage from that statement, which reads: "The issue of Huangyandao is an issue of territorial sovereignty; the development and exploitation of the EEZ is a question of maritime jurisdiction, the nature of the two issues are different and hence the laws and regulations governing them are also different, and they should not be discussed together. The attempt of the Philippine side to use maritime jurisdictional rights to violate the territorial sovereignty of China is untenable." This passage makes clear the thrust of the statement: the Philippines shall not negate China's sovereignty over Huangyan Dao on the pretext that it is situated within the EEZ of the Philippines. This shows that the exchange of views in question was centred on the issue of sovereignty.

50. It should be further noted that, the Philippines has attempted to show that the subject-matter of the exchanges of views between China and the Philippines since 1995 concerns the interpretation or application of the Convention, but nothing could be farther from the truth than this. Historically, the Philippines, by Republic Act No. 3046 of 17 June 1961, proclaimed as part of its territorial sea the vast areas of sea between the most outlying islands in the Philippine archipelago and the treaty limits established in the Treaty of Paris concluded between the United States and Spain in 1898, among other international treaties, thus claiming a belt of territorial sea far beyond 12 nautical miles. By Presidential Decree No. 1596 promulgated on 11 June 1978, the Philippines made its claim for sovereignty over the so-called "Kalayaan Island Group" (i.e., some maritime features of China's Nansha Islands), together with the adjacent but vast areas of waters, sea-bed, subsoil, continental margin, and superjacent airspace. As conceded by the Philippines itself, only with the adoption on 10 March 2009 of Republic Act No. 9522 did it begin the ongoing process to harmonize its domestic law with the Convention, with a view to eventually relinquishing all its maritime claims incompatible with the Convention. That Act provided, for the first time, that the maritime areas of the so-called "Kalayaan Island Group" (i.e., some maritime features of China's Nansha Islands) and "Scarborough Shoal" (i.e., China's Huangyan Dao) "shall be determined" so as to be "consistent with Article 121" of the Convention (i.e., the regime of islands). Therefore, given that the Philippines itself considers that only in 2009 did it start to abandon its former maritime claims in conflict with the Convention, how could it have started in 1995 to exchange views with China on matters concerning the interpretation or application of the Convention that are related to the present arbitration?

51. The Philippines claims that China cannot invoke Paragraph 4 of the DOC to exclude the jurisdiction of the Arbitral Tribunal, given its own grave breach of the terms of the DOC. This is groundless. In support of its allegations against China, the Philippines claims that China has taken measures including the threat of force to drive away Philippine fishermen from the waters of Huangyan Dao in spite of their long-standing and continuous fishing activities in those waters, and that China has blocked the Philippines from resupplying a naval ship which ran and has stayed aground at Ren'ai Jiao and certain navy personnel on board. But the fact is that, regarding the situation at Huangyan Dao, it was the Philippines that first resorted to the threat of force by dispatching on 10 April 2012 a naval vessel to detain and arrest Chinese fishing boats and fishermen in the waters of Huangyan Dao. Regarding the situation at Ren'ai Jiao, which is a constituent part of China's Nansha Islands, the Philippines illegally ran a naval ship aground in May 1999 at that feature on the pretext of "technical difficulties". China has made repeated representations to the Philippines, demanding that the latter immediately tow away the vessel. The Philippines, for its part, had on numerous occasions made explicit undertaking to China to tow away the vessel grounded due to "technical difficulties". However, for over 15 years, instead of fulfilling that undertaking, the Philippines has attempted to construct permanent installations on Ren'ai Jiao. On 14 March 2014, the Philippines even openly declared that the vessel was deployed as a permanent installation on Ren'ai Jiao in 1999. China has been forced to take necessary measures in response to such provocative conduct. In light of these facts, the Philippines' accusations against China are baseless.

52. While it denies the effect of Paragraph 4 of the DOC for the purpose of supporting its institution of the present arbitration, the Philippines recently called

on the parties to the DOC to comply with Paragraph 5 of the DOC and to provide "the full and effective implementation of the DOC", in a proposal made in its Department of Foreign Affairs statement dated 1 August 2014. This selective and self-contradictory tactic clearly violates the principle of good faith in international law.

53. The principle of good faith requires all States to honestly interpret agreements they enter into with others, not to misinterpret them in disregard of their authentic meaning in order to obtain an unfair advantage. This principle is of overriding importance and is incorporated in Article 2(2) of the Charter of the United Nations. It touches every aspect of international law (Cf. Sir Robert Jennings and Sir Arthur Watts (eds.), *Oppenheim's International Law*, 9th ed., 1992, vol. 1, p. 38). In the *Nuclear Tests Case*, the ICJ held that, "One of the basic principles governing the creation and performance of legal obligations, whatever their source, is the principle of good faith. Trust and confidence are inherent in international co-operation" (*Nuclear Tests Case (Australia v. France)*, Judgment of 20 December 1974, I.C.J. Reports 1974, p. 268, para. 46).

54. On this occasion, China wishes to emphasize that the DOC is an important instrument, adopted by China and the ASEAN member States following many years of arduous negotiations on the basis of mutual respect, mutual understanding and mutual accommodation. Under the DOC, the parties concerned undertake to resolve their territorial and jurisdictional disputes through friendly consultations and negotiations by sovereign States directly concerned. In addition, the parties reaffirm their commitment to the purposes and principles of the Charter of the United Nations, the 1982 Convention, the Treaty of Amity and Cooperation in Southeast Asia, the Five Principles of Peaceful Coexistence, and other universally recognized principles of international law which shall serve as the basic norms governing state-to-state relations. The Parties commit themselves to exploring ways for building trust and confidence in accordance with the above-mentioned principles and on the basis of equality and mutual respect; reaffirm their respect for and commitment to the freedom of navigation in, and overflight above, the South China Sea as provided for by universally recognized principles of international law, including the 1982 Convention; and undertake to exercise self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability including, among others, refraining from action of inhabiting on the presently uninhabited islands, reefs, shoals, cays, and other features, and to handle their differences in a constructive manner. The DOC also lists a number of ways to build trust and areas of cooperation for the Parties concerned to seek and explore pending the peaceful settlement of territorial and jurisdictional disputes. As a follow-up to the DOC, the parties have undertaken to negotiate a "Code of Conduct in the South China Sea".

55. The DOC has played a positive role in maintaining stability in the South China Sea, and in enhancing maritime cooperation, building trust and reducing misgivings between China and the ASEAN member States. Every provision of the DOC constitutes an integral part of the document. To deny the significance of the DOC will lead to a serious retrogression from the current relationship of cooperation between China and the ASEAN member States in the South China Sea.

56. As a member of the ASEAN and having been involved throughout the consultations on the DOC, the Philippines should have fully appreciated the significance of the DOC for the peaceful settlement of the disputes in the South China Sea through negotiations. At present, in order to maintain stability in the region and create conditions for peaceful settlement of the South China Sea issue, China and the ASEAN member States have established working mechanisms to effectively implement the DOC, and have been engaged in consultations regarding the "Code of Conduct in the South China Sea". By initiating compulsory arbitration at this juncture, the Philippines is running counter to the common wish and joint efforts of China and the ASEAN member States. Its underlying goal is not, as the Philippines has proclaimed, to seek peaceful resolution of the South China Sea issue, but rather, by resorting to arbitration, to put political pressure on China, so as to deny China's lawful rights in the South China Sea through the so-called "interpretation or application" of the Convention, and to pursue a resolution of the South China Sea issue on its own terms. This is certainly unacceptable to China.

**IV. Even assuming, arguendo, that the subject-matter of the arbitration were concerned with the interpretation or application of the Convention, that subject-matter would still be an integral part of maritime delimitation and, having been excluded by the 2006 Declaration filed by China, could not be submitted for arbitration**

57. Part XV of the Convention establishes the right for the States Parties to file a written declaration to exclude specified categories of disputes from the compulsory dispute settlement procedures as laid down in section 2 of that Part. In 2006 China filed such a declaration in full compliance with the Convention.

58. On 25 August 2006, China deposited, pursuant to Article 298 of the Convention, with Secretary-General of the United Nations a written declaration, stating that, "The Government of the People's Republic of China does not accept any of the procedures provided for in section 2 of Part XV of the Convention with respect to all the categories of disputes referred to in paragraph 1 (a), (b) and (c) of Article 298 of the Convention". In other words, as regards disputes concerning maritime delimitation, historic bays or titles, military and law enforcement activities, and disputes in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations, the Chinese Government does not accept any of the compulsory dispute settlement procedures laid down in section 2 of Part XV of the Convention, including compulsory arbitration. China firmly believes that the most effective means for settlement of maritime disputes between China and its neighbouring States is that of friendly consultations and negotiations between the sovereign States directly concerned.



59. China and the Philippines are maritime neighbours and "States with opposite or adjacent coasts" in the sense of Articles 74 and 83 of the Convention. There exists an issue of maritime delimitation between the two States. Given that disputes between China and the Philippines relating to territorial sovereignty over relevant maritime features remain unresolved, the two States have yet to start negotiations on maritime delimitation. They have, however, commenced cooperation to pave the way for an eventual delimitation.

60. On 3 September 2004, the two sides issued a Joint Press Statement of the Government of the People's Republic of China and the Government of the Republic of the Philippines, stating that "[t]he two sides reaffirmed their commitment to the peace and stability in the South China Sea and their readiness to continue discussions to study cooperative activities like joint development pending the comprehensive and final settlement of territorial disputes and overlapping maritime claims in the area" (para. 16).

61. Two days before the issuance of the Joint Press Statement, upon approval by both governments and in the presence of the Heads of State of the two countries, China National Offshore Oil Corporation and Philippine National Oil Company signed the "Agreement for Joint Marine Seismic Undertaking in Certain Areas in the South China Sea". On 14 March 2005, the agreement was expanded to a tripartite agreement, with the participation of Vietnam Oil and Gas Corporation. This is a good example of the constructive efforts made by the States concerned to enhance cooperation and create conditions for a negotiated settlement of the disputes in the South China Sea. The maritime area covered by that agreement is within that covered in the present arbitration initiated by the Philippines.

62. On 28 April 2005, during a State visit to the Philippines by the then Chinese President Hu Jintao, China and the Philippines issued a Joint Statement of the People's Republic of China and the Republic of the Philippines, in which the two sides "agreed to continue efforts to maintain peace and stability in the South China Sea and ... welcomed the signing of the Tripartite Agreement for Joint Marine Seismic Undertaking in the Agreement Area in the South China Sea by China National Offshore Oil Corporation, Vietnam Oil and Gas Corporation and Philippine National Oil Company" (para. 16).

63. On 16 January 2007, during the official visit to the Philippines by the then Chinese Premier Wen Jiabao, China and the Philippines issued a Joint Statement of the People's Republic of China and the Republic of the Philippines, which stated that "the Tripartite Joint Marine Seismic Undertaking in the South China Sea serves as a model for cooperation in the region. They agreed that possible next steps for cooperation among the three parties should be explored to bring collaboration to a higher level and increase the momentum of trust and confidence in the region" (para. 12).

64. In light of the above, it is plain that China and the Philippines have reached mutual understanding to advance final resolution of the issue of maritime delimitation through cooperation. In any event, given China's 2006 declaration, the Philippines should not and cannot unilaterally initiate compulsory arbitration on the issue of maritime delimitation.

65. To cover up the maritime delimitation nature of the China-Philippines dispute and to sidestep China's 2006 declaration, the Philippines has split up the dispute of maritime delimitation into discrete issues and selected a few of them for arbitration, requesting the Arbitral Tribunal to render the so-called "legal interpretation" on each of them.

66. It is not difficult to see that such legal issues as those presented by the Philippines in the present arbitration, including maritime claims, the legal nature of maritime features, the extent of relevant maritime rights, and law enforcement activities at sea, are all fundamental issues dealt with in past cases of maritime delimitation decided by international judicial or arbitral bodies and in State practice concerning maritime delimitation. In short, those issues are part and parcel of maritime delimitation.

67. Maritime delimitation is an integral, systematic process. Articles 74 and 83 of the Convention stipulate that maritime delimitation between States with opposite or adjacent coasts "shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution". Both international jurisprudence and State practice have recognized that all relevant factors must be taken into account to achieve an equitable solution. In this light, the international law applicable to maritime delimitation includes both the Convention and general international law. Under this body of law, maritime delimitation involves a consideration of not only entitlements, effect of maritime features, and principles and methods of delimitation, but also all relevant factors that must be taken into account, in order to attain an equitable solution.

68. The issues presented by the Philippines for arbitration constitute an integral part of maritime delimitation between China and the Philippines, and, as such, can only be considered under the overarching framework of maritime delimitation between China and the Philippines, and in conjunction with all the relevant rights and interests the parties concerned enjoy in accordance with the Convention, general international law, and historical or long-standing practice in the region for overall consideration. The Philippines' approach of splitting its maritime delimitation dispute with China and selecting some of the issues for arbitration, if permitted, will inevitably destroy the integrity and indivisibility of maritime delimitation and contravene the principle that maritime delimitation must be based on international law as referred to in Article 38 of the ICJ Statute and that "all relevant factors must be taken into account". This will adversely affect the future equitable solution of the dispute of maritime delimitation between China and the Philippines.

69. Ostensibly, the Philippines is not seeking from the Arbitral Tribunal a ruling regarding maritime delimitation, but instead a decision, *inter alia*, that certain maritime features are part of the Philippines' EEZ and continental shelf, and that China has unlawfully interfered with the enjoyment and exercise by the

Philippines of sovereign rights in its EEZ and continental shelf. But that obviously is an attempt to seek a recognition by the Arbitral Tribunal that the relevant maritime areas are part of the Philippines' EEZ and continental shelf, in respect of which the Philippines is entitled to exercise sovereign rights and jurisdiction. This is actually a request for maritime delimitation by the Arbitral Tribunal in disguise. The Philippines' claims have in effect covered the main aspects and steps in maritime delimitation. Should the Arbitral Tribunal address substantively the Philippines' claims, it would amount to a de facto maritime delimitation.

70. The exclusionary declarations filed by the States Parties to the Convention under Article 298 of the Convention must be respected. By initiating the present compulsory arbitration as an attempt to circumvent China's 2006 declaration, the Philippines is abusing the dispute settlement procedures under the Convention.

71. China's 2006 declaration, once filed, automatically comes into effect. Its effect, as prescribed under Article 299 of the Convention, is that, without the consent of China, no State Party can unilaterally invoke any of the compulsory procedures specified in section 2 of Part XV against China in respect of the disputes covered by that declaration. In return, China simultaneously gives up the right to unilaterally initiate compulsory procedures against other States Parties in respect of the same disputes. The rights and obligations are reciprocal in this regard.

72. The Philippines claims that, having chosen none of the four compulsory dispute settlement procedures listed under Article 287 of the Convention, China as a State Party shall therefore be deemed to have accepted compulsory arbitration. This is a deliberately misleading argument. The purpose and the effect of China's 2006 declaration is such that the disputes listed therein are fully excluded from the compulsory settlement procedures under the Convention. Whether or not China has selected any of the four compulsory procedures under Article 287, as long as a dispute falls within the scope of China's 2006 declaration, China has already explicitly excluded it from the applicability of any compulsory procedures under section 2 of Part XV of the Convention, including compulsory arbitration.

73. Although the Philippines professes that the subject-matter of the arbitration does not involve any dispute covered by China's 2006 declaration, since China holds a different view in this regard, the Philippines should first take up this issue with China, before a decision can be taken on whether or not it can be submitted for arbitration. Should the Philippines' logic in its present form be followed, any State Party may unilaterally initiate compulsory arbitration against another State Party in respect of a dispute covered by the latter's declaration in force simply by asserting that the dispute is not excluded from arbitration by that declaration. This would render the provisions of Article 299 meaningless.

74. Since the entry into force of the Convention, the present arbitration is the first case in which a State Party has unilaterally initiated compulsory arbitration in respect of a dispute covered by a declaration of another State Party under Article 298. If this twisted approach of the Philippines could be accepted as fulfilling the conditions for invoking compulsory arbitration, it could be well imagined that any of the disputes listed in Article 298 may be submitted to the compulsory procedures under section 2 of Part XV simply by connecting them, using the Philippines' approach, with the question of interpretation or application of certain provisions of the Convention. Should the above approach be deemed acceptable, the question would then arise as to whether the provisions of Article 298 could still retain any value, and whether there is any practical meaning left of the declarations so far filed by 35 States Parties under Article 298. In light of the foregoing reasons, China can only conclude that, the unilateral initiation by the Philippines of the present arbitration constitutes an abuse of the compulsory procedures provided in the Convention and a grave challenge to the solemnity of the dispute settlement mechanism under the Convention.

75. To sum up, even assuming that the subject-matter of the arbitration were concerned with the interpretation or application of the Convention, it would still be an integral part of the dispute of maritime delimitation between the two States. Having been excluded by China's 2006 declaration, it could not be submitted to compulsory arbitration under the Convention.

**V. China's right to freely choose the means of dispute settlement must be fully respected, and its rejection of and non-participation in the present arbitration is solidly grounded in international law**

76. Under international law, every State is free to choose the means of dispute settlement. The jurisdiction of any international judicial or arbitral body over an inter-State dispute depends on the prior consent of the parties to the dispute. This is known as the principle of consent in international law. It was on the basis of this principle that the States participating in the Third United Nations Conference on the Law of the Sea reached, after extended and arduous negotiations, a compromise on Part XV relating to dispute settlement as a package deal.

77. The compulsory dispute settlement procedures provided in Part XV of the Convention apply only to disputes concerning the interpretation or application of the Convention. States Parties are entitled to freely choose the means of settlement other than those set out in Part XV. Articles 297 and 298 of the Convention, moreover, provide for limitations on and optional exceptions to the applicability of the compulsory procedures with regard to specified categories of disputes.

78. The balance embodied in the provisions of Part XV has been a critical factor for the decision of many States to become parties to the Convention. At the second session of the Third United Nations Conference on the Law of the Sea, Ambassador Reynaldo Galindo Pohl of El Salvador, co-chair of the

informal group on the settlement of disputes, on introducing the first general draft on dispute settlement, emphasized the need for exceptions from compulsory jurisdiction with respect to questions directly related to the territorial integrity of States. Otherwise, as has been noted, "a number of States might have been dissuaded from ratifying the Convention or even signing it" (Shabtai Rosenne and Louis B. Sohn (eds.), *United Nations Convention on the Law of the Sea 1982: A Commentary*, 1989, vol. v, p. 88, para. 297.1). It follows that the provisions of Part XV must be interpreted and applied in such a manner so as to preserve the balance in and the integrity of Part XV.

79. China highly values the positive role played by the compulsory dispute settlement procedures of the Convention in upholding the international legal order for the oceans. As a State Party to the Convention, China has accepted the provisions of section 2 of Part XV on compulsory dispute settlement procedures. But that acceptance does not mean that those procedures apply to disputes of territorial sovereignty, or disputes which China has agreed with other States Parties to settle by means of their own choice, or disputes already excluded by Article 297 and China's 2006 declaration filed under Article 298. With regard to the Philippines' claims for arbitration, China has never accepted any of the compulsory procedures of section 2 of Part XV.

80. By virtue of the principle of sovereignty, parties to a dispute may choose the means of settlement of their own accord. This has been affirmed by the Convention. Article 280 provides that, "Nothing in this Part impairs the right of any States Parties to agree at any time to settle a dispute between them concerning the interpretation or application of this Convention by any peaceful means of their own choice."

81. The means thus chosen by the States Parties to the Convention takes priority over the compulsory procedures set forth in section 2 of Part XV. Article 281(1) of section 1 of Part XV provides that, "If the States Parties which are parties to a dispute concerning the interpretation or application of this Convention have agreed to seek settlement of the dispute by a peaceful means of their own choice, the procedures provided for in this Part apply only where no settlement has been reached by recourse to such means and the agreement between the parties does not exclude any further procedure." Article 286 states that, "Subject to section 3, any dispute concerning the interpretation or application of this Convention shall, where no settlement has been reached by recourse to section 1, be submitted at the request of any party to the dispute to the court or tribunal having jurisdiction under this section." Accordingly, where parties to a dispute have already chosen a means of settlement and excluded other procedures, the compulsory procedures of the Convention shall not apply to the dispute in question.

82. The priority and significance of the means of dispute settlement chosen by States Parties to the Convention have been further affirmed in the arbitral award in the Southern Bluefin Tuna Case. The tribunal recognized that the Convention "falls significantly short of establishing a truly comprehensive regime of compulsory jurisdiction entailing binding decisions", and that "States Parties ... are permitted by Article 281(1) to confine the applicability of compulsory procedures of section 2 of Part XV to cases where all parties to the dispute have agreed upon submission of their dispute to such compulsory procedures" (*Australia and New Zealand v. Japan*, pp. 102-103, para. 62). Were the provisions of section 1 of Part XV not complied with faithfully, it would result in deprivation of the right of the States Parties to freely choose means of peaceful settlement based on State sovereignty. That would entail a breach of the principle of consent and upset the balance in and integrity of Part XV.

83. In exercise of its power to decide on its jurisdiction, any judicial or arbitral body should respect the right of the States Parties to the Convention to freely choose the means of settlement. Article 288(4) of the Convention provides that "[i]n the event of a dispute as to whether a court or tribunal has jurisdiction, the matter shall be settled by decision of that court or tribunal". China respects that competence of judicial or arbitral bodies under the Convention. Equally important, China would like to emphasize, the exercise of judicial or arbitral power shall not derogate from the right of the States Parties to choose the means of settlement of their own accord, or from the principle of consent which must be followed in international adjudication and arbitration. China holds that this is the constraint that the Arbitral Tribunal must abide by when considering whether or not to apply Article 288(4) in determining its jurisdiction in the present arbitration. After all, "the parties to the dispute are complete masters of the procedure to be used to settle it" (Shabtai Rosenne and Louis B. Sohn (eds.), *United Nations Convention on the Law of the Sea 1982: A Commentary*, 1989, vol. v, p. 20, para. 280.1).

84. China respects the right of all States Parties to invoke the compulsory procedures in accordance with the Convention. At the same time, it would call attention to Article 300 of the Convention, which provides that, "States Parties shall fulfil in good faith the obligations assumed under this Convention and shall exercise the rights, jurisdiction and freedoms recognized in this Convention in a manner which would not constitute an abuse of right." While being fully aware that its claims essentially deal with territorial sovereignty, that China has never accepted any compulsory procedures in respect of those claims, and that there has been an agreement existing between the two States to settle their relevant disputes by negotiations, the Philippines has nevertheless initiated, by unilateral action, the present arbitration. This surely contravenes the relevant provisions of the Convention, and does no service to the peaceful settlement of the disputes.

85. In view of what is stated above and in light of the manifest lack of jurisdiction on the part of the Arbitral Tribunal, the Chinese Government has decided not to accept or participate in the present arbitration, in order to preserve China's sovereign right to choose the means of peaceful settlement of its own free will and the effectiveness of its 2006 declaration, and to maintain the integrity of Part XV of the Convention as well as the authority and solemnity of the international legal regime for the oceans. This position of China will not change.

## VI. Conclusions

86. It is the view of China that the Arbitral Tribunal manifestly has no jurisdiction over this arbitration, unilaterally initiated by the Philippines, with regard to disputes between China and the Philippines in the South China Sea.

Firstly, the essence of the subject-matter of the arbitration is the territorial sovereignty over the relevant maritime features in the South China Sea, which is beyond the scope of the Convention and is consequently not concerned with the interpretation or application of the Convention.

Secondly, there is an agreement between China and the Philippines to settle their disputes in the South China Sea by negotiations, as embodied in bilateral instruments and the DOC. Thus the unilateral initiation of the present arbitration by the Philippines has clearly violated international law.

Thirdly, even assuming that the subject-matter of the arbitration did concern the interpretation or application of the Convention, it has been excluded by the 2006 declaration filed by China under Article 298 of the Convention, due to its being an integral part of the dispute of maritime delimitation between the two States.

Fourthly, China has never accepted any compulsory procedures of the Convention with regard to the Philippines' claims for arbitration. The Arbitral Tribunal shall fully respect the right of the States Parties to the Convention to choose the means of dispute settlement of their own accord, and exercise its competence to decide on its jurisdiction within the confines of the Convention. The initiation of the present arbitration by the Philippines is an abuse of the compulsory dispute settlement procedures under the Convention. There is a solid basis in international law for China's rejection of and non-participation in the present arbitration.

87. China consistently adheres to the policy of friendly relations with its neighbouring States, and strives for fair and equitable solution in respect of disputes of territorial sovereignty and maritime delimitation by way of negotiations on the basis of equality and the Five Principles of Peaceful Co-existence. China holds that negotiations is always the most direct, effective, and universally used means for peaceful settlement of international disputes.

88. After years of diplomatic efforts and negotiations, China has successfully resolved land boundary disputes with twelve out of its fourteen neighbours, delimiting and demarcating some 20,000 kilometres in length of land boundary in the process, which accounts for over 90% of the total length of China's land boundary. On 25 December 2000, China and Vietnam concluded, following negotiations, the Agreement between the People's Republic of China and the Socialist Republic of Viet Nam on the Delimitation of the Territorial Seas, the Exclusive Economic Zones and Continental Shelves in Beibu Bay, establishing a maritime boundary between the two States in Beibu Bay. On 11 November 1997, the Agreement on Fisheries between the People's Republic of China and Japan was signed. On 3 August 2000, the Agreement on Fisheries between the Government of the People's Republic of China and the Government of the Republic of Korea was signed. On 24 December 2005, the Agreement between the Government of the People's Republic of China and the Government of the Democratic People's Republic of Korea for Joint Development of Oil Resources at Sea was signed. All these are provisional arrangements pending the maritime delimitation between China and those States.

89. The facts show that, as long as States concerned negotiate in good faith and on the basis of equality and mutual benefit, territorial and maritime delimitation disputes can be resolved properly between them. This principle and position of China equally apply to its disputes with the Philippines in the South China Sea.

90. China does not consider submission by agreement of a dispute to arbitration as an unfriendly act. In respect of disputes of territorial sovereignty and maritime rights, unilateral resort to compulsory arbitration against another State, however, cannot be taken as a friendly act, when the initiating State is fully aware of the opposition of the other State to the action and the existing agreement between them on dispute settlement through negotiations. Furthermore, such action cannot be regarded as in conformity with the rule of law, as it runs counter to the basic rules and principles of international law. It will not in any way facilitate a proper settlement of the dispute between the two countries. Instead it will undermine mutual trust and further complicate the bilateral relations.

91. In recent years, the Philippines has repeatedly taken new provocative actions in respect of Huangyan Dao and Ren'ai Jiao. Such actions have gravely hindered mutual political trust between China and the Philippines, and undermined the amicable atmosphere for China and ASEAN member States to implement the DOC and consult on the proposed Code of Conduct in the South China Sea. In fact, in the region of Southeast Asia, it is not China that has become "increasingly assertive"; it is the Philippines that has become increasingly provocative.

92. The issue of the South China Sea involves a number of States, and is compounded by complex historical background and sensitive political factors. Its final resolution demands patience and political wisdom from all parties concerned. China always maintains that the parties concerned shall seek proper ways and means of settlement through consultations and negotiations on the basis of respect for historical facts and international law. Pending final settlement, all parties concerned should engage in dialogue and cooperation to preserve peace and stability in the South China Sea, enhance mutual trust, clear up doubts, and create conditions for the eventual resolution of the issue.

93. The unilateral initiation of the present arbitration by the Philippines will not change the history and fact of China's sovereignty over the South China Sea Islands and the adjacent waters; nor will it shake China's resolve and determination to safeguard its sovereignty and maritime rights and interests; nor will it affect the policy and position of China to resolve the relevant disputes by direct negotiations and work together with other States in the region to maintain

peace and stability in the South China Sea.

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**Annex 468**

Socialist Republic of Viet Nam, *Statement of the Ministry of Foreign Affairs of the Socialist Republic of Viet Nam Transmitted to the Arbitral Tribunal in the Proceedings Between the Republic of the Philippines and the People's Republic of China* (14 Dec. 2014)



**STATEMENT**

**OF THE MINISTRY OF FOREIGN AFFAIRS OF THE SOCIALIST  
REPUBLIC OF VIET NAM TRANSMITTED TO THE ARBITRAL  
TRIBUNAL IN THE PROCEEDINGS BETWEEN THE REPUBLIC OF THE  
PHILIPPINES AND THE PEOPLE’S REPUBLIC OF CHINA**

On 22 January 2013, the Republic of the Philippines (the Philippines) instituted proceedings against the People’s Republic of China (China) under Annex VII of the United Nations Convention on the Law of the Sea of 1982 (‘Convention’ or ‘UNCLOS’). In order to protect its rights and interests of a legal nature in the South China Sea (*Biển Đông* in Vietnamese) which may be affected in this arbitration, the Ministry of Foreign Affairs of the Socialist Republic of Viet Nam respectfully requests the Arbitral Tribunal to have due regard to the position of Viet Nam as follows:

1. Firstly, Viet Nam, as a State Party to the Convention and a coastal State which has the rights and interests of a legal nature in the South China Sea, strongly re-affirms its consistent policy advocating the full observance and implementation of all rules and procedures of the Convention. Viet Nam supports UNCLOS States Parties which seek to settle their disputes concerning the interpretation or application of the Convention through peaceful means in conformity with the rules and procedures of the Convention, including through the procedures provided for in Part XV of the Convention.

Accordingly, Viet Nam has no doubt that the Tribunal has jurisdiction in these proceedings. Viet Nam wishes that the Tribunal will render an impartial and objective decision, providing a legal basis for the parties in this case to settle their

disputes, contributing to clarifying the legal positions of the parties in this case and interested third parties, and contributing to preserving and maintaining peace and stability, maritime security and safety and freedom of navigation and overflight in the South China Sea.

2. After reading the written pleadings of the Philippines, the Ministry of Foreign Affairs of Viet Nam is of the view that some of Viet Nam's rights and interests of a legal nature in the South China Sea may be involved, and even affected in this arbitration. By transmitting the present Statement to the Arbitral Tribunal, the Ministry of Foreign Affairs of Viet Nam wishes to preserve its rights and interests of a legal nature, including (but are not necessarily limited to):

(i) Viet Nam's rights in connection with geographical features of the Paracel Islands (*quần đảo Hoàng Sa* in Vietnamese) and the Spratly Islands (*quần đảo Trường Sa* in Vietnamese);

(ii) The rights and interests of Viet Nam in its exclusive economic zone and continental shelf;

(iii) The rights and interests of Viet Nam relating to the legal status and maritime entitlement of geographical features in the South China Sea, which are located within the "nine-dash line";

(iv) The rights and interests of Viet Nam in common maritime areas located within the "nine-dash line"; and

(v) The other legal rights and interests of Viet Nam in the South China Sea.

3. Viet Nam takes note that the Philippines does not request this Tribunal to consider the issues which are not subject to the jurisdiction of the Tribunal under Article 288 of the Convention, in particular:

(i) The question of sovereignty, including over geographical features of the Paracel Islands and the Spratly Islands;

(ii) The question of delimitation of overlapping maritime areas between the Philippines and China, as well as between these countries and Viet Nam in the South China Sea, should such overlapping maritime areas exist.<sup>1</sup>

4. Regarding the issues related to Viet Nam, which are subject to the jurisdiction of the Tribunal, Viet Nam makes it clear that:

(i) On the “nine-dash line”, Viet Nam resolutely protests and rejects any claim by China in the South China Sea which is based on the “nine-dash line” since any such claim violates Viet Nam’s rights and interests of a legal nature as defined under the Convention and general international law.

Viet Nam, on many occasions and through its official and public documents and statements, including Notes Verbales addressed to the United Nations Secretary-General, has vigorously protested and rejected China’s acts and conduct which are aimed at realizing its claims based on the “nine-dash line.” After China attached a map depicting the “nine-dash line” to the Note Verbale addressed to the United Nations Secretary-General, on 8 May 2009, the Permanent Mission of Viet Nam to the United Nations immediately addressed a Note Verbale to the United Nations Secretary-General<sup>2</sup> stating that China’s claim over the islands and adjacent waters in the South China Sea as manifested in the “nine-dash line” map has no legal, historical or factual basis, therefore is null and void. On 23 June 2012, when the China National Offshore Oil Corporation (CNOOC) published a document entitled “Notification of Part of Open Blocks in Waters under Jurisdiction of the

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<sup>1</sup> See Statement of Claim, para. 7, 40; Memorial, paras. 1.53, 5.107, 5.113, 5.117, 7.120-7.124.

<sup>2</sup> Note Verbale No. 86/HC-2009 dated 8 May 2009 of the Permanent Mission of the Socialist Republic of Viet Nam addressed to the United Nations Secretary-General. See Annex 1.

People's Republic of China Available for Foreign Cooperation in the Year of 2012," asserting that nine blocks situated within the "nine-dash line" depicted on a map attached to the Notification are in waters under China's jurisdiction,<sup>3</sup> Viet Nam sent a Note Verbale dated 27 June 2012 to immediately protest and reject China's Notification as the nine blocks lie entirely within the exclusive economic zone and continental shelf of Viet Nam.<sup>4</sup> When China included in its type E-passports a map depicting this line after April 2012, Viet Nam sent a Note Verbale to China to protest and reject this act on 22 October 2012.<sup>5</sup> When as of 1 January 2014, authorities of China's Province of Hainan began to enforce China's putative maritime jurisdiction in the area enclosed by the "nine-dash line", on 10 January 2014, the Spokesperson of Foreign Ministry of Viet Nam delivered a statement resolutely protesting these acts as well.<sup>6</sup> Most recently, in the Annex to the letter dated 19 November 2014 from the Permanent Representative of Viet Nam addressed to the Secretary-General of the United Nations, Viet Nam, as a coastal State that has legitimate rights and interests in the East Sea (South China Sea), resolutely rejected the Chinese assertion that "China's sovereignty and relevant rights and claims in the South China Sea have been formed over the long course of history" made in the annex to the letter dated 7 October 2014 from the Permanent

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<sup>3</sup> Notification of Part of Open Blocks in Waters under Jurisdiction of the People's Republic of China Available for Foreign Cooperation in the Year of 2012. See Annex 2.

<sup>4</sup> Note Verbale No. 455/BNG-UBBG dated 27 June 2012 of the Ministry of Foreign Affairs of Viet Nam addressed to the Embassy of the People's Republic of China in Hanoi. See Annex 3.

<sup>5</sup> Note Verbale No. 740/BNG-LPQT dated 22 October 2012 of the Ministry of Foreign Affairs of Viet Nam addressed to the Embassy of the People's Republic of China in Hanoi to protest and reject this act by China. See Annex 4.

<sup>6</sup> Statement of Spokesperson of Foreign Ministry of the Socialist Republic of Viet Nam, 10 January 2014. See Annex 5.



Representative of China to the United Nations addressed to the Secretary-General (A/69/429).<sup>7</sup>

With respect to China's claim of "historic rights" in the South China Sea, as reflected for example in Article 14 of the Law of the Exclusive Economic Zone and Continental Shelf of the People's Republic of China of 26 June 1998, Viet Nam sent a Note Verbale dated 6 August 1998 to the United Nations Secretary-General in which Viet Nam clearly affirmed that "it shall not recognize any so-called "historical interests" which are not consistent with international law and violate the sovereignty, the sovereign rights of Viet Nam and Viet Nam's legitimate interests in its maritime zones and continental shelf in the East Sea as mentioned in Article 14 of the above-mentioned Law of the People's Republic of China."<sup>8</sup>

(ii) With respect to the legal status of eight features which the Philippines mentioned specifically in these proceedings, Viet Nam holds the position that the legal status of those features should be defined in accordance with Article 121(3) of the Convention and Article 20 of Viet Nam's Law of the Sea of 21 June 2012. Accordingly, Viet Nam is of the view that none of the features mentioned by the Philippines in these proceedings can enjoy their own exclusive economic zone and continental shelf or generate maritime entitlements in excess of 12 nautical miles since they are low-tide elevations or "rocks which cannot sustain human habitation or economic life of their own" under Article 121(3) of the Convention.

5. As a coastal State in the South China Sea, Viet Nam supports the competence of the Tribunal for interpreting and applying Articles 60 and 80 of the

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<sup>7</sup> Annex to the letter dated 19 November 2014 of the Permanent Representative of the Socialist Republic of Viet Nam addressed to the Secretary-General of the United Nations. See Annex 6.

<sup>8</sup> Note Verbale No. 771/HC-98 dated 6 August 1998 of the Permanent Mission of the Socialist Republic of Viet Nam to the United Nations addressed to the United Nations Secretary-General. See Annex 7.

Convention in respect of the construction of artificial islands, installations and structures in the exclusive economic zone and continental shelf of coastal States, Article 94 in respect of the duties of the flag State, Article 194(5) in respect of protection of ecosystems and Article 206 in respect of environmental impact assessments.

With regard to Article 300 on claimants' conducts in fulfilling their rights and obligations under the Convention,<sup>9</sup> Viet Nam has a legal interest in the Tribunal's interpretation and application of Article 300 of the Convention with respect to conducts of the claimants in the South China Sea, affirming the significance and value of the Convention as "a Constitution for the ocean" aiming to establish a legal order in the South China Sea.

As a state party to the Convention on the International Regulations for Preventing Collisions at Sea (COLREGS), the International Convention for the Prevent of Pollution from Ships (MARPOL) and the Convention on Biological Diversity (CBD), Viet Nam has a legal interest in the Tribunal's interpretation and application of relevant provisions of the Convention and those instruments on the basis of Article 293(1) of the Convention, and in connection with the Convention.

6. By transmitting the present Statement, the Ministry of Foreign Affairs of Viet Nam respectfully requests the Tribunal to have due regard to Viet Nam's legal rights and interests in the South China Sea when the Tribunal considers and makes decisions in respect of the claims over which the Tribunal has jurisdiction in these proceedings under Article 288 of UNCLOS. Viet Nam will respectfully consider any steps that the Tribunal decides might assist it to "be certain that all necessary

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<sup>9</sup> Statement of Claim, para. 2.

information [is] available for effectively protecting a third State's interest"<sup>10</sup> in this arbitration.

Finally, the Ministry of Foreign Affairs of Viet Nam affirms that Viet Nam reserves its right to protect its legal rights and interests in the South China Sea by any peaceful means as appropriate and necessary in accordance with UNCLOS. In addition, Viet Nam reserves the right to seek to intervene if it seems appropriate and in accordance with the principles and rules of international law, including the relevant provisions of UNCLOS.

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<sup>10</sup> Declaration of Judge ad hoc Gaja, ICJ Rep. 2011 at p. 417 (para. 1).

## **DOCUMENTS ANNEXED TO THE STATEMENT**

**Annex 1.** Note Verbale No. 86/HC-2009 dated 8 May 2009 of the Permanent Mission of the Socialist Republic of Viet Nam addressed to the United Nations Secretary-General;

**Annex 2.** Notification of Part of Open Blocks in Waters under Jurisdiction of the People's Republic of China Available for Foreign Cooperation in the Year of 2012;

**Annex 3.** Note Verbale No. 455/BNG-UBBG dated 27 June 2012 of the Ministry of Foreign Affairs of Viet Nam addressed to the Embassy of the People's Republic of China in Hanoi;

**Annex 4.** Note Verbale No. 740/BNG-LPQT dated 22 October 2012 of the Ministry of Foreign Affairs of Viet Nam addressed to the Embassy of the People's Republic of China in Hanoi;

**Annex 5.** Statement of Spokesperson of Foreign Ministry of the Socialist Republic of Viet Nam, 10 January 2014;

**Annex 6.** Annex to the letter dated 19 November 2014 of the Permanent Representative of the Socialist Republic of Viet Nam addressed to the Secretary-General of the United Nations;

**Annex 7.** Note Verbale No. 771/HC-98 dated 6 August 1998 of the Permanent Mission of the Socialist Republic of Viet Nam to the United Nations addressed to the United Nations Secretary-General.

**ANNEX 1**

**Note Verbale No. 86/HC-2009 dated 8 May 2009 of the Permanent Mission of the Socialist Republic of Viet Nam addressed to the United Nations Secretary-General**



PHÁI ĐOÀN THƯỜNG TRỰC  
CỘNG HOÀ XÃ HỘI CHỦ NGHĨA VIỆT NAM  
TẠI LIÊN HỢP QUỐC

PERMANENT MISSION  
OF THE SOCIALIST REPUBLIC OF VIET NAM  
TO THE UNITED NATIONS

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No. 86/HC-2009

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to the Notes Verbale CML/12/2009 of 13 April 2009, CML/17/2009 of 7 May 2009 and CML/18/2009 of 7 May 2009, addressed to the Secretary-General of the United Nations by the Permanent Mission of the People's Republic of China to the United Nations, has the honor to state the position of the Government of the Socialist Republic of Viet Nam as follows:

Viet Nam's Submissions to the Commission on the Limits of the Continental Shelf concerning the outer limits of Viet Nam's continental shelf beyond 200 nautical miles, including its Joint Submission with Malaysia, constitute legitimate undertakings in implementation of the obligations of States Parties to the 1982 United Nations Convention on the Law of the Sea, which conform to the pertinent provisions of the said Convention as well as the Rules of Procedures of the Commission on the Limits of the Continental Shelf.

The Hoang Sa (Paracels) and Truong Sa (Spratlys) archipelagoes are parts of Viet Nam's territory. Viet Nam has indisputable sovereignty over these archipelagoes. China's claim over the islands and adjacent waters in the Eastern Sea (South China Sea) as manifested in the map attached with the Notes Verbale CLM/17/2009 and CLM/18/2009 has no legal, historical or factual basis, therefore is null and void.

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations requests that this Note Verbale be circulated to all States Parties to the 1982 United Nations Convention on the Law of the Sea as well as all Members of the United Nations.

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration. *WZ*

New York, 8 May 2009

H.E. Mr. BAN KI-MOON  
Secretary-General  
United Nations



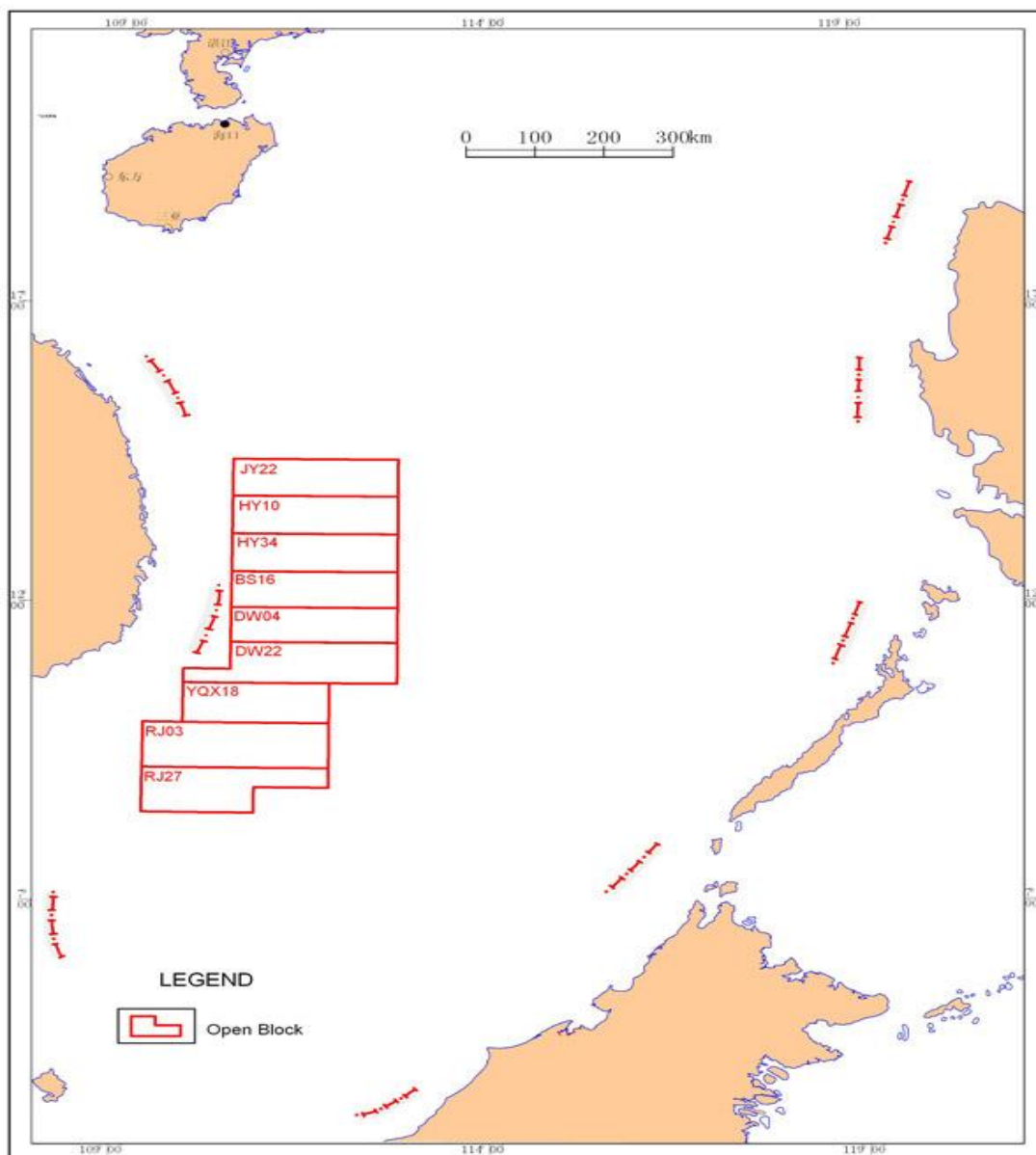


**ANNEX 2**

**Notification of Part of Open Blocks in Waters under Jurisdiction of the  
People's Republic of China Available for Foreign Cooperation in the Year of  
2012**



Notification of Part of Open Blocks in Waters under Jurisdiction of the People's Republic of China Available for Foreign Cooperation in the Year of 2012



**Attached Map of Locations for Part of Open Blocks in Waters under Jurisdiction of the People's Republic of China Available for Foreign Cooperation in the Year of 2012**

Now, nine blocks covering an area of 160124.38km<sup>2</sup> are available for exploration and development cooperation between China National Offshore Oil Corporation ("CNOOC") and foreign companies.

### **1. Introduction of the open blocks**

Please refer the locations of blocks to the attached map: Map of Locations for Part of Open Blocks in Waters under Jurisdiction of the People's Republic of China Available for Foreign Cooperation in the Year of 2012.

Please refer the coordinates of the blocks to the attached table: Coordinates for Part of Open Blocks in Waters under Jurisdiction of the People's Republic of China Available for Foreign Cooperation in the Year of 2012.

#### **Block JY22**

Block JY22 mostly lies in the north uplift and central depression of Zhongjiannan Basin, and the northeast of the Block lies in Zhongshaxinan Basin, with a water depth ranging from 1500m to 3000m and covering an area of 16638.64km<sup>2</sup>.

#### **Block HY10**

Block HY10 mostly lies in the central depression and south uplift of Zhongjiannan Basin, with a water depth ranging from 2000m to 3000m and covering an area of 17134.19km<sup>2</sup>.

#### **Block HY34**

Block HY34 mostly lies in the central depression and south uplift of Zhongjiannan Basin, with a water depth more than 2000m and covering an area of 17178.54km<sup>2</sup>.

#### **Block BS16**

Block BS16 mostly lies in the south uplift of Zhongjiannan Basin, with a water depth more than 2000m and covering an area of 16313.48km<sup>2</sup>.

#### **Block DW04**

Block DW04 mostly lies in the south uplift of Zhongjiannan Basin, with a water depth more than 2000m and covering an area of 15895.02km<sup>2</sup>.

#### **Block DW22**

Block DW22 lies in the south uplift and south depression of Zhongjiannan Basin, with a water depth ranging from 300m to 4000m and covering an area of 20415.55km<sup>2</sup>.

#### **Block YQX18**

Block YQX18 lies in the south depression and south uplift of Zhongjiannan Basin, with a water depth ranging from 300m to 4000m and covering an area of 15948.66km<sup>2</sup>.

**Block RJ03**

Block RJ03 lies in the northeast part of Wan'an Basin and the north part of Nanweixi Basin, with a water depth ranging from 300m to 3000m and covering an area of 22857.8km<sup>2</sup>.

**Block RJ27**

Block RJ27 lies in the northeast part of Wan'an Basin and the central part of Nanweixi Basin, with a water depth ranging from 300m to 2000m and covering an area of 17742.5km<sup>2</sup>.

**2. Introduction of Data Room**

(1) Program of Data Viewing and Purchase

The data room will open from the date of the publication of the notification to the date of publication of blocks available for foreign cooperation for the next year. Foreign companies may have access to the data room and purchase data in accordance with the following procedure:

To apply for data viewing in written to Exploration Contact Person.

Exploration Contact Person will schedule the time for foreign companies to visit the data room and give the written notice to foreign companies of their respective schedule for data room visit and copy such notice to the principal of data room.

Upon receiving the above-mentioned notice from Exploration Contact Person, foreign companies may directly go to visit the data room in accordance with the relevant provisions of CNOOC at the scheduled time. Foreign companies willing to purchase any data may contact with the principal of data room directly in accordance with the data acquisition rules of CNOOC.

(2) Location of Data Room and Contact Information

Exploration Contact Person: Mr. He Jiangqi

Tel:86-10-84526165

Fax:86-10-84526071

Email:hejq4@cnooc.com.cn

Exploration and Development Research Center Dataroom

It is located in Beijing, PRC, which has the data of all open blocks.

3. CNOOC's address and liaison person are as follows:

Mr. Zhao Liguo  
General Council  
China National Offshore Oil Corporation  
CNOOC Tower  
No. 25 Chaoyangmenbei Dajie, Dongcheng District, Beijing  
The People's Republic of China  
Postal Code: 100010  
Tel : (86-10) 84521178  
Fax : (86-10) 64013119  
E-mail: zhaolg@cnooc.com.cn

**[Attached Coordinates for Part of Open Blocks in Waters under Jurisdiction of the People's Republic of China Available for Foreign Cooperation in the Year of 2012](#)**

Release date: 23 Jun 2012

<http://en.cnooc.com.cn/data/html/news/2012-06-23/english/322127.html>

**ANNEX 3**

**Note Verbale No. 455/BNG-UBBG dated 27 June 2012 of the Ministry of  
Foreign Affairs of Viet Nam addressed to the Embassy of the People's  
Republic of China in Hanoi**



*Unofficial translation*

**MINISTRY OF FOREIGN AFFAIRS  
THE SOCIALIST REPUBLIC OF VIET NAM**

**No. 455/BNG-UBBG**

The Ministry of Foreign Affairs of the Socialist Republic of Viet Nam presents its compliments to the Embassy of the People's Republic of China in Hanoi and strongly protests against the international invitation dated June 23, 2012 of China National Offshore Oil Corp for bids for nine oil blocks, namely JY22, HY10, HY34, BS16, DW04, DW 22, YQX18, RJ03 and RJ27, located within Viet Nam's exclusive economic zone and continental shelf which, at their nearest, lie only 13 nautical miles and 80 nautical miles from Hon Hai island (Phu Quy archipelago) of Viet Nam and from the Vietnamese coast respectively.

Viet Nam affirms that the areas offered for the international bidding by China National Offshore Oil Corp are within Viet Nam's exclusive economic zone and continental shelf according to the United Nations Convention on the Law of the Sea of 1982. These are not disputed areas.

The international bidding invitation of China National Offshore Oil Corp for oil blocks located within Viet Nam's exclusive economic zone and continental shelf is an illegal and invalid act, which seriously infringes upon Viet Nam's sovereign and jurisdiction rights, violates the 1982 UN Convention on the Law of the Sea to which China is a party, complicates the situation, and causes tensions in the East Sea (South China Sea).

**Respectfully addressed to:  
Embassy of People's Republic of China to HANOI**

Viet Nam requests the Chinese side cancel such an illegal invitation, stop any activities which further complicate the situation in the East Sea and broaden the dispute, strictly comply with the Agreement on the basic principles guiding the settlement of maritime issues between Viet Nam and the China, respect for the international law, especially the United Nations Convention on the Law of the Sea of 1982 and the spirit of the Declaration on the Conduct of Parties in the South China Sea (DOC).

The Ministry of Foreign Affairs of the Socialist Republic of Viet Nam avails itself of this opportunity to renew to the Embassy of the People's Republic of China in Hanoi the assurances of its highest consideration./.

*Hanoi, June 27, 2012*

**ANNEX 4**

**Note Verbale No. 740/BNG-LPQT dated 22 October 2012 of the Ministry of  
Foreign Affairs of Viet Nam addressed to the Embassy of the People's  
Republic of China in Hanoi**



**MINISTRY OF FOREIGN AFFAIRS  
SOCIALIST REPUBLIC OF VIET NAM**

**No. 740/BNG-LPQT**

The Ministry of Foreign Affairs of the Socialist Republic of Viet Nam presents its compliments to the Embassy of People's Republic of China to Hanoi, and has the honor to bring to the latter's notice the following:

On May 15<sup>th</sup> 2012, China issued a new type of electronic ordinary passport which depicted China's "nine-dash line" map on pages of 8, 24 and 46. This is a deliberate act to assert China's unreasonable territorial claim over the islands and waters in the East Sea (South China Sea).

That act of China has seriously violated Viet Nam's sovereignty over the Paracel and Spratly Islands, infringed upon Viet Nam's sovereignty, sovereign rights and jurisdiction over related waters in the East Sea, been inconsistent with international law and practice, and run counter to the agreements between high-level leaders of the two countries as well as the provisions in the 2002 Declaration of Conducts of Parties in the South China Sea (DOC), thus further complicating the situation in the East Sea.

Viet Nam resolutely protests against the abovementioned act of China and does not recognize any legal or political significance that China intends to assert or imply through such an act. At the same time, Viet Nam requests China abolish immediately the incorrect content of the new electronic ordinary passport. Viet Nam reserves the right to take necessary measures consistent with Vietnamese law as well as international law and practice against that type of passport.

The Ministry of Foreign Affairs of the Socialist Republic of Viet Nam avails itself of this opportunity to renew to the Embassy of People's Republic of China in Hanoi the assurances of its highest consideration.

*Hanoi, October 22th 2012*

**Respectfully addressed to:  
Embassy of People's Republic of China to HANOI**

**ANNEX 5**

**Statement of Spokesperson of Foreign Ministry of the Socialist Republic of  
Viet Nam, 10 January 2014**

*Unofficial translation*

**Statement of Spokesperson of Foreign Ministry of the Socialist Republic of  
Viet Nam Luong Thanh Nghi, 10 January 2014**

The People's Standing Committee of Hainan Province, China, recently adopted the so-called "Draft Amendment on Measures to implement the Fisheries Law of the People's Republic of China", with effect from 1 January 2014. According to these measures, foreigners and foreign fishing vessels entering waters under Hainan Province's administration for fishing or marine resources surveys without permission will be expelled and may be subject to confiscation and administrative fines.

On 24 December 2013, the Chinese Ministry of Agriculture announced the period of the ban on net fishing which is imposed in a number of areas within sovereignty and sovereign rights of Viet Nam in the East Sea. China has also launched the first website and newspaper of the so-called "Sansha City", and upgraded its automatic meteorological stations on some features of the Spratly Islands.

On 10 January 2014, in response to questions by many reporters on Viet Nam's response to the above-mentioned acts by the Chinese authorities, Foreign Ministry Spokesman Luong Thanh Nghi stated:

***"The said activities by the Chinese authorities are illegal, null and void, and represent serious infringements on Viet Nam's sovereignty over Truong Sa (Spratly) and Hoang Sa (Paracel) Islands, as well as its sovereign rights and jurisdiction in the East Sea (South China Sea) under the 1982 UN Convention on the Law of the Sea (UNCLOS) 1982. These activities are inconsistent with the Viet Nam - China Agreement on Basic Principles Guiding the Settlement of Maritime Issues, run contrary to the spirit and letters of the Declaration on the Conduct of Parties in the South China Sea (DOC), and further complicate the situation in the East Sea.***

***Viet Nam demands that China stop those wrongful acts and make practical contribution to the maintenance of peace and stability in the region."***

[http://www.mofa.gov.vn/en/tt\\_baochi/pbnfn/ns140114152431](http://www.mofa.gov.vn/en/tt_baochi/pbnfn/ns140114152431)

**ANNEX 6**

**Annex to the letter dated 19 November 2014 of the Permanent Representative  
of the Socialist Republic of Viet Nam addressed to the Secretary-General of  
the United Nations**



PHÁI ĐOÀN THƯỜNG TRỰC  
CỘNG HOÀ XÃ HỘI CHỦ NGHĨA VIỆT NAM  
TẠI LIÊN HỢP QUỐC

PERMANENT MISSION  
OF THE SOCIALIST REPUBLIC OF VIET NAM  
TO THE UNITED NATIONS

866 U.N. Plaza, 4th Floor, Suite 435  
New York, N.Y. 10017  
(212) 644-0594 . (212) 644-0831  
(212) 644-2535 . (212) 644-1564  
Fax (212) 644-5732

*New York, 19 November 2014*

Excellency,

Upon instructions from my Government, I have the honour to transmit herewith the document reflecting the position of the Government of the Socialist Republic of Viet Nam with reference to the annex to the letter dated 7 October 2014 from the Permanent Representative of China to the United Nations addressed to the Secretary-General of the United Nations (A/69/429) (see annex for the official Vietnamese version and English translation of this document).

I should be grateful if you would have the present letter and the annex thereto circulated as an official document of the sixty-ninth session of the General Assembly, under agenda item 74 (a) entitled "*Ocean and the law of the sea*".

Please accept, Excellency, the assurances of my highest consideration.

Sincerely yours,

A handwritten signature in black ink, appearing to be 'Nguyen Phuong Nga'.

**Nguyen Phuong Nga**  
Ambassador Extraordinary and Plenipotentiary  
Permanent Representative of Viet Nam  
to the United Nations

**H.E. Mr. Ban Ki-moon**  
Secretary-General of the United Nations  
United Nations Headquarters  
New York



*Unofficial translation*

**Annex to the letter dated 19 November 2014  
from the Permanent Representative of Viet Nam  
addressed to the Secretary-General of the United Nations**

With reference to the annex to the letter dated 7 October 2014 from the Permanent Representative of China to the United Nations addressed to the Secretary-General of the United Nations (A/69/429) in response to the Philippine proposal annexed to the letter dated 19 September 2014 from the Permanent Representative of the Philippines (A/69/401), the Government of the Socialist Republic of Viet Nam has the honour to reaffirm the following:

Viet Nam, as a coastal State that has legitimate rights and interests in the East Sea (South China Sea), resolutely rejects China's assertions in the aforesaid document (A/69/429), including paragraph 6 which states that "*China's sovereignty and relevant rights and claims in the South China Sea have been formed over the long course of history, and upheld by successive Chinese Governments.*" This statement of China has no legal, historical and factual basis, and therefore is completely null and void.

Once again, Viet Nam emphasizes that Viet Nam possesses full legal basis and historical evidence to affirm its sovereignty over the Hoang Sa (Paracels) and Truong Sa (Spratlys) archipelagoes, as well as its sovereign rights and jurisdiction over the exclusive economic zone and the continental shelf as established in accordance with the United Nations Convention on the Law of the Sea of 1982. By this document, Viet Nam hereby reserves all its rights in the East Sea (South China Sea) under international law, including the United Nations Convention on the Law of the Sea of 1982./.

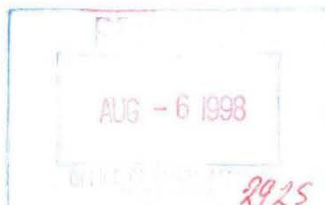
**ANNEX 7**

**Note Verbale No. 771/HC-98 dated 6 August 1998 of the Permanent Mission  
of the Socialist Republic of Viet Nam to the United Nations addressed to the  
United Nations Secretary-General**



PHÁI ĐOÀN THƯỜNG TRỰC  
CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM  
TẠI LIÊN HỢP QUỐC

No 771/HC-98



PERMANENT MISSION  
OF THE SOCIALIST REPUBLIC OF VIET NAM  
TO THE UNITED NATIONS

866 U.N. Plaza, 4th Floor, Suite 435  
New York, New York 10017  
(212) 644-0594 • Fax (212) 644-5732

*Rec'd  
6 Aug 98*

The Permanent Representative of the Socialist Republic of Vietnam to the United Nations presents his compliments to His Excellency Mr. Secretary-General of the United Nations and has the honor to bring to the attention of the latter, the depositor of the 1982 United Nations Convention on the Law of the Sea, the following position of the Government of the Socialist Republic of Vietnam regarding the Law on the Exclusive Economic Zone and the Continental Shelf of the People's Republic of China which was passed on 26 June 1998 at the Third Session of the Standing Committee of the 9th National People's Congress of the People's Republic of China:

1. Article 2 of "the Law on the Exclusive Economic Zone and the Continental Shelf of the People's Republic of China" stipulates that the exclusive economic zone and the continental shelf of China are measured from its territorial sea baselines. With regard to this question, the Government of the Socialist Republic of Vietnam once again reaffirms its position that the 15 May 1996 Statement by the People's Republic of China on the establishment of the territorial sea baselines of the Hoang Sa (Paracels) archipelago, part of the Vietnamese territory, in such a way that is not in conformity with international law, constitutes a serious violation of the Vietnamese territorial sovereignty, runs counter to international law and is absolutely null and void. On this occasion, we would like to reiterate that Vietnam has indisputable sovereignty over the two archipelagoes, namely

To: His Excellency Mr. KOFI ANNAN  
Secretary-General of the United Nations

NEW YORK



Hoang sa (Paracels) and Truong Sa (Spratly), and possesses sufficient historical evidence as well as legal grounds to assert its sovereignty over these two archipelagoes.

2. The 1982 United Nations Convention on the Law of the Sea has clearly defined the legal status of the exclusive economic zone and the continental shelf of coastal states. Parties to this Convention have the obligation to strictly observe its provisions and, therefore, any claim that runs counter to the Convention's provisions shall be null and void. As a Party to the Convention, Vietnam always strictly respects the Convention's provisions and fulfills its international commitments, and therefore demands other Parties do the same. In this spirit, Vietnam hereby declares that it shall not recognize any so-called "historical interests" which are not in consistence with international law and violates the sovereignty, the sovereign rights of Vietnam and Vietnam's legitimate interests in its maritime zones and continental shelf in the Eastern Sea as mentioned in Article 14 of the above-said law of the People's Republic of China.

3. The Government of the Socialist Republic of Vietnam has the honor to request His Excellency Mr. Secretary-General, in accordance with Article 319 of the 1982 United Nations Convention on the Law of the Sea, to notify all the Parties to the Convention of the above-stated position of the Government of the Socialist Republic of Vietnam.

The Permanent Representative of the Socialist Republic of Vietnam to the United Nations avails himself of this opportunity to renew to His Excellency Mr. Secretary-General the assurances of his highest consideration.

New York, 6 August 1998



**Annex 469**

*Letter* from Francis H. Jardeleza, Solicitor General of the Republic of the Philippines, to Judith Levine, Registrar, Permanent Court of Arbitration (26 Jan. 2015)





26 January 2015

**Via Email**

Ms. Judith Levine  
Registrar  
Permanent Court of Arbitration  
Peace Palace, Carnegieplein 2  
2517 KJ The Hague  
The Netherlands

Re: *Arbitration between the Republic of the Philippines  
and the People's Republic of China, PCA Case No. 2013-19*

Dear Ms. Levine:

I write to address the issues raised in Section 2 (“Other Procedural Matters”) of your letter no. PH-CN 130909 dated 16 December 2014.

a. *Possible Bifurcation*

The first issue you raised concerns the possible bifurcation of proceedings with a view to addressing some or all issues of the Tribunal’s jurisdiction as a preliminary matter. In the view of the Philippines, such bifurcation is neither appropriate nor desirable.

The bifurcation of jurisdictional issues from the merits in inter-State arbitrations may be appropriate when the jurisdictional issues are of an exclusively preliminary character and can be decided without touching in any way upon the merits. In the Annex VII proceeding between Guyana and Suriname, for example, Suriname raised a preliminary objection to jurisdiction and sought bifurcation. The tribunal rejected Suriname’s request, holding that

because the facts and arguments in support of Suriname’s submissions in its Preliminary Objections are in significant measure the same facts and arguments on which the merits of the case depend, and the objections are not of an exclusively preliminary character, the Tribunal does not consider it appropriate to rule on the Preliminary Objections at this stage.<sup>1</sup>

The jurisdictional issues were therefore addressed and decided simultaneously with the merits. More recently, the arbitral tribunal in the Annex VII case between Mauritius and the United Kingdom came to the same conclusion.<sup>2</sup>

Article 20, paragraph 3, of the Rules of Procedure in the present case provides:

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<sup>1</sup> *Guyana v. Suriname*, Order No. 2, Preliminary Objections (18 July 2006), para. 2 (available at: [http://www.pca-cpa.org/showpage.asp?pag\\_id=1147](http://www.pca-cpa.org/showpage.asp?pag_id=1147)).

<sup>2</sup> *Mauritius v. United Kingdom*, Procedural Order No. 2 (15 Jan. 2013) (available at: [http://www.pca-cpa.org/showpage.asp?pag\\_id=1429](http://www.pca-cpa.org/showpage.asp?pag_id=1429)).

The Arbitral Tribunal shall rule upon any plea concerning its jurisdiction as a preliminary question, unless the Tribunal determines, after seeking the views of the Parties, that the objection to its jurisdiction does not possess an exclusively preliminary character, in which case it shall rule upon such a plea in conjunction with the merits.

It is apparent from the *Memorial* of the Philippines, and the 7 December 2014 Position Paper recently communicated to the Tribunal by China, that the jurisdictional issues in the case between the Philippines and China are plainly interwoven with the merits. The issues raised by the jurisdictional objections identified by China in its Position Paper depend “in significant measure [on] the same facts and arguments on which the merits of the case depend.” They therefore do not possess an exclusively preliminary character, making bifurcation inappropriate.

This is perhaps most readily demonstrated by reference to the questions relating to jurisdiction posed by the Tribunal in its 16 December 2014 “Request for Further Written Argument by the Philippines Pursuant to Article 25(2) of the Rules of Procedure.” Several examples illustrate the point. The Tribunal’s question no. 7, for instance, asks the Philippines to elaborate on its argument that the reference to “historic titles” in Article 298(1)(a) of the Convention does not apply because China does not claim to have such title in the South China Sea. Whether and to what extent Article 298(1) poses a jurisdictional bar to any of the Philippines claims thus turns on two issues: (1) the scope of the phrase “historic titles” in Article 298, and (2) the nature of China’s claims. This jurisdictional issue can only be decided by reference to the substance of China’s claim. It is therefore not of an exclusively preliminary character.

Similarly, questions nos. 4 and 9 relate to the implications of Article 297(1) and Article 298(1)(b), respectively, for the Tribunal’s jurisdiction. The first question can only be answered in light of the specific nature of China’s environmentally harmful conduct in the South China Sea, and the second in light of the character of China’s relevant conduct as either military or non-military in nature. Both questions can therefore only be assessed and answered in light of the merits of the Philippines’ claims, again making these questions not of an exclusively preliminary character.

The same observations apply with respect to the core jurisdictional contentions offered by China in its Position Paper. China, for example, argues that the Tribunal is without jurisdiction because this case concerns questions of territorial sovereignty and maritime delimitation, both of which are excluded from the Tribunal’s jurisdiction. Yet, these issues too do not possess an exclusively preliminary character. Whether the claims of the Philippines truly implicate questions of territorial sovereignty and/or maritime delimitation – which, in the view of the Philippines, they plainly do not – can only be decided by reference to the nature and substance of the claims of the Philippines on the merits.

The Philippines observes further that bifurcation is also undesirable because it would needlessly prolong, and increase the costs of, these proceedings when they are already at an advanced stage. The Philippines submitted its *Memorial* in March 2014. China was given eight and a half months to submit a counter-memorial, during which time it had the opportunity to advise the Tribunal of any preliminary objections that it might have wished to make. China chose not file a counter-memorial or make any preliminary objections. Notably, China’s Position Paper does not characterize any of the jurisdictional objections it raises as



being preliminary in character, or suggest that the Tribunal address these objections first before proceeding to consider the merits.

Moreover, the Tribunal has previously proposed dates for oral hearings in July 2015 for which, as discussed below, the Philippines has already made necessary arrangements. That being the case, bifurcation at this late stage would unnecessarily disrupt the proceedings. In the Philippines' view, the interests of the sound administration of justice would best be served by timely action by the Tribunal and the avoidance of unnecessary delays. The Philippines has previously made known China's increasingly assertive and expansive actions in the South China Sea, including its impeding the resupply of Philippine personnel at Second Thomas Shoal and its undertaking large-scale land reclamation activities with severe environmental consequences. A prompt ruling by the Tribunal would allow future actions and dialogue in the region to take place against the backdrop of an authoritative determination of entitlements and constraints.

b. *Expert Hydrographer*

You have also asked for the views of the parties on the utility and timing of appointing an expert hydrographer, as well as the qualifications appropriate for such an expert.

The Philippines considers that it would be desirable for the Tribunal to appoint an expert hydrographer. Many of the issues in dispute in this case, including but not limited to the status of the features that have been put into question, would benefit significantly from the input of a knowledgeable, independent and impartial hydrographer.

The Philippines believes that the expert hydrographer should be engaged as soon as is convenient to the Tribunal. The Philippines anticipates providing the Tribunal with a sizable amount of additional cartographic and hydrographic material when it responds to the Tribunal's questions in March. Engaging the services of a hydrographer at this stage will enable him/her to familiarize him/herself with the issues in the case, study the materials presented to date and be in a position to analyze the additional materials to be provided by the Philippines immediately upon receipt.

As to the profile of the expert hydrographer, the Philippines believes that, at a minimum, the following qualifications are necessary:

- a full understanding of nautical charts, including the symbols used to depict islands, low-tide elevations and submerged features
- ability to determine whether, in what circumstances and to what extent a feature is above water
- ability to determine the location of coastlines and measure the limits of maritime zones
- knowledge of tidal datum information, including on nautical charts
- ability to determine when a low-tide elevation is situated within 12 M of an island or mainland
- ability to provide a reliable assessment of whether and to what extent a feature is natural or man-made

- have a working knowledge of satellite imagery and aerial photography
- the ability to use CARIS LOTS or comparable software

c. *The Possibility of a Site Visit*

With respect to the third issue you raise, the desirability of a site visit, the Philippines considers that such a visit would be useful, provided that arrangements are made for it to occur under secure conditions and without disturbing the currently scheduled dates for the oral hearings in July 2015.

A site visit could be of utility to the Tribunal's consideration of several of the critical issues in dispute, including the nature of the features in question in both the northern and southern sectors of the South China Sea. Although there is a considerable amount of information available on the relevant features, a first-hand inspection could nevertheless be valuable to the Tribunal's appreciation of the nature of these features. Several members of the Tribunal were present for the site visit of the Arbitral Tribunal in the proceedings between Bangladesh and India, and the general perception was that the site visit in that case enhanced the understanding of all who were present.

Ideally, the full Tribunal would be able to participate in any site visit, together with the expert hydrographer, registry staff from the PCA and representatives of the Parties. In the event the Tribunal were not able to participate, however, the Philippines still considers that a visit by the expert hydrographer could be of benefit to the Tribunal's work.

The Philippines is mindful of the fact that conducting a site visit in the context of this case would present certain challenges, not least because of China's decision not to participate. That said, the Philippines stands ready to take all reasonable and appropriate measures to facilitate the site visit. These include seeking the cooperation of China, or at least its assurances that it would not take any steps that might prevent a site visit or make it more difficult. The Philippines would also undertake to make appropriate arrangements with Vietnam, as well as the authorities in Taiwan, with both of which the Philippines maintains friendly relations, in particular in regard to features under their physical control.

With respect to the issue of the timing of the visit, the Philippines notes that the months during which the weather is most predictably calm are between March and early June, with April being ideal.

d. *Amicus Curiae Submissions*

You have also asked for views on the appropriate procedure to be adopted with regard to any *amicus curiae* submission that the Tribunal may receive. In principle, the Philippines supports the possibility of a third State or a non-governmental organization making an *amicus curiae* submission. The Philippines values openness and transparency, and is of the opinion that the Tribunal might benefit from relevant and useful information from any reliable source.



The Philippines observes that the decision as to whether or not to accept *amicus* submissions falls within the inherent power of any adjudicative tribunal.<sup>3</sup> In this case, Article 1, paragraph 2, of the rules of Procedure provides:

To the extent that any question of procedure is not expressly governed by these Rules or by Annex VII or other provisions of the Convention, and the Parties have not otherwise agreed, the question shall be determined by the Arbitral Tribunal after seeking the views of the Parties.

Having regard to recent practice, the Philippines suggests that each *amicus* submission should be evaluated on its own merits, to determine whether there is “sufficient reason” for it to be accepted by the Tribunal.<sup>4</sup> The Philippines would support such an approach, and stands ready to offer suggestions on the procedure to be followed in the event that the Tribunal wishes to proceed in this way.

The Philippines considers, however, that any *amicus curiae* submissions should not be allowed to delay or otherwise disrupt the schedule of the proceedings. To that end, the Tribunal may wish to consider imposing deadlines for the presentation of any *amicus curiae* submissions that are sufficiently in advance of the July 2015 hearings to allow the Parties to consider the submissions and present their observations during the course of the hearings.

*e. Dates and Scope of Oral Hearings*

The final issue on which you solicited the views of the Parties concerns their availability for, and the appropriate scope of, the hearings in The Hague in July 2015.

The Philippines believes that the hearings should take place in the period between 7 and 18 July 2015 as previously proposed by the Tribunal. Since the PCA’s letter of 15 May 2014 first proposing those dates, the relevant officials of the Government of the Philippines as well as counsel have all arranged their schedules so as to be available in The Hague during that period. Given the number of people involved, as well as their other commitments, it could prove difficult to find a similarly convenient window of opportunity at this late juncture. The Philippines therefore respectfully requests that every effort be made to conform to hearing dates within the previously proposed schedule.

With respect to the scope of the hearings, the Philippines considers that it should cover all of the issues in the case, including jurisdiction and merits. In regard to specific procedures, the Philippines offers the suggestions set forth in the following paragraphs for the Tribunal’s consideration. They are based on the assumption that China might decline to participate in the oral hearings, without prejudice of course to its right to indicate otherwise. In offering these suggestions, the Philippines has been motivated by a desire to ensure fairness to both Parties, and specifically that it is not prejudiced in its presentation of its case by China’s non-appearance.

---

<sup>3</sup> See, e.g., *Mexico – Taxes on Soft Drinks*, WT/DS308/AB/R, ¶45 (stating “WTO panels have certain powers that are inherent in their adjudicative function. ... Therefore, we find that we are entitled to accept the *amicus curiae* brief submitted by Morocco, and to consider it.”)

<sup>4</sup> See *Arctic Sunrise Arbitration (Netherlands v. Russia)*, UNCLOS Annex VII Tribunal, PCA Case No. 2014-02, Procedural Order No. 3 (8 Oct. 2014).

The Philippines proposes that the hearings proceed in two rounds, a first round to take place over the three days between 7 and 9 July, and a second round to take place on 14 and 15 July.

Approximately a month before the beginning of the first round, the Tribunal could indicate any points or issues which it would like the Philippines specially to address, or on which it considers that there has been insufficient argument. The Philippines would then take care especially to address those points or issues in the first round, but would remain free to address other points of law or fact that it considers relevant within the overall time it is allotted.

Following the completion of the first round, the Tribunal could then consider whether it wishes to present the Philippines with a final set of questions/topics on which it would like further submissions, perhaps by the close of business on Friday, 10 July. The Philippines could then present its second round, which would consist of its responses to the matters indicated by the Tribunal at the conclusion of the first round, on 14 and 15 July.

If the Tribunal has alternative thoughts as to the conduct of the hearings, the Philippines would be entirely open to any approach the Tribunal considers most useful to it. The two critical points from the perspective of the Philippines are (1) to maintain the period for the hearings as originally proposed, and (2) to ensure fairness for both Parties.

\* \*

I trust the above responds fully to the issues raised in your letter no. PH-CN 130909. If not, please do not hesitate to let me know and I will be happy to provide whatever additional information you might wish.

Please be advised that the Philippines will respond to the questions concerning Viet Nam's Statement posed in your letter no. 134386 of 11 December 2014 in separate correspondence.

Please accept assurances of my highest consideration.

Sincerely,



Francis H. Jardeleza  
*Agent of the Republic of the Philippines*

**Annex 470**

*Letter* from H.E. Ambassador Chen Xu, Embassy of the People's Republic of China in The Hague, to H.E. Judge Thomas A. Mensah (6 Feb. 2015)



NO. PH-CN.....

Received:

09 FEB 2015

中华人民共和国驻荷兰王国大使馆  
THE EMBASSY OF THE PEOPLE'S REPUBLIC OF CHINA  
IN THE KINGDOM OF THE NETHERLANDS

(translation)

H.E. Judge Thomas A. Mensah

6 February 2015

Your Excellency,

As instructed, I hereby state the Chinese Government's position on issues relating to the South China Sea arbitration initiated by the Philippines:

1. On 7 December 2014, the Chinese Ministry of Foreign Affairs was authorized to release the *Position Paper of the Government of the People's Republic of China on the Matter of Jurisdiction in the South China Sea Arbitration Initiated by the Republic of the Philippines*. This Paper comprehensively explains why the Arbitral Tribunal established at the request of the Philippines (hereinafter referred to as the "Arbitral Tribunal") manifestly has no jurisdiction over the case. The Paper also elaborates on the legal grounds for the Chinese Government's position of not accepting or participating in the arbitration



initiated by the Philippines.

2. The Republic of the Philippines unilaterally invoked compulsory arbitration and has been obstinately pushing forward the arbitral proceeding, in an attempt to negate China's territorial sovereignty and maritime rights and interests in the South China Sea and to pressure China into making compromises regarding relevant matters. This attempt is a pipe dream and will not lead to anything. The position, already taken by the Chinese Government, of not accepting or participating in the arbitration is clear and consistent. It is supported by sufficient legal evidence, and will not change.

3. Based on its "non-acceptance and non-participation" position, China does not respond to or comment on any issue raised by the Arbitral Tribunal. This shall not be understood or interpreted by anyone in any sense as China's acquiescence in or non-objection to any and all procedural or substantive matters already or might be raised by the Arbitral Tribunal; nor shall it be capitalized upon as a basis for any and all procedural or substantive arrangements, suggestions, orders, decisions or awards that the Arbitral Tribunal may make. The Chinese Government underlines that China opposes the initiation of the arbitration and any measures to push forward the arbitral



proceeding, holds an omnibus objection to all procedural applications or steps that would require some kind of response from China, such as “intervention by other States”, “*amicus curiae* submissions” and “site visit”. China firmly opposes any attempt to obstinately push forward the arbitral proceeding by taking advantage of its position of not accepting or participating in the arbitration.

4. Any and all procedural or substantive arrangements, suggestions, orders, decisions or awards relating to China that the Arbitral Tribunal has made or may make in the future are null and void, and have no binding effect on China.

5. An explicit consent of the parties is the prerequisite for international arbitration which shall also fully respect their will. Under the circumstances that China has stated its “non-acceptance and non-participation” position and elaborated that the Arbitral Tribunal manifestly has no jurisdiction, the relevant actors still continually push forward the arbitral proceeding, and even attempt to apply other procedures which are inconsistent with the general practices of international arbitration, such as “intervention by other States” and “*amicus curiae* submissions”. China is seriously concerned about and firmly opposes such moves.

6. China strongly objects to the so-called “site visit” proposed by the relevant actors. China has indisputable sovereignty over the South China Sea Islands and their adjacent waters. Since the 1970s, the Philippines has illegally occupied some islands and reefs of China’s Nansha Islands, and laid illegal territorial claims to other islands and reefs of Nansha Islands and China’s Huangyan Dao. The aforementioned moves by the Philippines violate the international law, including the *Charter of the United Nations*, seriously infringe upon China’s territorial sovereignty and maritime rights and interests, and thus are null and void. The Chinese Government has all along opposed those moves and made stern representations and protests against those moves. Without an explicit consent from the Chinese Government, any so-called “site-visit” to the South China Sea Islands and their adjacent waters constitutes an infringement upon China’s territorial sovereignty and maritime rights and interests, and it would never be allowed by the Chinese Government.

7. China has made consistent and steadfast efforts to uphold and contribute to the international rule of law. To uphold the international rule of law, it is essential to adhere to the fundamental principles of international law, including the principle of respecting state sovereignty and territorial integrity,

which are also enshrined in the *Charter of the United Nations*. On that basis, efforts should be made to maintain peace and stability in the international community, and promote cooperation, development and win-win results among all countries, rather than to instigate or even exacerbate disagreements and disputes in the name of “international rule of law”, consequently disturbing regional peace and stability.

8. On issues of territorial sovereignty and maritime rights and interests, China will never accept any imposed solution or any unilateral resorting to a third-party settlement. The unilateral initiation and pushing forward of the arbitration proceeding may not only bring unpredictable damages to the contemporary law of the sea system, but also undermine mutual trust among all parties concerned, create obstacles to the peaceful settlement of disputes through friendly consultations and negotiations by sovereign States directly concerned, and further complicates the situation in the South China Sea, which is detrimental to peace and stability in the South China Sea.

9. China and ASEAN countries are committed to handling the South China Sea issue through the “dual track” approach, i.e., specific disputes are to be resolved through consultation and negotiation by countries directly concerned, and peace and

stability in the South China Sea are to be upheld jointly by China and ASEAN countries. To uphold peace and stability in the South China Sea is the will of the people and the trend of the times. It is what China and ASEAN countries are working for as well as what regional actors and the international community want to see. All relevant actors should fully respect the efforts made by countries in this region to uphold peace and stability in the South China Sea. China hopes that all relevant actors will act in a way that contributes to peaceful settlement of the South China Sea disputes, cooperation among the coastal States of the South China Sea and the maintenance of peace and stability in the South China Sea.

Yours Sincerely

Chen Xu

Ambassador of the People's Republic of China to  
the Kingdom of the Netherlands

Willem Lodewijklaan 10

2517 JT Den Haag

中 华 人 民 共 和 国 驻 荷 兰 王 国 大 使 馆  
THE EMBASSY OF THE PEOPLE'S REPUBLIC OF CHINA  
IN THE KINGDOM OF THE NETHERLANDS

托马斯·曼萨法官阁下：

现遵示将中国政府关于菲律宾所提南海仲裁案有关问题的立场申明如下：

2014年12月7日，中国外交部受权发表《中华人民共和国政府关于菲律宾共和国所提南海仲裁案管辖权问题的立场文件》，全面阐述应菲律宾请求建立的仲裁庭（以下简称“仲裁庭”）对仲裁案明显没有管辖权，以及中国政府不接受、不参与仲裁案的法理依据。

菲律宾共和国单方面提起并执意推进仲裁，企图否定中国在南海的领土主权和海洋权益，迫使中国在有关问题上妥协，是不切实际的，不会有任何效果。中国不接受、不参与菲律宾所提南海仲裁案，这是中国政府的既定立场，是一贯的、明确的，具有充分的国际法依据，不会改变。

基于不接受、不参与仲裁的立场，中国不对仲裁庭提出的问题进行回应和评论，这并非表明中国同意或不反对仲裁庭已经或可能提出的一切程序和实体问题，不得被任何方面在任何意义上作此理解或解释，更不得成为仲裁庭作出任何程序或实体安排、建议、命令、决定和裁定等的理由。中国政府强调指出，中国反对提起和推进仲裁程序的任何做法，反对所有要求中国答复的程序或步骤问题，例如第三方介入、



“法庭之友”、实地考察等等，反对利用中国的不接受、不参与立场执意推进仲裁程序。

仲裁庭已经或可能作出的涉及中国的一切程序性和实质性安排、建议、命令、决定和裁定等都是无效的，对中国没有拘束力。

国际仲裁须以当事国明确同意为前提，并应充分尊重当事国的意愿。在中国申明不接受、不参与原则立场并阐明仲裁庭明显没有管辖权的情况下，有关方面仍继续推进仲裁，甚至还拟引入“法庭之友”、“第三方”等违反国际仲裁实践的程序，中国对此表示严重关切并坚决反对。

中国强烈反对有关方面提出的所谓“实地考察”。中国对南海诸岛及其附近海域拥有无可争辩的主权。自 20 世纪 70 年代起，菲律宾非法侵占中国南沙群岛部分岛礁，并对南沙其他岛礁和黄岩岛提出非法领土要求。菲律宾上述行为违反《联合国宪章》和国际法，严重侵犯中国的领土主权和海洋权益，是非法、无效的。中国政府对此一贯坚决反对，一直进行严正交涉和抗议。未经中国政府明确同意，赴南海诸岛及其附近海域进行所谓“实地考察”活动将侵犯中国主权和海洋权益，中国政府绝不允许。

中国一直是国际法治的坚定维护者和建设者。维护国际法治，必须坚持《联合国宪章》所确立包括尊重国家主权和领土完整等在内的国际法基本原则，并在此基础上致力于维护国际社会和平稳定、促进各国合作发展共赢，而不是以“国

际法治”为借口挑动甚至进一步激化矛盾和争议，从而影响地区和平稳定。

中国在领土主权和海洋权益问题上绝不接受强加于中国的任何方案，绝不接受任何单方面诉诸第三方的争议解决办法。单方面提起和推进南海仲裁案，不仅会给现代海洋法秩序带来冲击，而且还破坏各方互信，给当事国通过协商和谈判解决有关南海问题制造障碍，给南海局势增添复杂因素，不利于维护南海和平稳定。

中国与东盟国家坚持以“双轨思路”处理南海问题，即有关具体争议由直接当事国通过谈判协商解决；南海和平稳定由中国和东盟国家共同加以维护。维护南海和平稳定是人心所向、大势所趋，是中国和东盟国家共同努力的方向，也是地区国家和国际社会的共同期望。有关各方应充分尊重本地区国家维护南海和平稳定的努力。中国希望有关各方多做有利于推动南海争议和平解决、促进南海沿岸国合作及维护南海局势和平稳定的事。

中华人民共和国驻荷兰王国特命全权大使



二〇一五年二月六日于海牙





**Annex 471**

*Memorandum* from the Assistant Secretary of Foreign Affairs for Asia and Pacific Affairs of the Republic of the Philippines to the Secretary of Foreign Affairs of the Republic of the Philippines (21 Dec. 1999)



Kagawaran ng Ugnayang Panlabas



Department of Foreign Affairs

## OFFICE OF ASIAN AND PACIFIC AFFAIRS

## MEMORANDUM FOR THE SECRETARY

FROM :

  
 WILLY C. GAA  
 Assistant Secretary

SUBJECT :

Call of Chinese Minister Counsellor Sun Heping, 21 December 1999

DATE :

21 December 1999

I wish to inform the Secretary of the results of my meeting with the Chinese Minister Counsellor Sun Heping held today, 21 December 1999 at 10:15 a.m.

1. *China's Position Regarding the Latest Draft of the Regional Code of Conduct by the ASEAN*

Mr. Sun provided this office with the attached memo on China's position regarding the working draft of the Regional Code of Conduct (RCOC) by the ASEAN. Briefly, the memo states that China will never agree to the RCOC because of the following points:

- a. Inclusion of the Xisha Islands (Paracels) in the scope of application.
- b. The draft highlights the most sensitive disputes among the countries concerned such as those found on points number 2, 4 and 5 of the ASEAN draft.
- c. The draft encourages accession by other parties and thus internationalization of the issue.

Mr. Sun also informed ASPAC that the Chinese Embassy in Bangkok has already provided the Thai MFA a copy of the memo. As for the rest of the ASEAN members, China leaves it to the Philippines to disseminate the Chinese position.

2. *World Trade Organization Agreement*

Mr. Sun stated that since China has already concluded WTO Trade Agreements with the United States, Canada, Australia and Japan, it would like to conclude similar agreements with 23 other countries including the Philippines to pave the way for China to finally enter the WTO. Mr. Sun stated that China would like to start talks with the Philippines, possibly early next year, and requested that if at all possible, the Philippine Permanent Mission to the United Nations in Geneva be advised to begin the negotiations.

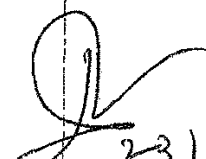
3. *Deportation of Chinese Nationals*

Mr. Sun noted that in November 1999, forty-eight (48) Chinese nationals with valid tourist visas granted by the Philippine Embassy in Beijing and by the Philippine Consulates General in Xiamen and Guangzhou, were deported by the Bureau of Immigration immediately upon their arrival in the Philippines. Immigration Officers reportedly used Immigration Regulation No. 29-A5 as the basis for denying the entry of the Chinese nationals. Mr. Sun made the observation that while China has identified Malaysia, Thailand, Singapore and the Philippines as the countries of destination for its tourists, it is only with the Philippines that China is encountering problems. Furthermore, Mr. Sun stated that Thailand is visited by at least 100,000 Chinese every year. In spite of the four (4) million overseas Chinese living in Thailand, the Thai government does not encounter overstaying problems like that of the Philippines which plays host to some one (1) million overseas Chinese. Mr. Sun also said that for the month of December 1999, there are still cases of deportation but the exact number is not yet available.

For the Secretary's information and consideration.

Enclosure: As stated.

↓  
We need  
a meeting  
with Cluster B  
with Com.  
R. Rodriguez

  
23/12/99

6A

**Memo of China's Position Regarding the Latest Draft  
Of the Code of Conduct by the ASEAN**  
(December 18, 1999)

1. After studying the draft of the Code of Conduct in the South China Sea reached by the ASEAN SOM leaders, the Chinese side finds the following serious problems that China will never agree to.
  - a. Completely confined to the resolving of the disputes and differences of countries concerned, the draft especially includes the Xisha Islands in the scope of application, which creates new trouble out of thin air. The Xisha Islands is Chinese inherent territory which is indisputable. This draft seriously breaches the political consensus reached between China and ASEAN and creates a new obstacle for drawing up the Code of Conduct by including the indisputable Xisha Islands in the scope of application. ?
  - b. Some wording of the draft like "Without prejudice to existing claims of sovereignty or jurisdiction," "refrain from action of inhabiting or erecting structures in presently uninhabited islands, reefs, shoals, cays and other features in the disputed areas," and "The modality, scope and location in respect of bilateral and multilateral cooperation should be agreed upon by claimant countries prior to their actual implementation." and etc. highlights the most sensitive disputes among the countries concerned, to the detriment of the smooth drawing up of the Code. ?
  - c. The draft encourages other countries and international organizations to subscribe to the principles contained in this Code of Conduct, which runs counter to the common stance that China and ASEAN are consistently opposed to any external interference in and internationalization of the Nansha Issue.

Accordingly the Chinese side can't agree to take this draft as a basis for the discussion and drawing up of the Code with ASEAN.

2. The draft of the Chinese side (early last October 1999) is positive and constructive. It covers comparatively an extensive sphere and general content, providing a guideline for developing relations and cooperation among countries in the region of South China Sea in the new century. This is in accordance with the consensus that the Code should be a political document of principle. self-study

2000

In addition, on some key issues, the wording of the Chinese draft is consistent with principles contained both in the Paragraph 8 of the Joint Statement of leaders of China and ASEAN countries in 1997 and carried by the wording of the Joint Statement of the CBMs Meeting between China and the Philippines in March, 1999. The wording of the Chinese draft in fact dissolves the concern of parties involved, making it more acceptable to all parties concerned. The wording of the Chinese draft is to avoid difficulty and difference instead of so creating.

In summary, the Chinese side hopes that the ASEAN side will seriously consider the Chinese draft as a basis for the discussion on the Code.

3. Since the drawing up of such a Code is of great significance, all countries concerned should be engaged in the task with the spirit of seriousness, sincerity and prudence. The Chinese side requests the ASEAN side to reconsider and adjust its stance on the scope of application of the Code. With the Xisha islands included in the draft of Code, China won't agree to start any substantive discussion with ASEAN.

6B

CHINA DRAFT

## CODE OF CONDUCT IN THE SOUTH CHINA SEA

(Draft of the Chinese side)

The Government of the People's Republic of China and the Governments of the member states of ASEAN

REAFFIRMING their determination to consolidate and develop the friendship and cooperation among Asian people, who have a similar tradition, and to establish a 21<sup>st</sup> century-oriented partnership of good-neighborliness and mutual trust;

RECOGNIZING that permanent peace, stability and prosperity in the Southeast Asian Region serve the fundamental and long-term interests of their countries;

CONSCIOUS of their common responsibility for and firm commitment to peace, stability and prosperity in Southeast Asia;

WISHING to promote the region's economic growth and prosperity, enhance mutual friendship and cooperation among people in the region, and establish a peaceful, friendly and harmonious environment in the South China Sea;

DESIRING to create favorable conditions for final resolution of differences and disputes between the countries concerned; and

PROCEEDING from the objectives and principles set forth in *The 1997 Joint Statement of the Meeting of the Presidents of the People's Republic of China and the Heads of State/Government of the Member States of ASEAN*,

HAVE AGREED

To adopt and abide by the following Code of Conduct in the South China Sea:

1. The purposes and principles of *The Charter of the United Nations*, the Five Principles of Peaceful Coexistence and other universally

8. The countries concerned shall hold dialogues and exchanges of views between or among their high level defense and military officials;

9. Refrain from conducting any military exercises directed against other countries in the Nansha Islands and their adjacent waters, and from carrying out any dangerous and close-in military reconnaissance. Military patrol activities in the area shall be restricted;

10. Maintain safety of international navigation in the South China Sea and ensure freedom of navigation of ships and aircraft in normal passage in accordance with universally recognized international law and the relevant principles and provisions of *The UN Convention on the Law of the Sea*;

11. China and ASEAN member states are ready to continue their dialogues on the relevant issues, including this Code of Conduct, so as to enhance transparency and promote harmony, mutual understanding and cooperation; and

12. The Parties undertake to abide by provisions of this Code of Conduct and take actions consistent therewith.



**Annex 472**

Republic of China, *Provisional Constitution of the Republic of China* (3 Dec. 1911)



## **Provisional Constitution of the Republic of China 1912**

*This Provisional Constitution was approved by the Provincial Governors' Representatives on 3 December 1911, and became effective upon its promulgation.*

[...]

Article 3. The territory of the Republic of China comprises twenty two provinces, Inner and Outer Mongolia, Tibet, Qinghai.

[...]



2015年3月11日 星期三 10:19:49

- 新闻 评论 台湾新闻 经贸 台商 台协 求学 VIP 轻舟论坛 海峡论坛
- 视频 农业 两岸旅游 娱乐 时尚 体育 文化 图片 轻舟博客 企业家峰会
- 部委 各地 台湾百科 资料 族谱 婚恋 图书 专题 投资台湾 图片库

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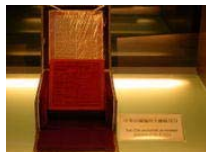
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首页-专题-历史-黄埔论坛——纪念辛亥革命100周年-图片看历史

字号: 大 中 小

### 中华民国临时约法 (一九一二年)

时间:2011-08-16 12:23 来源: 辛亥革命网



中华民国临时大总统印

《中华民国临时政府组织大纲》是中华民国第一部具有宪法性的文件，由各省都督府代表联合会於1911年12月3日议决通过，并由来自10省共22名都督府代表签字确认。其规定中华民国临时政府组织方法、临时大总统之权力等。

#### 中华民国临时约法 (一九一二年)

##### 第一章 总 纲

第一条 中华民国由中华人民组织之。

第二条 中华民国之主权，属于国民全体。 辛亥革命网

第三条 中华民国领土为二十二行省、内外蒙古、西藏、青海。

第四条 中华民国以参议院、临时大总统、国务员、法院，行使其统治权。

##### 第二章 人 民

第五条 中华民国人民一律平等，无种族阶级宗教之区别。

第六条 人民得享有左列各项之自由权：

一、人民之身体，非依法律，不得逮捕、拘禁、审问、处罚。

二、人民之家宅，非依法律不得侵入或搜索。

三、人民有保有财产及营业之自由。

四、人民有言论、著作、刊行及集会、结社之自由。

五、人民有书信秘密之自由。

六、人民有居住、迁徙之自由。

七、人民有信教之自由。

第七条 人民有请愿于议会之权。

第八条 人民有陈诉于行政官署之权。

第九条 人民有诉讼于法院，受其审判之权。

第十条 人民对于官吏违法损害权利之行为，有陈诉于平政院之权。

第十一条 人民有应任官考试之权。

第十二条 人民有选举及被选举之权。

第十三条 人民依法律有纳税之义务。

第十四条 人民依法律有服兵之义务。

第十五条 本章所载人民之权利，有认为增进公益，维持治安或非常紧急必要时，得依法律限制之。

### 第三章 参议院

第十六条 中华民国之立法权，以参议院行之。

第十七条 参议院以第十八条所定各地方选派之参议员组织之。

第十八条 参议员每行省、内蒙古、外蒙古、西藏各选派五人，青海选派一人；其选派方法，由各地方自定之。参议院会议时，每参议员有一表决权。

第十九条 参议院之职权如左：

一、议决一切法律案。

二、议决临时政府之预算决算。

三、议决全国之税法、币制及度量衡之准则。

四、议决公债之募集及国库有负担之契约。

五、承诺第三十四条、三十五条、四十条事件。

六、答覆临时政府咨询事件。

七、受理人民之请愿。

八、得以关于法律及其他事件之意见建议于政府。

九、得提出质问书于国务员，并要求其出席答复。

十、得咨请临时政府查办官吏纳贿违法事件。

十一、参议院对于临时大总统，认为有谋叛行为时，得以总员五分之四以上之出席，出席员四分之三以上之可决弹劾之。

十二、参议院对于国务员认为失职或违法时，得以总员四分之三之出席，出席员三分之二以上之可决弹劾之。

第二十条 参议院得自行集会、开会、闭会。

第二十一条 参议院之会议，须公开之；但有国务员之要求，或出席参议员过半数之可决者，得秘密之。

第二十二条 参议院议决事件，咨由临时大总统公布施行。

第二十三条 临时大总统对于参议院议决事件，如否认时，得于咨达后十日内，声明理由，咨院覆议；但参议院对于覆议事件，如有到会参议员三分之二以上仍执前议时，仍照第二十二条办理。

第二十四条 参议院议长由参议员用记名投票法互选之，以得票满投票总数之半者为当选。

第二十五条 参议院参议员于院内之言论及表决，对于院外不负责任。

第二十六条 参议院参议员除现行犯及关于内乱外患之犯罪外，会期中，非得本院许可，不得逮捕。

第二十七条 参议院法由参议院自定之。

第二十八条 参议院以国会成立之日解散，其职权由国会行之。

#### 第四章 临时大总统副总统

临时大总统副总统由参议院选举之，以总员四分之三以上出席，得票满投票总数三分之二以上者为当选。

第三十条 临时大总统代表临时政府，总揽政务，公布法律。

第三十一条 临时大总统为执行法律，或基于法律之委任，得发布命令，并得使发布之。

第三十二条 临时大总统统帅全国海陆军队。

第三十三条 临时大总统得制定官制、官规，但须提交参议院议决。

第三十四条 临时大总统任免文武职员，但任命国务员及外交大使公使，须得参议院之同意。

第三十五条 临时大总统经参议院之同意，得宣战媾和及缔结条约。

第三十六条 临时大总统得依法律宣告戒严。

第三十七条 临时大总统代表全国接受外国大使公使。

第三十八条 临时大总统得提出法律案于参议院。

第三十九条 临时大总统得颁给勋章并其他荣典。

第四十条 临时大总统得宣告大赦、特赦、减刑、复权，但大赦须经参议院之同意。

第四十一条 临时大总统受参议院弹劾后，由最高法院全院审判官互选九人，组织特别法庭审判之。

第四十二条 临时副总统于临时大总统因故去职，或不能视事时，得代行其职权。

#### 第五章 国务员

第四十三条 国务总理及各部总长，均称为国务员。

第四十四条 国务员辅佐临时大总统，负其责任。

第四十五条 国务员于临时大总统提出法律案、公布法律及发布命令时，须副署之。

第四十六条 国务员及其委员得于参议院出席及发言。

第四十七条 国务员受参议院弹劾后，临时大总统应免其职，但得交参议院覆议一次。

#### 第六章 法院

第四十八条 法院以临时大总统及司法总长分别任命之法官组织之。法院之编制及法官之资格，以法律定之。 辛亥革命网

第四十九条 法院依法律审判民事诉讼及刑事诉讼。但关于行政诉讼及其他特别诉讼，别以法律定之。

第五十条 法院之审判，须公开之，但有认为有妨害安宁秩序者，得秘密之。

第五十一条 法官独立审判，不受上级官厅之干涉。

第五十二条 法官在任中，不得减俸或转职，非依法律受刑罚宣告，或应免职之惩戒处分，不得解职。惩戒条规以法律定之。

#### 第七章 附则

第五十三条 本约法施行后，限十个月内，由临时大总统召集国会。其国会之组织及选举法，由参议院定之。

第五十四条 中华民国之宪法；由国会制定。宪法未施行以前，本约法之效力与宪法等。

第五十五条 本约法由参议院参议员三分二以上，或临时大总统之提议；经参议员五分之四以上之出席，出席员四分之三之可决，得增修之。

第五十六条 本约法自公布之日施行。《临时政府组织大纲》于本约法施行之日废止。

编辑:郭莹莹

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**Annex 473**

Republic of China, *Constitution of the Republic of China* (10 Oct. 1923)



## **Constitution of the Republic of China 1923**

(This Constitution was promulgated on 10 October 1923.)

[...]

Article 3. The territory of the Republic of China shall be in accordance with its traditional boundaries.

[...]



您的位置: 法律教育网 > 宪政专题(废) > 各国宪法 > 正文

### 中华民国宪法（1923年）

2006-4-25 10:35 来源: 法律教育网 【大 中 小】【我要纠错】

(中华民国十二年十月十日公布)

中华民国宪法会议为发扬国光，巩固国圉，增进社会福利，拥护人道尊严，制兹宪法，宣布全国，永矢咸遵，垂之无极。

#### 第一章 国体

第一条 中华民国永远为统一民主国。

#### 第二章 主权

第二条 中华民国主权，属于国民全体。

#### 第三章 国土

第三条 中华民国国土，依其固有之疆域。

国土及其区划，非以法律，不得变更之。

#### 第四章 国民

第四条 凡依法律所定，属中华民国国籍者，为中华民国人民。

第五条 中华民国人民于法律上无种族、阶级、宗教之别，均匀平等。

第六条 中华民国人民，非依法律，不受逮捕、监禁、审问或处罚。

人民被羁押时，得依法律，以保护状请求法院提至法庭审查其理由。

第七条 中华民国人民之住居，非依法律，不受侵入或搜索。

第八条 中华民国人民通信之秘密，非依法律，不受侵犯。

第九条 中华民国人民有选择住居及职业之自由，非依法律，不受限制。

第十条 中华民国人民有集会、结社之自由，非依法律，不受限制。

第十一条 中华民国人民有言论、著作及刊行之自由，非依法律，不受限制。

第十二条 中华民国人民，有尊崇孔子及信仰宗教之自由，非依法律，不受限制。

第十三条 中华民国人民之财产所有权，不受侵犯；但公益上必要之处分，依法律之所定。

第十四条 中华民国人民之自由权，除本章规定外，凡无背于宪政原则者，皆承认之。

第十五条 中华民国人民依法律有诉讼于法院之权。

第十六条 中华民国人民依法律有请愿及陈诉权。

第十七条 中华民国人民依法律有选举权及被选举权。

第十八条 中华民国人民依法律有从事公职之之权。

第十九条 中华民国人民依法律有纳税之义务。

第二十条 中华民国人民依法律有服兵役之义务。

第二十一条 中华民国人民依法律有受初等教育之义务。

第二十二条 中华民国之国权，属于国家事项，依本宪法之规定行使之，属于地方事项，依本宪法及各省自治法之规定行使之。

第二十三条 左列事项，由国家立法并执行之：

一 外交；

二 国防；

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- 三 国籍法；
- 四 刑事、民事及商事之法律；
- 五 监狱制度；
- 六 度量衡；
- 七 币制及国立银行；
- 八 关税、盐税、印花税、烟酒税其他消费税，及全国税率应行划一之租税；
- 九 邮政、电报及航空；
- 十 国有铁道及国道；
- 十一 国有财产；
- 十二 国债；
- 十三 专卖及特许；
- 十四 国家文武官吏之佳试、任用、纠察及保障；
- 十五 其他依本宪法所定属于国家之事项。

第二十四条 左列事项，由国家立法并执行，或令地方执行之：

- 一 农、工、矿业及森林；
- 二 学制；
- 三 银行及交易所制度；
- 四 航政及沿海渔业；
- 五 两省以上之水利及河道；
- 六 市制通则；
- 七 公用征；
- 八 全国户口调查及统计；
- 九 移民及垦殖；
- 十 警察制度；
- 十一 公共卫生；
- 十二 救恤及游民管理；
- 十三 关于文化之古籍、古物，及古迹之保存。

上列各款，省于不抵触国家法律范围内，得制定单行法。

本条所列第一、第四、第十一、第十二、第十三各款，在国家未立法以前，省得行使其立法权。

第二十五条 左列事项，由省立法并执行，或令县执行之：

- 一 省教育、实业及交通；
- 二 省财产之经营处分；
- 三 省市政；
- 四 省水利及工程；
- 五 田赋、契税及其他省税；
- 六 省债；
- 七 省银行；
- 八 省警察及保安事项；
- 九 省慈善及公益事项；
- 十 下级自治；
- 十一 其他依国家法律赋予事项。

前项所定各款，有涉及二省以上者，除法律别有规定外，得共同办理。其经费不足时，经国会议决，由国库补助之。

第二十六条 除第二十三条、第二十四条、第二十五条列举事项外，如有未列举



事项发生时，其性质关系国家者，属之国家，关系各省者，属之各省。遇有争议，由最高法院裁决之。

第二十七条 国家对于各省课税之种类及其征收方法，为免左列诸弊，或因维持公共利益之必要时，得依法律限制之：

- 一 妨害国家收入或通商；
- 二 二重课税；
- 三 对于公共道路或其他交通设施之利用，课以过重或妨碍交通之规费；
- 四 各省及各地方，因保护其产物，对于输入商品，为不利益之课税；
- 五 各省及各地方，物品通过之课税。

第二十八条 省法律与国家法律抵触者无效。

省法律与国家法律发生抵触之疑义时，由最高法院解释之。

前项解释之规定，于省自治法抵触国家法律时，得适用之。

第二十九条 国家预算不敷，或因财政紧急处分，经国会议决，得比较各省岁收额数，用累进法分配其负担。

第三十条 财力不足或遇非常事变之地方，经国会议决，得由国库补助之。

第三十一条 省与省争议事件，由参议院裁决之。

第三十二条 国军之组织，以义务民兵制为基础。

各省除执行兵役法所规定之事项外，平时不负其他军事上之义务。

义务民兵依全国征募区，分期召集训练之；但常备军之驻在地，以国防地带为限。

国家军备费不得逾岁入四分之一；但对外战争时，不在此限。

国军之额数，由国会议定之。

第三十三条 省不得缔结有关政治之盟约。省不得有妨害他省或其他地方利益之行为。第三十四条省不得自置常备军，并不得设立军官学校及军械制造厂。

第三十五条 省因不履行国法上之义务，经政府告诫，仍不服从者，得以国家权力强制之。

前项之处置，经国会否认时，应中止之。

第三十六条 省有以武力相侵犯者，政府得依前条之规定制止之。

第三十七条 国体发生变动，或宪法上根本组织被破坏时，省应联合维持宪法上规定之组织，至原状回复为止。

第三十八条 本章关于省之规定，未设省已设县之地方，均适用之。

## 第六章 国会

第三十九条 中华民国之立法权，由国会行之。

第四十条 国会以参议院、众议院构成之。

第四十一条 参议院以法定最高级地方议会及其他选举团体选出之议员组织之。

第四十二条 众议院以各选举区比例人口选出之议员组织之。

第四十三条 国两院议员之选举，以法律定之。

第四十四条 无论何人，不得同时为两院议员。

第四十五条 两院议员不得兼任文武官吏。

第四十六条 两院议员之资格，各院得自行审定之。

第四十七条 参议院议员任期六年，每二年改选二分之一。

第四十八条 众议院议员任期三年。

第四十九条 第四十七条、第四十八条议员之职务，应俟次届选举完成，依法开会之前一日解除之。

第五十条 两院各设议长、副议长一人，由两院议员互选之。

第五十一条 国会自行集会、开会、闭会；但临时会于有左列情事之一时行之：

- 一 两院议员各有三分之一以上之联名通告；

## 二 大总统之职集。

第五十二条 国会常会于每年八月一日开会。

第五十三条 国会常会，会期为四个月；得延长之，但不得逾常会会期。

第五十四条 国会之开会可闭会，两院同时行之。

一院停会时，他院同时休会。

众议院解散时，参议院同时休会。

第五十五条 国会之议事，两院各别行之。

同一议案，不得同时提出于两院。

第五十六条 两院非各有议员总数过半数之列席，不得开议。

第五十七条 两院之议事，以列席议员过半数之同意决之；可否同数，取决于议长。

第五十八条 国会之议定，以两院之一致成之。

第五十九条 两院之议事，公开之；但得依政府之请求或院议，秘密之。

第六十条 众议院认大总统、副总统有谋叛行为时，得以议员三分二以上之列席，列席员三分二以上之同意弹劾之。

第六十一条 众议院认国务员有违法行为时，得以列席员三分二以上之同意弹劾之。

第六十二条 众议院对于国务员得为不信任之决议。

第六十三条 参议院审判被弹劾之总统、副总统及国务员。

前项审判，非以列席员三分二以上之同意，不得判决为有罪或违法。

判决大总统、副总统有罪时，应褫其职；其罪之处刑，由最高法院定之。

判决国务员违法时，应褫其职，并得夺其公权；如有余罪，付法院审判之。

第六十四条 两院对于官吏违法或失职行为，各得咨请政府查办之。

第六十五条 两院各得建议于政府。

第六十六条 两院各得受理国民之请愿。

第六十七条 两院议员得提出质询书于国务员，或请求其到院质询之。

第六十八条 两院议员对于院内之言论及表决，对于院外不负责任。

第六十九条 两院议员在会期中，除现行犯外，非得各本院许可，不得逮捕或监视。

两院议员因现行犯被逮捕时，政府应即将理由报告于各本院。但各本院得以院议，要求于会期内暂行停止诉讼之进行，将被捕议员交回各本院。

第七十条 两院议员之岁费及其他公费，以法律定之。

## 第七章 大总统

第七十一条 中华民国之行政权，由大总统以国务员之赞襄行之。

第七十二条 中华民国人民，完全享有公权，年满四十岁以上，并居住国内满十年以上者，得被选举为大总统。

第七十三条 大总统由国会议员组织总统选举会选举之。

前项选举，以选举人总数三分二以上之列席，用无记名投票行之。得票满投票人数四分三者为当选。但两次投票无人当选时，就第二次得票较多者二名决选之，以得票过投票人数之半者为当选。

第七十四条 大总统任期五年。如再被选，得连任一次。

大总统任满前三个月，国会议员须自行集会，组织总统选举会，举行次任大总统之选举。

第七十五条 大总统就职时，须为左列之宣誓：

“余誓以至诚遵守宪法，执行大总统之职务，谨誓！”

第七十六条 大总统缺位时，由副总统继任，至本任大总统期满之日止。

大总统因故不能执行职务时，以副总统代理之。

副总统同时缺位，由国务院摄行其职务。同时，国会议员于三个月内自行集会，组织总统选举会，才亏次任大总统之选举。

第七十七条 大总统应于任满之日解职。如届次任大总统尚未选出，或选出后尚未就职，次任副总统亦不能代理时，由国务院摄行其职务。

第七十八条 副总统之选举，依选举大总统之规定，与大总统之选举同时行之。但副总统缺位时，应补选之。

第七十九条 大总统公布法律，并监督确保其执行。

第八十条 大总统为执行法律或依法律之委任，得发布命令。

第八十一条 大总统任免文武官吏。但宪法及法律有特别规定者，依其规定。

第八十二条 大总统为民国陆海军大元帅，统帅海陆军。

海陆军之编制，以法律定之。

第八十三条 大总统对于外国为民国之代表。

第八十四条 大总统经国会之同意，得宣战；但防御外国攻击时，得于宣战后请求国会追认。

第八十五条 大总统缔结条约；但媾和及关系立法事项之条约，非经国会同意，不生效力。

第八十六条 大总统依法律得宣告戒严；但国会认为无戒严之必要时，应即为解严之宣告。

第八十七条 大总统经最高法院之同意，得宣告免刑、减刑及复权；但对于弹劾事件之判决，非经参议院同意，不得为复权之宣告。

第八十八条 大总统得停止众议院或参议院之会议。但每一会期，停会不得逾二次；每次期间，不得逾十日。

第八十九条 大总统于国务员受不信任之决议时，非免国务员之职，即解散众议院；但解散众议院，须经参议院之同意。

原国务员在职中或同一会期，不得为第二次之解散。

大总统解散众议院时，应即令行选举，于五个月内定期继续开会。

第九十条 大总统除叛逆罪外，非解职后，不受刑事上之诉究。

第九十一条 大总统、副总统之岁俸，以法律定之。

#### 第八章 国务院

第九十二条 国务院以国务员组织之。

第九十三条 国务总理及各部总长，均为国务员。

第九十四条 国务总理之任命，须经众议院之同意。

国务总理于国会闭会期内出缺时，大总统得为署理之任命；但继任之国务总理，须于次期国会开会后七日内，提出众议院同意。

第九十五条 国务员赞襄大总统，对于众议院负责任。

大总统所发命令及其他关系国务之文书，非经国务员之副署，不生效力；但任免国务总理，不在此限。

第九十六条 国务员得于两院列席及发言；但为说明政府提案时，得以委员代理。

#### 第九章 法院

第九十七条 中华民国之司法权，由法院行之。

第九十八条 法院之编制及法官之资格，以法律定之。

最高法院院长之任命，须经参议院之同意。第九十九条法院以法律受理民事、刑事、行政及其他一切诉讼；但宪法及法律有特别规定者，不在此限。

第一〇〇条 法院之审判，公开之。但认为妨害公安或有关风化者，得秘密之。

第一〇一条 法官独立审判，无论何人，不得干涉之。

第一〇二条 法官在任中，非依法律，不得减俸、停职或转职。

法官在任中，非受刑法宣告或惩戒处分，不得免职。但改定法院编制及法官资格时，不在此限。

法官之惩戒处分，以法律定之。

#### 第十章 法律

第一〇三条 两院议员及政府，各得提出法律案。但经一院否决者，于同一会期，不得再行提出。

第一〇四条 国会议定之法律案，。大总统须于送达后十五日内公布之

第一〇五条 国会议定之法律案，大总统如有异议时，得于公布期内，声明理由，请求国会复议。如两院仍执前议时，应即公布之。

未经请求复议之法律案，逾公布期限，即成为法律。但公布期满在国会闭会或众议院解散后者，不在此限。

第一〇六条 法律非以法律，不得变更或废止之。

第一〇七条 国会议定之决议案，交复议时，适用法律案之规定。

第一〇八条 法律与宪法抵触者无效。

#### 第十一章 会计

第一〇九条 新课租税及变更税率，以法律定之。

第一一〇条 募集国债及缔结增加国库负担之契约，须经国会议定。

第一一一一条 凡直接有关国民负担，之财政案，众议院有先议权。

第一一二条 国家岁出岁入，每年由政府编成预算案，于国会开会后十五日内，先提出于众议院。

参议院对于众议院议决之预算案，修正或否决时，须请求众议院之同意。如不得同意，原议决案即成为预算。

第一一三条 政府因特那事业，得于预算案预定年限，设继续费。

第一一四条 政府为备预算不足或预算所未及，得于预算案内设预备费。

预备费之支出，须于次会期请求众议院追认。

第一一五条 左列名款支出，非经政、府同意，国会不得废除或削减之：

- 一 法律上属于国家之义务者；
- 二 履行条约所必需者；
- 三 法律之规定所必需者；
- 四 继续费。

第一一六条 国会对于预算案，不得为岁出之增加。

第一一七条 会计年度开始，预算未成立时，政府每月依前年度预算十二分之一施行。

第一一八条 为对外防御战争或践定内乱，救济非常灾变，时机紧急，不得牒集国会时，政府得为财政紧急处分；但须于次期国会开会后七日内，请求众议院追认。

第一一九条 国家岁出之支付命令，须经审计院之核准。

第一二〇条 国家岁出岁入之决算案，每年经审计院审定，由政府报告于国会。

众议院对于决算案追认案否认时，公务员应负其责。

第一二一条 审计院之组织及审计员之资格，以法律定之。

审计员在任中，非依法律，不得减律、停职或转职。

审计员之惩戒处分，以法律定之。

第一二二条 审计院之院长，由参议院选举之。审计院院长关于决算报告，得于两院列席及发言。

第一二三条 国会议定之预算及追认案，大总统应于送达后公布之。

#### 第十二章 地方制度

第一二四条 地方划分为省、县两级。

第一二五条 省依本宪法第五章第二十二之规定，得自制定省自治法，但不得与本宪法及国家法律相抵触。

第一二六条 省自治法，由省议会、县议会及全省各法定之。职业团体选出之代

表，组织省自治法会议制定之。

前项代表除由县议会各选出一人外，由省议会选出者、示得逾由县议会所选出代表总额之半数；其由各法定职业团体选出者亦同。但由省议会、县议会选出之代表，不以各该议会之议员为限。其18举法由省法律是之。

第一二七条 左列各规定，各省俱适用之：

一省设省议会，为单一制之代议机关；其议员依直接选举方法选出之。

二省设省务院，执行省自治行政，以省民直接选举之省务员五人至九人组织之，任期四年。在未能直接选举以前，得适用前条之规定，组织选举会选举之。但现役军人，非解职一年后，不得被选。

三省务院设院长一人，由省务员互选之。

四住居省内一年以上之中华民国人民，于省之法律上一律平等，完全享有公民权利。

第一二八条 左列各规定，各县俱适用之：

一县设县议会，于县以内之自治事项，有立法权；

二县设县长，由县民直接选举之；依县参事会之赞襄，执行县自治行政。但司法尚未独立，及下级自治尚未完成以前，不适用之。

三县于负担省税总额内，有保留权；但不得逾总额十分之四。

四县有财产及自治经费，省政府不得处分之。

五县因天灾事变或自治经费不足时，得请求省务院，经省议会决议，由省库补助之。

六县有奉行国家法令及省法令之义务。

第一二九条 省税与县税之划分，由省议会决议之。

第一三〇条 省不得对于一县或数县施行特别法律；但关系一省共同利害者，不在此限。

第一三一条 县之自治事项，有完全执行权；除省法律规定惩戒处分外，省不得干涉之。

第一三二条 省及县以内之国家行政，除由国家分置官吏执行外，得委任省、县自治行政机关执行之。

第一三三条 省、县自治行政机关，执行国家行政有违背法令时，国家得依法律之规定惩戒之。

第一三四条 未设省已设县之地方，适用本章之规定。

第一三五条 内外蒙古、西藏、青海，因地方人民之公意，得划分为省、县两级，适用本章各规定。但未设省、县以前，其行政制度，以法律定之。

第十三章宪法之修正解释及其效力

第一三六条 国会得为修正宪法之发议。

前项发议，非两院各有列席员三分二以上之同意，不得成立。

两院议员非有本院议员总额四分之一以上之连署，不得为修正宪法之提议。

第一三七条 宪法之修正，由宪法会议行之。

第一三八条 国体不得为修正之议题。

第一三九条 宪法有疑义时，由宪法会议解释之。

第一四〇条 宪法会议，由国会议员组织之。

前项会议，非总员三分二以上之列席，不得开议；非列席员四分三以上之同意，不得议决。但关于疑义之解释，得以列席员三分二以上之同意决之。

第一四一条 宪法非依本章所规定之修正程序，无论经何种事变，永不失其效力。

上一篇：中华民国约法（1914年）

下一篇：天坛宪法草案（1913年）

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**Annex 474**

Republic of China, *Provisional Constitution of the Political Tutelage Period* (1 June 1931)



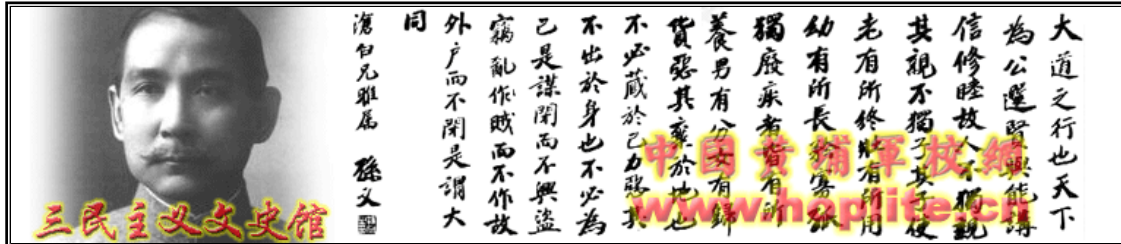


## **Provisional Constitution of the Political Tutelage Period**

*This Provisional Constitution was promulgated on 1 June 1931*

Article 1      The territory of the Republic of China is all the provinces and Mongolia, Tibet.

[...]



您所在的位置是：中国黄埔军校网>>三民主义文史馆>>训政时期约法

### 训政时期约法

中华民国训政时期约法 民国二十年六月一日公布

国民政府本革命之三民主义五权宪法以建设中华民国。既由军政时期入于训政时期，允宜公布约法，共同遵守，以期促成宪政，授政于民选之政府。兹谨遵创立中华民国之中国国民党 总理遗嘱，召集国民会议于首都。由国民会议制定中华民国训政时期约法如左：

#### 第一章 总纲

- 第一条 中华民国领土为各省及蒙古西藏。
- 第二条 中华民国之主权属于国民全体。
- 凡依法律享有中华民国国籍者为中华民国国民。
- 第三条 中华民国永为统一共和国。
- 第四条 中华民国国旗定为红地左上角青天白日。
- 第五条 中华民国国都定于南京。

#### 第二章 人民之权利义务

- 第六条 中华民国国民无男女、种族、宗教、阶级之区别，在法律上一律平等。
- 第七条 中华民国国民依建国大纲第八条之规定，在完全自治之县享有建国大纲第九条所定选举、罢免、创制、复决之权。
- 第八条 人民非依法律不得逮捕、拘禁、审问、处罚。
- 人民因犯罪嫌疑被逮捕拘禁者，其执行逮捕或拘禁之机关至迟应于二十四小时内移送审判机关审问，本人或他人并得依法请求于二十四小时内提审。
- 第九条 人民除现役军人外，非依法律不受军事审判。
- 第十条 人民之住所，非依法律不得侵入搜索或封锢。
- 第十一条 人民有信仰宗教之自由。
- 第十二条 人民有迁徙之自由，非依法律不得停止或限制之。
- 第十三条 人民有通信通电秘密之自由，非依法律不得停止或限制之。
- 第十四条 人民有结社集会之自由，非依法律不得停止或限制之。
- 第十五条 人民有发表言论及刊行著作之自由，非依法律不得停止或限制之。
- 第十六条 人民之财产，非依法律不得查封或没收。
- 第十七条 人民财产所有权之行使，在不妨害公共利益之范围内，受法律之保障。
- 第十八条 人民财产因公共利益之必要，得依法律征用或征收之。
- 第十九条 人民依法律得享有财产继承权。
- 第二十条 人民有请愿之权。
- 第二十一条 人民依法律有诉讼于法院之权。
- 第二十二条 人民依法律有提起诉愿及行政诉讼之权。
- 第二十三条 人民依法律有应考试之权。
- 第二十四条 人民依法律有服公务之权。
- 第二十五条 人民依法律有纳税之义务。
- 第二十六条 人民依法律有服兵役及工役之义务。
- 第二十七条 人民对于公署依法执行职权之行为有服从之义务。

#### 第三章 训政纲领

- 第二十八条 训政时期之政治纲领及其设施，依建国大纲之规定。
- 第二十九条 地方自治依建国大纲及地方自治开始实行法之规定推行之。
- 第三十条 训政时期由中国国民党全国代表大会代表国民大会行使中央统治权。
- 中国国民党全国代表大会闭会时，其职权由中国国民党中央执行委员会行使之。
- 第三十一条 选举、罢免、创制、复决四种政权之行使，由国民政府训导之。
- 第三十二条 行政、立法、司法、考试、监察五种治权由国民政府行使之。

**第四章 国民生计**

第三十三条 为发展国民生计，国家对于人民生产事业应予以奖励及保护。

第三十四条 为发展农村经济、改善农民生活、增进佃农福利，国家应积极实施左列事项：

- 一 垦殖全国荒地，开发农田水利。
- 二 设立农业金融机关，奖励农村合作事业。
- 三 实施仓储制度，预防灾荒，充裕民食。
- 四 发展农业教育，注重科学实验，厉行农业推广，增加农业生产。
- 五 奖励地方兴筑农村道路，便利物产运输。

第三十五条 国家应兴办油、煤、金铁矿业，并对于民营矿业予以奖励及保护。

第三十六条 国家应创办国营航业，并对于民营航业予以奖励及保护。

第三十七条 人民得自由选择职业及营业，但有妨害公共利益者，国家得以法律限制或禁止之。

第三十八条 人民有缔结契约之自由，在不妨害公共利益及善良风化范围内，受法律之保障。

第三十九条 人民为改良经济生活及促进劳资互助，得依法组织职业团体。

第四十条 劳资双方应本协调互利原则，发展生产事业。

第四十一条 为改良劳工生活状况，国家应实施保护劳工法规。

妇女儿童从事劳动者，应按其年龄及身体状况施以特别之保护。

第四十二条 为预防及救济因伤病废老而不能劳动之农民工人等，国家应施行劳动保险制度。

第四十三条 为谋国民经济之发展，国家应提倡各种合作事业。

第四十四条 人民生活必需品之产销及价格，国家得调整或限制之。

第四十五条 借贷之重利及不动产使用之重租，应以法律禁止之。

第四十六条 现役军人因服务而致残废者，国家应施以相当之救济。

**第五章 国民教育**

第四十七条 三民主义为中华民国教育之根本原则。

第四十八条 男女教育之机会一律平等。

第四十九条 全国公私立之教育机关一律受国家之监督，并负推行国家所定教育政策之义务。

第五十条 已达学龄之儿童应一律受义务教育，其详以法律定之。

第五十一条 未受义务教育之人民，应一律受成年补习教育，其详以法律定之。

第五十二条 中央及地方应宽筹教育上必需之经费，其依法独立之经费并予以保障。

第五十三条 私立学校成绩优良者，国家应予以奖励或补助。

第五十四条 华侨教育，国家应予以奖励及补助。

第五十五条 学校教职员成绩优良，久于其职者，国家应予以奖励及保障。

第五十六条 全国公私立学校应设置免费及奖学金，以奖进品学俱优无力升学之学生。

第五十七条 学术及技术之研究与发明，国家应予以奖励及保护。

第五十八条 有关历史文化及艺术之古蹟古物，国家应予以保护或保存。

**第六章 中央与地方之权限**

第五十九条 中央与地方之权限，依建国大纲第十七条之规定，采均权制度。

第六十条 各地方于其事权范围内，得制定地方法规。但与中央法规抵触者无效。

第六十一条 中央与地方课税之划分以法律定之。

第六十二条 中央对于各地方之课税，为免除左列各款之弊害，以法律限制之：

- 一 妨害社会公共利益。
- 二 妨害中央收入之来源。
- 三 复税。
- 四 妨害交通。
- 五 为一地方之利益对于他地方货物之输入为不公平之课税。
- 六 各地方之物品通过税。

第六十三条 工商业之专利专卖特许权属于中央。

第六十四条 凡一省达到宪政开始时期，中央及地方权限，应依建国大纲以法律详细规定之。

**第七章 政府之组织****第一节 中央制度**

第六十五条 国民政府总揽中华民国之治权。

第六十六条 国民政府统率陆海空军。

第六十七条 国民政府行使宣战、媾和及缔结条约之权。

第六十八条 国民政府行大赦、特赦及减刑复权。

第六十九条 国民政府授与荣典。

第七十条 国家之岁入、岁出由国民政府编定预算、决算公布之。

第七十一条 国民政府设行政院、立法院、司法院、考试院、监察院及各部会。

第七十二条 国民政府设主席一人，委员若干人。由中国国民党中央执行委员会选任委员，名额以法律定之。

第七十三条 国民政府主席对内对外代表国民政府。

第七十四条 各院院长及各部部长，以国民政府主席之提请，由国民政府依法任免之。

第七十五条 公布法律、发布命令，由国民政府主席依法署名行之。

第七十六条 各院部会得依法发布命令。

第七十七条 国民政府及各院部会之组织以法律定之。

第二节 地方制度

第七十八条 省置省政府，受中央之指挥，综理全省政务。其组织以法律定之。

第七十九条 凡一省依建国大纲第十六条之规定达到宪政开始时期，国民代表会得选举省长。

第八十条 蒙古、西藏之地方制度，得就地方情形，另以法律定之。

第八十一条 县置县政府，受省政府之指挥，综理全县政务。其组织以法律定之。

第八十二条 各县组织县自治筹备会，执行建国大纲第八条所规定之筹备事项。县自治筹备会之组织以法律定之。

第八十三条 工商繁盛人口集中或有其他特殊情形之地方，得设各种市区。其组织以法律定之。

**第八章 附则**

第八十四条 凡法律与本约法抵触者无效。

第八十五条 本约法之解释权，由中国国民党中央执行委员会行使之。

第八十六条 宪法草案当本于建国大纲及训政与宪政两时期之成绩，由立法院议订，随时宣传于民众，以备到时采择施行。

第八十七条 全国有过半数省分达到宪政开始时期，即全省之地方自治完全成立时期，国民政府应即开国民大会，决定宪法而颁布之。

第八十八条 本约法由国民会议制定，交由国民政府公布之。

第八十九条 本约法自公布之日施行。

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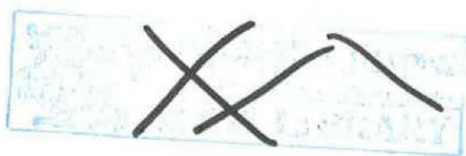
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#### **Annex 475**

Republic of China, National Defense Committee Secretariat, *Statement of Opinions Based on Research of Military Relevance and Methods Regarding the Nine French-Occupied Islands* (1 Sept. 1933), reprinted in *Archival Compilation on South China Sea Islands by Ministry of Foreign Affairs*, Vol. 1, Doc. No. II(1):072 (Republic of China Ministry of Foreign Affairs Research & Planning Committee, ed.) (1995)



**Archival Compilation on South China Sea Islands by Ministry of Foreign Affairs  
(Volume 1)**



Compiled and printed by Ministry of Foreign Affairs Research & Planning Committee  
May 31, 1995

[...]

II(1):072. Confidential (Statement of Opinions Based on Research of Military Relevance and Methods Regarding the Nine French-Occupied Islands, Forwarded to General Staff Headquarters Commissioner Chu Wei-cheng) (September 1, 1933)

Letter from National Defense Committee Secretariat

To recipient of confidential letter:

The Commissioner issued the Statement of Opinions Based on Research of Military Relevance and Methods Regarding the Nine French-Occupied Islands to the Military Commission, which is hereby forwarded to General Staff Headquarters Commissioner Chu Wei-cheng and copied to the Ministry of Foreign Affairs. Please review immediately.

One copy of the Statement of Opinions will be sent to the Ministry of Foreign Affairs.

National Defense Committee Secretariat (Seal)

The Nine Hainan Islands Claimed by France, Their Military Influence on Various Countries, and Opinions on Measures that Should be Taken by Our Country

FIRST. The geographical relationships among the Nine Hainan Islands

I. The location of the Nine Hainan Islands. The Nine Hainan Islands are “Tizard Bank” as recorded by British sea maps. The islands proclaimed to be possessed by France are



approximately 580 nautical miles from Yulin Port in Qiongzhou (Hainan Island), located between 7°52' and 11°42' north and 111°55' and 114°25' east. The "Appendix" notes that the Xisha Islands are named the Palacel [sic] Islands in English sea maps, approximately 180 nautical miles from Qiongzhou Yulin Harbor, the location of which is between 15°46' and 17°7' north and 111°14' and 112°47' east; these are the Xisha Islands and Nine Hainan Islands. The distance between their center points is approximately 400 nautical miles, but the distance between the two closest ends is only slightly over 200 nautical miles.

## II. Distance between the Nine Hainan Islands and nearby locations

1. Approximately 200 nautical miles to the east is Palawan Island of the Philippines
2. Approximately 420 nautical miles to the northeast is the Manila military port of the United States
3. Approximately 1400 nautical miles to the northeast is Amami Ōshima of Japan
4. Approximately 800 nautical miles to the north is the southernmost tip of Taiwan
5. Approximately 850 nautical miles to the north is the Magong military port (Japan) of Penghu Islands
6. Approximately 750 nautical miles to the north is the British Hong Kong military port
7. Approximately 400 nautical miles to the northwest is the Xisha Islands
8. Approximately 580 nautical miles to the northwest is Yulin Harbor of Qiongzhou (Hainan Island)
9. Approximately 460 nautical miles to the west is the Saigon military port of French Cochinchina (Annam)

10. Approximately 840 nautical miles to the southwest is the British Singapore military port

SECOND. The military relationships of the Nine Hainan Islands

I. Military relationship with France. French Cochinchina is between Japanese Taiwan, American Philippines, Dutch Borneo, and British Malay Peninsula; these countries all may become hostile to France, in particular the Japanese and British are likely to do so. However, the southern position of the Saigon military port is inconvenient for maritime military action on the eastern shore. Now, Nine Hainan Islands form a natural barrier for the entire Cochinchina in the seas surrounded by Japanese, American, French, and British territories; its position is the same as the German Heligoland during the European War. If France establishes water and land defenses here with submarines and airplanes, and establishes a perimeter outside this area during wartime, then no one would be able to penetrate, regardless of whether they come through Taiwan Strait (Japan), the Bass Strait (Japan or United States), or from Singapore or the Indian Ocean (Great Britain), as long as the Nine Hainan Islands are not lost.

II. Military relationship with China. The elite forces east of Xisha Islands used Dongsha Islands to create a chokehold in the Bass Strait to prevent the westward advancement of Japan and the United States. The elite forces south of Xisha Islands used Nine Hainan Islands to block the northward advancement of Great Britain, France, and other European nations. In today's circumstances, our Chinese navy would not be able to defend all coastal islands, including the Zhoushan Islands, Qiongzhou Island, and Xisha Islands, not to mention the Nine Hainan Islands. In the future, if the Chinese navy can reach a considerable level, then we would certainly devote all effort to the Pacific war that will determine the survival of our country, and we would certainly establish a military harbor in Dapeng Bay, for advancement to Xisha Islands. The so-called Eastern Elites of the Dongsha Islands and Southern Elites of the Nine Hainan Islands would

form a pincer formation as an important military area. Then, when we possess the Nine Hainan Islands, enemy actions in Singapore, Saigon, or Manila would not escape our surveillance. Furthermore, we can undertake aerial and underwater strikes along with underwater mines. As a result, we would be able to maintain maritime transportation in the Chinese waters north of Taiwan Strait. If the French-controlled Xisha Islands are not lost, then the enemy would have a greater range in which to act freely, making our chances of capturing them quite slim. This would also result in increased difficulties in our naval warfare.

III. Military relationship with Great Britain. If Great Britain and France go to war, the military focus would be in Western Europe, thus the French occupation of Nine Hainan Islands would be insignificant in value to a British-French war. If Great Britain is occupied in the Far East in an American–Japanese war, then the benign or malicious neutrality of France would have a significant impact on the maritime military actions of Great Britain. This is because the British navy can pass from the military ports in its home country through Gibraltar, Malta, Aden, Ceylon, and Singapore in succession. Singapore is sufficient to support the entire British navy, enabling it to freely fight against Japan or the Chinese coast without worrying about breaking the connection to Hong Kong. However, if France does take a position of malicious neutrality, then secret action will be difficult.

IV. Military relationship with the United States. Based on current calculations of American and Japanese naval strength, the security of Manila has a major impact on the success or failure of the United States in naval warfare against Japan, even on the success of American naval warfare in general. If hypothetically, considerable facilities are constructed on French-occupied Nine Hainan Islands, if France lends support to Japan, then Manila would be lost after several days. Why is it that Manila's defensive ability is far worse than the three strongholds in Belgium at the beginning of the European War? If France lends its support to the United States,

it is possible that Manila can hold out for more than ten days. Based on these assumptions, if Manila is lost, the American fleet loses its host (the loss of Manila would make Guam difficult to defend), it would certainly have to rush over 3,300 nautical miles directly from Pearl Harbor (a port in Honolulu, Hawaii) without stop to undertake an attack. Yet today, the military capabilities of the main vessels are no greater than 2,000 nautical miles; the pursuit of a concealed enemy in an unknown area over 3,300 nautical miles away would put the military in a difficult position. Since Japan is in possession of Manila, for now there is no worry that the enemy force will gain the upper hand. Furthermore, since the objective of war is China, it would be necessary to plan its offensive and defensive strategies based on what the area can offer, so as to lie concealed in readiness. It would go from Yokosuka, pass through Ogasawara Islands, Mariana Islands, Caroline Islands, Yap Islands, and the Philippines to extend its monitoring line, placing the main fleet in the center to be able to cover left and right, so that Manila can be defended for more than 14 days. At this point, the United States fleet would arrive in Manila from Pearl Harbor. Based on the route and speed of its vessels, unless it encounters the main Japanese fleet (a decisive battle would be fought if such an encounter took place), it could certainly gain the upper hand. Then, it would gain a great deal of freedom in battle. These are the effects of support given to different sides by French-occupied Nine Hainan Islands.

V. Military relationship with Japan. We have already said that the Nine Hainan Islands are in the ocean between Manila, Xisha Islands, Saigon, Singapore, and Borneo; but it can also serve as a base to advance to Taiwan and the Penghu Islands. It is possible to enact chokeholds and monitoring of the areas described above. This is why Japan insists that it has discovered these islands first. Therefore, there is the semi-official declaration that if France occupies the Nine Hainan Islands, then Japan would also take the Xisha Islands. If Japan uses the chain of Xisha Islands, Dongsha Islands, Taiwan, and Penghu Islands and the Taiwan Strait and the Bass Strait

then Hong Kong and Guangzhou Bay would both be behind the lock. We would not be able to get out, and no one else would be able to get in, while Japan would do anything it pleases to benefit its military efforts. In particular, this would be of significant help when action is taken against the Philippines, Cochinchina, or Malay Peninsula.

THIRD. The measures that should be taken with French-occupied Nine Hainan Islands

I. The possibility exists that Nine Hainan Islands was historically Chinese territory. Currently, geographers state that the southernmost territory of China is Triton Island of Xisha Islands. However, evidentiary investigation of the southward developmental history of our country shows that the Nine Hainan Islands seem also to be our territory. Zhao Tuo's kingdom Nanyue had expanded to include present-day northern Cochinchina Annam, and Ma Yuan's expedition to Cochin even extended into central Cochinchina Annam. The Protectorate General to pacify the South established by Tang Dynasty even covered the entire region. By the time of Ming's southward expedition, all of present-day Luzon (the Philippines), Borneo, to west of the Malay Peninsula had all surrendered. All of Cochinchina (Annam) was under Qing possession at the beginning of the Qing Dynasty. Thus, naturally, the Nine Hainan Islands became inhabited by many Chinese people. Nine Hainan Islands are merely coral islands. According to Page 97 of Volume 3 of China Sea Pilot, a British navigation guide published in 1923, Tizard Bank had Chinese fishermen who have long resided here catching sea cucumbers and shellfish, large junks from Hainan Island would depart in December or January to transport rice and other necessities in exchange for sea cucumbers from fishermen here, and wait to return when the southwest winds began. These statements showed that Tizard Bank is the same as the Nine Hainan Islands. Our Chinese people have long utilized the land for their livelihood, but it is neither clear whether there have been political, transportation or commercial facilities on the

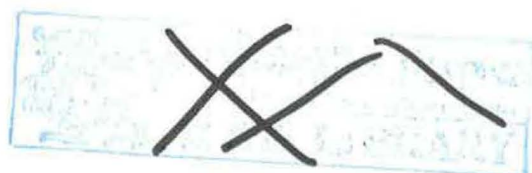
islands, nor whether any declaration has been made to the outside world.

II. A calm attitude toward French-occupied Nine Hainan Islands is better for the time being. We can use the residence of Chinese fishermen in the Nine Hainan Islands to support its status as our territory, but there are currently no political or military constructions or measures undertaken here. Remaining calm and using the maintenance of fishing rights as the pretext would not damage the national essence. In terms of the military, today's situation with the navy is the same as the land battle directive, and having the Nine Hainan Islands is neither helpful nor harmful. In the future, when the navy becomes more advanced, Xisha and Dongsha Islands would be sufficient as a lock on the southern gate. For now, we may as well throw a bone on the ground and let the Japanese and French dogs fight over them. If France turns to ally with Great Britain and the United States to fight Japan, we would benefit; this is purely from a military perspective. In terms of diplomacy, if we insist on the Nine Hainan Islands and devote efforts to seeking them, and we cannot acquire them, Japan would certainly claim that the Nine Hainan Islands are stateless territories; same as for Xisha Islands. Moreover, we have made actual constructions on Xisha Islands, so if now France can occupy the Nine Hainan Islands, why can we not occupy the Xisha Islands? If so, the diplomatic transactions would become more difficult, producing harmful effects in military terms, allowing Japan to produce its chain in South China Sea to choke China.

III. Quickly engage in construction in the Xisha Islands to avoid pretexts being used by others. Since there is much evidence that the Xisha Islands are the territories of the Republic of China, this is generally recognized by the world. However, the Japanese have long coveted these islands. In order to prevent their use of this as a pretext for occupation, we should further implement political actions (install bureaucrats) and transportation equipment (navigational markers). This can be easily conducted by dispatching vessels to be stationed here by the Navy or the Eighth General Command. Military equipment should be arranged when it becomes necessary to do so.

[...]

# 外交部南海諸島檔案彙編 (上冊)



外交部研究設計委員會編印  
中華民國八十四年五月三十一日

國家前途實利賴之本會暨全縣人民誓作後盾不達收復之目的不止臨電神馳不勝迫切待命之至，雲南箇舊縣黨務指導委員會暨縣商會廠業同業絲棉業雜貨業醫藥業建築工料五行同業五金器業米料業食館業押當業成衣業屠宰業理髮業牛馬運輸業等同業公會機器職業錫業產業等工會等同叩巧印

II(1):072、密（轉呈參謀本部處長朱偉呈研究法佔九島在軍事上之關係及辦法意見書）（民國二十二年九月一日）

國防委員會秘書處函

逕密啓者奉

委員長發下軍事委員會轉呈參謀本部處長朱偉呈研究法佔九島在軍事上之關係及辦法意見書一件奉

批抄送外交部等因相應抄附原件函達即希

查照此致

外交部

附抄意見書一件

國防委員會秘書處（印）

法國宣告領有之海南九島及於各國軍事上之影響與吾國應取之處置之意見

第一 海南九島在地理上之關係

一、海南九島之位置 海南九島即英海圖所載之提闌板群島Tizard Bank，而為法國所宣告領有者也距



瓊州（海南島）之榆林港約五百八十海里，其位置在北緯七度五十二分至十一度四十二分東經一百十一度五十五分至一百十四度二十五分之間，「附記」西沙群島英海圖名巴拉塞爾群島Palacel Islands距瓊州榆林港約一百八十海里，其位置在北緯十五度四十六分至十七度七分東經一百一十四度十四分至一百一十二度四十七分之間是以西沙群島與海南九島，其中心點之相距雖約有四百海里之遙，然其鄰近兩端之相距則僅有二百海里有奇。

## 二、海南九島與鄰近關係地方之距離

1. 東距斐律賓之巴拉汪島（Palawan Island）約二百海里
2. 東北距美國馬尼拉（Manila）軍港約四百二十海里
3. 東北距日本之奄美大島約一千四百海里
4. 北距台灣之最南端約八百海里
5. 北距澎湖列島之（日本）馬公軍港約八百五十海里
6. 北距英國香港軍港約七百五十海里
7. 西北距西沙群島約四百海里
8. 西北距瓊州（海南島）之榆林港約五百八十海里
9. 西距法領交趾支那（安南）之西貢軍港約四百

## 六十海里

### 10. 西南距英國新嘉坡軍港約八百四十海里


#### 第二 海南九島在軍事上之關係

- 一、與法國軍事上之關係 法屬交趾支那介在日屬台灣美屬斐律賓荷屬婆羅洲英屬馬來半島之間此數國者皆有與法為敵之可能性尤以日英為然，而西貢軍港偏在南方對於東岸海上之軍事行動不便殊多，今海南九島屹立於日美法英屬地所包圍之海中為交趾支那之全海岸之屏障，其地位與歐戰時德屬蟹里格蘭島相同法如於此施以水陸防禦附以潛艇飛機戰時於其外方設置哨戒線則無論自台灣海峽來者（日本）或自巴斯海峽來者（日美）或自新嘉坡印度洋等處來者（英）苟海南九島未失勢均不能深入。
- 二、與中國軍事上之關係 東沙群島為西沙群島東方之尖兵用以扼巴斯海峽阻日美之西來海南九島則為西沙群島南方之尖兵用以阻英法及歐洲各國之北上吾中國海軍在今日情形之下，所有沿海一切島嶼如舟山群島、瓊州島、西沙群島等胥無法可守，遑論海南九島乎然若干時日之後，設吾中國海軍能達至相當程度則關於吾國存亡之太平洋戰爭必出全力以參加必置軍港於大鵬灣置前進地於西沙群島所謂東方尖兵之東沙群島及南方尖兵之

海南九島亦成爲犄角之軍事要地，何則當此之時海南九島苟屬於我則新嘉坡或西貢或馬尼拉之敵軍行動自不能逃吾監視之眼在在可與以飛潛之襲擊加以機雷之功用，如是則台灣海峽以北中國海之海上交通可保，若屬於法縱西沙群島不失則敵之活動自由之範圍大而我之捕捉機會較鮮而我海軍之作戰因以加難。

三、與英國軍事上之關係 英法設使爲敵其戰爭之重心在於歐，西故海南九島法之占有與否對於英法戰爭之價值甚微，惟英國有事於極東置身於美日戰爭之內則法之善意中立抑惡意中立，關於英國之海上軍事行動其影響殊鉅，何則英國海軍自其本國軍港經直布羅陀馬爾他亞丁錫崙以至新嘉坡聯珠而下按驛以至而新嘉坡又足容其全海軍而有餘以之對日本方面或中國沿岸以作戰本極自由與香港之連絡亦不虞中斷，唯法果惡意中立則難秘其行動耳。

四、與美國軍事上之關係 馬尼拉之安危以現今美日之海軍實力推算之影響於美國對日本海上作戰勝敗之處甚鉅，甚至美國海上作戰之勝敗繫焉今也法占海南九島假使完成相當設施之後，法如袒日則馬尼拉將不數日而失何則馬尼拉之防禦力遠不如歐戰之初比利時國境之三要塞也，法如袒美則



馬尼拉容或能支持至十日以上，由此以推馬尼拉果失美國艦隊失其東道之主（馬尼拉已失關姆島亦難保）勢必自真珠港（哈哇一名檀香山之港）一氣遠涉三千三百餘海里出諸攻勢攻擊夫今日主力艦之作戰能力圈不能出二千海里以外，今欲涉三千三百餘海里之遙在渺茫無涯之境索隱顯不定之敵將有陷於進退維谷之虞者矣，日本因已得馬尼拉暫無敵軍反客為主之憂，且也因戰爭目的在於中國必藉地利以取攻勢防禦之略以逸待勞以隱制顯以整制亂將自橫須賀經小笠原群島馬力拿群島加羅里尼群島椰普島及斐律賓以張監視之線而置主力艦隊於中央以便左右逢源設使馬尼拉能保至十四日以上，美國艦隊自真珠港至馬尼拉以其航程與艦速計之，除途中遇日本主力艦隊外（遇則決戰）必可到達而反客為主之形成，邇後作戰之自由甚大，此法占海南九島左右袒之影響也。

五、與日本軍事上之關係 海南九島屹立於馬尼拉西沙群島西貢新嘉坡及婆羅洲之海中前已言之矣，然亦可為台灣澎湖島之前進地對於上述各地有控扼與監視之可能此日本之所以力說為其最先發見者也所以有法如占海南九島彼亦占西沙群島之半公式宣言者也何則彼以西沙群島東沙群島台灣及澎湖群島之連鎖而台灣海峽與巴斯海峽宛如加之



以門香港與廣州灣悉在肩鎖之內我不得出客不得入日本則爲所欲爲而作戰利矣，尤以對於斐律賓或交趾支那或馬來半島等處有所行動之時增加助力不少。

### 第三 對於法占海南九島應取之處置

一、海南九島在歷史上有爲中國領土之可能性 今之地理學者謂中國國疆之最南端爲西沙群島之特里屯島（Triton Island）然一考吾國向南發展之歷史，該海南九島似亦應屬吾國領有，查趙佗之封於南越其國土已展至今日交趾支那安南之北部，馬援之征交趾更展至於其中部唐之設安南都護更奄有其全部，迨至明下南洋所有今日之呂宋（斐律賓）婆羅洲以至馬來半島之西莫不稱降，降及清初亦復囊括交趾支那（安南）全部，是則在其間之海南九島因自然之發展爲吾中國人之居住者勢所必然。海南九島僅爲珊瑚質之小島，按一九二三年英國著航海指南（China Sea Pilot）第三卷九七頁所載，提閘板群島有中國漁民以捕海參介殼爲生久居不去，海南島沙船每年運米及其他需要品於十二月或一月間由海南島出發前往供給各漁民而易其海參等，迨至發西南信風之時始行歸航等語，足見提閘板群島即海南九島吾中國人民之生息於斯土者已久，然有無政治上交通上及事

業上之設施以及曾否對外有所聲明則不得其詳。

二、對於法占海南九島以暫持冷靜態度爲有利 海南九島有中國漁民之居住固可持之爲吾領土之理由，然並無政治上或軍事上或建設上之措施暫守冷靜以保留漁業權利爲辭，似亦於國體無傷自軍事言之今日海軍情形既如彼陸上作戰方針又如此海南九島有不加益無不加損縱他年海軍發達有西沙及東沙兩群島在亦足爲南門之鎖鑰，今不如委骨於地任日法兩犬相爭，法若因是轉入英美之懷集歐美以伐日而我利矣此單純就軍事言之者也自外交言之，若吾堅認海南九島以力爭爭而不得日本必曰海南九島爲無國籍之土地西沙群島亦然且西沙吾有實業上之建設，今法可占海南九島吾何獨不能占有西沙群島乎苟如是不但交涉愈感棘手而軍事上大害生焉何則南中國海日本之連鎖以成中國之被羈勒益甚。

三、迅速建設西沙群島以杜口實 西沙群島爲吾領土證據既多世咸承認然日人垂涎已久爲杜其口實免其強占起見，似宜進一步施行政治上（設官）及交通上（航海標識）之設備並由海軍部或第八路總指揮部先行派艦駐防此則輕而易舉，至於軍事設備俟至必要時再籌。

II(1):073、關於法佔海南九島一案事奉交併案辦理（民國二十二年

**Annex 476**

Republic of China, *Draft Constitution of the Republic of China* (5 May 1936)





## Draft Constitution of the Republic of China 1936

*This Draft Constitution was passed by the Legislative Yuan on [2 May, 1936] and promulgated by the National Government on [5 May, 1936].*

[...]

Article 4      The territory of the Republic of China comprises the following traditional territory: Jiangsu, Zhejiang, Anhui, Jiangxi, Hubei, Hunan, Sichuan, Xikang, Hebei, Shandong, Shanxi, Henan, Shanxi, Gansu, Qinghai, Fujian, Guangdong, Guangxi, Yunan, Guizhou, Liaoning, Jilin, Helongjiang, Rehe, Chahaer, Suiyuan, Ningxia, Xinjiang, Mongolia and Tibet.

The territory of the Republic of China cannot be altered except by a resolution of the National Assembly.

[...]



兼职家教

家教高中

西沙群岛旅游

上海高中排名

高二历史题

高二历史复习题

### 五五宪草

收藏人: 疏-离

2010-11-15 | 阅: 702 转: 26 | 来源 | 分享

#### 中华民国宪法草案（五五宪草）

中华民国国民大会

1936年5月5日

中华民国二十五年五月二日立法院通过，中华民国二十五年五月五日国民政府公布

中华民国国民大会受全体国民付托，遵照创立中华民国之孙先生之遗教，制兹宪法，颁行全国，永矢咸遵。

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### 第一章 总纲

第一条 中华民国为三民主义共和国。

第二条 中华民国之主权，属于国民全体。

第三条 具有中华民国之国籍者，为中华民国国民。

第四条 中华民国领土为江苏、浙江、安徽、江西、湖北、湖南、四川、西康、河北、山东、山西、河南、陕西、甘肃、青海、福建、广东、广西、云南、贵州、辽宁、吉林、黑龙江、热河、察哈尔、绥远、宁夏、新疆、蒙古、西藏等固有之疆域。

中华民国领土，非经国民大会议决不得变更。

第五条 中华民国各民族均为中华民族之构成份子，一律平等。

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第七条 中华民国, 国都定于南京。

## 第二章 人民之权利义务

第八条 中华民国人民在法律上一律平等。

第九条 人民有身体之自由, 非依法律不得逮捕拘禁审问或处罚。人民因犯罪嫌疑被逮捕拘禁者, 其执行机关, 应即将逮捕拘禁原因, 告知本人及其亲属, 并迟于二十四小时内, 移送于该管法院审问, 本人或他人亦得声请该管法院于二十四小时内, 向执行机关提审。

法院对于前项声请不得拒绝, 执行机关对于法院之提审, 亦不得拒绝。

第十条 人民除现役军人外, 不受军事裁判。

第十一条 人民有居住之自由, 其居住处所, 非依法律不得侵入搜索或封锢。

第十二条 人民有迁徙之自由, 非依法律不得限制之。

第十三条 人民有言论著作及出版之自由, 非依法律不得限制之。

第十四条 人民有秘密通讯之自由, 非依法律不得限制之。

第十五条 人民有信仰宗教之自由, 非依法律不得限制之。

第十六条 人民有集会结社之自由, 非依法律不得限制之。

第十七条 人民之财产, 非依法律不得征用征收查封或没收。

第十八条 人民有依法律请愿诉愿及诉讼之权。

第十九条 人民有依法律选举罢免创制复决之权。

第二十条 人民有依法律应考试之权。

第二十一条 人民有依法律纳税之义务。

第二十二条 人民有依法律服兵役及工役之义务。

第二十三条 人民有依法律服公务之义务。

第二十四条 凡人民之其他自由及权利, 不妨害社会秩序, 公众利益者, 均受宪法之保障, 非依法律不得限制之。

第二十五条 凡限制人民自由或权利之法律, 以保障国家安全, 避免紧急危难, 维持社会秩序, 或增进公共利益所必要者为限。

第二十六条 凡公务员违法侵害人民之自由或权利者, 除依法律惩戒外, 应负刑事及民事责任, 被害人民就其所受损害, 并得依法律向国家请求赔偿。

## 第三章 国民大会

第二十七条 国民大会以左列国民代表组织之。

一、每县市及其同等区域各选出代表一人, 但其人口逾三十万者, 每增加五十万人, 增选代表一人。县市同等区域以法律定之。

二、蒙古西藏选出代表, 其名额以法律定之。

三、侨居国外之国民选出代表, 其名额以法律定之。

第二十九条 中华民国国民年满二十岁者，有依法律选举代表权，年满二十五岁者，有依法律被选举代表权。

第三十条 国民代表任期六年。

国民代表违法或失职时，原选举区依法律罢免之。

第三十一条 国民大会每三年由总统召集一次，会期一月，必要时得延长一月。

国民大会经五分之二以上代表之同意，得自行召集临时国民大会。

总统得召集临时国民大会。

国民大会之开会地点，在中央政府所在地。

第三十二条 国民大会之职权如左：

- 一、选举总统副总统、立法院院长副院长、监察院院长副院长、立法委员、监察委员。
- 二、罢免总统副总统、立法、司法、考试、监察各院院长副院长、立法委员、监察委员。
- 三、创制法律。
- 四、复决法律。
- 五、修改宪法。
- 六、宪法赋予之其他职权。

第三十三条 国民代表在会议时，所为之言论及表决，对外不负责任。

第三十四条 国民代表除现行犯外，在会期中非经国民大会许可，不得逮捕或拘禁。

第三十五条 国民大会之组织，国民代表之选举罢免，及国民大会行使职权之程序，以法律定之。

## 第四章 中央政府

### 第一节 总统

第三十六条 总统为国家元首，对外代表中华民国。

第三十七条 总统统率全国陆海空军。

第三十八条 总统依法公布法律，发布命令，并须经关系院院长之副署。

第三十九条 总统依法行使宣战媾和及缔结条约之权。

第四十条 总统依法宣布戒严解严。

第四十一条 总统依法行使大赦特赦减刑复权之权。

第四十二条 总统依法任免文武官员。

第四十三条 总统依法授与荣典。

第四十四条 国家遇有紧急事变或国家经济上有重大变故须为急速处分时，总统得经行政会议之议决，发布紧急命令，为必要之处置，但应于发布命令后三个月内，提交立法院追认。

第四十五条 总统得召集五院院长会商关于二院以上事项，及总统咨询事项。

第四十七条 中华民国国民年满四十岁者，得被选为总统、副总统。

第四十八条 总统、副总统之选举，以法律定之。

第四十九条 总统、副总统之任期均为六年，连选得连任一次。

第五十条 总统应于就职时宣誓。誓词如左：

“余谨以至诚向国民宣誓，余必遵守宪法，尽忠职务，增进人民福利，保卫国家，无负国民付托，如违誓言，愿受国法严厉之制裁。谨誓。”

第五十一条 总统缺位时，由副总统继其任。

总统因故不能视事时，由副总统代行其职权，总统副总统均不能视事时，由行政院院长代行其职权。

第五十二条 总统于任满之日解职，如届期次任总统尚未选出或选出后总统副总统均未就职时，由行政院院长代行总统职权。

第五十三条 行政院院长代行总统职权时，其期限不得逾三个月。

第五十四条 总统除犯内乱或外患罪外，非经罢免或解职，不受刑事上之诉究。

## 第二节 行政院

第五十五条 行政院为中央政府行使行政权之最高机关。

第五十六条 行政院设院长副院长各一人，政务委员若干人，由总统任免之。

前项政务委员不管部会者，其人数不得超过第五十八条第一项所定管部会者之半数。

第五十七条 行政院设各部各委员会，分掌行政职权。

第五十八条 行政院各部部长，各委员会委员长，由总统于政务委员中任命之。

行政院院长副院长得兼任前项部长或委员长。

第五十九条 行政院院长副院长、政务委员、各部部长、各委员会委员长，各对总统负其责任。

第六十条 行政院设行政会议，由行政院院长副院长，及政务委员组织之，以行政院院长为主席。

第六十一条 左列事项应经行政会议议决：

- 一、提出于立法院之法律案、预算案。
- 二、提出于立法院之戒严案、大赦案。
- 三、提出于立法院之宣战案、媾和案、条约案、及其他关于重要国际事项之议案。
- 四、各部各委员会间共同关系之事项。
- 五、总统或行政院院长交议之事项。
- 六、行政院副院长各政务委员各部各委员会提议之事项。

第六十二条 行政院之组织，以法律定之。

第六十三条 立法院为中央政府行使立法权之最高机关，对国民大会负其责任。

第六十四条 立法院有议决法律案、预算案、戒严案、大赦案、宣战案、媾和案、条约案、及其他关于重要国际事项之权。

第六十五条 关于立法事项，立法院得向各院各部各委员会提出质询。

第六十六条 立法院设院长副院长各一人，任期三年，连选得连任。

第六十七条 立法委员由各省、蒙古、西藏、及侨居国外国民所选出之国民代表举行预选，依左列名额，各提出候选人名单于国民大会选举之，其人选不以国民代表为限。

一、各省人口未滿五百万者，每省四人，五百万以上未滿一千万者，每省六人，一千万以上未滿一千五百万者，每省八人，一千五百万以上未滿二千万者，每省十人，二千万以上未滿二千五百万者，每省十二人，二千五百万以上未滿三千万者，每省十四人，三千万以上者，每省十六人。

二、蒙古西藏各八人。

三、侨居国外国民八人。

第六十八条 立法委员任期三年，连选得连任。

第六十九条 行政司法考试监察各院关于其主管事项，得向立法院提出议案。

第七十条 总统对于立法院之议决案，得于公布或执行前提交覆议，立法院对于前项提交覆议之案，经出席委员三分之二以上之决议维持原案时总统应即公布或执行之，但对于法律案、条约案，得提请国民大会复决之。

第七十一条 立法院送请公布之议决案，总统应于该案到达后三十日内公布之。

第七十二条 立法委员于院内之言论及表决，对外不负责任。

第七十三条 立法委员除现行犯外，非经立法院许可，不得逮捕或拘禁。

第七十四条 立法委员不得兼任其他公职或执行业务。

第七十五条 立法委员之选举及立法院之组织，以法律定之。

#### 第四节 司法院

第七十六条 司法院为中央政府行使司法权之最高机关，掌理民事刑事行政诉讼之审判及司法行政。

第七十七条 司法院设院长、副院长各一人，任期三年，由总统任命之。

司法院院长，对国民大会负其责任。

第七十八条 关于特赦减刑复权事项，由司法院院长依法律提请总统行之。

第七十九条 司法院有统一解释法律命令之权。

第八十条 法官依法律独立审判。

第八十一条 法官非受刑罚或惩戒处分，或禁治产之宣告，不得免职，非依法律不得停职转任或减俸。

第八十二条 司法院之组织及各级法院之组织，以法律定之。

第八十三条 考试院为中央政府行使考试权之最高机关，掌理考试铨叙。

第八十四条 考试院设院长、副院长各一人，任期三年，由总统任命之。

考试院院长对国民大会负其责任。

第八十五条 左列资格应经考试院依法考选铨定之。

一、公务人员任用资格。

二、公职候选人资格。

三、专门职业及技术人员执业资格。

第八十六条 考试院之组织，以法律定之。

## 第六节 监察院

第八十七条 监察院为中央政府行使监察权之最高机关，掌理弹劾惩戒审计，对国民大会负其责任。

第八十八条 监察院为行使监察权，得依法向各院各部各委员会提出质询。

第八十九条 监察院设院长副院长各一人，任期三年，连选得连任。

第九十条 监察委员由各省、蒙古、西藏、及侨居国外国民所选出之国民代表各预选二人，提请国民大会选举之，其人选不以国民代表为限。

第九十一条 监察委员任期三年，连选得连任。

第九十二条 监察院对于中央及地方公务员违法或失职时，经监察委员一人以上之提议，五人以上之审查决定，提出弹劾案，但对于总统副总统及行政立法司法考试监察各院院长副院长之弹劾案，须有监察委员十人以上之提议，全体监察委员二分之一以上之审查决定，始得提出。

第九十三条 对于总统副总统行政立法司法考试监察各院院长副院长之弹劾案，依前条规定成立后，应向国民大会提出之，在国民大会开会期间，应请国民代表依法召集临时国民大会，为罢免与否之决议。

第九十四条 监察委员于院内之言论及表决对外不负责任。

第九十五条 监察委员除现行犯外，非经监察院许可，不得逮捕或拘禁。

第九十六条 监察委员不得兼任其他公职或执行业务。

第九十七条 监察委员之选举及监察院之组织，以法律定之。

## 第五章 地方制度

### 第一节 省

第九十八条 省设省政府，执行中央法令，及监督地方自治。

第九十九条 省政府设省长一人，任期三年，由中央政府任免之。

第一百条 省设省参议会，参议员名额，每县市一人，由各县市议会选举之，任期三年，连选得连任。



第一百零二条 未经设省之区域, 其政治制度, 以法律定之。

## 第二节 县

第一百零三条 县为地方自治单位。

第一百零四条 凡事务有因地制宜之性质者, 划为地方自治事项。

地方自治事项, 以法律定之。

第一百零五条 县民关于县自治事项, 依法行使创制复决之权, 对于县长及其他县自治人员, 依法行使选举罢免之权。

第一百零六条 县设县议会, 议员由县民大会选举之, 任期三年, 连选得连任。

第一百零七条 县单行规章与中央法律或省规章抵触者无效。

第一百零八条 县设县政府, 置县长一人, 由县民大会选举之, 任期三年, 连选得连任。

县长候选人, 以经中央考试或铨定合格者为限。

第一百零九条 县长办理县自治, 并受省长之指挥, 执行中央及省委办事项。

第一百十条 县议会之组织职权, 县议员之选举罢免, 县政府之组织及县长之选举罢免, 以法律定之。

## 第三节 市

第一百十一条 市之自治除本节规定外, 准用关于县之规定。

第一百十二条 市设市议会, 议员由市民大会选举之, 每年改选三分之一。

第一百十三条 市设市政府, 置市长一人, 由市民大会选举之, 任期三年, 连选得连任。

市长候选人, 以经中央考试或铨定合格者为限。

第一百十四条 市长办理市自治, 并受监督机关之指挥, 执行中央或省委办事项。

第一百十五条 市议会之组织职权, 市议员之选举罢免, 市政府之组织及市长之选举罢免, 以法律定之。

## 第六章 国民经济

第一百十六条 中华民国之经济制度, 应以民生主义为基础, 以谋国民生计之均足。

第一百十七条 中华民国领域内之土地, 属于国民全体, 其经人民依法律取得所有权者, 其所有权受法律之保障及限制。国家对于人民取得所有权之土地, 得按照土地所有权人申报或政府估定之地价, 依法律征税或征收之。

土地所有权人, 对于其所有土地, 负充分使用之义务。

第一百十八条 附着于土地之矿, 及经济上可供公众利用之天然力, 属于国家所有, 不因人民取得土地所有权而受影响。

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享受。

第一百二十条 国家对于土地之分配整理，以扶植自耕农及自行使用土地人为原则。

第一百二十一条 国家对于私人之财富及私营事业，认为有妨害国民生计之均衡发展时，得依法律节制之。

第一百二十二条 国家对于国民生产事业及对外贸易，应奖励指导及保护之。

第一百二十三条 公用事业及其他有独占性之企业，以国家公营为原则，但因必要，得特许国民私营之。

国家对于前项特许之私营事业，因国防上之紧急需要，得临时管理之，并得依法律收归公营，但应予以适当之补偿。

第一百二十四条 国家为改良劳工生活，增进其生产技能，及救济劳工失业，应实施保护劳工政策。

妇女儿童从事劳动者，应按其年龄及身体状态，施以特别之保护。

第一百二十五条 劳资双方应本协调互助原则，发展生产事业。

第一百二十六条 国家为谋农业之发展，及农民之福利，应充裕农村经济，改善农村生活，并以科学方法提高农民耕作效能。

国家对于农产品之种类数量及分配，得调节之。

第一百二十七条 人民因服役兵役或公务而致残废或死亡者，国家应予以适当之救济或抚恤。

第一百二十八条 老弱残废无力生活者，国家惟予以适当之救济。

第一百二十九条 左列各款事项，在中央应经立法院之议决，其依法律得以省区或县市单行规章为之者，应经各该法定机关之议决。

一、税赋捐费罚金罚鍰或其他有强制性收入之设定，及其征收率之变更。

二、募集公债处分公有财产或缔结增加公库负担之契约。

三、公营专卖独占或其他有营利性事业之设定或取消。

四、专卖独占或其他特权之授予或取消。

省区及县市政府，非经法律特许，不得募集外债或直接利用外资。

第一百三十条 中华民国领域内，一切货物应许自由流通，非依法律不得禁阻。

关税为中央税收，应于货物出入国境时征收之，以一次为限。

各级政府不得于国内征收货物通过税。

对于货物之一切税捐，其征收权属于中央政府，非依法律不得为之。

## 第七章 教育

第一百三十一条 中华民国之教育宗旨，在发扬民族精神，培养国民道德，训练自治能力，增进生活知能，以造成健全国民。

第一百三十二条 中华民国人民，受教育之机会一律平等。

第一百三十三条 全国公私立之教育机关一律受国家之监督，并负推行国家所定教育政策之义务。

第一百三十五条 已逾学龄未受基本教育之人民，一律受补习教育，免纳学费。

第一百三十六条 国立大学及国立专科学校之设立，应注重地区之需要，以维持各地区人民享受高等教育之机会均等，而促进全国文化之平衡发展。

第一百三十七条 教育经济之最低限度，在中央为其预算总额百分之十五，在省区及县市为其预算总额百分之三十，其依法律独立之教育基金，并予以保障。

    贫瘠省区之教育经费，由国库补助。

第一百三十八条 国家对于左列事业及人民予以奖励或补助。

- 一、国内私人经营之教育事业成绩优良者。
- 二、侨居外国国民之教育事业。
- 三、于学术技术有发明者。
- 四、从事教育成绩优良久于其职者。
- 五、学生学行俱优无力升学者。

## 第八章 宪法之施行及修正

第一百三十九条 宪法所称之法律，谓经立法院通过总统公布之法律。

第一百四十条 法律与宪法抵触者无效。

    法律与宪法有抵触，由监察院于该法律施行后六个月内，提请司法院解释，其详以法律定之。

第一百四十一条 命令与宪法或法律抵触者无效。

第一百四十二条 宪法之解释，由司法院为之。

第一百四十三条 在全国完成地方自治之省区未过半数以上时，立法委员及监察委员依左列规定选举任命之。

    一、立法委员由各省、蒙古、西藏、及侨居外国国民所选出之国民代表依照第六十七条所定名额预选半数，提请国民大会选举之，其余半数，由立法院院长提请总统任命之。

    二、监察委员由各省、蒙古、西藏、及侨居外国国民所选出之国民代表依照第九十条所定名额预选半数，提请国民大会选举之，其余半数，由监察院院长提请总统任命之。

第一百四十四条 在地方自治未完成之县，其县长由中央政府任免之。

    前项规定于自治未完成之市准用之。

第一百四十五条 促成地方自治之程序，以法律定之。

第一百四十六条 宪法非国民大会全体代表四分之一以上之提议四分之三以上之出席及出席代表三分之二以上之决议，不得修改之。

    修改宪法之提议，应由提议人于国民大会开会前一年公告之。

第一百四十七条 宪法规定事项有另定实施程序之必要者，以法律定之。

来自: [疏-离](#) > 《宪法》

上一篇: [副署](#)

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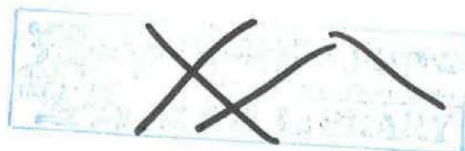
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#### **Annex 477**

Republic of China, Republican Government Military Commission, *Letter Regarding the Current Conditions on Xisha Islands and Enhancement of Construction and Management* (31 Aug. 1937), reprinted in *Archival Compilation on South China Sea Islands by Ministry of Foreign Affairs*, Vol. 1, Doc. No. II(1):072 (Republic of China Ministry of Foreign Affairs Research & Planning Committee, ed.) (1995)



**Archival Compilation on South China Sea Islands by Ministry of  
Foreign Affairs  
(Volume 1)**



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May 31, 1995

[...]

- II (2):121. Regarding the Current Conditions on Xisha Islands and Enhancement of Construction and Management (August 31, 1937, No. 12342)  
Letter telegram from Republican Government Military Commission



For confidential review by Ministry of Foreign Affairs in the capital: This case was submitted by Guangdong Ninth District Administrative Specialist Huang Qiang, who stated that around April or May this year, Qiongdong County Chief Pan Yan reported that the Japanese had occupied Xisha Islands and fired at our fishermen. The information was transmitted by telegram to the Guangzhou field headquarters and Guangdong Provincial Government Guangdong Pacification Public Office for verification and forwarding. All the conditions there can be verified. We had conducted an investigation of the situation on the islands while working in the South Region Reconstruction Commissioner's Office in 1928. The islands are located between 15° and 17° north, and between 110° and 112° east, approximately 145 miles southeast from Yulin Port in Ya County, making it the southernmost territory of our country. There are over 20 of these islands, with Beisha Island in the north, Nanji Island in the south, Linkang Island in the east, and connected to Qizhouyang in the west. The islands dot the ocean over about 200 square miles, and are low islands formed by coral reefs. The islands are generally ring-shaped or oval-shaped; the large ones are several dozen square miles, while the small ones are less than one-tenth of a square mile. Between 1921 and 1928, these islands had been managed by the Japanese. At the time of our investigation, there were still relics remaining from various structures. The islands have abundant marine resources, the phosphoric acid minerals are in particular natural fertilizers, the only such resources in our territory. Moreover, the coral can also be ground to ash and transported inland for the use of fertile fields. These are the general locations, shapes, and material resources of these islands. A previous national defense meeting resolved to send police from Guangdong to be stationed at the islands and to establish a lighthouse to clarify our sovereignty. However, at the time Guangdong was not under a unified government, thus this was not carried out. Last year, the Military Commission was established, and in November of the same year, Guangdong Construction Bureau was permitted to follow the order from Guangdong Provincial Government to work with the Military Commission in discussing equipment and management of the islands to consolidate national defense. In the initial stage of management, two lighthouses should first be constructed to facilitate navigation, one shortwave radio tower should be constructed for communication, and the funds for dispatching police should also be confirmed first. In addition, ferries or electric boats should take frequent trips between Xisha and Sanya to facilitate transportation. Other items for the resident police, such as lodging, food, storage rooms, medical rooms, freshwater

ponds, and water distillation machines should also be planned and prepared. These matters were submitted to the Construction Office for forwarding, and further exploration was to be conducted between spring and summer of this year. After Guangdong Provincial Government was notified, we learned that Haizhou Warship was preparing its load for transport, but this was suspended by the Provincial Government because the Ministry of Foreign Affairs was now negotiating with the French, who had objections to the sovereignty over these islands; if we sent a team for surveys, then it would cause additional disputes. Thus, we were notified to wait to carry out our work after considerable progress has been made in negotiations with the French. Therefore, the originally planned summer trip was suspended. These are the matters that have taken place after establishment of our office and our discussions with the Construction Office regarding the equipment and management of the islands. This time, according to reports, the Japanese have occupied the islands and fired artillery at our fishermen. We made reports to various authorities, and in the meantime we ordered nearby Ya County and Qiongdong County chiefs to send investigators in secret. Then, we received the secret order from Guangdong Pacification Public Office that Yun Zhenzhong, chief of special investigation team 4, would be in charge of the secret investigation, so we should provide assistance to him. Chief Yun arrived in Qiong in June, and we sent Yu Qianhui, Construction Bureau Chief of Qiongsan County Government to meet Chief Yun, and deputy commander of Army Division 152 Ye Gengchang, deputy security commander of the region Wang Yi, and others. On the 20<sup>th</sup>, we set out from Haikou on the Haizhou Warship for the secret investigation, and then returned to Haikou on the 24<sup>th</sup> of the same month. Based on reports, we first investigated Lin Island, then Shi Island, and then Lingzhou Island and Bei Island; we found no signs of Japanese. Lin Island has thick woods, a great deal of guano, a small temple, and a small fisherman's shack. The only buildings remaining from the administration of Japanese on Lin Island in the previous year were a pond constructed from mortar, concrete, and cement, and a boiler, but there was no sign of the other buildings. Shi Island also has small trees and guano. The trees on Lingzhou Island are maple and paulownia, same as on Lin Island, but its trees are smaller than on Lin Island; its guano content is also less than that of Lin Island. Bei Island also has maple and paulownia trees, but they are very small, only 2 feet tall, and there was no guano. After the survey was complete, we erected 3 monuments in Lin Island, 1 monument in Shi Island, 3 monuments in Lingzhou Island, and 6 monuments in Bei Island; all of these were embedded deep in the ground. During the survey on Lin Island,

according to local fishermen, Japanese fishing boats would come to Xisha Islands, three or four times each month. They would fire fish cannons to catch fish, and would pillage the catch of [Chinese] fishermen. French warships were also frequently present. It was said that Huangshan Island, which was reported by Qiongdong County Chief as having been bombed by the Japanese, was about 2 days away by boat from Lin Island. Huangshan Island had freshwater and about a hundred coconut trees, which were planted by Chinese fishermen. Last year, the island was occupied by the Japanese, who constructed a lighthouse and two dozen houses, as well as a stone monument, on which is written: Department of Waterways, Gaoxiong, Taiwan, Japan Showa Year 11, fisherman of China are prohibited from landing. Based on the navigation maps, the island is Luosida Island, at the intersection of 114°30'15" meridian west of Manila and 10°30'20" parallel. According to Captain Liang Yuan of Haizhou Warship, this island was one of the nine small islands. These are the facts discovered by the investigators who were dispatched after Japanese occupation of the island. The island is located on the routes near Hong Kong, Annam, and the Malay Archipelago; it also has a crucial position in European and Asian transportation. Since the Japanese have pillaged our fishermen several times a month, and Huangshan Island to the east is already under its occupation, their covetous ambition seems clear. The previous national defense meeting resolved that police should be sent by Guangdong Province to be stationed at the island and a lighthouse should be constructed in order to clarify our sovereignty. We should see these two matters implemented as soon as possible so as to stop the ambitions of our powerful neighbors. Establishment of other important early facilities, such as a radio tower for communications, ferries to facilitate transportation, and lodging, food storage, medical room, freshwater pond, and distillation machinery for the police, have been approved after our bureau applied for them by Guangdong Construction Office and Guangdong Provincial Government last November. However, since France has objections regarding sovereignty over the island, Ministry of Foreign Affairs should negotiate with the French, and the central government or the Guangdong Provincial Government should earmark the funding as soon as possible so we can implement these measures. Otherwise, if a war starts and we are not ready, it would be too late for us to do anything. We were ordered to supervise administration, and found that the situation on these islands is urgent. We need to act before a disaster strikes. The situation on the island and the process of investigation, along with our humble views on the facilities and management, are hereby submitted. We

have also appended a list of monuments erected on Xisha Islands at this time for your verification. Please also determine whether the construction of lighthouses can be conducted by Customs under the auspices of the Ministry of Finance; please advise. Other than giving orders to Guangdong Provincial Government, the document will be sent by telegram, please review and verify so action may be taken. From the Military Commission.

Shi Haoyi

Appended a copy of the Record of Monuments at Xisha Islands

#### Record of Monuments at Xisha Islands

- (1) One stone monument on Shi Island (facing Lin Island), on the side of the old tree on the south side of the shore, 50 feet from the shore, one foot deep in the ground. The words "Commemoration of Tour, erected in 1911" are carved into the monument.
- (2) One stone hidden on the northern shore (facing Shi Island) of Lin Island, a compass would show N 260 E to the left of Shi Island, and N 520 E to the right of Shi Island.
- (3) Next to the main road on Lin Island, northwest of the well, a stone monument is hidden 5 feet from the well, inscribed with the words "Commemoration of Tour, erected in 1921."
- (4) Behind the Temple for Lonely Ghosts (9 feet wide and 6 feet tall) on the southwest of Lin Island, six feet from the temple, a stone monument is hidden, inscribed with the words "Commemoration of Tour, erected in 1921."
- (5) On the rock on the northern tip of Lingzhou Island, 75 feet from the rock on the shore, 62 feet from the east end of the rock, a stone monument is hidden, inscribed with the words "Commemoration of Tour, erected in 1921."
- (6) One stone monument is hidden under a tree in the center of a road on the northern end of Lingzhou Island, inscribed with the words "Commemoration of Tour, erected in 1911," and covered under 8 inches of mud.
- (7) To the northeast end of Lingzhou Island, on a large rock behind the hut, 37 feet from the hut is hidden a stone monument, inscribed with the words "Commemoration of Tour, erected in Guangxu Year 28 of Qing Dynasty."

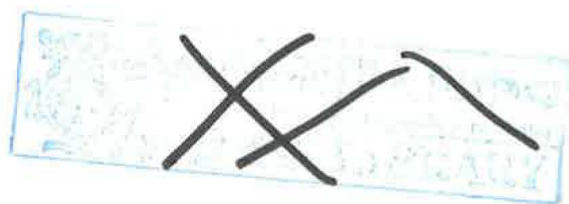
*English Translation*

- (8) On the intersection of small streets on the southeast end of Bei Island, a stone monument is hidden, inscribed with the words “Commemoration of Tour, erected in Guangxu Year 28 of Qing Dynasty.”
- (9) On the southern shore of the southeast end of Bei Island, on the left corner of the stone house, a stone monument is hidden, inscribed with the words “Commemoration of Tour, erected in 1911.”
- (10) On the southern shore of Bei Island, on empty land in front of the grass hut, a stone monument is hidden, inscribed with the words “Commemoration of Tour, erected in 1911.”
- (11) Behind the grassy hut on the south shore of Bei Island, a stone monument is hidden, inscribed with the words “Commemoration of Tour, erected in 1911.”
- (12) On the southeastern corner of Bei Island, facing Zhong Island, a stone monument is hidden, inscribed with the words “Commemoration of Tour, erected in 1911.”
- (13) On the north shore of Bei Island, a stone monument is hidden, inscribed with the words “Commemoration of Tour, erected in Guangxu Year 28 of Qing Dynasty.”

[...]



# 外交部南海諸島檔案彙編 (上冊)



外交部研究設計委員會編印  
中華民國八十四年五月三十一日

- (10)在北島之南便岸邊草屋前空地藏石碑一方刻「視察紀念大中華民國元年立」等字
- (11)在北島之南岸邊草屋後藏石碑一方刻「視察紀念大中華民國元年立」等字
- (12)在北島之東南角對正中島處藏石碑一方刻「視察紀念大中華民國元年立」等字
- (13)在北島之北岸邊藏碑一方刻「視察紀念大清光緒二十八年立」等字

II(2):120、西沙群島事（民國二十六年八月二十日）

外交部歐美司致廣東第九區行政督察專員公署黃專員函  
奉交

貴專員關於西沙群島事本年七月三十日函並附樹立石碑記錄表一紙於該群島形勢敘述詳明本部王部長深致嘉許，所有該群島主權問題自應由部繼續向法方交涉以期早日解決至黃山島既據梁艦長說明係屬九小島之一，查九小島早經法國佔有似與西沙群島無涉相應函復即希查明為荷順頌

公綏

外交部歐美司啓

II(2):121、關於西沙群島現況及加強建設管理（民國二十六年八月三十一日 第一二三四二號）

國民政府軍事委員會快郵代電



本京外交部密鑿：案據廣東第九區行政專員黃強呈稱本年四五月間職據瓊東縣縣長潘巖先後呈報關於日人佔據西沙群島砲擊我國漁民一案，當經電呈廣州行營及廣東省政府廣東綏靖主任公署察核轉報其一切情形諒邀審鑿至該群島情形，職於民國十七年間服務南區善後委員公署時曾派員前往調查，該群島位於北緯十五度至十七度東經一百一十度至一百十二度之間距崖縣榆林港東南約一百四十五里為我國最南之領土，北起北砂島南至南極島東界林康島西接七洲洋統計大小島嶼礁灘二十餘座，星羅海面約二百餘方里乃一群珊瑚礁結成之低島，各島多成環狀或橢圓形其大者約數十方里其小者不及十分之一方里，民十年至十七年間曾一度為日人所經營，當調查時各項建築物尚存遺跡各島海產豐富其磷酸礦尤為農產之天然肥料為我國領土內僅有之產物，又珊瑚礁石亦均可作灰運銷內地建築肥田為利至溥此則該島之位置形狀及物產之略情也，前國防會議議決由粵派警察若干前往該島駐守并設燈塔以明主權祇以其時粵局尚未統一故未有辦理去年職署成立是年十一月間准廣東建設廳轉奉廣東省政府訓令著建廳與職署協議該島之設備及管理以固國防當以初往管理應先設燈塔二座以利航行設短波無線電臺一座以通消息，派警經費亦須先行確定并派定輪船或電船常川來往西沙三亞以資運輸，其他員警住室食物貯藏室醫務室淡水池蒸溜機等亦當籌設完備等詞

函復建廳轉報并定本年春夏之交再行查探經呈復廣東省政府轉知海周艦預備屆時載運，旋奉省政府准外交部咨以法方對該島主權尚持異議現正由部據理力爭，我方於此時派隊調查恐益滋糾紛權俟法方交涉至相當程度再實行查探庶較妥善等語轉知下署，故原定夏季往探之行暫行中止，此則職署成立後奉令與建廳協議該島之設備管理之經過也此次據報日人佔據該島砲擊我方漁民之事發生職一方分別呈報一面令飭崖縣及瓊東兩縣縣長就近密派幹員前往偵查，旋奉廣東綏靖主任公署密令以特派調查組第四組組長雲振中來瓊負責主持此項密查事宜，飭協助辦理等因雲組長於六月抵瓊職當派瓊山縣政府建設局局長余謙會同該組長及陸軍第一五二師副旅長葉賡常本區保安副司令王毅等於是月二十日乘海周艦由海口起程前往密探，同月二十四日查探完畢回抵海口，據報先到林島調查繼到石島調查又再到玲洲島北島調查均無日人蹤跡，林島樹木甚茂鳥糞甚多中有小廟一間漁民棚寮一間，年前日人經營林島之建築物僅存三合土水池一口蒸氣爐一座其他各建築均已無存，石島亦有小樹鳥糞玲洲島林木為楓桐樹與林島無異，但樹較林島為小有鳥糞雜於沙石中亦不及林島之多，北島亦發生楓桐木但甚細小高僅二尺無鳥糞調查完畢於林島立石三方，石島立石一方，玲洲島立石三方，北島立石六方均深藏土中，當調查林島時據該處漁民稱日本漁船每月常來西沙群島三

四次放魚砲捕魚并搶奪漁民所得而去，法國戰艦亦常到其地至瓊東縣長呈報日人砲擊漁民之黃山島據稱距林島約二日水程有淡水有椰樹約百株爲我國漁民所手植該島於去年爲日人所佔建有燈塔及房屋二十餘間并立有石碑一方上書大日本昭和十一年水路部台灣高雄不許支那漁民登陸字樣，按之航海圖該島係羅俟打島在小呂宋之西經線一百一十四度三十分十五秒與緯線十度三十分二十秒交會處據海周艦長梁垣云該島係屬九小島之一等情，此則據報日人佔據該島後派員會勘所得之實情也，查該島爲香港安南及南洋群島航行之孔道亦爲歐亞兩陸交通之要衝地位重要，今日本漁船既月來數次奪我漁業其東之黃山島又已被其佔據視耽欲逐實逼處此前國防會議議決由粵派警前往該島駐守及設燈塔以明主權似應早日促其實現以杜強鄰之覬覦，至其他初期之重要設備如設無線電台以通消息派定輪船常川往來以利運輸及建築員警住室食物貯藏室醫務室淡水池蒸溜機等暨確定派警經費均經職署於去年十一月間擬復廣東建設廳轉呈省政府核准在案，惟該島主權法方既尚持異議似應由外交部早日向法方交涉完妥及由中央或粵省將前項設備費從速劃定，俾得著手實施否則戎心易啓人不我待屆時將感補牢之太遲矣，職奉命督察此間行政睹該島形勢之危迫願綢繆於未雨，所有該島情形及其派員調查經過暨設備管理之管見謹恭具蕪函抄同此次調查在西沙群島樹立石碑記



錄表，奉稟鑒核至燈塔之架設可否交由財政部飭由海關辦理理合附呈核奪是否有當統乞示遵等語，除分電廣東省府并指令外茲抄同原件隨電送達即希核辦軍事委員會世毫一

附抄西沙群島立碑記錄表一份

西沙群島立碑記錄表

- (1) 石島藏石碑一方于石島（對正林島）岸上老樹側即石岸之南部距離邊五十英尺入土深一尺該石碑刻「視察紀念大中華民國元年立」等字
- (2) 林島北段岸邊（對正石島）由藏石地點以羅盤測石島之左邊為 N 260 E 測石島之右邊則為 N 520 E
- (3) 在林島中央大路邊水井之西北距離井邊五尺處藏石碑一方刻「視察紀念大中華民國十年立」等字
- (4) 在林島之西南孤魂廟仔（廟寬九呎高六呎）之後背相距廟牆六呎藏石碑一方刻「視察紀念大中華民國十年立」等字
- (5) 在玲洲島之北端石上距岸邊大石邊七十五尺距離大石東邊六十二尺藏石一方刻「視察紀念大中華民國十年立」等字
- (6) 在玲洲島北端路中心樹下藏石一方刻「視察紀念大中華民國元年立」蓋泥八寸
- (7) 在玲洲島之東北端草棚後便大石上距離草棚三十七呎藏石碑一方刻「視察紀念大清光緒二十八年立」等字

- (8) 在北島東南端小路口藏石碑一方刻「視察紀念大清光緒二十八年立」等字
- (9) 在北島之東南端南便岸邊石角屋左角藏碑石一方刻「視察紀念大中華民國元年立」等字
- (10) 在北島之南便岸邊草屋前空地藏石碑一方刻「視察紀念大中華民國元年立」等字
- (11) 在北島之南岸邊草屋後藏石碑一方刻「視察紀念大中華民國元年立」等字
- (12) 在北島之東南角對正中島處藏石碑一方刻「視察紀念大中華民國元年立」等字
- (13) 在北島之北岸邊藏碑一方刻「視察紀念大清光緒二十八年立」等字

II(2):122、關於日人佔據西沙群島砲擊我國漁民一案（民國二十六年九月一日）

（內容模糊不清）

軍事委員會代電

II(2):123、密（派員會查西沙群島）（民國二十六年九月二日 一建字第一六二四七號）

廣東省政府咨外交部

案據本省第九區行政督察專員黃強廿六年八月二日呈稱：

「現奉鈞府本年七月十六日一建字第八九七四號訓令准實業部咨轉准 國民經濟建設運動委員會總會公函抄



#### **Annex 478**

*Letter* from Ministry of the Foreign Affairs of the Republic of China to the Ministry of Interior and the Ministry of Defense of the Republic of China (20 Sept. 1946), reprinted in *Archival Compilation on South China Sea Islands by Ministry of Foreign Affairs*, Vol. 2, Doc. No. III(1):006 (Republic of China Ministry of Foreign Affairs Research & Planning Committee, ed.) (1995)





**Archival Compilation on South China Sea Islands by Ministry of Foreign Affairs**

**(Volume II)**



Compiled and printed by Ministry of Foreign Affairs Research & Planning Committee

May 31, 1995, Republic of China

[...]

III(1):006, “Regarding the takeover of Tuansha [Spratly] Islands, attached are meeting minutes, exhibits, and amended documents. Please review, stamp, and forward to the Defense Ministry for review and handling” Foreign Ministry’s Letter to the Ministry of Interior and the Defense Ministry (September 20, 1946 of the Republic Mei (35) Zi No. 07835)

Foreign Ministry’s Letter

Regarding the matter of taking over the Tuansha Islands

This department asks your department, the Defense Ministry, to consult the following documents for finding a way to resolve the situation. There are 3 sets of attached documents which include meeting minutes and exhibits related to this case. There is also 1 set of amended documents. After reviewing please extract and save 1 copy of the meeting minutes. Then sign and stamp the exhibits and the amended documents and forward them together to the Defense Ministry to be signed and stamped. Then take a copy of the amended document along with a copy of meeting minutes and the exhibits and send them back to this department to be filed.

Sincerely,

Ministry of the Interior

Attachments:

Meeting minutes regarding the case of the Tuansha Islands (Xinnan Islands)

Date and time: September 13, 1946 of the Republic, 10 a.m.

Location: Foreign Ministry Meeting Room

Meeting called by: Dept. of Americas, Foreign Ministry

Attended by: Fu Jiaojin, the Ministry of the Interior

Ma Dingbo, Defense Ministry

Yao Ruyu, Navy General Command

Cheng Ximeng, Chen Shicai, Wang Sizeng, Shen Mo, Dept. of Americas, Foreign Ministry

Ling Nairui, Intelligence Dept.

Zhang Tingzheng, East Asia Dept.

Li Wenxian, Europe Dept.

Chaired by: Counselor Cheng Ximeng

Reporting: Deputy Chen Shicai

Recorded by: Shen Mo

Chairman: After reporting the questions at this meeting, we invite Deputy Chen to report on the status of the case regarding this department's handling of the takeover of the Tuansha Islands (Xinnan Islands).

Deputy Chen: This department has recently learned from reports that the Philippine Foreign Minister claims the Philippine government is planning to redraw the national defense line to include the Xinnan Islands (Tuansha Islands) and asked the Secretary's Office of the Executive Yuan to confirm that Xinnan Islands and Nansha Islands are not simply a case of two different names for the same place. This department sent communications to the Manila embassy, the Hanoi embassy, the Navy General HQ, Guangdong provincial government, and the Taiwan Provincial Executive Officer. The Manila embassy replied saying that it had made inquiries with the relevant departments in the U.S. and Philippines but had received no word back. The Navy General HQ stated briefly that Xinnan Islands are not another name for the Nansha Islands and that the main islands include Tuansha Islands and others, and attached a map illustrating this to this department. The Taiwan Provincial Chief Executive Officer stated briefly in his response that the Tuansha Islands are in fact the Xinnan Islands and attached materials for

consideration to this department. After checking, the information in the Navy General HQ's telegram was taken from the U.S. Navy, and the information contained in the Taiwan Provincial Executive Officer's telegraph was based on the previous Japanese administration of Taiwan. Our department must consider how the Ministry of the Interior and the Defense Ministry will properly handle this, among other things, so today we have invited everyone here to examine the differences in the contents of the telegrams from the Navy General HQ and the Taiwan Provincial Executive Officer, these are: (1) The Navy General HQ claims that the Tuansha Islands are a part of the Xinnan Islands, and the Taiwan Provincial Executive Officer states that Tuansha Islands are in fact the Xinnan Islands. (2) Navy General HQ claims that the Xinnan Islands are between the Nansha Islands, Philippine Boreno, and the Jiaozhi Peninsula, whereas the Taiwan Provincial Executive Officer claims that the island group is located between the Xisha Islands, Philippine Borneo and the Jiaozhi Peninsula. (3) The Navy General HQ claims that the Xinnan Islands are scattered between E 112° and 117° while the Taiwan Provincial Executive Officer claims that these islands are scattered between E 111° and 117°. Today we should discuss (1) How can we assist the Guangdong provisional government to take over these islands? (2) How can we determine the locations and names of these islands? (3) If the takeover of these islands causes issues in foreign affairs, what materials should we prepare?

#### Omitted Discussions

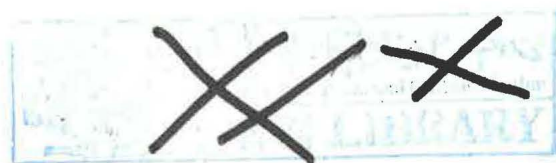
Resolution: (1) The Defense Ministry is to assist the Guangdong provincial government in taking over the Tuansha Islands, the geographic scope of the administration is to be verified by the Ministry of the Interior.

(2) Regarding the geographic location and individual names for the islands, the Ministry of Interior should draft detailed maps and they should be verified anew by the Executive Yuan.

(3) At present there is no need to make claims of territorial sovereignty regarding the islands to all of the states involved. In order to handle the possibility of future conflicts arising from these claims, the Ministries of Interior and Defense, along with the Navy General HQ, should send relevant documentation to the Foreign Ministry in preparation of such an event.

(4) The above points have been reviewed by the three Ministries, Foreign, Interior, and Defense for the submission to the Executive Yuan.

# 外交部南海諸島檔案彙編 (下冊)



外交部研究設計委員會編印  
中華民國八十四年五月三十一日

國防部  
海軍總司令部

III(1):006、「關於接受團沙群島事，檢附會議記錄、會呈文稿及繕正呈文，請查照蓋印并轉送國防部查照辦理由」，外交部函內政部國防部（民國三十五年九月二十日 美(35)字第〇七八三五號）

外交部函

關於接收團沙群島事前經本部邀請

貴部暨國防部會商當經議決辦法三項相應檢附會議紀錄及關於本案之會呈文稿各三份連同繕正呈文一份，函請查照迅將會議紀錄抽存一份，並將會呈文稿及繕正呈文簽蓋連同其餘各件轉送國防部簽蓋逕將繕正呈文連同會議紀錄各一份封發並將會呈文稿一份退送本部存卷為荷。此致

內政部

附件：

關於團沙群島（即新南群島）案會議紀錄

時 間：卅五年九月十三日上午十時

地 點：外交部會議室

召集人：外交部美洲司

出席人：內政部傅角今

國防部馬定波

海軍總司令部姚汝鈺

外交部美洲司程希孟 陳世材 王思曾

沈 默

情報司凌乃銳

亞東司張廷錚

歐洲司李文顯

主 席：程顧問希孟

報告人：陳幫辦世材

紀錄人：沈 默

主 席：報告此次會議之議題後，即請陳幫辦報告本部辦理接收團沙群島（即新南群島）案情形

陳幫辦：本部近據報載菲外長聲稱菲政府擬將新南群島（團沙群島）劃歸國防線復准行政院秘書處函請查明新南群島與南沙群島是否同地兩名，本部當即代電駐馬尼刺總領館、駐河內總領館、海軍總司令部、廣東省政府及台灣省行政長官公署查明見覆，旋據駐馬尼拉總領館覆電稱經向美菲有關各方查詢均無所知，復准海軍總司令部電覆略以新南群島並非南沙群島之別稱，其主要島嶼包括團沙群島等并檢送地圖到部，又准台灣省行政長官公署電覆略稱團沙群島即係新南群島并檢送參考資料到部，查海軍總司令部覆電係根據美國海軍之資料而台灣省行政長官公署覆電係根據前日本台灣總督府之資料，由本部會商內政國防兩部妥為應付等因，本日特邀



請各位來此會商查海軍總司令部與台灣省行政長官公署兩方電文內容不同之點如下：(一)海軍總司令部稱團沙群島係新南群島之一部，而台灣省行政長官公署則稱團沙群島即新南群島。(二)海軍總司令部稱新南群島在南沙群島菲律賓婆羅洲及交趾半島之間，而台灣省行政長官公署則稱該群島在西沙群島菲律賓婆羅洲及交趾半島之間。(三)海軍總司令部稱新南群島散布於東經一百十二度至一百十七度而台灣省行政長官公署則稱該群島散布於東經一百十一度至一百十七度現今吾人所應商討者即(一)如何協助廣東省政府接收此等島嶼？(二)如何釐定該群島之地理位置及名稱？(三)倘因接收而引起外交問題如何準備交涉資料？

討論從略

決議：(一)由國防部協助廣東省政府從速接收團沙群島，至於接收之地理範圍由內政部擬定。

(二)關於該群島之地理位置及所屬各島名稱應由內政部繪製詳圖重新擬訂呈院核定。

(三)目前不必向各國提出該群島之主權問題，惟為應付將來可能發生之爭執起見應由內政國防兩部暨海軍總司令部將有關資料即送外交部以備交涉之用。

(四)以上各點由外交、內政、國防三部會同呈覆行政院



**Annex 479**

Republic of China, Executive Yuan [Branch], *Order* (29 Sept. 1946), reprinted in *Archival Compilation on South China Sea Islands by Ministry of Foreign Affairs*, Vol. 2, Doc. No. III(1):007 (Republic of China Ministry of Foreign Affairs Research & Planning Committee, ed.) (1995)



**Archival Compilation on South China Sea Islands by Ministry of Foreign Affairs**

**(Volume 1)**

**(Volume II)**



Compiled and printed by Ministry of Foreign Affairs Research & Planning  
Committee

May 31, 1995, Republic of China

III(1): 007 “Regarding the case of accepting of Dongsha, Xisha, Nansha, Tuansha Islands,”  
Executive Yuan Order (September 29, 1946, Jie Jing Lu Zi No. 13008)

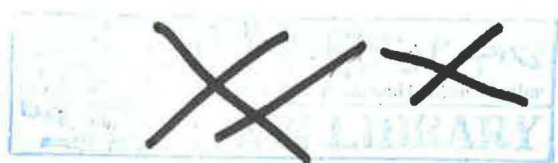
Executive Yuan Order

Regarding the case of taking over the Dongsha, Xisha, Nansha, Tuansha Islands, this department has previously been ordered to aid the Ministry of Interior and Defense to effectively handle and also assist the Guangdong provincial government in the takeover of the islands. The Guangdong government sent a telegraph requesting to dispatch warships to the area to take over the islands as soon as possible. The original telegraph is copied to your department. It is expected that this Department coordinates with the Ministries of Defense and the Interior soon to implement the takeover. Please pass on this order in detail. Count one copy of the original telegraph.

Director Song Ziwen

[...]

# 外交部南海諸島檔案彙編 (下冊)



外交部研究設計委員會編印  
中華民國八十四年五月三十一日

III(1):007、「關於接收東沙、西沙、南沙、團沙群島案」，行政院訓令（民國三十五年九月廿九日 節京陸字第一三〇〇八號）

行政院訓令

關於接收東沙、西沙、南沙、團沙群島一案，前經令飭該部會商內政國防兩部妥為應付並協助廣東省政府進行接收在案，茲據廣東省政府電請迅派軍艦協助前往接收等情，合再抄發原電合仰該部迅即會同內政國防兩部商籌協助進行接收具報此令。計抄發原電一件

院長 宋子文

III(1):008、「關於奉令協助接收南海諸島一案，檢奉會商紀錄等件函達查照由」，內政部公函（民國三十五年十月一日 編字第〇〇二六號）

內政部公函

案查奉 院令協助接收南海諸島一案前經本部邀請貴部會商紀錄在卷，除將會商情形呈報行政院鑒核並分函外相應檢附會商紀錄南海諸島名稱一覽表南海諸島位置略圖南沙群島圖乙份隨函送請查照為荷

此致

外交部

附會商紀錄乙份

### **Annex 480**

*Letter from the Ministry of Foreign Affairs of the Republic of China to the Ministry of the Interior of the Republic of China (1 Oct. 1946), reprinted in *Archival Compilation on South China Sea Islands by Ministry of Foreign Affairs*, Vol. 2, Doc. No. III(1):008 (Republic of China Ministry of Foreign Affairs Research & Planning Committee, ed.) (1995)*





**Archival Compilation on South China Sea Islands by Ministry of Foreign Affairs  
(Volume 1)**



Compiled and printed by Ministry of Foreign Affairs Research & Planning Committee

May 31, 1995

[...]

III (1):008. [Consultation records about the order for assisting takeover of South China Sea Islands], official letter of Ministry of the Interior (Bian Zi No. 0026, October 1, 1946)

Official letter of Ministry of the Interior

Ministry of Foreign Affairs has invited Ministry of the Interior for consultations about the Yuan Order for assisting takeover of South China Sea. The outcomes of consultation have been reported to the Executive Yuan for review, and the consultation records, a list of names of South China Sea Islands, Outline of the locations of South China Sea Islands and map of Nansha Islands were hereby attached.

Best regards,

Ministry of Foreign Affairs

Attached consultation records

*English Translation*

A list of names of South China Sea Islands  
 Outline of the locations of South China Sea Islands

Minister            Zhang Lisheng

Attachment: Consultation records about the Yuan Order for assisting takeover of South China Sea islands

Time: 9:00 a.m., September 25, 1946

Venue: Meeting Room of the Ministry of the Interior

Attendee: Shen Mo (Representative of Ministry of Foreign Affairs)

Ma Dingbo (Representative of Ministry of National Defense)

Yao Ruyu (Representative of Naval Army General Headquarters)

Fu Jiaojin (Representative of Ministry of the Interior)

President: Fu Jiaojin

Clerk: Cao Zhaomeng

Resolutions

1. How to define the scope for takeover of South China Sea islands

Resolution: The scope indicated by the “Outline of the locations of South China Sea Islands” drawn by Ministry of the Interior was presented to Executive Yuan, and the Executive Yuan approved and ordered Guangdong Provincial Government to act accordingly.

2. Public decision about the Ministry of the Interior’s plan to translate the list of South China Sea Islands:

Resolution: The resolution was passed with revisions and was submitted for review and approval by the Executive Yuan

3. How to collect relevant data about South China Sea Islands for reference of takeover:

Resolution: The Naval Army General Headquarters would collect relevant data which would be submitted to the Ministry of the Interior for compilation as preparation for future use.

4. How to submit the reply about the progress of planning and consultation of the case herein:

Resolution: The Ministry of the Interior shall be responsible.

5. How to mark the Islands after takeover:

Resolution: Guangdong Provincial Government shall have steles made in advance of takeover and erect the steles on Itu Aba, North Danger, Spratly (or Storm) Island and other suitable islands to mark the territory of the Republic of China. Information on the locations, styles, and inscriptions of the steles shall be sent to the Ministry of the Interior for examination and inspection.

6. How to name the islands, reefs, and beaches after takeover

Resolution: The names shall be preliminarily determined by the Ministry of the Interior with reference to current Chinese and western translated names and be submitted to the Executive Yuan for review and approval. Therefore, the Ministry of the Interior shall prepare detailed illustrated descriptions and issue announcement for public knowledge.

7. Whether the takeover of South China Sea islands shall be kept confidential for the time being:

Resolution: The information shall not be published prior to official takeover.

8. How to dispatch warships for takeover:

Resolution: Ministry of National Defense should make dispatch orders as soon as possible

III (1): 009. [Concerning the case of assisting takeover of South China Sea Islands, the original text presented to Yuan and other documents are sent herein], from the Ministry of the Interior to Ministry of Foreign Affairs (Fang Zi No. 0012, October 9, 1946)

Official letter of Ministry of the Interior

Concerning the case of Yuan Order for assisting the takeover of South China Sea islands, the representatives of Ministry of Foreign Affairs were invited for consultation, and the consultation records along with the “Outline of the locations of South China Sea Islands” and the list of translated names of South China Sea Islands are sent in the official letter. To avoid the delay in document circulation among the departments, the Ministry of the Interior was entrusted to submit the consultation records to the Executive Yuan and order Guangdong Provincial Government to comply with such consultation decisions. Additionally, the original text presented to Executive Yuan and the map of Nansha Islands and brief introductions of Nansha Islands are attached herein.

Please review.

Best Regards

*English Translation*

Ministry of Foreign Affairs

Attached: original text presented to Executive Yuan, map of Nansha Islands, and brief introduction of Nansha Islands

Minister Zhang  
Lisheng

Copy of the original text presented to Executive Yuan

Case Attached

No. 308 JILZ Order of Executive Yuan issued September 19 of this year regarding takeover of South China Sea Islands was copied to Guangdong Provincial Government. Soon after arrival of the letter, we consulted Ministry of National Defense and Ministry of Foreign Affairs about assisting the takeover. Based on the order, Ministry of National Defense and Ministry of Foreign Affairs, and representatives of Naval Army General Headquarters have been contacted to discuss and make resolutions accordingly.

1. The scope of takeover is subject to the outline of locations of South China Sea drafted by the Ministry of the Interior, and is submitted to Executive Yuan for approval, to be implemented by Guangdong Provincial Government.

2. The names of South China Sea islands, reefs, and beaches shall follow the western-translated names for the time being. Our Ministry shall prepare detailed illustration which is merely for reference. After takeover, our Ministry shall rename the islands and announce them for public knowledge.

3. Warships for takeover should be determined and dispatched by Ministry of National Defense

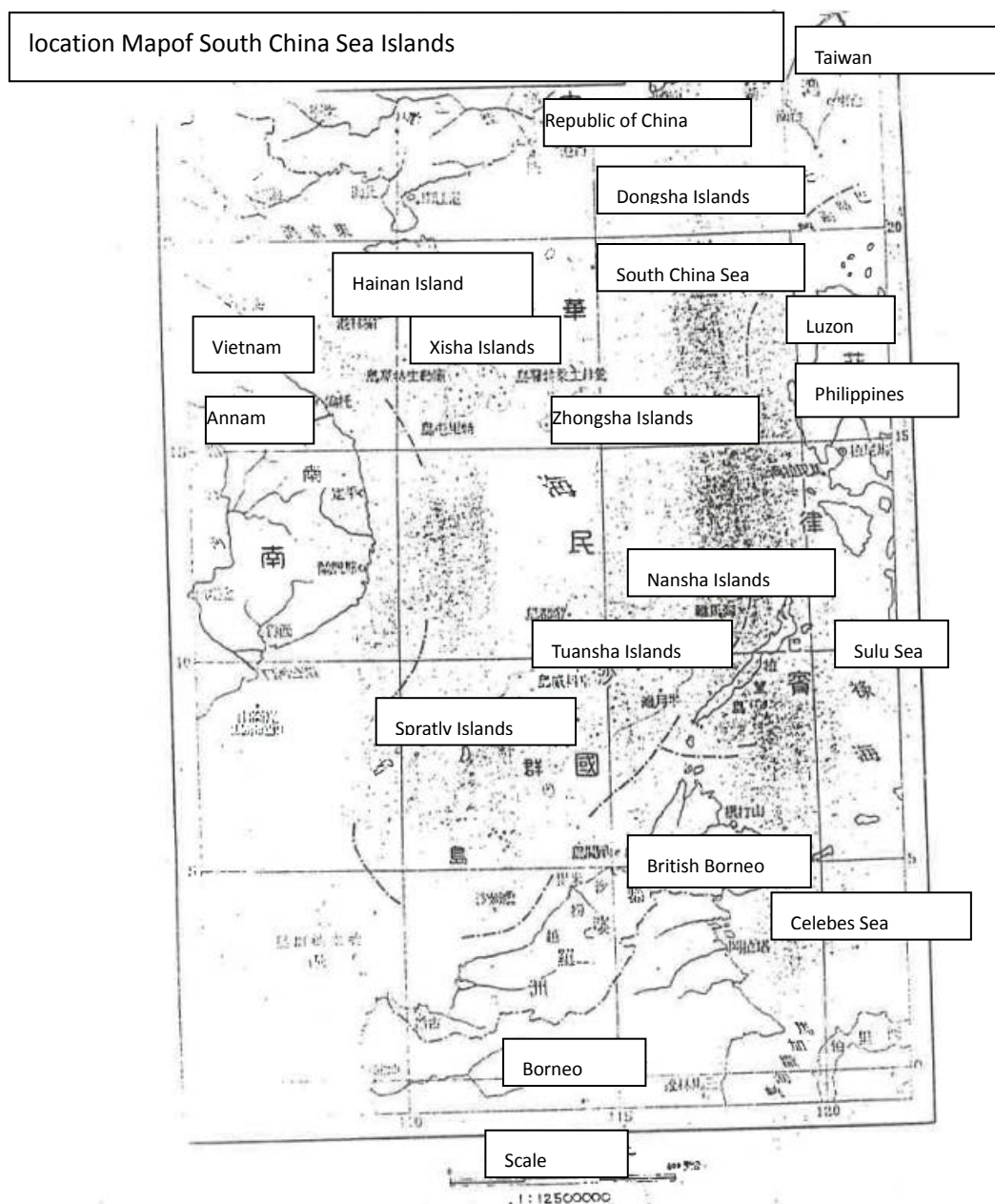
4. Prior to departure for takeover, Guangdong Provincial Government shall make steles to be erected on Chang Island, Shuangzi Island (i.e. Erzi Island) and Spratly Island of Tuansha Islands and other appropriate islands to indicate the territory of [Republic of] China. Besides, the location of the steles, styles, and inscriptions shall be mailed to the Ministry of the Interior for review.

Thereupon, the outline of locations of South China Sea Islands, map of Nansha Islands, brief introductions of Nansha Islands and name list of South China Sea Islands are submitted hereby for review and an order shall be issued to Guangdong Provincial Government for corresponding implementation. Concerning the scope of takeover and erection of steles, staff shall be dispatched for assistance if necessary.  
Presented to  
Executive Yuan

Attached location Map of South China Sea Islands, map of Nansha Islands, brief introduction of Nansha Islands, and a list of names of South China Sea Islands

Attachment 1. location Map of South China Sea Islands

[Translator's note: On the map, the English translation covers the first character of the place names. All legible place names have been translated.]



*English Translation*Attachment 2. Brief introduction of South China Sea Islands

Nansha Islands are the southernmost group of the four groups of islands (Dongsha Islands, Xisha Islands, Zhongsha Islands, and Nansha Islands) belonging to our country in South China Sea. The islands are made up of coral reefs and have low elevation, with few residents. The islands are scattered about, and the largest group is known as the Tuansha Islands. The remaining islands are located to its southwest, ending with Zhanmushain the southernmost point. A selection of the larger islands is hereby described using the materials at hand:

## (1) Shuangzi Islands (or Erzi Islands)

Shuangzi Islands (North Danger) were named for their coral reef composition; each is approximately half a mile long. The one in the north is Beizi Island (Latitude 11°28' north, Longitude 114°21' east), and is 10 feet tall. The one in the south is Nanzi Island, 15 feet tall. Between the two islands is a water passage of 1 nautical mile wide and 5 fathoms deep. This leads to a coral lake 20-27 fathoms deep. The islands are both covered in green grass. Beizi Island also has shrubs. Hainan Island fishermen have long come here to collect objects such as sea cucumbers and tortoise shells. Beizi Island also has freshwater wells for drinking.

## (2) Didu Island

Didu Island (Thi Tu) is located at Latitude 11°3' north, Longitude 114°16' east, and is a sandy island of lower elevation. It is approximately 800 yards long. On the east side of the western shallow beach of Thi Tu Reef is a small water well, next to a few coconut trees and banana trees.

## (3) Laita Island

Laita Island (Loaita L., located at Latitude 10°41' north, Longitude 114°25' east) is 18 nautical miles of 10° in the direction of

Chang Island. This is a sandy island. The island has a diameter of 300 yards. The shrubs growing on the island are encircled by reefs, as far as half a nautical mile.

#### (4) Chang Island

Chang Island (Itu Aba Latitude  $10^{\circ}23'$  north, Longitude  $114^{\circ}21'$  east) is one of two large islands in Tuansha. It is located to the northwest corner of Tuansha and is  $3/4$  nautical miles long. Sometimes the surrounding reefs are as far as half a nautical mile out, but its boundaries are always clear due to wave breakers. There are small trees and shrubs on the island, and some coconut trees and banana trees as tall as 25 feet next to a well. Hainan Island residents often come here to catch sea cucumbers and look for tortoise shells to make their living; there are also people who permanently live here. The sail boats of Hainan Island bring grains and other necessities to trade sea cucumbers and other objects with the fishermen. These sail boats usually leave Hainan Island in December or January, and return with the southwest trade wind. The freshwater on Itu Aba is considered honeydew among the Nansha Islands.

#### (5) Beixiao Island

Beixiao Island (Sand Cay) is approximately 6 nautical miles east of Itu Aba. It is located at the center of reef  $3/4$  nautical miles in diameter, and its diameter is approximately  $2/4$  nautical miles. There is a sandy passage between the reefs, with shrubs growing at 9 feet in elevation, approximately 15 feet tall. Between Sand Cay and Itu Aba is an area of shallow water, and a reef 1400 yards in diameter that is submerged at high tide. However, between Sand Cay and the reef is a safe place to anchor with a depth of 7-10 fathoms.

#### (6) Nanxiao Island

Nanxiao Island (Namyit I. Latitude  $10^{\circ}12'$  north, Longitude  $114^{\circ}21'$  east) is located on the southern side of Tuansha Islands. It is 600 yards long and 200 yards wide, and surrounded by reefs. The west side juts out over a nautical mile, and  $1/3$  nautical miles elsewhere as well. This island is approximately 20 feet tall, and covered in small trees and shrubs.



*English Translation*

## (7) Spratly L.

Spratly L. is a flat island without vegetation 15 nautical miles east of Ladd Reef. It is approximately 8 feet tall, 500 yards long, and 300 yards wide. It is ringed by bright, clean, and white sands and coral fragments. During breeding seasons, flocks of sea birds on the island can be seen from three to four nautical miles away, appearing like shrubs. The cliffs are precipitous; except when the winds and waves are calm, they beat strongly against the cliffs. Between June and July of each year, turtles come to the island and many can be caught by the cliffs. They also lay many eggs on the southwest corner of the island. There is also a good deal of eggs laid by sea birds.

## (8) Amboyna Cay

Amboyna Cay (Latitude 7°51 north, Longitude 112°55' east) is approximately 70 nautical miles to the east of Riffleman B.k and to the southwest of a small coral beach. Its surface area is around 150 yards, and is surrounded by a coral reef 8 feet tall. Sometimes approximately 400 yards are exposed. It is precipitous and breaks waves whenever there is wind. Over 40 years ago, there were signs of small huts constructed from stones, coral, wooden planks, bamboo strips, and materials from old ships, then smeared with white guano. It is speculated that human beings used to live here.

According to Japanese literature, in 1921 Japanese people began a 12-year phosphorus mining effort in Itu Aba, and also on S.W. Cay on North Danger. As of 1929, they had mined 26000 tons, but the total deposit was estimated to be 250,000 tons. The islands produced important types of fish, such as shark and marlin. In 1940, a plan to construct a fishing port was established, which would (1) construct a 620 meter border dike on the south beach of Itu Aba, (2) construct a docking area 2.5 meters deep and 1300 square meters in area, with a 50 meter port, (3) construct docks and warehouses 175 meters long along the docking area, and (4) purchase dredging vessels, construct

hotels, rent liaison vessels . The above plan began in 1941, and most of the border dike has been constructed, as well as part of the dock warehouses. The ports could be used by fishing boats.

Attachment 3. List of name of South China Sea Islands

Island name	Old name	Western name
[Translator's note: The Island names and Western names can be considered bilingual translations. However, the "old names" are translated using Pinyin Romanization.]		Tung Sha Tao (Pratas I.)
		Hsi-Sha Chun-Tao (Paracel I)
		Chung-Sha Chun-Tao
		(Maceles field B.k)
		Nan-Sha Chun-Tao
		Twan-Sha Chun-Tao
	Tulaitang Island	Trident Shoal
	North Danger Island	North Danger
		N.E. Cay
		S.W. Cay
		Lys Shoal
	Qianjin, Tiedu Island	Thi-Tu I. & Reefs
	Xumei Luowan Island	Subi Reef
		Loaita B.R.
	Lamkiam Cay	
	Loaita (or South I.)	
Tiesha Island	Tizard B.R.	
Itu Aba	Itu Aba	
Sand Cay	Sand Cay	
	Petley Reef	
	Eldad Reef	
	Gaven Reefs	
Nanyi Island	Namyit I.	
Xishi	Western (or Flora Temple)R.	

*English Translation*

Island name	Old name	Western name
<p>[Translator's note: The Island names and Western names can be considered bilingual translations. However, the "old names" are translated using Pinyin Romanization.]</p>	<p>Dajianchu Island Yancheng Reef</p>	<p><b>Discovery Great R.</b> <b>Discovery Small R.</b> <b>Reed Bank</b> <b>Templer Bank</b> <b>Sandy Shoal</b> <b>Sea Horse (or Routh) B.</b> <b>Fairie Queen</b> <b>Lord Auckland Shoal</b> <b>Carnatic Sh.</b> <b>Brown B.</b> <b>Pennsylvania N. Reef</b> <b>Pennsylvania</b> <b>Amy Douglas</b> <b>3rd Thomas Sh.</b> <b>Flat I.</b> <b>Nanshan I.</b> <b>Mischief</b> <b>West York</b> <b>Ganges N. Reef</b> <b>Ganges Reef</b> <b>Pannsylvania</b> <b>Fiery Cross (or N.W.</b> <b>Investigator R.)</b> <b>Dhaull Sh.</b> <b>London Reefs</b> <b>Central Reefs</b> <b>W. Reef</b> <b>E. Reef</b> <b>Cuarteron Reef</b></p>

Island name	Old name	Western name
<p>[Translator's note: The Island names and Western names can be considered bilingual translations. However, the "old names" are translated using Pinyin Romanization.]</p>	Feiniao Island	<p>Ladd Reef  Spratly (or Storm) I.  Owen Sh.  Stay Sh.  Barque Canda  Lizzie Weber  Pearson  Sin Cowe I.  Fancy Wreck Sh.  Cornwallis South Reef  Cay Marino  Investigator Sh.  Alicia Annie  N.E. Shea  S.W. Shea  Glasgow  Commodore Reef  N. Viper Sh. (or Seahorse)  Viper Sh.  2nd Thomas Sh.  Sabina Sh.  1st Thomas Sh.  Investigator N.E. Sh.  Royal Captain Sh.  Half Moon Sh.  Director  Bombay Sh.  Rifleman Bank  Bombay Castle</p>

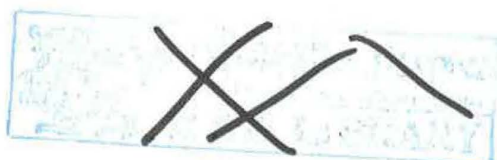
*English Translation*

Island name	Old name	Western name
<p>[Translator's note: The Island names and Western names can be considered bilingual translations.]</p>		<p><b>Oleana Sh.</b>  <b>Kingston Sh.</b>  <b>Amboyna Cay</b>  <b>Marivelles Reef</b>  <b>Ardasier Breakers</b>  <b>Gloucester Breakers</b>  <b>Ardasier B.</b>  <b>Swallow Reef</b>  <b>Royal Charlotte R.</b>  <b>Louisa Reef</b>  <b>North Luconia Shoals</b>  <b>Friendship Sh.</b>  <b>Sea-Horse Breakers</b>  <b>South Luconia Sh.</b>  <b>Herald Reef</b>  <b>Seerra Blanca</b>  <b>James Sh.</b></p>

[...]



# 外交部南海諸島檔案彙編 (上冊)



外交部研究設計委員會編印  
中華民國八十四年五月三十一日

III(1):007、「關於接收東沙、西沙、南沙、團沙群島案」，行政院訓令（民國三十五年九月廿九日 節京陸字第一三〇〇八號）

行政院訓令

關於接收東沙、西沙、南沙、團沙群島一案，前經令飭該部會商內政國防兩部妥為應付並協助廣東省政府進行接收在案，茲據廣東省政府電請迅派軍艦協助前往接收等情，合再抄發原電合仰該部迅即會同內政國防兩部商籌協助進行接收具報此令。計抄發原電一件

院長 宋子文

III(1):008、「關於奉令協助接收南海諸島一案，檢奉會商紀錄等件函達查照由」，內政部公函（民國三十五年十月一日 編字第〇〇二六號）

內政部公函

案查奉 院令協助接收南海諸島一案前經本部邀請貴部會商紀錄在卷，除將會商情形呈報行政院鑒核並分函外相應檢附會商紀錄南海諸島名稱一覽表南海諸島位置略圖南沙群島圖乙份隨函送請查照為荷

此致

外交部

附會商紀錄乙份



南海諸島名稱一覽表乙份

南海諸島位置略圖乙份

部長 張厲生

附件：奉 院令協助接收南海諸島案會商紀錄

時 間：三十五年九月二十五日上午九時

地 點：內政部會議室

出席人：沈 默（外交部代表）

馬定波（國防部代表）

姚汝鈺（海軍總司令部代表）

傅角今（內政部代表）

主 席：傅角今

紀 錄：曹照孟

決議事項

1.接收南海各島應如何劃定接收範圍案：

決議：依照內政部擬製之「南海諸島位置略圖」所示範圍呈由 行政院核定令廣東省政府遵照。

2.內政部擬譯南海諸島名稱一覽表請公決案：

決議：修正通過仍呈請 行政院核定

3.有關南海各島資料應如何搜集俾供接收之參考案：

決議：請海軍總司令部廣為搜集送內政部彙轉備用。

4.本案籌商進行情形應如何呈復：

決議：請內政部呈復。

5.各島接收後應如何有所標誌案：

決議：由廣東省政府於出發接收前，預製石碑，以備豎立於長島，雙子島（即二子島）、斯普拉特島等處及其他適當島上，俾顯示為我國領土，並將石碑豎立地點式樣及碑文等函內政部備查。

6.接收後各島礁灘沙名稱應如何改定案：

決議：由內政部參照現有中西譯名擬定呈行院核定後仍由內政部製為詳細圖說公佈週知。

7.關於接收南海各島消息應否暫守秘密案：

決議：在未完全正式接收前，概不發表。

8.接收軍艦應如何派遣案：

決議：請國防部迅予派定

III(1):009、「為奉令籌商協助接收南海諸島一案，抄附呈院原文等件函請查照由」，內政部函外交部（民國三十五年十月九日 方字第〇〇一二號）

內政部公函

案查前奉 院令籌商協助接收南海諸島一案經邀集貴部派員會商並將會商紀錄連同南海諸島位置略圖及諸島譯名表函達鑒照為免輾轉會簽會印延誤時機起見，業由本部依會商決議呈報行政院迅飭廣東省政府遵照辦理各在卷，相應抄附呈院原文並檢同南沙群島圖、南沙群島概況各一份隨函送請查照為荷此致

外交部

附抄呈院原文南沙群島圖、南沙群島概況各一份

部長 張厲生

抄呈院原文

案奉

鈞院本年九月十九日節京陸字第三〇八號訓令，以關於接收南海諸島案抄附廣東省政府原電飭迅即會同國防外交兩部商籌協助進行接收具報等因，奉此遵經函約國防外交兩部及海軍總司令部派員會商當經決議

一、關於接收範圍依照內政部擬製之南海諸島位置略圖所示範圍呈由鈞院核令廣東省政府辦理

二、關於南海各島礁灘沙名稱暫照西圖譯名由部製為詳圖備供依據接收後再由部重予擬定名稱公布週知

三、接收軍艦由國防部迅予派定

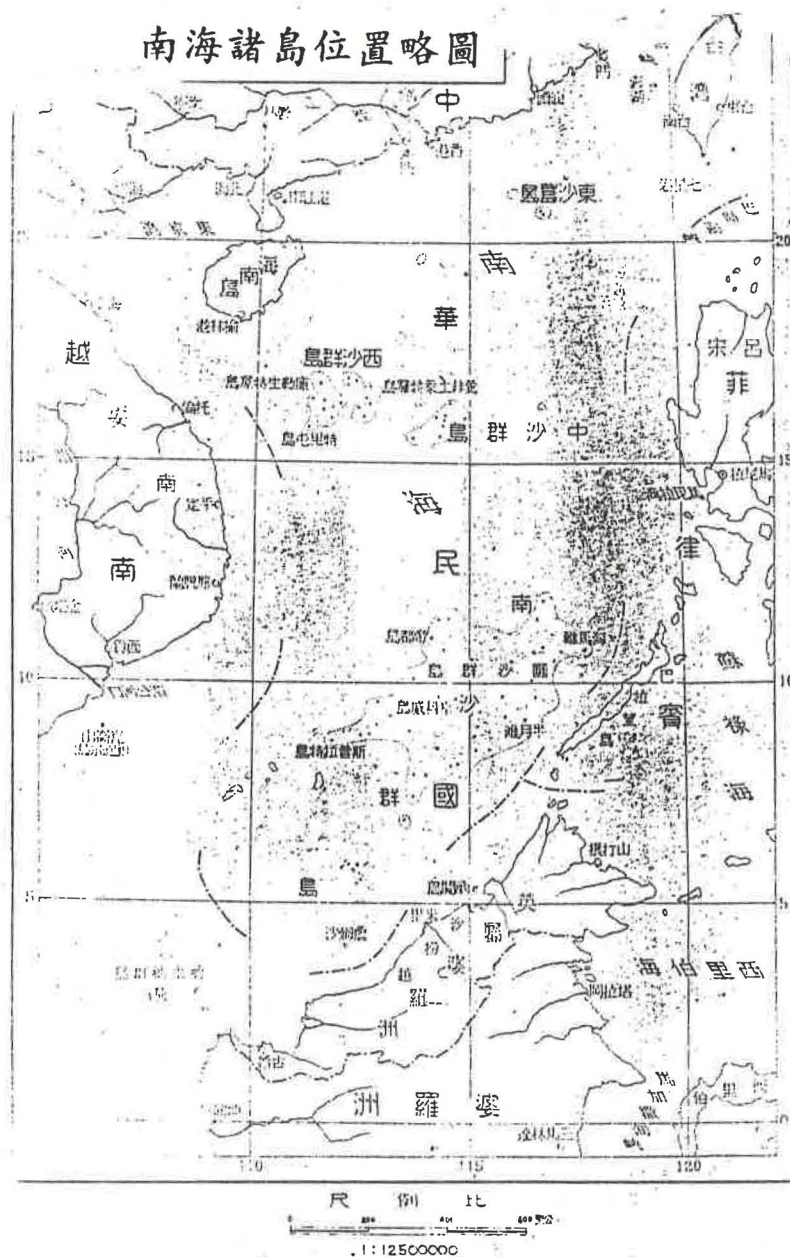
四、於出發接收前由廣東省政府預製石碑以備豎立於南沙群島之長島、雙子島（即二子島）、斯普拉特島等處及其他適當島上，俾顯示為我國領土並將石碑豎立地點式樣及碑文等函內政部備查

奉令前因理合檢附南海諸島位置略圖南沙群島圖、南沙群島概況表及南海諸島名稱一覽表各貳份呈請鑒核迅飭廣東省政府遵照辦理，關於接收範圍及豎立碑石等項如有必要當由部派員前往協辦。謹呈

行政院

附呈南海諸島位置略圖、南沙群島圖、南沙群島概況、南海諸島名稱一覽表

附件一、南海諸島位置略圖



## 附件二、南沙群島概況

南沙群島位於我國南海四群島（東沙島、西沙群島、中沙群島、南沙群島）之最南一群我國領土之最南端部也，各島皆由珊瑚礁構成多甚低，居民尚少，各島之羅列紛濶其中最大一群稱團沙群島，餘者分布於其西南方，而止於極南之詹姆沙，今僅就手邊資料所許擇其大者略志如下：

### (一)雙子島（即二子島）

雙子島（North Danger）為珊瑚礁所組成故名各長約半里在北者曰北子島（北緯十一度二十八分東經一百十四度二十一分）高十呎，南曰南子島高十五呎二島之間有水道寬一哩水深約五尋引入礁湖，其中水深二十至二十七尋，各島俱綠草成茵，北子島且生灌木，海南島之漁人恆來此搜集海參、龜甲等物，北子島有淡水井可供飲料。

### (二)帝都島

帝都島（Thi Tu）位北緯十一度三分東經一百十四度十六分為一較低沙島，長約八百碼位於帝都礁上，成為西淺灘之東端，其上有一小井傍有少數椰子樹及甘蕉樹。

### (三)賴他島

賴他島（Loaita L. 北緯十度四十一分東經一百十四度二十五分）在長島 10° 方向，相距十八哩係一沙島直



徑三百碼島上灌木叢生圍以礁石，有遠達半哩者。

#### (四)長島

長島 (Itu Aba 北緯十度二十三分東經一百十四度二十一分) 爲團沙二大島之一，位於團沙之西北角長四分之三哩，環繞之礁石有時遠達半哩，但其界限恆有破浪可尋，本島叢生小樹及灌木，且在井邊有少數椰子樹及甘蕉樹其頂約高二十五呎。海南島漁民藉捕海參及龜甲以維生計者常來此島間，亦有經年留此者，海南島之帆船則每年攜帶穀類及必需品至此與漁民交易海參及其他物品。此等帆船多於十二月或一月離海南於西南貿易風發現時回航，長島之淡水咸認爲南沙群島中之甘露焉。

#### (五)北小島

北小島 (Sand Cay) 在長島東約六哩名沙島位於直徑四分之三哩礁石之中央其直徑約四分之二哩，此島乃礁間之惟一沙道生灌木高約九呎，其頂約高十五呎，該島與長島間淺水相連近中央處有直徑一千四百碼之礁石高潮時淹沒，但在本島與該礁石間水深約七至十尋乃安全之錨地。

#### (六)南小島

南小島 (Namyit I. 北緯十度十二分東經一百十四度二十一分) 位於團沙群島之南邊長六百碼寬二百碼圍繞之礁石，西方伸出達一哩以上，他方亦約三分之一哩，本島高約二十呎叢生小樹及灌木。

## (七)斯普拉特島

斯普拉特島 (Spratly L.) 位於拉德礁東方十五哩係不毛平島，約高八呎長五百碼寬三百碼，其邊緣為光耀潔白之沙及破碎珊瑚，當繁殖時間，於三四哩外見海鳥群立島上，酷似灌木叢生，崖壁陡峭除風平浪靜外，激崖破浪頗猛，每年六、七月之交群龜來島，在崖邊能獲取甚多，且有大量之卵在該島之西南隅海鳥卵亦多。

## (八)安波那島

安波那島 (Amboyna Cay 北緯七度五十一分東經一百十二度五十五分)，約在來福門灘 (Rifleman B.k) 東方七十哩，且在小珊瑚灘之西南邊廣袤一百五十碼高八呎珊瑚礁環繞，有時顯露約達四百碼且甚陡峭，在任何風波中均有破浪，四十餘年前見有小屋遺跡，係由石塊珊瑚木板竹條舊船材料所構成，塗以白色鳥糞遙想必曾有人類居於斯土也。

根據日本文獻日人於民國十年在長島開採磷礦十二年，復在北險島之南子島開採，至十八年止共採二萬六仟噸，但全部蘊藏估計約二十五萬噸，該群島產鮫、旗魚等重要魚類甚多，於民國二十九年定有修建漁港計劃，其概要為(一)於長島南面海濱建造圍堤六百二十公尺(二)其內闢水深二·五公尺面積一千三百方公尺之泊船所，港口幅員五十公尺(三)沿泊船所建築長一百七十五公尺之碼頭及倉庫(四)購置濬淤船、建築旅館、租用

聯絡船，上述計劃自一九四一年開始，圍堤已大部築成  
碼頭倉庫亦已完成一部，港口且能容漁船出入。

附件三、南海諸島名稱一覽表

島 名	舊 名	西 名
東沙島		Tung Sha Tao (Pratas I.)
西沙群島		Hsi-Sha Chun-Tao (Paracel Is.)
中沙群島		Chung-Sha Chun-Tao (Maceles field B.k)
南沙群島		Nan-Sha Chun-Tao
團沙群島		Twan-Sha Chun-Tao
特里賴沙	土來塘島	Trident Shoal
雙子島	北險島	North Danger
北子島		N.E. Cay
南子島		S.W. Cay
來沙		Lys Shoal
帝都島	千津， 鐵都島	Thi-Tu I. & Reefs
沙比礁	須美	Subi Reef
賴他群礁	羅灣島	Loaita B.R.
蘭肯		Lamkiam Cay
賴他島		Loaita (or South I.)
團沙群礁	鐵沙島	Tizard B.R.
長島	伊都阿巴	Itu Aba
北小島	沙島	Sand Cay
舶特來		Petley Reef
厄爾達		Eldad Reef
哥文		Gaven Reefs
南小島	南依島	Namyit I.
西礁	西石	Western (or Flora Temple)R.



島名	舊名	西名
大發見礁	大見出島	Discovery Great R.
小發見礁	岩城礁	Discovery Small R.
利得灘		Reed Bank
台普拉灘		Templer Bank
散得沙		Sandy Shoal
海馬灘		Sea Horse (or Routh) B.
福利后灘		Fairie Queen
奧克蘭沙		Lord Auckland Shoal
喀奈提沙		Carnatic Sh.
棕色灘		Brown B.
北賓礁		Pennsylvania N. Reef
賓礁		Pennsylvania
阿迷達哥拉		Amy Douglas
湯母第三沙		3rd Thomas Sh.
平島		Flat I.
南山島		Nanshan I.
米其夫		Mischief
西約克島		West York
北恆礁		Ganges N. Reef
恆礁		Ganges Reef
賓礁		Pannsylvania
火十字礁		Fiery Cross (or N.W. Investigator R.)
道耳沙		Dhault Sh.
零丁礁		London Reefs
中礁		Central Reefs
西礁		W. Reef
東礁		E. Reef
加特隆礁		Cuarteron Reef

島名	舊名	西名
拉德礁		Ladd Reef
斯普拉特島		Spratly (or Storm) I.
奧文沙		Owen Sh.
止沙		Stay Sh.
巴克坎達		Barque Canda
立茲韋伯		Lizzie Weber
皮爾孫		Pearson
辛科威島	飛鳥島	Sin Cowe I.
反西來克沙		Fancy Wreck Sh.
南康華里礁		Cornwallis South Reef
克馬利諾		Cay Marino
調查沙		Investigator Sh.
亞里西亞安		Alicia Annie
東北沙		N.E. Shea
西南沙		S.W. Shea
格拉斯哥		Glasgow
艦隊長礁		Commodore Reef
北衛堡灘		N. Viper Sh. (or Seahorse)
衛堡灘		Viper Sh.
湯母第二沙		2nd Thomas Sh.
薩比那沙		Sabina Sh.
湯母第一沙		1st Thomas Sh.
東北調查沙		Investigator N.E. Sh.
船長沙		Royal Captain Sh.
半月沙		Half Moon Sh.
指向礁		Director
旁俾沙		Bombay Sh.
來福門灘		Rifleman Bank
旁俾堡灘		Bombay Castle

島名	舊名	西名
阿連那沙		Oleana Sh.
金斯頓沙		Kingston Sh.
安波那島		Amboyna Cay
馬立夫礁		Marivelles Reef
安達息破浪礁		Ardasier Breakers
格洛塞破浪礁		Gloucester Breakers
阿達西灘		Ardasier B.
燕礁		Swallow Reef
沙洛礁		Royal Charlotte R.
路易沙礁		Louisa Reef
北路科尼沙		North Luconia Shoals
友誼沙		Friendship Sh.
海馬破浪礁		Sea-Horse Breakers
南路科尼沙		South Luconia Sh.
海拉爾礁		Herald Reef
勃蘭克		Seerra Blanca
詹姆沙		James Sh.

III(1):010、「保密（接收諸島案）」；行政院訓令（民國三十五年十月十二日 節京陸字第一五五〇號）

令外交部

內政部為關於接收東沙、西沙、南沙、團沙群島一案經密約國防外交兩部及海軍總司令部派員會商當經決議：

（一）關於接收範圍依照內政部擬製之「南海諸島位置略圖」所示範圍呈由 鈞院核令廣東省政府辦理。



**Annex 481**

*Letter from the Ministry of Foreign Affairs of the Republic of China to the Ministry of Interior of the Republic of China (1 Oct. 1946), reprinted in *Archival Compilation on South China Sea Islands by Ministry of Foreign Affairs*, Vol. 2, Doc. No. III(1):008 (Republic of China Ministry of Foreign Affairs Research & Planning Committee, ed.) (1995)*



*English Translation*

Foreign Ministry Compilation of Files on  
South China Sea Islands  
(Volume II)



Printed by the Foreign Ministry Research and Design Committee

May 31, 1946, Republic of China

[...]

- III (1):008. [Consultation records about the order for assisting takeover of South China Sea Islands], official letter of Ministry of the Interior (Bian Zi No. 0026, October 1, 1946)

Official letter of Ministry of the Interior

Ministry of Foreign Affairs has invited Ministry of the Interior for consultations about the Yuan Order for assisting takeover of South China Sea. The outcomes of consultation have been reported to the Executive Yuan for review, and the consultation records, a list of names of South China Sea Islands, Outline of the locations of South China Sea Islands and map of Nansha Islands were hereby attached.

Best regards,

Ministry of Foreign Affairs

Attached consultation records



*English Translation*

A list of names of South China Sea Islands  
location Map of South China Sea Islands

Minister Zhang Lisheng

Attachment: Consultation records about the Yuan Order for assisting takeover of South China Sea islands

Time: 9:00 a.m., September 25, 1946

Venue: Meeting Room of the Ministry of the Interior

Attendee: Shen Mo (Representative of Ministry of Foreign Affairs)

Ma Dingbo (Representative of Ministry of National Defense)

Yao Ruyi (Representative of Naval Army General Headquarters)

Fu Jiaojin (Representative of Ministry of the Interior)

President: Fu Jiaojin

Clerk: Cao Zhaomeng

Resolutions

1. How to define the scope for takeover of South China Sea islands

Resolution: The scope indicated by the "Outline of the locations of South China Sea Islands" drawn by Ministry of the Interior was presented to Executive Yuan, and the Executive Yuan approved and ordered Guangdong Provincial Government to act accordingly.

2. Public decision about the Ministry of the Interior's plan to translate the list of names of South China Sea Islands:

Resolution: The resolution was passed with revisions and was submitted for review and approval by the Executive Yuan

3. How to collect relevant data about South China Sea Islands for reference of takeover:

Resolution: The Naval Army General Headquarters would collect relevant data which would be submitted to the Ministry of the Interior for compilation as preparation for future use.

4. How to submit the reply about the progress of planning and consultation of the case herein:

Resolution: The Ministry of the Interior shall be responsible.

5. How to mark the Islands after takeover:

Resolution: Guangdong Provincial Government shall have steles made in advance of takeover and erect the steles on Itu Aba, North Danger, Spratly (or Storm) Island and other suitable islands to mark the territory of the Republic of China. Information on the locations, styles, and inscriptions of the steles shall be sent to the Ministry of the Interior for examination and inspection.

6. How to name the islands, reefs, and beaches after takeover

Resolution: The names shall be preliminarily determined by the Ministry of the Interior with reference to current Chinese and western translated names and be submitted to the Executive Yuan for review and approval. Therefore, the Ministry of the Interior shall prepare detailed illustrated descriptions and issue announcement for public knowledge.

7. Whether the takeover of South China Sea islands shall be kept confidential for the time being:

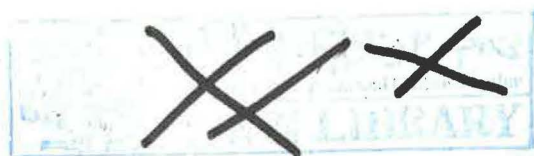
Resolution: The information shall not be published prior to official takeover.

8. How to dispatch warships for takeover:

Resolution: Ministry of National Defense should make dispatch orders as soon as possible

[...]

# 外交部南海諸島檔案彙編 (下冊)



外交部研究設計委員會編印  
中華民國八十四年五月三十一日

III(1):007、「關於接收東沙、西沙、南沙、團沙群島案」，行政院訓令（民國三十五年九月廿九日 節京陸字第一三〇〇八號）

行政院訓令

關於接收東沙、西沙、南沙、團沙群島一案，前經令飭該部會商內政國防兩部妥為應付並協助廣東省政府進行接收在案，茲據廣東省政府電請迅派軍艦協助前往接收等情，合再抄發原電合仰該部迅即會同內政國防兩部商籌協助進行接收具報此令。計抄發原電一件

院長 宋子文

III(1):008、「關於奉令協助接收南海諸島一案，檢奉會商紀錄等件函達查照由」，內政部公函（民國三十五年十月一日 編字第〇〇二六號）

內政部公函

案查奉 院令協助接收南海諸島一案前經本部邀請貴部會商紀錄在卷，除將會商情形呈報行政院鑒核並分函外相應檢附會商紀錄南海諸島名稱一覽表南海諸島位置略圖南沙群島圖乙份隨函送請查照為荷

此致

外交部

附會商紀錄乙份

南海諸島名稱一覽表乙份

南海諸島位置略圖乙份

部長 張厲生

附件：奉 院令協助接收南海諸島案會商紀錄

時 間：三十五年九月二十五日上午九時

地 點：內政部會議室

出席人：沈 默（外交部代表）

馬定波（國防部代表）

姚汝鈺（海軍總司令部代表）

傅角今（內政部代表）

主 席：傅角今

紀 錄：曹照孟

決議事項

：1.接收南海各島應如何劃定接收範圍案：

決議：依照內政部擬製之「南海諸島位置略圖」所示範圍呈由 行政院核定令廣東省政府遵照。

2.內政部擬譯南海諸島名稱一覽表請公決案：

決議：修正通過仍呈請 行政院核定

3.有關南海各島資料應如何搜集俾供接收之參考案：

決議：請海軍總司令部廣為搜集送內政部彙轉備用。

4.本案籌商進行情形應如何呈復：

決議：請內政部呈復。

5.各島接收後應如何有所標誌案：

決議：由廣東省政府於出發接收前，預製石碑，以備豎立於長島，雙子島（即二子島）、斯普拉特島等處及其他適當島上，俾顯示為我國領土，並將石碑豎立地點式樣及碑文等函內政部備查。

6.接收後各島礁灘沙名稱應如何改定案：

決議：由內政部參照現有中西譯名擬定呈行院核定後仍由內政部製為詳細圖說公佈週知。

7.關於接收南海各島消息應否暫守秘密案：

決議：在未完全正式接收前，概不發表。

8.接收軍艦應如何派遣案：

決議：請國防部迅予派定

III(1):009、「為奉令籌商協助接收南海諸島一案，抄附呈院原文等件函請查照由」，內政部函外交部（民國三十五年十月九日 方字第〇〇一二號）

內政部公函

案查前奉 院令籌商協助接收南海諸島一案經邀集貴部派員會商並將會商紀錄連同南海諸島位置略圖及諸島譯名表函達鑒照為免輾轉會簽會印延誤時機起見，業由本部依會商決議呈報行政院迅飭廣東省政府遵照辦理各在卷，相應抄附呈院原文並檢同南沙群島圖、南沙群島概況各一份隨函送請查照為荷此致

**Annex 482**

Republic of China, *Constitution of the Republic of China* (1 Jan. 1947)





## **Constitution of the Republic of China 1947**

*This Constitution was promulgated on [1 January, 1947]*

[...]

Article 4. The territory of the Republic of China shall be in accordance with its traditional territory, which cannot be altered except by a resolution of the National Assembly.

[...]





名稱 中華民國憲法

公布日期 民國 36 年 01 月 01 日

法規類別 憲法

中華民國國民大會受全體國民之付託，依據孫中山先生創立中華民國之遺教，為鞏固國權，保障民權，奠定社會安寧，增進人民福利，制定本憲法，頒行全國，永矢咸遵。

## 第一章 總綱

- 第 1 條 中華民國基於三民主義，為民有民治民享之民主共和國。
- 第 2 條 中華民國之主權屬於國民全體。
- 第 3 條 具有中華民國國籍者為中華民國國民。
- 第 4 條 中華民國領土，依其固有之疆域，非經國民大會之決議，不得變更之。
- 第 5 條 中華民國各民族一律平等。
- 第 6 條 中華民國國旗定為紅地，左上角青天白日。

## 第二章 人民之權利義務

- 第 7 條 中華民國人民，無分男女、宗教、種族、階級、黨派，在法律上一律平等。
- 第 8 條 人民身體之自由應予保障。除現行犯之逮捕由法律另定外，非經司法或警察機關依法定程序，不得逮捕拘禁。非由法院依法定程序，不得審問處罰。非依法定程序之逮捕、拘禁、審問、處罰，得拒絕之。
- 人民因犯罪嫌疑被逮捕拘禁時，其逮捕拘禁機關應將逮捕拘禁原因，以書面告知本人及其本人指定之親友，並至遲於二十四小時內移送該管法院審問。本人或他人亦得聲請該管法院，於二十四小時內向逮捕之機關提審。法院對於前項聲請，不得拒絕，並不得先令逮捕拘禁之機關查覆。逮捕拘禁之機關，對於法院之提審，不得拒絕或遲延。
- 人民遭受任何機關非法逮捕拘禁時，其本人或他人得向法院聲請追究，法院不得拒絕，並應於二十四小時內向逮捕拘禁之機關追究，依法處理。
- 第 9 條 人民除現役軍人外，不受軍事審判。
- 第 10 條 人民有居住及遷徙之自由。
- 第 11 條 人民有言論、講學、著作及出版之自由。
- 第 12 條 人民有秘密通訊之自由。
- 第 13 條 人民有信仰宗教之自由。

- 第 14 條 人民有集會及結社之自由。
- 第 15 條 人民之生存權、工作權及財產權，應予保障。
- 第 16 條 人民有請願、訴願及訴訟之權。
- 第 17 條 人民有選舉、罷免、創制及複決之權。
- 第 18 條 人民有應考試服公職之權。
- 第 19 條 人民有依法律納稅之義務。
- 第 20 條 人民有依法律服兵役之義務。
- 第 21 條 人民有受國民教育之權利與義務。
- 第 22 條 凡人民之其他自由及權利，不妨害社會秩序公共利益者，均受憲法之保障。
- 第 23 條 以上各條列舉之自由權利，除為防止妨礙他人自由、避免緊急危難、維持社會秩序，或增進公共利益所必要者外，不得以法律限制之。
- 第 24 條 凡公務員違法侵害人民之自由或權利者，除依法律受懲戒外，應負刑事及民事責任。被害人民就其所受損害，並得依法律向國家請求賠償。

### 第 三 章 國民大會

- 第 25 條 國民大會依本憲法之規定，代表全國國民行使政權。
- 第 26 條 國民大會以左列代表組織之：
- 一 每縣市及其同等區域各選出代表一人，但其人口逾五十萬人者，每增加五十萬人，增選代表一人。縣市同等區域以法律定之。
  - 二 蒙古選出代表，每盟四人，每特別旗一人。
  - 三 西藏選出代表，其名額以法律定之。
  - 四 各民族在邊疆地區選出代表，其名額以法律定之。
  - 五 僑居國外之國民選出代表，其名額以法律定之。
  - 六 職業團體選出代表，其名額以法律定之。
  - 七 婦女團體選出代表，其名額以法律定之。
- 第 27 條 國民大會之職權如左：
- 一 選舉總統、副總統。
  - 二 罷免總統、副總統。
  - 三 修改憲法。
  - 四 複決立法院所提之憲法修正案。
- 關於創制複決兩權，除前項第三、第四兩款規定外，俟全國有半數之縣市曾經行使創制複決兩項政權時，由國民大會制定辦法並行使之。
- 第 28 條 國民大會代表每六年改選一次。
- 每屆國民大會代表之任期，至次屆國民大會開會之日為止。

3/10/2015

中華民國憲法-全國法規資料庫入口網站

現任官吏不得於其任所所在地之選舉區當選為國民大會代表。

- 第 29 條 國民大會於每屆總統任滿前九十日集會，由總統召集之。
- 第 30 條 國民大會遇有左列情形之一時，召集臨時會：  
一 依本憲法第四十九條之規定，應補選總統、副總統時。  
二 依監察院之決議，對於總統、副總統提出彈劾案時。  
三 依立法院之決議，提出憲法修正案時。  
四 國民大會代表五分之二以上請求召集時。  
國民大會臨時會，如依前項第一款或第二款應召集時，由立法院院長通告集會。依第三款或第四款應召集時，由總統召集之。
- 第 31 條 國民大會之開會地點在中央政府所在地。
- 第 32 條 國民大會代表在會議時所為之言論及表決，對會外不負責任。
- 第 33 條 國民大會代表，除現行犯外，在會期中，非經國民大會許可，不得逮捕或拘禁。
- 第 34 條 國民大會之組織，國民大會代表之選舉罷免，及國民大會行使職權之程序，以法律定之。

#### 第四章 總統

- 第 35 條 總統為國家元首，對外代表中華民國。
- 第 36 條 總統統率全國陸海空軍。
- 第 37 條 總統依法公布法律，發布命令，須經行政院院長之副署，或行政院院長及有關部會首長之副署。
- 第 38 條 總統依本憲法之規定，行使締結條約及宣戰、媾和之權。
- 第 39 條 總統依法宣布戒嚴，但須經立法院之通過或追認。立法院認為必要時，得決議移請總統解嚴。
- 第 40 條 總統依法行使大赦、特赦、減刑及復權之權。
- 第 41 條 總統依法任免文武官員。
- 第 42 條 總統依法授與榮典。
- 第 43 條 國家遇有天然災害、癘疫，或國家財政經濟上有重大變故，須為急速處分時，總統於立法院休會期間，得經行政院會議之決議，依緊急命令法，發布緊急命令，為必要之處置。但須於發布命令後一個月內提交立法院追認。如立法院不同意時，該緊急命令立即失效。
- 第 44 條 總統對於院與院間之爭執，除本憲法有規定者外，得召集有關各院院長會商解決之。
- 第 45 條 中華民國國民年滿四十歲者，得被選為總統、副總統。

- 第 46 條 總統、副總統之選舉，以法律定之。
- 第 47 條 總統、副總統之任期為六年，連選得連任一次。
- 第 48 條 總統應於就職時宣誓，誓詞如左：  
「余謹以至誠，向全國人民宣誓，余必遵守憲法，盡忠職務，增進人民福利，保衛國家，無負國民付託。如違誓言，願受國家嚴厲之制裁。謹誓」
- 第 49 條 總統缺位時，由副總統繼任，至總統任期屆滿為止。總統、副總統均缺位時，由行政院院長代行其職權，並依本憲法第三十條之規定，召集國民大會臨時會，補選總統、副總統，其任期以補足原任總統未滿之任期為止。總統因故不能視事時，由副總統代行其職權。總統、副總統均不能視事時，由行政院院長代行其職權。
- 第 50 條 總統於任滿之日解職，如屆期次任總統尚未選出，或選出後總統、副總統均未就職時，由行政院院長代行總統職權。
- 第 51 條 行政院院長代行總統職權時，其期限不得逾三個月。
- 第 52 條 總統除犯內亂或外患罪外，非經罷免或解職，不受刑事上之訴究。

## 第五章 行政

- 第 53 條 行政院為國家最高行政機關。
- 第 54 條 行政院設院長、副院長各一人，各部會首長若干人，及不管部會之政務委員若干人。
- 第 55 條 行政院院長由總統提名，經立法院同意任命之。  
立法院休會期間，行政院院長辭職或出缺時，由行政院副院長代理其職務，但總統須於四十日內咨請立法院召集會議，提出行政院院長人選，徵求同意。行政院院長職務，在總統所提行政院院長人選未經立法院同意前，由行政院副院長暫行代理。
- 第 56 條 行政院副院長，各部會首長及不管部會之政務委員，由行政院院長提請總統任命之。
- 第 57 條 行政院依左列規定，對立法院負責：  
一 行政院有向立法院提出施政方針及施政報告之責。立法委員在開會時，有向行政院院長及行政院各部會首長質詢之權。  
二 立法院對於行政院之重要政策不贊同時，得以決議移請行政院變更之。行政院對於立法院之決議，得經總統之核可，移請立法院覆議。覆議時，如經出席立法委員三分之二維持原決議，行政院院長應即接受該決議或辭職。  
三 行政院對於立法院決議之法律案、預算案、條約案，如認為有窒礙難行時，得經總統之核可，於該決議案送達行政院十日內，移請立法院覆議。覆議時，如經出席立法委員三分之二維持原案，行政院院長應

即接受該決議或辭職。

第 58 條 行政院設行政院會議，由行政院院長、副院長、各部會首長及不管部會之政務委員組織之，以院長為主席。

行政院院長、各部會首長，須將應行提出於立法院之法律案、預算案、戒嚴案、大赦案、宣戰案、媾和案、條約案及其他重要事項，或涉及各部會共同關係之事項，提出於行政院會議議決之。

第 59 條 行政院於會計年度開始三個月前，應將下年度預算案提出於立法院。

第 60 條 行政院於會計年度結束後四個月內，應提出決算於監察院。

第 61 條 行政院之組織，以法律定之。

## 第六章 立法

第 62 條 立法院為國家最高立法機關，由人民選舉之立法委員組織之，代表人民行使立法權。

第 63 條 立法院有議決法律案、預算案、戒嚴案、大赦案、宣戰案、媾和案、條約案及國家其他重要事項之權。

第 64 條 立法院立法委員，依左列規定選出之：

- 一 各省、各直轄市選出者，其人口在三百萬以下者五人，其人口超過三百萬者，每滿一百萬人增選一人。
- 二 蒙古各盟旗選出者。
- 三 西藏選出者。
- 四 各民族在邊疆地區選出者。
- 五 僑居國外之國民選出者。
- 六 職業團體選出者。

立法委員之選舉及前項第二款至第六款立法委員名額之分配，以法律定之。婦女在第一項各款之名額，以法律定之。

第 65 條 立法委員之任期為三年，連選得連任，其選舉於每屆任滿前三個月內完成之。

第 66 條 立法院設院長、副院長各一人，由立法委員互選之。

第 67 條 立法院得設各種委員會。  
各種委員會得邀請政府人員及社會上有關係人員到會備詢。

第 68 條 立法院會期，每年兩次，自行集會，第一次自二月至五月底，第二次自九月至十二月底，必要時得延長之。

第 69 條 立法院遇有左列情事之一時，得開臨時會：

- 一 總統之咨請。
- 二 立法委員四分之一以上之請求。

- 第 70 條 立法院對於行政院所提預算案，不得為增加支出之提議。
- 第 71 條 立法院開會時，關係院院長及各部會首長得列席陳述意見。
- 第 72 條 立法院法律案通過後，移送總統及行政院，總統應於收到後十日內公布之，但總統得依照本憲法第五十七條之規定辦理。
- 第 73 條 立法委員在院內所為之言論及表決，對院外不負責任。
- 第 74 條 立法委員，除現行犯外，非經立法院許可，不得逮捕或拘禁。
- 第 75 條 立法委員不得兼任官吏。
- 第 76 條 立法院之組織，以法律定之。

#### 第七章 司法

- 第 77 條 司法院為國家最高司法機關，掌理民事、刑事、行政訴訟之審判及公務員之懲戒。
- 第 78 條 司法院解釋憲法，並有統一解釋法律及命令之權。
- 第 79 條 司法院設院長、副院長各一人，由總統提名，經監察院同意任命之。司法院設大法官若干人，掌理本憲法第七十八條規定事項，由總統提名，經監察院同意任命之。
- 第 80 條 法官須超出黨派以外，依據法律獨立審判，不受任何干涉。
- 第 81 條 法官為終身職，非受刑事或懲戒處分，或禁治產之宣告，不得免職。非依法律，不得停職、轉任或減俸。
- 第 82 條 司法院及各級法院之組織，以法律定之。

#### 第八章 考試

- 第 83 條 考試院為國家最高考試機關，掌理考試、任用、銓敘、考績、級俸、陞遷、保障、褒獎、撫卹、退休、養老等事項。
- 第 84 條 考試院設院長、副院長各一人，考試委員若干人，由總統提名，經監察院同意任命之。
- 第 85 條 公務人員之選拔，應實行公開競爭之考試制度，並應按省區分別規定名額，分區舉行考試。非經考試及格者，不得任用。
- 第 86 條 左列資格，應經考試院依法考選銓定之：  
一 公務人員任用資格。  
二 專門職業及技術人員執業資格。
- 第 87 條 考試院關於所掌事項，得向立法院提出法律案。
- 第 88 條 考試委員須超出黨派以外，依據法律獨立行使職權。
- 第 89 條 考試院之組織，以法律定之。



## 第九章 監察

- 第 90 條 監察院為國家最高監察機關，行使同意、彈劾、糾舉及審計權。
- 第 91 條 監察院設監察委員，由各省市議會，蒙古西藏地方議會及華僑團體選舉之。其名額分配，依左列之規定：
- 一 每省五人。
  - 二 每直轄市二人。
  - 三 蒙古各盟旗共八人。
  - 四 西藏八人。
  - 五 僑居國外之國民八人。
- 第 92 條 監察院設院長、副院長各一人，由監察委員互選之。
- 第 93 條 監察委員之任期為六年，連選得連任。
- 第 94 條 監察院依本憲法行使同意權時，由出席委員過半數之議決行之。
- 第 95 條 監察院為行使監察權，得向行政院及其各部會調閱其所發布之命令及各種有關文件。
- 第 96 條 監察院得按行政院及其各部會之工作，分設若干委員會，調查一切設施，注意其是否違法或失職。
- 第 97 條 監察院經各該委員會之審查及決議，得提出糾正案，移送行政院及其有關部會，促其注意改善。  
監察院對於中央及地方公務人員，認為有失職或違法情事，得提出糾舉案或彈劾案，如涉及刑事，應移送法院辦理。
- 第 98 條 監察院對於中央及地方公務人員之彈劾案，須經監察委員一人以上之提議，九人以上之審查及決定，始得提出。
- 第 99 條 監察院對於司法院或考試院人員失職或違法之彈劾，適用本憲法第九十五條、第九十七條及第九十八條之規定。
- 第 100 條 監察院對於總統、副總統之彈劾案，須有全體監察委員四分之一以上之提議，全體監察委員過半數之審查及決議，向國民大會提出之。
- 第 101 條 監察委員在院內所為之言論及表決，對院外不負責任。
- 第 102 條 監察委員，除現行犯外，非經監察院許可，不得逮捕或拘禁。
- 第 103 條 監察委員不得兼任其他公職或執行業務。
- 第 104 條 監察院設審計長，由總統提名，經立法院同意任命之。
- 第 105 條 審計長應於行政院提出決算後三個月內，依法完成其審核，並提出審核報告於立法院。
- 第 106 條 監察院之組織，以法律定之。

## 第一〇章 中央與地方之權限

第 107 條 左列事項，由中央立法並執行之：

- 一 外交。
- 二 國防與國防軍事。
- 三 國籍法及刑事、民事、商事之法律。
- 四 司法制度。
- 五 航空、國道、國有鐵路、航政、郵政及電政。
- 六 中央財政與國稅。
- 七 國稅與省稅、縣稅之劃分。
- 八 國營經濟事業。
- 九 幣制及國家銀行。
- 十 度量衡。
- 十一 國際貿易政策。
- 十二 涉外之財政經濟事項。
- 十三 其他依本憲法所定關於中央之事項。

第 108 條 左列事項，由中央立法並執行之，或交由省縣執行之：

- 一 省縣自治通則。
  - 二 行政區劃。
  - 三 森林、工礦及商業。
  - 四 教育制度。
  - 五 銀行及交易所制度。
  - 六 航業及海洋漁業。
  - 七 公用事業。
  - 八 合作事業。
  - 九 二省以上之水陸交通運輸。
  - 十 二省以上之水利、河道及農牧事業。
  - 十一 中央及地方官吏之銓敘、任用、糾察及保障。
  - 十二 土地法。
  - 十三 勞動法及其他社會立法。
  - 十四 公用徵收。
  - 十五 全國戶口調查及統計。
  - 十六 移民及墾殖。
  - 十七 警察制度。
  - 十八 公共衛生。
  - 十九 振濟、撫卹及失業救濟。
  - 二十 有關文化之古籍、古物及古蹟之保存。
- 前項各款，省於不牴觸國家法律內，得制定單行法規。

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第 109 條 左列事項，由省立法並執行之，或交由縣執行之：

- 一 省教育、衛生、實業及交通。
- 二 省財產之經營及處分。
- 三 省市政。
- 四 省公營事業。
- 五 省合作事業。
- 六 省農林、水利、漁牧及工程。
- 七 省財政及省稅。
- 八 省債。
- 九 省銀行。
- 十 省警政之實施。
- 十一 省慈善及公益事項。
- 十二 其他依國家法律賦予之事項。

前項各款，有涉及二省以上者，除法律別有規定外，得由有關各省共同辦理。

各省辦理第一項各款事務，其經費不足時，經立法院議決，由國庫補助之。

第 110 條 左列事項，由縣立法並執行之：

- 一 縣教育、衛生、實業及交通。
- 二 縣財產之經營及處分。
- 三 縣公營事業。
- 四 縣合作事業。
- 五 縣農林、水利、漁牧及工程。
- 六 縣財政及縣稅。
- 七 縣債。
- 八 縣銀行。
- 九 縣警衛之實施。
- 十 縣慈善及公益事項。
- 十一 其他依國家法律及省自治法賦予之事項。

前項各款，有涉及二縣以上者，除法律別有規定外，得由有關各縣共同辦理。

第 111 條 除第一百零七條、第一百零八條、第一百零九條及第一百十條列舉事項外，如有未列舉事項發生時，其事務有全國一致之性質者屬於中央，有全省一致之性質者屬於省，有一縣之性質者屬於縣。遇有爭議時，由立法院解決之。

## 第 一 一 章 地方制度

### 第 一 節 省

- 第 112 條 省得召集省民代表大會，依據省縣自治通則，制定省自治法，但不得與憲法牴觸。  
省民代表大會之組織及選舉，以法律定之。
- 第 113 條 省自治法應包含左列各款：  
一 省設省議會，省議會議員由省民選舉之。  
二 省設省政府，置省長一人。省長由省民選舉之。  
三 省與縣之關係。  
屬於省之立法權，由省議會行之。
- 第 114 條 省自治法制定後，須即送司法院。司法院如認為有違憲之處，應將違憲條文宣布無效。
- 第 115 條 省自治法施行中，如因其中某條發生重大障礙，經司法院召集有關方面陳述意見後，由行政院院長、立法院院長、司法院院長、考試院院長與監察院院長組織委員會，以司法院院長為主席，提出方案解決之。
- 第 116 條 省法規與國家法律牴觸者無效。
- 第 117 條 省法規與國家法律有無牴觸發生疑義時，由司法院解釋之。
- 第 118 條 直轄市之自治，以法律定之。
- 第 119 條 蒙古各盟旗地方自治制度，以法律定之。
- 第 120 條 西藏自治制度，應予以保障。

## 第二節 縣

- 第 121 條 縣實行縣自治。
- 第 122 條 縣得召集縣民代表大會，依據省縣自治通則，制定縣自治法，但不得與憲法及省自治法牴觸。
- 第 123 條 縣民關於縣自治事項，依法律行使創制、複決之權，對於縣長及其他縣自治人員，依法律行使選舉、罷免之權。
- 第 124 條 縣設縣議會，縣議會議員由縣民選舉之。  
屬於縣之立法權，由縣議會行之。
- 第 125 條 縣單行規章，與國家法律或省法規牴觸者無效。
- 第 126 條 縣設縣政府，置縣長一人。縣長由縣民選舉之。
- 第 127 條 縣長辦理縣自治，並執行中央及省委辦事項。
- 第 128 條 市準用縣之規定。

## 第一二章 選舉、罷免、創制、複決

- 第 129 條 本憲法所規定之各種選舉，除本憲法別有規定外，以普通、平等、直接及無記名投票之方法行之。

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- 第 130 條 中華民國國民年滿二十歲者，有依法選舉之權，除本憲法及法律別有規定者外，年滿二十三歲者，有依法被選舉之權。
- 第 131 條 本憲法所規定各種選舉之候選人，一律公開競選。
- 第 132 條 選舉應嚴禁威脅利誘。選舉訴訟，由法院審判之。
- 第 133 條 被選舉人得由原選舉區依法罷免之。
- 第 134 條 各種選舉，應規定婦女當選名額，其辦法以法律定之。
- 第 135 條 內地生活習慣特殊之國民代表名額及選舉，其辦法以法律定之。
- 第 136 條 創制複決兩權之行使，以法律定之。

### 第一三章 基本國策

#### 第一節 國防

- 第 137 條 中華民國之國防，以保衛國家安全，維護世界和平為目的。國防之組織，以法律定之。
- 第 138 條 全國陸海空軍，須超出個人、地域及黨派關係以外，效忠國家，愛護人民。
- 第 139 條 任何黨派及個人不得以武裝力量為政爭之工具。
- 第 140 條 現役軍人不得兼任文官。

#### 第二節 外交

- 第 141 條 中華民國之外交，應本獨立自主之精神，平等互惠之原則，敦睦邦交，尊重條約及聯合國憲章，以保護僑民權益，促進國際合作，提倡國際正義，確保世界和平。

#### 第三節 國民經濟

- 第 142 條 國民經濟應以民生主義為基本原則，實施平均地權，節制資本，以謀國計民生之均足。
- 第 143 條 中華民國領土內之土地屬於國民全體。人民依法取得之土地所有權，應受法律之保障與限制。私有土地應照價納稅，政府並得照價收買。附著於土地之礦，及經濟上可供公眾利用之天然力，屬於國家所有，不因人民取得土地所有權而受影響。土地價值非因施以勞力資本而增加者，應由國家徵收土地增值稅，歸人民共享之。國家對於土地之分配與整理，應以扶植自耕農及自行使用土地人為原則，並規定其適當經營之面積。
- 第 144 條 公用事業及其他有獨佔性之企業，以公營為原則，其經法律許可者，得由國民經營之。

- 第 145 條 國家對於私人財富及私營事業，認為有妨害國計民生之平衡發展者，應以法律限制之。  
合作事業應受國家之獎勵與扶助。  
國民生產事業及對外貿易，應受國家之獎勵、指導及保護。
- 第 146 條 國家應運用科學技術，以興修水利，增進地力，改善農業環境，規劃土地利用，開發農業資源，促成農業之工業化。
- 第 147 條 中央為謀省與省間之經濟平衡發展，對於貧瘠之省，應酌予補助。  
省為謀縣與縣間之經濟平衡發展，對於貧瘠之縣，應酌予補助。
- 第 148 條 中華民國領域內，一切貨物應許自由流通。
- 第 149 條 金融機構，應依法受國家之管理。
- 第 150 條 國家應普設平民金融機構，以救濟失業。
- 第 151 條 國家對於僑居國外之國民，應扶助並保護其經濟事業之發展。

#### 第四節 社會安全

- 第 152 條 人民具有工作能力者，國家應予以適當之工作機會。
- 第 153 條 國家為改良勞工及農民之生活，增進其生產技能，應制定保護勞工及農民之法律，實施保護勞工及農民之政策。  
婦女兒童從事勞動者，應按其年齡及身體狀態，予以特別之保護。
- 第 154 條 勞資雙方應本協調合作原則，發展生產事業。勞資糾紛之調解與仲裁，以法律定之。
- 第 155 條 國家為謀社會福利，應實施社會保險制度。人民之老弱殘廢，無力生活，及受非常災害者，國家應予以適當之扶助與救濟。
- 第 156 條 國家為奠定民族生存發展之基礎，應保護母性，並實施婦女兒童福利政策。
- 第 157 條 國家為增進民族健康，應普遍推行衛生保健事業及公醫制度。

#### 第五節 教育文化

- 第 158 條 教育文化，應發展國民之民族精神、自治精神、國民道德、健全體格、科學及生活智能。
- 第 159 條 國民受教育之機會，一律平等。
- 第 160 條 六歲至十二歲之學齡兒童，一律受基本教育，免納學費。其貧苦者，由政府供給書籍。  
已逾學齡未受基本教育之國民，一律受補習教育，免納學費，其書籍亦由政府供給。
- 第 161 條 各級政府應廣設獎學金名額，以扶助學行俱優無力升學之學生。

3/10/2015

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- 第 162 條 全國公私立之教育文化機關，依法律受國家之監督。
- 第 163 條 國家應注重各地區教育之均衡發展，並推行社會教育，以提高一般國民之文化水準，邊遠及貧瘠地區之教育文化經費，由國庫補助之。其重要之教育文化事業，得由中央辦理或補助之。
- 第 164 條 教育、科學、文化之經費，在中央不得少於其預算總額百分之十五，在省不得少於其預算總額百分之二十五，在市縣不得少於其預算總額百分之三十五。其依法設置之教育文化基金及產業，應予以保障。
- 第 165 條 國家應保障教育、科學、藝術工作者之生活，並依國民經濟之進展，隨時提高其待遇。
- 第 166 條 國家應獎勵科學之發明與創造，並保護有關歷史、文化、藝術之古蹟、古物。
- 第 167 條 國家對於左列事業或個人，予以獎勵或補助：
- 一 國內私人經營之教育事業成績優良者。
  - 二 僑居國外國民之教育事業成績優良者。
  - 三 於學術或技術有發明者。
  - 四 從事教育久於其職而成績優良者。

#### 第六節 邊疆地區

- 第 168 條 國家對於邊疆地區各民族之地位，應予以合法之保障，並於其地方自治事業，特別予以扶植。
- 第 169 條 國家對於邊疆地區各民族之教育、文化、交通、水利、衛生及其他經濟、社會事業，應積極舉辦，並扶助其發展，對於土地使用，應依其氣候、土壤性質，及人民生活習慣之所宜，予以保障及發展。

#### 第一四章 憲法之施行及修改

- 第 170 條 本憲法所稱之法律，謂經立法院通過，總統公布之法律。
- 第 171 條 法律與憲法牴觸者無效。  
法律與憲法有無牴觸發生疑義時，由司法院解釋之。
- 第 172 條 命令與憲法或法律牴觸者無效。
- 第 173 條 憲法之解釋，由司法院為之。
- 第 174 條 憲法之修改，應依左列程序之一為之：
- 一 由國民大會代表總額五分之一之提議，三分之二之出席，及出席代表四分之三之決議，得修改之。
  - 二 由立法院立法委員四分之一之提議，四分之三之出席，及出席委員四分之三之決議，擬定憲法修正案，提請國民大會複決。此項憲法修正案，應於國民大會開會前半年公告之。

第 175 條 本憲法規定事項，有另定實施程序之必要者，以法律定之。  
本憲法施行之準備程序，由制定憲法之國民大會議定之。



**Annex 483**

*Letter* from the Embassy of the Republic of China in Paris to the Ministry of Foreign Affairs of the Republic of China (20 Jan. 1947), reprinted in *Archival Compilation on South China Sea Islands by Ministry of Foreign Affairs*, Vol. 1, Doc. No. II(2):199 (Republic of China Ministry of Foreign Affairs Research & Planning Committee, ed.) (1995)



**Archival Compilation on South China Sea Islands by Ministry of Foreign Affairs  
(Volume 1)**



Compiled and printed by Ministry of Foreign Affairs Research & Planning Committee

May 31, 1995

[...]

II(2): 199, To record the delivery of documents from this embassy regarding Paracel Island case, please check and confirm (January 20, Year of the Republic 36 [1947], Document Fa 34 No. 17)

French Embassy on behalf of the Foreign Ministry

[...]

## Attachment III:

On July 28, Year of the Republic 21 [1932], The Foreign Ministry ordered the embassy in France to make transcripts of Doc Ou Zi No. 4182.

Regarding: Orders to refute the French Foreign Ministry on the issue of the Paracel Islands. Previously this embassy had reported that the French Foreign Ministry had slightly opened up regarding the issue of the Paracel Island (Iles Paracels). Recently China has had doubts concerning Annam's territorial claims and consider these islands to be under Chinese jurisdiction. For this reason, this department has specifically asked your embassy to advise on whether Annam is entitled to the Paracels, to review the facts of King Gia Long's official occupation of the islands, and to come to a collective solution to this legal matter with the French Government, etc. Please confirm and be in compliance. We should also present to the French Foreign Ministry an abridged version of our report regarding *Qizhoudao*, Iles Paracels in foreign name and *Xisha Islands* in Chinese name. It is also called *Qizhouyang*; to the northeast it faces the remote *Dongsha Islands*, which are one of two main groups of islands in the South China Sea within Guangdong Province's territorial sea. See the report regarding the *Xisha Islands Report*, written by the *Xisha Islands* investigative committee chairpersons Pan Yu and Sheng Pengfei in Year 17 [1928], and the two reports regarding *Xisha Islands*, compiled by the Guangdong Industrial Office. These islands are recorded as being located between longitudes 110.13° and 112.47° and including over 20 islands of various sizes. The majority of them are flat, sandy, and barren land, and they should be counted as "tan" or shoals. There are over 10 reefs and 8 islands. They can be divided into two different groups in the east and west. Westerners call the eastern group the Amphitrite Islands and the western group the Croissant Islands. The islands are 145 nautical miles from Qiongya (Hainan Island). It is the southernmost part of Chinese territory. Further, in Article 3 of *Convention Concerning the Delimitation of the Border between China and Tonkin* between China and France, it is stated that, "Guangdong's official in charge of border survey. Besides the boundary line that has been settled by ministers from both countries, for the area bordered in the east and northeast of Moncay, all of the areas which have not been

determined shall be under China's administration. The islands in the sea shall follow the line that the ministers have drawn. The red line moves southward, connecting with the line passing through the eastern side of the mountain in Chagushe. This line is the border line. The islands in the sea east of the line belong to China, and the islands in the sea west of this line, which includes Jiutou Island and all small islands in the middle of the ocean, belong to Vietnam." Inspecting the border between Annam and Guangdong, you will see the borderline starting from Zhushan which is roughly located at latitude 21.30° N and 108.02° east in the coast of Annam, which is actually to the west of Zhushan. According to Article 3 of the Convention, a line southward along the sea, no matter how one draws the line, Paracels Islands are far in the eastside of the line, and further separated by Qiongya Island between the line and the Paracels. It is very clear by just looking at the map to which country the islands shall belong. These islands are all formed by the deposit of sands over a coral reef except for *Lindao* (Western name: Woody Island), *Dongdao* (Lincoln Island). The accumulated guano on the islands can be turned into fertilizer, but the islands have no value as colonies. Historically, only the Qiongya Islanders came here for mining and fishing. There are no records of people from Annam staying in this area. Because of the various relationships, French gathered the information that the kings of Annam came to the islands to erect monuments and build towers. The Annam historical records are far-fetched, yet used for argument. However, it is not so well known that 100 years ago Annam was a vassal state of China recognized as part of the Chinese kingdom. They are now acting unilaterally to occupy the islands. This makes no sense. Where are the islands where the French side claimed monuments were erected and towers were built? The document sent from the French does not clearly point it out. The so-called preemptive right to the territory lacks concrete evidence. This will collapse under its own weight. Since Year 10 of the Republic [1921], business people have made requests regarding the islands. There have been five occasions where companies were approved by the Guangdong Provincial authorities. (The first was on December 6, Year 10 [1921], the second instance was April 7, Year 12 [1923]. On both occasions, the Ruinian was authorized by the Provincial Government to deal with the approvals. The third instance was July 13, Year 18 [1929], Song Xiquang was in charge to help the request by the company. The fourth instance was April 3, Year 20 [1931], Yan Jingji was in charge of the request made by Xisha Islands Guano Phosphorous National Fertilizer Co., and the fifth instance was March 1, Year 21 [1932].) Su Zijiang was in charge of the request made China National Fertilizer Co. The historical documentation is clearly verified, and the French did not make any protest

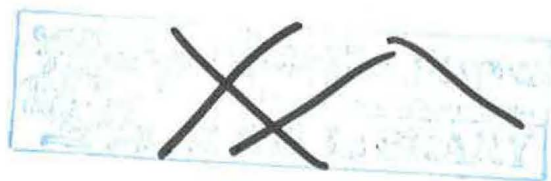
more than ten years ago; it is quite surprising that now they are suddenly expressing doubts. When verifying islands far away from land, in accordance with international public law and customary law, the pre-condition to gain the sovereignty is through having preemptively occupied these territories effectively. To put it another way, whenever people from a country preemptively occupy and continuously inhabit that land uninterrupted, it becomes the territory of that country. There has been a long history that the Qiong people scattered in the Paracels; they built cabins to live there and made boat to fish there. In the Pratas Islands case during the previous Qing Government in Xuantong Year 2, that is, 1909 in the Western calendar, the Qing government sent a naval admiral Li Zhun to survey in an attempt to develop the island, he consumed 400,000 from the national treasury. On East Island and Woody Island, he also raised flags and fired cannons to announce the incident to China and the world. No question was asked if there was any disagreement from France. Also, in Xuantong Year 1 [1908], building a lighthouse to help the safety of navigation became an international issue. The Customs forwarded the request made by the shipping business to our government to construct a lighthouse. This further proves the facts of relatively ancient time. In April of the year before last, Hong Kong had convened a conference of Far East observatories. The French head of the observatory in Annam, E. Bruzon, Shanghai Xu Jiahui, and the French Director of the observatory, L. Froc, had all collectively advised that China build an observatory at the Paracels. Not only were the Paracels acknowledged as part of Chinese territory internationally, but also the Frenchman himself expressed the same sentiment. As to the so-called sinking vessel and the protest by British consulate, our government cannot verify it. After comprehensively checking the books of agreements, the Paracels were already delimited as a part of Chinese territory. In fact, the Paracels have been a place inhabited by the Chinese for a long time, and unless specifically described in any existing agreements, in accordance with the principal of preeminence and time limit, the Paracels are Chinese territory and no other country can claim sovereignty; there is no doubt of it. It hereby orders your embassy to sternly refute the French requests. It is important, please carry out this task conscientiously.

[...]





# 外交部南海諸島檔案彙編 (上冊)



外交部研究設計委員會編印  
中華民國八十四年五月三十一日

威脅行動，則我始能考慮友好之商談盼即電復。王

II(2):199、為錄送關於西沙群島案本館文件請查核由（民國三十六年一月二十日 法三十四字第十七號）

駐法大使館代電外交部

南京外交部鈞鑒茲錄送關於西沙群島本館文件附清單一份請察核駐法大使館

錄送西沙群島案文件清單

- |                    |                  |
|--------------------|------------------|
| (一)法外部1932.1.4照會   | (十)法外部備忘錄        |
| (二)本館1932.9.29照會   | (十一)本館呈872號      |
| (三)本館1933.8.1照會    | (十二)外部4182令號     |
| (四)法外部1932.9.27照會  | (十三)外部令3324號     |
| (五)法外部1934.3.19照會  | (十四)本館呈2184號     |
| (六)本館1934.6.7照會    | (十五)本館呈2341號     |
| (七)法外部1936.11.23照會 | (十六)本館與外交部來往電16件 |
| (八)法外部1937.2.18照會  | (十七)函貳件說明一件      |
| (九)本館1937.3.9照會    | (十八)本館致外部公函549號  |

附件一：

駐法公使館致外交部公函稿件抄件民國二十二年十月二十七日總字五四九號，事由抄錄關於西沙群島（Iles Paracels）問題法外部復文送請

鑒核由

案奉上年七月二十六日

大部歐字第四一八二號訓令關於西沙群島 (Iles Paracels) 問題令，向法外部嚴重駁覆經於同年九月二十九日，遵照令開各節照復法外部去後，迭次催詢，迄未准覆嗣奉大部本年七月十七電詢，復於本年八月一日函催法外部，並於八月二日、二十三日派員前往面詢一切，據稱「部長現正查案擬覆」，等語。茲准該部九月二十七日覆文略稱「…貴使館聲稱：西沙群島 (Iles Paracels) 為貴國廣東省海疆之一部份，並承認該島距瓊崖百四十五海浬。查貴國出席一九三〇年海牙國際公法編纂會議代表既同意採納「三海浬原則」以劃領海，則該島不能認為貴國領土。

貴館更以一八八七年中法越南續議界務專條第三款所載為引證。惟該款意在劃清芒街 (Moncay) 區域之中越界線，西沙群島 (Iles Paracels) 遠離芒街 (Moncay) 二百海浬，超出該專條之履行範圍，當無以證明貴國在該島之主權。東經一百零五度四十三分之線，即茶古 (Tchakou) 之線，如不認作局部界線而可延長直至西沙群島 (Iles Paracels) 適用，則不但越南多數島嶼，應為貴國領土，即越南本陸之大部亦然，實屬不可能事。

貴館又稱：瓊人散居西沙，築廬而居，置舟而漁，有悠久之歷史。瓊人聚散無定，究自何時、何年來島居漁，亦無憑據；在國際公法及慣例方面，不生任何效力，貴國無從博得該領土之主權。

一九〇九年貴國政府曾行公告中外占領該島，顯係一九〇九年前，貴國並無該島之領權，而一八一六年安南嘉隆王正式管領該島之舉，確載史卷。

貴館又據遠東觀象會議，提議在該島樹塔案事實，證明該島主權。敝國與會代表之惟一任務，為在科學方面盡力，政治問題，無權過問，在敝國政府法律證據充分之下，當亦難引以為證…」。

等語；查法國歷次來文，所恃為惟一之根據，係安南歷史曾載有嘉隆王朝於一八一六正式占領該島：謂在中國一九〇九年占領之先云云。如能將此點打破，則其餘理由，自不成立。擬請大部搜集中國歷史省誌及地圖，證明中國在一八一六年以前確曾管理該島，則安南之占領自屬無效。

再依據國際公法，占領應有實權。安南在該群島從未施行實權，自不能認其為正式占領也。相應抄錄往復文件函送

大部敬請

核示為荷

此致

外交部

附件二：

駐法公使館呈外交部稿件抄件（民國二十一年一月七日） 法字第八七二號

事由：轉呈關於七洲島問題法外部來文並請示我國意見  
為呈報事昨准法外部面交節略內稱關於七洲島（Iles  
Paracels）問題，擬請貴國使館注意查該島嶼及附近礁石  
等，距安南海岸一百五十英里間有捕鱈漁人居住向屬安  
南王國據Tu-Duc朝刊行之Hué Dai-Nam Nhut Thông Chi史  
記卷六所載院（Nguyen）朝初年設Hoang Sa公司，以  
Vinh An村七十組成每年三月乘船至七洲島漁釣，八月回  
國，將所得貢諸京師云云，一八一六年嘉隆（Gia-  
Long）王正式管領該島並樹立旗幟，一八三五年明命  
（Ming Mang）王復遣人至該島建塔及石碑，一八九八  
年Bellona及unoji maru兩船沉沒中國漁人竊售船身破銅駐  
瓊州海口Hoi Hou英領向中國政府抗議，並請懲治罪犯中  
國政府答稱七洲島非中國領土不由中國管轄等語，一八  
九九年因礁石危及航行越南政府，曾詳細研究樹立燈  
塔，但近來中國方面對於安南在該島之主權有所懷疑，  
並以該島為中國所轄領，因此本部應請貴國使館注意，  
安南對七洲島之先有權，並查照一八一六年嘉隆（Gia  
Long）王正式佔據該島之事實，甚望貴國政府以最友  
誼之精神與法政府共同解決此項法律問題，並面告此非  
政治問題，希貴國政府以法律上之解釋，見復等情理合  
據情呈報並將來文錄稿附呈敬祈

鑒核訓示祇遵謹呈

外交部



附件三：

外交部民國二十一年七月二十八日令駐法使館文抄件  
歐字第四一八二號

事由：令向法外部駁覆關於西沙群島問題案

為令遵事，前據該館呈稱准法外部節略內開，關於七洲島Iles Paracels問題，近來中國方面對於安南在該島之主權有所懷疑，並以該島為中國所轄領，因此本部特請貴使館注意，安南對七洲島之先有權，並查照一八一六年嘉隆Gia Long王正式佔據該島之事實，與法政府共同解決此項法律問題等語，乞鑒核示遵等情，並附呈法外部節略抄件乙份到部查七洲島洋文名Iles Paracels華名西沙群島，亦稱七洲洋其東北有東沙群島遙相對峙，為我國廣東省領海South China Sea二大群島之一，按諸十七年，西沙群島調查委員會主席番禺沈鵬飛所編，調查西沙群島報告書及廣東實業廳編印之西沙島成案彙編二書，所載該島當東經一百一十度十三分至一百十二度四十七分，包括大小島嶼共二十餘座，大部為平沙不毛之地，計為灘，為礁者約十餘處，其為島者計八處，分東西兩群迤東者，西人統名之為Amphitrite群島迤西者為Croissant，群島距瓊崖（即海南島）百四十五海浬，為我國最南之疆土，又查一八八七年，中法越南續議界務專條第三款，所載『廣東界務，現經兩國勘界大臣，勘定邊界之外芒街以東及東北一帶，所有商論未定之處，

均歸中國管轄，至於海中各島照兩國勘界大臣所畫，紅線向南接畫此線，正過茶古社東邊山頭，即以該線為界，該線以東，海中各島歸中國，該線以西，海中九頭山及各小島歸越南』，查安南與廣東交界之處，係以竹山地方為起點，約在北緯二十一度三十分東經一百零八度二分安南海岸，且在竹山迤西，按照上述專條所載，由此遵海而南無論如何接畫西沙遠在該線之東中間尚隔瓊崖大島，應歸何國一覽便知，又該島各地均係珊瑚沙質衝積而成，除林島（西名Woody Island），東島（Lincoln Island），堆積島糞可製肥料外，無殖民之價值，歷來僅有瓊崖人在此採礦、捕魚為業，從未聞有安南人來此居留，安南各王憑何特殊關係，來此樹碑建塔法方撫拾，安南一二遺史牽強附會，據為口實殊不知，百年前安南係我藩屬，於宗王國之領土境內，私謀獨立佔據之行爲，當為事理所必無法方所稱樹碑建塔究在何島，來文並未指明，其所謂先有權之缺乏有力證據，已屬不攻自破，自民國十年以來，商人承墾該島，而經廣東省當局批准者，先後已達五次，（第一次十年十二月六日，第二次十二年四月七日，均由省署批准何瑞年承辦，第三次十八年七月十三日，協濟公司宋錫權承辦，第四次二十年四月三日，西沙群島鳥糞磷礦國產田料公司嚴景技承辦，第五次二十一年三月一日，中華國產田料公司蘇子江承辦），案牘俱在歷歷可考，法方不於十餘年前

提出異議，忽於此時表示懷疑殊深訝異，查遠距大陸之島嶼，按照國際公法及慣例，以切實先佔為取得領土主權之先決條件，換言之，何國人民首先佔領與繼續不斷的居住其地，即為何國之領土，瓊人散處西沙築廬而居，置舟而漁有悠久之歷史，前清政府因東沙島案，曾於宣統二年，即西曆一九〇九年，派廣東水師提督李準率艦勘量，以圖開發曾耗國帑四十餘萬，並在東島林島豎旗鳴砲，公告中外，從未問法方有何異議，又宣統元年，關於西沙建設燈塔，以保航行安全一案，成為國際問題，嗣經海關轉據航業關係者之請求，呈請我政府建設燈塔，此乃追證較遠之事實，前年四月間，香港召集遠東觀象會議，安南觀象台台長法人勃魯遜 E. Bruzon 及上海徐家匯，法國觀象台主任勞積勛 L. Froc 亦皆與會曾共同建議，我國代表在西沙建設觀象台，是不特國際間早認西沙屬我領土，即法人自身亦有同樣之表示，至所稱一八九八年，沉沒輪船及英領抗議一節是否屬實，本國政府無案可稽，總之遍查條約卷籍，西沙既經劃定為我國領土之一部，事實上復為華人久居之地，除條約明文具在未由置辯外，撥諸國際公法先佔與時效之原則，其為我國領土，他國不得主張權利，亦屬了無疑義，合亟令仰該館，即便遵照向法外部嚴重駁覆為要，切切此令。

附件四：



外交部民國二十三年四月三十日令駐法使館文抄件  
(歐字第三三二四號)

呈一件，呈送關於西沙群島Iles Paracels問題法外部復文請核示由，呈件均悉查(一)法方謂「西沙群島Iles Paracels距瓊崖百四十五海浬，貴國出席一九三〇年海牙國際公法編彙會議代表既同意採納「三海浬原則」以劃領海，則該島不能認為貴國領土，查此案與「三海浬原則」毫無關係，蓋本國代表在一九三〇年，編彙國際法典會議，同意採納「三海浬原則」固屬實在，但其採納此項原則之意，在承認國家領海範圍以三海浬為限，而不在限制本國之海疆準是以觀，上述三海浬範圍適用於我國時，自應以我國近海各處領土之邊疆為起點，而不限於瓊崖，法方以我國承認「三海浬原則」，而即斷定我國南部海疆應以瓊崖為限，不知何所依據，果如法外部所言，則法國在海外之殖民地，其距離法國本部有遠過於百四十五海浬者，若均視為非法國領土，法國政府可予以承認乎，法方提出三海浬問題，似係對於我方去文第一節為故意之誤解。(二)查一八八七年中法越南續議界務專條第三款，除劃清芒街Moncay區域之中越界線外，對於海中島嶼之領土主權，尚有明確之規定，該款中段所指「兩國勘界大臣所畫之紅線」，原為規定海中島嶼之領土主權而設，該款明白規定「紅線以東海中各島歸中國」，西沙群島既在紅線之東，按照條約其主

權應歸中國，自無疑義，至法方所謂「如該線可以延長，不但越南多數島嶼應為貴國領土，即越南本陸之大部亦然，實出誤會，蓋該款所指明，明為「海中各島」，斷無包括越南本陸地面在內之理也。（三）法方謂「安南歷史曾載有嘉隆五朝於一八一六年，正式占領該島在中國一九〇九年占領之先」，查一八一六年，安南尚隸屬中國在勢在理均無侵佔中國領土之可能，且中國歷史及書籍中，亦均無該島曾為屬國，安南佔領之記載，是越史所載殊屬失實，至一九〇九年李準之豎旗鳴砲，當係重定島名之一種紀念儀式，若夫該島之為中國所佔有已遠在漢代，馬伏波將軍征南之前，此證諸中國歷史班班可考者，即以最近事實而論，凡商人之欲承墾該島者，均須經過廣東省，當局之批准，此民國十年以來之一貫辦法至今行之無間，益證該島之為中國領土，中國政府始終握有管理實權。且（四）去年佔南海九小島時，駐華法使館秘書博德Baudet承法使韋禮敦Wilden之命，於一九三三年八月五日附同略圖來文，解釋略稱「中國地理及地圖內對於法佔之九小島從未提及或列入中國地理書，僅認西沙群島Paracels之最南島Triton為中國之最南領土，中華民國分省地圖載明「西沙群島內之Triton島為中國極南之地」，又洪懋熙著最新世界形勢一覽圖內亦有「中國疆界南至西沙群島之Triton」，至現在法佔之九小島與西沙群島，相距三百海

湮顯非西沙群島可知」云云，細核法方來文雖否認九小島為中國領土，但至少已承認中國之最南領土為西沙群島之最南島Triton，由此足證法方固明知西沙群島素為中國領土，乃法外部復文所稱各節竟與駐華法使館來文顯然不符殊所不解，除對於九小島本部業於上年八月四日照會韋禮敦公使保留權利外，所有法外部關於西沙群島之矛盾主張本部礙難接受，查近年以來中法邦交亦敦親睦，此種友好精神自應繼續維持，庶於雙方均有裨益，深望法方變更其現在所取之態度，以免糾紛，合行抄發博德秘書來文，及略圖等件，令仰該館即便遵照向法方駁復為要，切切此令。

附抄發博德秘書致徐次長函一件

附圖壹張

附件五：

說明書一件、中法越南續議界務專條附圖一張

附件六：

駐法公使館呈外交部稿抄件（民國二十五年十二月十日）總字第二一八二號

事由：關於西沙群島問題鈔送法外部十一月二十三日復文請鑒核由。案查關於西沙島問題，本館於民國二十三年六月七日遵照

大部歐字第三三二四號指令照會法外交部復稱「照敘原文至是所至感」等語，查此案與法外交部文書往返多次

迄無結果，吾人根據一八八七中法越南續議界務專條第三款，證明該島屬中國理由本極充足，此約應為中越劃界最後之決定，法方所根據一八一六年安南之歷史，尚在簽訂此約之前，不論其價值如何自界約改訂後，已失去效用，一若越南地圖之變色，惟法方既要求重行審查，吾人自應再從歷史及事實方面，及我國在該島行使實權情形，詳細調查，搜集有力證據，以便備照，再向法方交涉是否有當理合抄錄來照呈請

鑒核示遵謹呈

外交部

附件七：法國致我國駐法大使館函

案查前准一九三四年六月七日

貴館來文 關於西沙群島問題轉達

貴國政府觀察各點過部經本部各司慎重研究去後，本部所得考證如后：

一、前者中國政府以西沙群島為南海島嶼之一，而南海則為廣東省領海之一部份，等理由力爭該島主權行文過部，經本部以該島遠距中國海岸，百四十五海浬，超過中國政府在一九三〇年編纂國際法典會議，所採取劃分領海之規定距離甚巨等，理由答復在案，復准 貴館最近來文答稱西沙群島問題與「三海浬原則」毫無關係，更不能以該原則即斷定中國疆土，應以瓊崖為限等由。



本部除將該項聲明錄案外，認為中國政府為力爭該島主權，業不再以廣東省領海擴至南海之全部。

二、來文引用一八八七年中法越南續議界務專條第三款，稱「兩國勘界大臣所劃之紅線為規定，海中島嶼之領土主權，而設該款規定紅線以東海中各島歸中國」。本部詳查，該專條條文並無海中各島一語，引語欠確文為「巴黎東經百零五度四十三分，即經茶古島東端之南北線，並同時為國界之線以東各島屬中國」，是定界兩造之意，祇確定中越劃界地帶之中國領海，與東京領海中各島之歸屬而已，一如本部一九三三年九月二十七日復文所言，劃界純係地方性質，不適用於遠若西沙群島之島嶼。

三、來文復稱一八一六年安南尚隸屬中國，絕無安南侵佔中國領土之可能，該島之屬於中國遠在漢朝以前。本部始終認為該島，自一八一六年以還向屬安南皇帝管轄，中國來照亦從未加以反證。

四、中國政府對李準之豎旗鳴砲，已不認為佔領性質，但稱為出巡該島之一種儀式，本部當照錄備考。

五、法國駐華使館，為指明法方所佔之九小島，與該島無涉援用中國地圖，純為說明九小島之不屬中國，無可爭執而已，不得認為法方，即承認西沙群島為中國領土。

該項地圖出版日期甚新，而一八九七年廣東省當局所

製，廣東省地圖則無西沙群島之記載，最南領土至瓊崖之Yu-Lin海灣為止，位於該島之北幾及兩度。是該時廣東省未認該島為廣東省領土，與中國歷來聲稱，該島之佔領遠在漢朝一說，殊相抵觸。

再中國當局對於一八九八年日輪、英輪沉沒所取消極態度，亦資作證。為此，本部除重申一九三二年一月四日及一九三二年九月二十七日兩文所持理由外，仍希中國政府對上開詳列各節，重新覆核，並於最短期內使該島問題有一圓滿解決。敬希

查照並請轉達

貴國政府是所至感

此致

中華民國駐法大使館

附件八：

駐法大使館呈外交部稿抄件（民國二十六年三月十七日）總字第二三四一號

事由：抄送關於西沙群島案與法外部來往照會原文

案查關於西沙島案，本年二月十八日准法外交部照開「西沙群島問題，本部切願中法兩國政府，能於最短期間獲得友好之解決，此意業於上年十一月二十三日照達貴大使館在案。茲聞瓊州當局似擬偵視該島，為開發之準備此項辦法，如果證實似出武斷，對於現時雙方進行法律討論之結果殊非所宜，應請切加注意，本國政府希

望即在巴黎或南京開直接談判，俾此懸案於原則上得一解決。擬請將外傳瓊州當局之建議，及法國政府之希望一併傳達於貴國政府，實深感荷

法國政府，對於此案雙方友好之妥協，極為重視，倘所勉力未能成功，則不得不提議，付之仲裁之途徑。

等語當即摘要電陳在案旋奉

大部二月二十日及本月三日電示，即於本月九日遵照部電意旨，照復法外交部并聲明我國政府認為該島主權，屬於中國毫無疑義，保留對於該島一切之權利，至於談判或法律討論此問題一節，雖非必要但本館對於該部一九三六年十一月二十三日照會，仍擬詳細備復等節，除已電陳外，相應抄錄來往照會，原文呈候

核奪示遵謹呈

外交部

附件九：

本館與外交部來往電文十六件

(外交部致駐法大使館電民國二十三年三月二十三日第三三六號)

西沙島建觀象台，原以民國十四年夏間閣議，通過該島本屬中國法方何得過問，該館去年十月二十七日函已悉，本部已列舉理由於本月二十日指令該館痛加駁復，各項參考圖件已均附發，俟該令到後遵辦可也。外交部

(駐法大使館致外交部電民國二十三年二月廿一日第一三五號)

西沙島案上年十月二十七日函計達，頃法外部函稱聞中國擬在該島建觀象台，行政院與海軍部現正審議該島主權問題，未決前建台實有未便，請注意等語，除錄寄外應如何答復乞荷示。鈞

(駐法大使館致外交部電民國二十三年八月四日第七十四號)

法佔九島事，據法外部稱，該島在安南與菲律賓之間均係岩石，當航路之衝要以其險峻法船常於此遇險，故佔領以便建設防險之設備并出圖說明，實與西沙群島毫不相關，又謂吾國誤以七洲洋為西沙群島，其實西沙群島在七洲洋南一百五十海浬云。

(外交部致駐法大使館電民國二十三年四月廿三日第三五二號)

164、169號來電均悉，西沙島建台原我主權以內之事，惟此事籌備頗需時日，原定計劃尚未至實現之時。

外交部

(駐法大使館致外交部電民國二十三年四月廿一日第一六九號)

電計達法方所謂西沙島暫停建台一節，下星期一晤法外次時或又詢及，如已核奪乞電示。鈞



(駐法大使館致外交部電民國二十三年四月十四日第一六四號)

頃晤法外次順詢蘇俄加入國聯事，彼答前外長朋古曾與蘇俄接洽，新內閣尚未提及但望俄能加入，俄方如有條件並願爲之疏通，再西沙島事前奉三三六號電，當經照會法外部解釋以留地步，頃法外次又談及謂該島在主權未決前，盼我暫勿有何建設，現法海軍對我建設觀象台頗爲詫異，渠意該島主權問題在交涉期中，中國不宜有積極行動，否則法方亦積極進行維持主權，勢必立見衝突有礙兩國友誼，法對此事始終主張和平解決，如願付諸公斷亦所贊成，此時建台與否，無裨根本解決鈞告以建台係舊議我方駁復之詳細理由日內可收到轉達，彼謂建台不停止無從進行交涉，彼對我素抱好感，託鈞電陳勿使問題惡化，情詞懇摯，竊意此事要在根本解決，我國理由既屬充分，似宜從速依法解決，建台能否暫停，以免意外枝節祈核奪電示。鈞

(駐法大使館致外交部電民國廿七年七月十九日第八〇〇號)

二〇八號電敬悉，昨遵具節略交法外部，聲明該島主權我，并保留一切權利，據亞洲司口頭答稱，彼此主權問題可請放心，將來自應友誼解決，日兵艦仍常巡行群島，漁人日見增加頗有覬覦之意，法不派警將爲日佔，又日方無理之要求，已擬答復該島謹中法兩國有關係第

三者無權過問，日方似已了解此意，不至橫行云，鈞

(駐法大使館致外交部電民國廿七年七月九日第六七八號)

法警佔領西沙島事，日輿論對法大施攻擊，法各報無論派別，連日評論均一致擁護政府，謂該島向為安南屬土，華方雖有爭執，但對日本則毫無關係，決不容第三者干涉，至日抗議，法外部昨發表通告，稱日照會措詞和緩，祇要求保持日漁船往該島網魚權利，法政府當予以善意考慮。鈞

(外交部致駐法大使館電民國廿七年七月十三日第二一八號)

二一二號電計達，法政府既承認已派警察至西沙島，我方自應有相當表示，但祇須用節略聲明，中國政府向認該群島主權屬於中國，現中國政府保留一切權利等語，以後仍希注意法方行動，及日本對法之表示隨時報告，再上年十月間，法方並未通知我方，擬建築燈塔觀象台，并洽

外交部

(外交部致駐法大使館電民國二十七年七月九日第二一二號)

675號電悉，西沙島事，數日內另有訓令，現暫勿作任何表示。

外交部

(駐法大使館致外交部電民國二十七年七月七日第六七六號)

東京哈佛斯電，今日午後日本外次以法警佔據西沙群島向法駐日大使面交抗議，其大致謂中日戰事初起時，法方曾請日方在此，中法爭執中之島嶼不取任何行動，今法先自違犯上項默契，尤以該島地屬日海軍封鎖區域內，故日方深以為憾云。鈞。

(駐法大使館致外交部電民國廿七手月第六七五號)

六七四號電計達，頃訪法外長，詢以報載，越兵佔據西沙島事，并謂我於決定態度以前願知法方在該島處置實情，彼謂并非佔據，該島主權素屬安南，去歲九月曾通知貴國政府，擬在該島建設燈塔觀象台以察颶風而使海航，此項工程業於去歲十月開始，最近為防海盜侵犯漁民，越政府復派少數警察駐該島以維治安，實非佔領之舉，鈞謂去歲通知，并未接洽，該島主權問題係屬多年懸案，我國一再提出證據，證明主權實屬中國法外部有案可稽，前年法政府以未解決前雙方不宜有何積極動作，請我暫將該島建設觀象台之原議擱置，并靜候交涉，當時法外部並謂如交涉無結果，可提交仲裁，具見案仍懸未解決，此次派警駐島究係如何用意，是否于雙方法律上之立場并無絲毫變更，彼謂此案將來仍須交涉解決，此時中國政府可再聲明立場，保留一切權利，并謂日使亦來抗議，堅持該島係屬中國，所談不甚愉快，

察其語氣日本原擬自行佔領，現該島附近已有日巡洋艦三艘云，鈞詢彼如何答之，彼謂曾告以法已有建築在島并派警駐紮，現無意撤退，鈞又詢報載法政府已將派警駐紮西沙島之舉，備文通知英政府確否，法政府亦擬知照我國政府否，彼答確已通知英政府亦可電令那其亞大使通知我政府，鈞詢日對海南島最近態度，彼謂日政府不肯保證勿佔，鈞詢彼對英外次在下議院之宣言如何看法？是否採用任何方法法英可一致合作，彼謂所言頗切實可完全合作，鈞謂聞柏林有逼日本佔據海南之舉，彼謂亦有所聞，但英政府之聲明諒足以阻止日本實行佔據云，查該島主權之屬華，我素堅持，現在日本同樣主張甚至向法抗議，意在窺伺，目前我方究應嚴重抗議，抑僅重敘我國立場，正式聲明保留一切權利以待日後續行交涉解決，請核奪示遵鈞

(駐法大使館致外交部電民國廿七年七月六日第一七四號)

207、208、209號電敬悉，今午為穆岱錢行赴華談及海南島事，據云在彼長殖民部時，中日戰事發動後曾與法外部商定，派越南保安隊駐西沙群島，以阻日本窺伺，而遙制日本侵佔海南島之動機，此舉純為保護越南安全，及假道越南之海航線，與中法雙方所抱立場毫無影響，該群島主權根本問題仍待將來依照法律解決，如我能允法於海南島設商用機場，更足遏減日本對該島之野



心云，鈞已約見外長容晤談後續陳鈞

(外交部致駐法大使館電 民國廿七年七月六日 第二〇九號)

207、208號電計達，希即備文送達法外部，大意略謂近聞越南武裝隊伍已佔領西沙島，查該群島主權向屬中國法政府對該群島之主張，中國從未承認，上述如果確實，中國政府不得不提出抗議，并保留一切權利云云，如佔領已經證實措詞自須照改

外交部

(外交部致駐法大使館 電民國廿七年七月六日 第二〇八號)

207號電計達，據海洋通訊社稱，越南兵佔領西沙島，法政府並不否認，且所傳佔領之理由與前法政府主張該島主權向我提出之理由為十九世紀之初，該島即屬安南王各節似相彷彿Intansigeant倫敦訪員并稱法政府已將佔領之事實通知英政府云云，未知所傳是否屬實希即探復

外交部

(外交部致駐法大使館電民國廿七年七月五日第二〇七號)

傳聞法兵已在西沙島登陸，日方異常注意云確否希查探復



**Annex 484**

*Telegram* from Special Agent Office of the Ministry Foreign Affairs of the Republic of China in Pingjin to the Ministry of Foreign Affairs of the Republic of China (7 Feb. 1947), reprinted in *Archival Compilation on South China Sea Islands by Ministry of Foreign Affairs*, Vol. 1, Doc. No. II(2):248 (Republic of China Ministry of Foreign Affairs Research & Planning Committee, ed.) (1995)





**Archival Compilation on South China Sea Islands by Ministry of Foreign Affairs  
(Volume 1)**



Compiled and printed by Ministry of Foreign Affairs Research & Planning Committee  
May 31, 1995

[...]

II(2):248 One editorial and three other excerpts about the Xisha Islands [Paracel Islands] incident from the Tianjin Yishi Newspaper (February 7th, 1947)

Postal telegram from Ministry of Foreign Affairs' Special Agent Office in Pingjin

Your Honorable Ministry of Foreign Affairs: Hereby attached is one editorial from the Yishi Newspaper about the Xisha Islands for your review and reference by the special agent in Pingjin [jointly Peking and Tianjin], Ji Zejin Kou Chouyu [name not confirmed].

Attachment One: Dispatched to check out materials and reports about the Xisha Islands in various libraries.

Staff was dispatched to various libraries to look up the annals, books, and maps for records which indicate that the Xisha Islands belong to the Republic of China. Staff also went to the Department of Education of the National Central Library and the University of Nanking to consult the (1) *Guangdong General Gazetteer*, (2) *Compilation of Ancient and Modern Books*, (3) *Annals of the Unified Qing Dynasty*, (4) *Illustrated Book on Guangdong*, (5) *Governmental Gazetteer of Qiongzhou Province*.

All records and maps about national territory suggested that the country extended to Qiongzhou Island in the south. The territory recorded by *Governmental Gazetteer of Qiongzhou Province* was also limited to the three cities and ten counties on Qiongzhou island, “which was adjacent to Niaoli and Sujilang by enclosing seas, to Zhan City at the South, to Jiaozhi of Zhenla at the west, to One-Thousand-Li Long Sands and Ten-Thousand-Li Stone Dyke, and Xuwen county of Leizhou at the north (First page on Territory, Volume 3, *Governmental Gazetteer of Qiongzhou Province* revised in 1841, Year Xinchou of Qing Dynasty under the reign of Daoguang), which seemed to demarcate the external navigation scope. The section of Qiong County on page three of Volume fourteen, of the *Illustrated Book on Guangdong* (A publication during the Qing dynasty under the reign of Emperor Guangxu), stated, “The most treacherous area is Ten-Thousand-Li Stone Dyke,” which seemed to indicate the Xisha Islands.

This is presented in line with actual circumstances.

For your review,

Submitted by

Li Wenxian  
Chang Yuanchang  
Chang Weizi  
February 4, 1947

Attachment Two: Presentation regarding circumstances at Wude Island by Xisha Radio Station director Li Bizhen

Presentation regarding circumstances at Wude Island by Xisha Radio Station director Li Bizhen :

(1) The constructions by Japan and France on this island were predominantly Japanese-built wooden houses, which were mostly destroyed by fishermen. Remaining were merely a dilapidated cement meteorological observatory and a small temple for lonely ghosts, constructed by the Taiwanese in 1926. Moreover, there is a

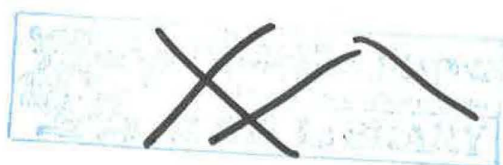
large Japanese Monument that recorded in detail their arrival and departure, as well as the process of phosphorus mining. They arrived around 1917 and had not left as of 1938.

(2) French constructions were mainly of cement. There were five or six houses, which were painted in yellow, (red), white, and blue, just like their national flag. There was one temple bearing Chinese inscriptions of “Huangjiang (sha) Temple” and March 1 of Year 14 of Annam Emperor Bao Dai. The temple also had the tricolor flag above the temple entrance. One tomb was decorated in the same way as other houses and the temple. The tombstone was inscribed with Chinese characters An-Nan [Annam], while the rest of the text was in French.

(3) Evidence from our country was quite limited. Only one segment of a stele was found in the forest, which was inscribed “Commemoration of Inspection” and “Year 10 of the Republic of China” but remaining segments could not be found. Also, it was reported that another segment was found on the beach of Shi Island, bearing texts “Commemoration of inspection visit” and “First year of the Republic of China.”

[...]

# 外交部南海諸島檔案彙編 (上冊)



外交部研究設計委員會編印  
中華民國八十四年五月三十一日

偶有法文小碑字發現，謹復職李必珍叩子咸戌待西

附件二：鄧青海來電

子江務戰二群電奉悉(一)查日人立碑上刻太陽徽下爲大日本帝國五字後被法人塗改原文 A. Strolabf <10-4-33> Cheurenil <5/10/46> ILE. ITU. ABA. FRANCE，現已換爲上刻黨徽下刻太平洋島三字，(二)日人另立一長方碑原文新南群島漁港工事從業員一同紀念碑現已將其拆毀，(三)尚有平安丸遭難紀念碑及林茂之墓均係水泥建築撤毀不易現正設法塗改。謹復職鄧青海代永康叩子虞

II(2):247、電請航寄西沙群島有關資料由(民國三十六年二月七日發電字第二七〇號)

外交部致廣東省政府轉蕭次尹電

電

廣東省政府轉蕭次尹兄子艷電悉西沙群島成案彙編及中央調查該島報告書兩種，請即航空寄部甘乃光叩

II(2):248、剪奉津益世報關於西沙群島事件社論一則及其他三則資料(民國三十六年二月七日)

外交部駐平津特派員公署快郵代電

外交部鈞鑒：茲隨電剪奉津益世報關於西沙群島事件社論一則祈請鑒核參考爲禱駐平津特派員季澤晉叩丑魚

附件一：派赴各圖書館查閱西沙群島資料報告

奉

派赴各圖書館翻閱志書圖籍蒐集西沙群島隸屬我國之記載，經遵分赴中央圖書館教育部及金陵大學等處計檢查(一)廣東通志(二)古今圖書集成方輿彙編(三)大清一統志(四)廣東圖說 (五)瓊州府志等書。

各書關於疆域之紀載及所繪圖形均南至瓊州島而止，瓊州府志之範圍亦限于瓊州本島之三州十縣至「外匝大海接烏里蘇吉浪之洲南則占城西則真臘交趾東則千里長沙萬里石塘北接雷州府徐聞縣蕭志」云云（道光辛丑重修瓊州府志卷之三疆域第一頁）似指對外航行可通之地，惟廣東圖說（光緒時刊物）十四卷三頁瓊郡項下有「尤險阻者則為萬里長沙」似指西沙群島耳

奉

派前因理合將遵辦情形呈報

鑒核

李文顯  
張沅長 謹呈  
張為資

卅六年二月四日

附件二：西沙電臺台長李必珍呈武德島情形

西沙電台台長李必珍丑文未懇西電呈武德島情形：

(一)本島法日建築物均多日建木質房屋多被漁民破壞，所餘僅水泥製之殘破氣象台等耳孤魂廟一小座，係

台灣人於中國十五年建又日碑一面頗大記來去及採磷經過時間甚詳約由大正六年到此至昭和十三年尚未離去。

(二)法建多係水泥所有房屋伍陸間牆壁裝飾黃(紅)白藍等各色像其國旗廟宇一華文黃江(沙)寺並載有大南黃帝保大十四年三月初一等廟額亦有三色旗墳墓一座其裝式與其他房屋廟宇同墓碑華文安南兩字外餘均法文。

(三)我國證據極少僅在樹林叢中覓得斷石一段載有「察紀念」「華民國十年」等字無法再尋該石之頭尾。

又丑元電呈在石島海灘處拾得斷石一塊載「視察紀念」「大中華民國元年」等字句

II(2):249、仰將一八八七年中法續議界務專條關於紅線畫界問題所附原圖照繪或攝影航郵寄部(民國三十六年二月八日發電第二/F二〇九號)

外交部致舊金山總領事館電

舊金山總領館：九〇號電悉，查該館三十四年十月二十二日所寄一八八七年中法界務條約清冊內，並無中法續議界務專條第三條內所載紅線劃界之原附地圖，仰再查明將該圖照繪或攝影航郵寄部并電復。外交部(歐)

II(2):250、西沙群島法軍登陸事此間各報均有記載剪呈有關新聞由(民國三十六年二月十日)

駐聯合國代表辦事處代電



**Annex 485**

Fu Zhu, *Regarding the Issue of Territorial Waters of China* (1959)



Regarding the Issue of Territorial Waters of China

Fu Zhu

World Knowledge Publishing House

Regarding the Issues of Territorial Waters of China

Fu Zhu

World Knowledge Publishing House

1959, Beijing

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*Fu, Zhu*

Regarding the Issues of Territorial Waters of China

Fu Zhu

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## **I. The Major Significance of the Declaration on Territorial Waters by the Chinese Government**

On September 4, 1958, our government issued a declaration regarding its territorial waters. The declaration solemnly stated: (1) The width of the territorial sea of the People's Republic of China shall be twelve nautical miles (1 nautical mile = 1.852 kilometers); (2) The straight baseline method shall be used in delimiting the width of the territorial sea; (3) No foreign aircraft and no foreign military vessels may enter China's territorial sea and air space above without the permission of our government -- while navigating in China's territorial sea, all foreign vessels must comply with regulations of our government; (4) Taiwan and Penghu regions are still under American military occupation, which constitutes unlawful infringement on the territorial integrity and sovereignty of China. Our government has the right to take any appropriate measures at appropriate times to reclaim these regions; this is Chinese internal governance and foreign intervention is not tolerated. This declaration was a major action taken to defend the integrity of Chinese sovereignty and territory, and it is highly meaningful in the consolidation of our national defense security and the protection of Chinese economic interests.

Territorial sea is an important component of a country's territory, and is fully under the sovereign jurisdiction of this country. National sovereignty extends to territorial sea, air space over territorial sea, and strata beneath the bottom of the sea. Any foreign country, regardless of the method used, that infringes on another country's territorial sea and air space over the territorial sea constitutes infringement of the country's territorial sovereignty, and this is considered a type of invasive behavior that violates international law. The infringed country has the right to take all measures to defend itself until such invasion ends.

Territorial sea is important to a coastal country in two ways, for economics and for national defense. Economically speaking, territorial sea is the location in which a coastal country and its residents acquire marine resources. Residents of a coastal country have the exclusive right to engage in fishing and develop natural resources within the territorial sea of their country. In terms of national defense, since territorial sea separates the continent from high sea,

it is also very important in preventing encroachment by enemies and in defending national security.

Every independent country that has a coastline has its own territorial sea. The mutual respect for sovereignty in territorial seas has become an internationally recognized principle. Socialist countries always strictly follow this principle and engage in uncompromising conflict with imperialist countries that use various means to encroach on the territorial seas of other countries. Socialist countries do not permit any foreign country to infringe on their territorial seas and are opposed to encroaching on the territorial seas of other countries. Many capitalist international legal scholars also acknowledge the principle of respecting the national sovereignty in territorial seas of other countries. In practice, however, imperialist countries have rudely destroyed this principle. The most obvious examples of this are the imperialist countries such as the United States and Great Britain, which often sail military vessels into the territorial seas of other countries to demonstrate their power and to provoke these countries.

China is a nation with a very long coastline—over 11,000 kilometers long. The protection of territorial sea sovereignty is especially important for consolidating our country's national defense and security. However, prior to liberation, since the old China had long been in a state of semi-colonialism, the reactionary ruling classes of old China signed a series of unequal treaties with imperialist countries such as the United States, Great Britain, and Japan. These unequal treaties allowed foreign military vessels to access Chinese territorial seas freely, and even the internal rivers of China. Chinese cities and rural villages along the coast and shores of the internal rivers were often under the threat of imperialist military vessels, and sovereignty was fully lost. Therefore, at the time there was no territorial sea to speak of. In opposition to imperialist invasion and in defense of national sovereignty and territorial integrity, the Chinese people persevered through long-term resistance, finally achieving their victory. In 1949, the founding of People's Republic of China finally ended the rule of imperialist forces and their lackeys in China, abolished all unequal treaties, and revoked all special powers of imperialism in China. From then on, imperialism could no longer enjoy free rein in Chinese territory. The age of unchallenged free access to Chinese territorial seas by imperialist military vessels was over. The Chinese people had risen up under the leadership of the great Chinese Communist Party and Chairman Mao. For nine years, in order to defend the Chinese sovereignty over territorial seas, the Chinese people had persevered in resisting imperialist military provocations and invasive

activity in Chinese territorial seas and territorial air space, destroying all the evil schemes of imperialism. Now, after careful consideration, our government issued a formal declaration on September 4, 1958, making clear stipulations regarding the issue of territorial sea for China. After the declaration was made, people all over the country rejoiced and enthusiastically showed their approval, taking pride in truly having a territorial sea system of their own. The fighters on the front lines of maritime defense have also stated that they would persevere in carrying out the various regulations in relation to the Chinese territorial sea system, defend Chinese sovereignty in territorial seas, and defeat invaders from any direction. Internationally, the Chinese territorial sea declaration was received with unreserved support from the governments and social opinions of socialist countries such as USSR, Bulgaria, Hungary, Romania, Czechoslovakia, German Democratic Republic, Poland, Albania, North Korea, Vietnam, and Mongolia. They believed that it was China's "unalienable right" (Czechoslovakian newspaper "*The Red Right*"); was "completely in conformity with China's economic interests and national defense interests, and at the same time poses no harm to the interests of other countries" (USSR newspaper "*Truth*"); and "is a major step taken to stabilize Chinese coastal regions by chasing provocateurs outside a certain boundary, thereby contributing to the consolidation of security and peace" (German Democratic Republic newspaper "New Germany"). The démarche sent by sister governments of countries such as the USSR consistently stated that "the decisions made by the People's Republic of China in the declaration will receive complete respect" (USSR démarche on September 11, 1958 sent to our government). Other than from the sister countries, we also received support from the governments and peoples of friendly countries; for instance, Indonesian Minister of Foreign Affairs Subandrio said, "The decision made by People's Republic of China regarding its territorial seas is very appropriate, and completely the same as the demands of Indonesia." Indian Prime Minister Nehru also responded to journalists by saying, "We have no reason to oppose this." It shows that the measure taken by our country to protect sovereignty not only received enthusiastic approval from our people and proactive support from socialist countries, but it also was welcome from the countries and peoples opposed to imperialist invasion and seeking national independence. Since we are a major country in the world, this measure taken by our country will produce proactive effects on various countries in their fight against colonialism and for the protection of sovereignty and territorial integrity.



However, the imperialist invasion forces headed by the United States have engaged in shameless opposition and denigration of the Chinese government's declaration on territorial seas. For instance, the U.S. government slandered the decision of our government as a "concealment of the objective of invasion" and a kind of "plunder." The British government has also given rhetorical support to U.S. infringement and has refused to acknowledge the decision by our government. The governments of Japan and France have also shown reactionary imperialist ambitions, either stating "non-acknowledgement" or "regret." However, all opposition, rejection, negation, regret, or even slander of imperialist countries only serve to expose their invasive natures seeking to destruct the sovereignty of other nations in front of the Chinese people and the people of the world, but it will not change our government's decision regarding the territorial seas issue and the strong will of the Chinese people in defending the Chinese territorial seas. The unreasonable interference of imperialism is destined to fail.

[...]

[...]

### **V. Bays. Bohai Bay is an internal bay of China**

Simply put, a sea that extends into land is called a bay. Bays are more complex. Some bays belong to the same country along a coast, but some bays belong to multiple countries along the coast. Bays that belong to several countries include the Persian Gulf, which belongs to Iraq, Iran, and Saudi Arabia. Each country has its own territorial waters in the Gulf, and the waters outside the territorial waters are high sea.

As for bays belonging to single countries, some bays are internal bays of such countries, but some countries only have their own territorial waters within a bay while the sea regions outside of their territorial waters remain high sea. Based on international law and international practice, for a bay to be an internal bay, one of the following conditions must be met.

First, for countries that use the straight baseline method to determine the width of their territorial waters, if the bay is

within the baseline of its territorial waters, then the bay should be an internal bay of the country.

Second, if the distance between the two low-water marks of the natural entrance to the bay is less than 24 nautical miles, a straight line can be drawn between the low-water marks, to be referred to as the closing line; the waters within the closing line are internal waters, and the bay becomes an internal bay of the coastal country. If there are many islands in the mouth of the bay, in turn forming several entries, each entrance shall be computed based on the above method.

The second method is internationally recognized. For instance, on April 29, 1958, *Convention on the Territorial Sea and the Contiguous Zone* passed by the Convention on the High Seas stipulated: “If the distance between the low-water marks of the natural entrance points of a bay does not exceed twenty-four miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.” (Article 7.4).

Third, although the natural entrances of certain bays exceed 24 nautical miles, if the bay has important national defense and economic value for a coastal country, and if the coastal country has continuously exercised jurisdiction over the bay, such bays are deemed historic bays, to be recognized as internal bays of the coastal country.

International law and international practice both recognize historic bays. For instance, historic bays are clearly recognized by Article 7.4 of the *Law of the Sea*, established by the 8<sup>th</sup> session of the International Law Commission of the United Nations, and by Article 7.6 of *Convention on the Territorial Sea and the Contiguous Zone*. There are many such examples in international practice. For instance, Cancalle Bay is an internal bay of France with an entrance width of 17 nautical miles; Varangerfjord is an internal bay of Norway with an entrance width of 32 nautical miles; Hudson Bay is an internal bay of Canada with an entrance width of 50 nautical miles. These bays were deemed domestic bays of these countries because they were recognized as historic bays. On July 21, 1957, the USSR government reiterated that Peter the Great Gulf was its internal waters due to the historic bay reason (the entrance of the gulf is over 120 nautical miles wide).

China has a winding coastline, with many bays. Important Chinese internal bays include the well-known Bohai Bay, Hangzhou Bay, and Zhujiangkou Bay. The reason that this

declaration of territorial waters only mentioned Bohai Bay is that it is the largest of the Chinese bays. Using any of the three conditions listed above, Bohai Bay should absolutely be considered an internal bay of China.

First, in its declaration, our government has announced that the straight baseline method would be used to delimit its own territorial waters, and the location of Bohai Bay is completely within the baseline of our territorial waters, so it can only be internal waters and nothing else.

Next, the entrance of Bohai Bay connects Liaodong Peninsula and Shandong Peninsula. Even though the distance of the entrance is 45 nautical miles, there are a series of islands at the entrance of the bay, forming eight entrances. The largest entrance is the one between Liaodong Peninsula and Beihuangcheng Island (Laotieshan Channel). This entrance is approximately 22.5 nautical miles wide, less than 24 nautical miles. Therefore, Bohai Bay should be recognized as Chinese internal waters based on this calculation method as well.

Bohai Bay is also a historic bay of China. For several thousand years, it has continuously and historically been under the actual jurisdiction of China. China has always treated it as internal waters, which has been publicly recognized in international society. For instance, during a war between Prussia and Denmark, the SMS Gazelle captured a Danish vessel in Bohai Bay. At the time, the Chinese government issued a protest to the Prussian government based on the rationale that Bohai Bay was the internal waters of China, forcing the Prussian government to release the Danish vessel. This was the most significant example of international public recognition that Bohai Bay was Chinese internal waters over a hundred years ago.

It is even more evident that Bohai Bay has extremely important economic and national defensive roles for China. For example, in terms of national defense, Bohai Bay is the Chinese gate to the north and is highly important for the defensive security of Beijing, the capital. Historically, imperialists have initiated several invasions and wars against China, such as the 1857 invasion of China by the Anglo-French Alliance, and the 1900 invasion of China by the Eight-Nation Alliance. In both instances, the invading forces landed at Dagukou in Bohai Bay, in

order to threaten Beijing and Tianjin directly, in turn forcing the Qing Dynasty to sign the unequal treaties, Treaty of Tientsin [Tianjin] and the Boxer Protocol. According to historical records, among the six invasions initiated by imperialists against the Qing government (Opium War of 1842, the two Anglo-French Alliance wars of 1857 and 1860, the Sino-French War of 1884, the First Sino-Japanese War, and the Eight-Nation Alliance War), imperialist forces landed at Dagukou in Bohai Bay three times (other than the two times mentioned above, there was also the second Anglo-French invasion of China in 1860). During invasions by Japanese imperialists, Bohai Bay was also used as an important channel for supplying materials. Furthermore, during the second Chinese Civil War, the United States helped Chiang Kai-shek's "suppression of the rebellion" by using landing vessels with Kuomintang forces in northern and northeastern China, for which Bohai Bay was used as a docking location. Today, even though these historical facts have forever become the past, the one important lesson is that Bohai Bay must be fully controlled by the Chinese people to enable true guarantees for the national defense security of China.

[...]

[...]

## **VI. Strait. Qiongzhou Strait is an internal strait of China**

A strait refers to a narrow waterway that passes through land and connects to two oceans. These include, for example, the Bosphorus Strait and the Dardanelles Strait that connect the Black Sea to the Mediterranean Sea; the Strait of Gibraltar that connects the Mediterranean Sea to the Atlantic Ocean; and the Strait of Magellan that connects the Atlantic Ocean to the Pacific Ocean.

There are many straits in the world, and their natures are more complex. Sometimes the lands that a strait passes through belong to different countries on different shores, while sometimes the lands are territories belonging to the same country. Therefore, international law has the following requirements regarding these straits.

### **I. When the two coasts on opposite sides of a strait belong to two countries:**

(A) If the distance between the coasts of the two countries is less than the total width of the territorial seas of the two countries, the line between the two territorial seas should be delimited by agreement between the two countries. If such an agreement does not exist, unless a boundary should be delimited due to special reasons, the midline should serve as the boundary. For example, the two shores of Corfu Channel are under the control of Albania and Greece;

the widest distance between the shores of the strait is approximately 8.8 nautical miles, and the narrowest distance between the shores is approximately 4.4 nautical miles. The total width of the territorial seas of Albania and Greece is 16 nautical miles (the width of the Albanian territorial sea is 10 nautical miles, while the width of the Greek territorial sea is 6 nautical miles); therefore, the boundary between territorial seas in the strait should be resolved through negotiation between Albania and Greece.

(B) If the distance between the coasts of the two countries is greater than the total width of the territorial seas of the two countries, the two countries have their own territorial seas, and there would be high sea in the sea region between the territorial seas of the two countries. For instance, the two shores of the Strait of Malacca belong to Malaysia and Indonesia. The widest distance in the strait is approximately 111 nautical miles, and the narrowest distance in the strait is approximately 22–28 nautical miles, all of which is greater than the sum of the widths of territorial seas of the two countries (the width of the Indonesian territorial sea is 12 nautical miles, while the width of the Malaysian territorial sea is 3 nautical miles). Therefore, the sea region outside of the territorial seas of the two countries should be considered high sea.

## II. When the two coasts on opposite sides of a strait belong to the same country:

(A) If the width of the strait is not greater than two times the width of the territorial sea declared by the coastal country, generally speaking, this type of strait is part of the territorial sea of the coastal country (due to the width of the territorial sea counted on both shores of the strait). For instance, both sides of the Solent and Menai Straits are British territory; the width did not exceed twice the width of the British territorial sea (the width of British territorial sea is 3 nautical miles), so these are both territorial straits of Britain.

(B) If the width of the strait is greater than twice the width of the territorial sea declared by the coastal country, then the sea regions outside the territorial sea should be high sea. There are many such straits, including Taiwan Strait, which meets this definition. Chinese territory is on both sides of Taiwan Strait, but the strait is between 83 and 140 nautical miles wide, greater than twice the width of the territorial sea declared by China. Therefore, the declaration on territorial sea by China clearly pointed out that the strait contains high sea.

(C) When a coastal country uses the straight baseline method to delimit the width of territorial seas, if the strait is within the baseline for territorial sea, then the strait should be part of the internal waters of the coastal country. Qiongzhou Strait is this type of strait; because it is within the territorial sea baseline of our country, our declaration on territorial sea proclaimed that it is part of the internal water of China.

China has many internal straits, the largest of which is Qiongzhou Strait. Since it is located between Mainland China and Hainan Island, it is an important maritime passage connecting Mainland China and Hainan Island, as well a maritime shortcut to Southeast Asian countries. It is extremely significant to Chinese in economic and national defense terms.

Historically, it has always been under Chinese sovereign jurisdiction and an inseparable component of Chinese territory. Since liberation, China has long managed it as an internal strait. The declaration on territorial sea by our government is merely a reiteration of historical fact.

[...]



[...]

#### **X. Chinese Stipulations in Relation to Territorial Sea are Applicable to All Chinese Territories**

In the declaration on territorial sea, the Chinese government clearly stipulated: The principles in (2) and (3) of the declaration shall also apply to Taiwan and its surrounding islands, Penghu Islands, Dongsha Islands, Xisha Islands, Zhongsha Islands, Nansha Islands, and other islands belonging to China. In other words, in all these regions, the width of the territorial sea is 12 nautical miles, the method of delimiting territorial seas will be the straight baseline method, foreign airplanes and military vessels must first obtain permission from the Chinese government before accessing the territorial seas and air space over territorial seas in these regions, and foreign vessels must abide by Chinese regulations while in the territorial seas in these regions. These requirements of our government are in complete accord with principles in international law. Based on international law and international practice, the islands belonging to a country should have the same width of territorial sea as the mainland of that country; the regulations promulgated by the country on territorial seas should fully apply to the territorial sea surrounding these islands, and the respect for another country's sovereignty over territorial sea includes respect for the sovereignty over territorial seas surrounding its islands. Therefore, at present the American imperialists have occupied Chinese territories of Taiwan, Penghu, and other coastal islands with military force, constituting severe damage to the integrity of Chinese territory and Chinese sovereignty over its territorial sea. This is absolutely not to be tolerated by the people of China. Taiwan has been Chinese territory since time immemorial and has always had a closely relationship with Mainland China in terms of the economy and the people. Well-known international documents such as the Cairo Declaration and the Potsdam Declaration stipulate that Taiwan should be returned to China. In fact, after Japan surrendered, Taiwan was returned to China. This is publicly acknowledged historical fact that cannot be denied by anyone. The Chinese government has repeatedly solemnly declared: Taiwan is the sacred territory of

China, and the Chinese government has the right to take all appropriate measures to liberate Taiwan at an appropriate time. This is a matter of internal administration of China and foreign interference will not be tolerated.

American imperialism has not only occupied Chinese territory Taiwan by military force but also supports its lackeys the Philippines and South Vietnam in their attempts to occupy islands in the South China Sea such as the Nansha Islands. As everyone knows, islands in the South China Sea such as the Nansha Islands have also been Chinese territory since time immemorial. Chinese people have always resided on these islands. On some islands, temples and bases constructed by Chinese people have been discovered. Many ancient Chinese books have described these islands. Therefore, the Philippine government's belief that islands in the South China Sea such as the Nansha Islands "by principle" belong to the Philippines is unfounded. On May 29, 1956, the Chinese government made a solemn declaration that the legal sovereignty of China over the Nansha Islands will not tolerate any infringement by any country using any pretext or method. We should point out that in 1957 the United States secretly occupied Nansha Islands, using the pretext of "navigational work" and "permission" from Chiang Kai-shek to construct military bases and to station the American Air Force there. The Chinese people absolutely cannot tolerate this. On May 23, 1957, a commentator for the *People's Daily* pointed out that the American military must immediately pull out of the Nansha Islands and out of Taiwan. The Chinese people will use the same determination for the liberation of Taiwan to reclaim the Nansha Islands from the hands of the invaders.

Recently, due to the complete failure of the policy to invade China, the United States was forced to change the methods of its invasion. It has publicly and explicitly promoted the "Two Chinas" policy in attempt to permanently occupy Taiwan. However, regardless of the cunning schemes manipulated by the United States, all of its invasive policies hostile to the people of China are destined to fail. The American invaders must get out of the Taiwan region and get out of all Chinese territory. Chinese internal governance will tolerate no interference, Chinese territory will tolerate no occupation, and Chinese sovereignty over territorial seas will tolerate no encroachment. The widths of territorial seas and the methods by which the widths of territorial seas are delimited as stipulated by the Chinese government must apply to all territory of China. Any infringement on the territorial seas of China is an infringement of Chinese territorial sovereignty, against which the people of China will decisively strike back.

关于我国的领海问题

傅 铸

世界知识出版社

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傅 鑄 著

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## 一 我国政府关于領海的 声明的重大意义

一九五八年九月四日我国政府发表了关于領海的声明。声明庄严地宣布：(一) 中华人民共和国的領海寬度为十二海里(一海里=一·八五二公里)；(二) 划定領海寬度的方法采取直基綫法；(三) 一切外国飞机、軍用船舶未經我国政府許可，不得进入我国的領海和領海上空，任何外国船舶在我国領海航行，必須遵守我国政府的有关法令；(四) 台湾和澎湖地区現在仍然被美国武力侵占，这是侵犯我国領土完整和主权的非法行为，我国政府有权采取一切适当的方法在适当的时候，收复这些地区，这是中国的內政，不容外国干涉。这一声明，是保卫我国主权和領土完整的重大措施，对于巩固我国的国防安全和保护我国的經濟利益，具有极为重大的意义。

領海是一国領土的重要组成部分，完全处于这个国家的主权管轄之下；国家主权及于領海和領海上空以及海底之下的地层。任何外国無論以任何方式侵犯一个国家的領海和領海上空，就是侵犯了这个国家的領土主权，被認為是一种违反国际法的侵略行为。受害国有权采取一切手段进行自卫，直到这种侵害消除为止。

領海对沿岸国的重要性主要包括經濟和国防两方面。从經濟意义上說，領海是沿岸国和它的居民获取海上資源的場所，沿岸国的居民有在自己国家的領海內从事捕魚和开发天然資源的專屬权利。从国防意义上說，由于領海将大陆与公海



隔开,所以在防止敌人侵略,保卫国防安全上也很重要。

世界上每个滨海的独立国家都有自己的領海。互相尊重領海主权已成为国际上公認的原則。社会主义国家一贯严格遵守这一原則,并同利用各种方式侵犯他国領海的帝国主义国家进行毫不調和的斗争。社会主义国家不仅不容許任何外国侵犯自己的領海,而且也反对侵犯他国的領海。对于尊重他国領海主权这一原則,許多资产階級国际法学者也都承認。但是,帝国主义国家在实践上却粗暴地加以蹂躪和破坏。美英等帝国主义国家常常把軍艦开入他国領海进行示威挑衅,便是最明显的例子。

我国是一个海岸綫很长的国家,海岸綫长达一万一千多公里,保护我国的領海主权对巩固我国的国防安全尤其有重大意义。但在解放以前,由于旧中国长期处于半殖民地地位,旧中国反动統治階級与美、英、日等帝国主义国家簽訂了一系列的不平等条約,允許外国軍艦不但可以自由地进出我国領海,而且还可以在我国内河长驅直入,我国沿海和内河沿岸的城市和乡村經常处于帝国主义的軍艦的威胁之下,完全丧失了主权。因此,当时实际上也就沒有領海可言。中国人民为了反对帝国主义侵略和保卫国家的主权和領土完整,曾进行了长期的不屈不挠的斗争,終于取得了胜利。一九四九年中华人民共和国的成立,最后結束了帝国主义势力及其走狗在中国的統治,废除了一切不平等条約,取消了帝国主义在中国的一切特权。从此,帝国主义再不能在中国領土上为所欲为了。帝国主义軍艦自由出入中国領海而不受到任何懲罰的时代永远宣告結束了。站起来了的中国人民在伟大的中国共产党和毛主席的领导下,九年来为了保卫我国領海主权,曾經和帝国主义向我国領海和領空进行的軍事挑衅及其他各种侵略行



为进行了坚决的斗争，粉碎了帝国主义的一切阴谋诡计。现在，我国政府经过周密的考虑后，又于一九五八年九月四日正式发表了声明，对我国的领海问题作了明确的规定。声明发表以后，全国人民欢欣鼓舞，热烈拥护，为真正有了自己的领海制度而自豪。守卫在海防前线的战士们，也都一致表示要坚决执行我国政府关于我国领海制度的各种规定，保卫我国领海主权，打击来自任何方面的侵略者。在国际上，我国领海声明也得到苏联、保加利亚、匈牙利、罗马尼亚、捷克斯洛伐克、德意志民主共和国、波兰、阿尔巴尼亚、朝鲜、越南、蒙古等社会主义国家的政府和舆论一致的无保留的支持。它们认为这是中国“不容剥夺的权利”（捷克斯洛伐克“红色权利报”），“完全符合中国的经济利益和国防利益，同时并不妨害其他国家的利益”（苏联“消息报”），“是为稳定中国沿海地区所做出的重大步骤，它把挑衅者赶到了一定的界线以外从而为安全和和平的巩固作出了贡献”（德意志民主共和国“新德意志报”）。在苏联等兄弟国家政府致我国政府的照会中都一致表示“完全尊重中华人民共和国政府声明中的决定”（苏联政府一九五八年九月十一日致我国政府的照会）。除兄弟国家外，我们还得到了其他对我国友好的国家的政府和人民的支持，如印度尼西亚外交部长苏班德里约说：“中华人民共和国关于领海的决定是十分恰当的，同印度尼西亚的要求完全一样”。印度总理尼赫鲁在答记者问时也说：“我们没有理由反对它”。可见，我国这一保卫主权的措施，不但我国人民热烈拥护，社会主义国家积极支持，而且，凡是反对帝国主义侵略、要求民族独立的国家和人民，也都表示欢迎。由于我们是世界上一个大国，我国这一措施，在各国反对殖民主义、保护主权和领土完整的斗争中，也将产生积极的影响。



但是，以美国为首的帝国主义侵略势力，却横蛮地对我国政府的領海声明进行了无耻的反对和誣蔑。例如，美国政府竟誣蔑我国的决定是“掩盖侵略目的”，是一种“掠夺”。英国政府也为美国的侵略帮腔，拒絕承認我国政府的决定。日本、法国等国政府也都表现了反动的帝国主义野心，有的声明“不承認”，有的表示“遺憾”。但是，帝国主义国家的一切反对、拒絕、否認、遺憾，甚至誣蔑，除了在中国人民和全世界人民面前更进一步暴露他們破坏他国主权的侵略面目外，絲毫也改变不了我国关于領海问题的决定和中国人民保卫我国領海的坚强意志。帝国主义的无理干涉，註定是要失败的。

## 二 領海寬度問題

### (一) 各国的領海寬度应由各該国自己决定

各国領海寬度究竟應該多寬，應該由各該国在合理的范围内根据自己的需要来决定。这在理論上和實踐上都是如此。从理論上来看，国际法既然承認領海处于沿岸国主权之下，那末制定合理的領海寬度及其計算方法的决定权，自然應該属于这个国家。从實踐上看，世界各国的領海寬度从来也都是由各該国自行决定的。各国在确定自己領海寬度的时候，一般都是考慮到自己各方面的利益(当然也不要損害他国利益)，包括經濟利益、国防安全上的利益、海洋航运上的利益，以及有关的历史和地理情况。領海寬度决定后，要用适当的形式向外公布。通常，各国多是用制定国内法令或发表政府声明的形式来公布，例如，苏联在一九二三年和一九二七年两次保卫国界条例中規定十二海里的領海寬度；一七九四年美



內海則須事先得到該國的許可。其所以有這種不同規定，乃是因為領海連接公海，對海上交通有重大關係。因此為了便利航運和各國間的經濟交往，國際法上承認外國商船對他國領海可以無害通過。內海因為隔有領海，所以不存在上述情況。

處在內海中的島嶼叫做內海島嶼。內海島嶼也是沿岸國的領土。我國海岸綫很長，內海島嶼也很多。在我國政府發表的領海聲明中所舉出的東引島、高登島、馬祖列島、白犬列島、烏嶼島、大小金門島、大担島、二担島、東槌島等，只不過是我國內海島嶼中的一小部分。目前這些島嶼還被美帝國主義支持下的蔣介石集團所佔領，美蔣軍隊並且經常利用這些地方向我國大陸進行騷擾和破壞。這是中國人民所絕對不能容忍的。中國人民一定要在解放台灣的鬥爭中解放這些島嶼，使它們重返祖國懷抱。

## 五 海灣。渤海灣是我國內海海灣

簡單說來，深入陸地的海水就叫做海灣。海灣的情況比較複雜。有的海灣沿岸屬於一國，有的海灣沿岸分屬於幾個國家。分屬於幾個國家的海灣如波斯灣，沿岸分屬於伊拉克、伊朗和沙特阿拉伯等國。各國在海灣內都有自己的領海。領海以外的海域則是公海。

至於沿岸屬於一國的海灣，有的是該國的內海海灣；有的則是該國在海灣內僅有自己的領海，領海以外的海域仍然是公海。根據國際法和國際實踐，海灣可以成為內海海灣的，必須具備下列條件中的任何一個條件。

第一，在採用直基綫劃法來劃定其領海寬度的國家，如果



海湾处于其領海基綫以內时，則該海湾应是該国的內海海湾。

第二，如果海湾的天然入口处两边的距离按最低潮点起算不超过二十四海里时，可在两低潮点間划一条直綫称为封閉綫，在封閉綫以內的海域即为內海，該海湾也就成为沿岸国的內海海湾。如果海湾湾口有許多島屿，因而形成几个入口处时，其每一入口处都各按上述方法計算。

第二种方法也是国际上所承認的。例如在一九五八年四月二十九日国际海洋法會議所通过的“关于領海和毗連区的公約”中就規定：“如果海湾天然入口处两低潮点間的距离不超过二十四海里时，則可在两低潮点間划一封閉綫，該綫內的水域应視為內水”(第七条第四款)。

第三，有的海湾其天然入口处虽然超过二十四海里，但如果該海湾对沿岸国国防和經濟上有重要利益，而长期以来沿岸国又对該海湾不断实行管轄，則这种海湾可認為历史性海湾。其海湾口不論是否超过二十四海里，也都可認為沿岸国的內海海湾。

国际法和国际实践上都承認历史性海湾。例如，联合国国际法委员会第八届會議所拟定的“海洋法条款”第七条第四款以及“关于領海和毗連区的公約”第七条第六款，都明白承認有历史性海湾。国际实践上这类例子也很多。例如，法国的內海海湾堪卡尔湾，其入口寬度为十七海里；挪威的內海海湾瓦倫格尔湾，其入口寬度为三十二海里；加拿大的內海海湾哈德逊湾，其入口寬度为五十海里。这些海湾就都是以历史性海湾的理由被当成各該国内海海湾的。一九五七年七月二十一日，苏联政府也基于历史性海湾的理由重申大彼得湾是苏联的內海(海湾的湾口寬一百二十余海里)。

我国海岸曲折，海湾很多，著名的如渤海湾、杭州湾、珠江



口湾等都是我国重要的内海海湾。这次在领海声明中所以只提出渤海湾，因为它是我国海湾中最大的一个。从上面谈到的三种情况中无论哪一种情况来看，渤海湾都绝对应该是我国的内海海湾。

首先，我国政府已在自己的声明中宣布采用直基线法来划定自己的领海，而渤海湾的地位又完全处在我领海基线以内，所以它只能成为内海而不能成为其他。

其次，渤海湾的湾口接連辽东半岛和山东半岛，其湾口的距离虽然有四十五海里，可是在湾口上有一系列岛屿，形成了八个入口，其中最大的一个入口是辽东半岛与北隍城岛之间的入口（老铁山水道），这个入口约有二十二点五海里宽，少于二十四海里，因此如按这种方法计算，也应当认为渤海湾是我国的内海。

渤海湾也是我国的历史性海湾，在几千年历史进程中就不断地处在我国的实际管辖之下，不但我国向来就把它当作内海来看待，而且也为国际上所公开承认。例如，在一八六四年普鲁士和丹麦进行战争的时候，普鲁士的一艘炮舰 Gazelle 号在渤海湾内捕获了一只丹麦船，当时的中国政府即以渤海是中国内海为理由向普鲁士政府提出了抗议，迫使普鲁士政府不得不释放丹麦船只。这就是距今一百多年以前国际上公开承认渤海湾是我国内海的最显著例子。

至于渤海湾在经济上和国防上对我国有极端重要的关系，那更是十分明显了。例如，从国防上看，渤海湾是我国北方的门户，对保卫首都北京的安全十分重要。历史上帝国主义多次对我国发动的侵略战争，如一八五七年英法联军侵略中国的战争以及一九〇〇年八国联军侵略中国的战争，都是把他们的侵略军队在渤海湾内的大沽口登陆，直接威逼北京、



天津，从而迫使清朝政府签订了丧权辱国的天津条约和辛丑条约。根据历史记载，在清朝政府时期帝国主义对中国发动的六次侵略战争（一八四二年的鸦片战争、一八五七及一八六〇年两次英法联军之役、一八八四年中法之战、中日甲午之战以及八国联军之役）当中，帝国主义军队从渤海湾内的大沽口登陆前后就有三次（除上面提到的两次外，还有一八六〇年英法联军第二次侵略中国的战争）。日本帝国主义对我国侵略时期，渤海湾也被当作其补给物资的重要通道之一。再如解放战争时期，美国帮助蒋介石“戡乱”，用登陆艇装运国民党部队到华北、东北，利用渤海湾作为停泊的场所。今天，这些历史事实虽然已永远成为过去，但从中给我们的一条重要教训，就是渤海湾必须完全掌握在中国人手里，我国国防安全才能有真正的保障。

## 六 海峡。琼州海峡是我国内海海峡

海峡是指穿过陆地、连接二片海洋的狭窄的水道，例如博斯普鲁斯海峡和鞑靼尼尔海峡连接黑海与地中海，直布罗陀海峡连接地中海与大西洋，麦哲伦海峡连接大西洋与太平洋，等等。

世界上海峡很多，性质也比较复杂。从海峡所穿过的陆地来看，有的两岸陆地不属于一个国家，有的则属于一国领土。因此国际法上对于这种海峡有下列各种规定。

### 一、海峡两岸分属于两个国家时：

（甲）如果两国海岸之间的距离比两国领海总宽度小，两国领海间的界线应该由两国间的协议来划定；如果没有此种协议，除因特殊情况需要另外划定界线外，应该以中间线为界线。例如科孚海峡，两岸即分别属阿尔巴尼亚和希腊管辖；海



峽兩岸最寬處約八點八海里，最狹處約四點四海里；而阿、希兩國的領海寬度總和達十六海里（阿爾巴尼亞領海寬度為十海里，希臘的領海寬度為六海里）；因此海峽中的領海界綫，應該由阿、希兩國協商解決。

（乙）如果兩國海岸之間的距離比兩國領海總寬度大，除兩國各有自己的領海外，處在兩國領海之間的海域是公海。例如馬六甲海峽，兩岸分別屬於馬來亞和印度尼西亞；海峽最寬處約一百一十海里，最狹處約二十二至二十八海里，都大於兩國領海寬度的總和（印度尼西亞領海寬度為十二海里，馬來亞領海寬度為三海里），因此兩國領海以外的海域應該是公海。

## 二、海峽兩岸屬於一個國家時：

（甲）如果海峽的寬度不超過沿岸國所宣布的領海寬度的二倍，一般說來，這種海峽應該是沿岸國的領海（因為在海峽的兩岸都應該有領海寬度的原故）。例如索稜海峽和麥耐海峽，兩岸都是英國領土；其寬度都不超過英國領海寬度的兩倍（英領海寬度三海里），所以都是英國的領峽。

（乙）如果海峽的寬度比沿岸國所宣布的領海寬度大二倍以上，則在領海以外的海域應是公海。屬於這類的海峽很多，台灣海峽也合於這種情況。台灣海峽的兩岸都是我國領土，但海峽寬達八十三至一百四十海里，比我國政府所宣布的十二海里領海寬度的二倍還大，因此在我國政府的領海聲明中明白指出其中有公海。

（丙）沿岸國採用直基綫法來劃定其領海寬度時，如果海峽在領海基綫以內，則這種海峽應該是沿岸國的內海海峽。我國的瓊州海峽就是這種海峽，因為它處在我國的領海基綫以內，所以在我國領海聲明中宣布為我國的內海。

我國的內海海峽很多，瓊州海峽只不過是其中最大的一



个。由于它处在大陆和海南島之間，是連接大陆与海南島的重要海上通道，也是我国通向东南亚国家的一条近便航路，在經濟上与国防上对我国都有极端重要意义，在历史上它一直就是在我国的主权管轄下成为我国領土的不可分割的組成部分。解放以来，我国也一直把它当做內海海峽来管理。現在我国政府的領海声明只不过把历史事实再一次重申而已。

## 七 沿岸国有权制定关于領海的法令、規章

船舶通过領海时所应遵守的法令、規章，由沿岸国来制定。沿岸国通常是以頒布国内法的形式来規定。

領海既然是沿岸国主权管轄下的領土，則制定在自己領土內施行的法令、規章，應該是沿岸国行使主权的必然結果。对于沿岸国所頒布的一切有关的法令和規定，凡通过該国領海的無論本国或外国船只都應該遵守。任何违反和破坏行为，都是損害沿岸国主权的行為，沿岸国有权采取一切必要的措施来糾正。

目前世界各国已經制定的属于这种性質的法令很多，包括航行、貿易、关税、卫生、治安等各方面。在認為有必要时，沿岸国还可以随时制定一些新的法令或者修改、廢棄某些旧的法令。

旧中国也曾經頒布过不少这类法令。但由于国民党政府不能保护自己的領海主权，所以它的法令和規定对航行在中国領海內的外国船舶往往无法适用。例如日本帝国主义曾在中国沿海組織大規模武装走私，当时的中国政府虽然明明知道也无可奈何。至于帝国主义的船只和海員在中国領海內肆意横行，犯了罪后中国法院不能对其进行审判那就更不用說



进入禁区而必須繞道行駛，违反者沿岸国海上边防部队或有关当局可不予預先警告而逕自开砲射击，一切后果应由违反禁区制度的船只負其責任。

沿岸国在本国領海內設立禁区，乃是在其主权范围内的行为，不需取得他国同意，其他国家也无权表示反对。

## 十 我国政府关于領海的規定 适用于我国一切領土

我国政府在領海声明中明确規定：声明中的(二) (三)兩項規定的原則同样适用于台湾及其周围各島、澎湖列島、东沙羣島、西沙羣島、中沙羣島、南沙羣島以及其他属于中国的島屿。这就是說：在这些地区，領海寬度都是十二海里，划定領海的方法都是直基綫法，外国飞机和軍艦都必須事先經過我国的許可才能进入这些地区的領海和領海上空，外国的船舶在这些地区的領海必須遵守我国政府的有关法令。我国政府的上述規定也是完全合乎国际法原則的。因为根据国际法和国际实践，一国的島屿應該有和該国大陆相同的領海寬度，該国所頒布的与領海有关的法令，也完全适用于島屿四周的領海，尊重他国領海主权也包括尊重其島屿四周的領海主权在內。因此，目前美帝国主义用武力侵占着我国領土台湾、澎湖及沿海島屿，乃是对我国領土完整和領海主权的严重破坏，这是我国人民所絕對不能容忍的。台湾自古是中国領土，不論在經濟上和民族上一一直与中国大陆有着密切的联系。有名的国际文献如开罗宣言和波茨坦公告都規定台湾应归还中国，事实上日本投降后也已归还了中国，这是公認的历史事实，任何人也否定不了的。我国政府一再庄严地宣布：台湾是中国



的神圣領土,我国政府有权采取一切适当的方法,在适当的时候解放台湾,这是中国的内政,不容外国干涉。

美帝国主义不但武装占领我国的領土台湾,而且还支持其走狗菲律宾和南越等企图侵占我南沙羣島等南海島屿。大家知道,南沙羣島等南海島屿也自古是我国的領土。在这些島屿上,长期以来,一直有中国人居住,有些島上曾发现中国人建筑的神庙和中国人的基地,在不少中国的古书中,都载明了这些島屿。因此,菲律宾政府认为南沙羣島等南海島屿“理应”属于菲律宾是毫无根据的。一九五六年五月二十九日我国政府郑重声明,中国对于南沙羣島的合法主权,絕不容許任何国家以任何借口和采取任何方式加以侵犯。应该指出:美国曾于一九五七年秘密侵占了南沙羣島,以什么“航海工作”和蒋介石“同意”等借口在那里建立軍事基地,駐紮美国航空队。这是中国人民絕对不能容許的。一九五七年五月二十三日我人民日报評論員指出:美国軍队必須立即撤出南沙羣島,撤出台湾。中国人民将以解放台湾一样的决心,从侵略者手里收复南沙羣島。

最近,美国由于侵华政策的惨敗,被迫改变了侵略的手法,即公开露骨地推行“两个中国”的政策,以图永久霸占台湾。但是,不管美国玩弄怎样的阴谋,它的一切敌視中国人民的侵略政策都是注定要失败的。美国侵略者必須从台湾地区滚出去,从我国一切領土上滚出去,我国的内政不容干涉,我国的領土不容侵占,我国的領海主权不容破坏。我国政府所規定的領海寬度和划定領海寬度的方法必須适用于我国的一切領土。誰要是侵犯了我国的領海,就是侵犯了我国的領土主权,中国人民将坚决予以回击。



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*Letter from the Permanent Mission of the People's Republic of China to the United Nations to the Secretary-General of the United Nations (14 May 1979), reprinted in U.N. General Assembly, Thirty-fourth Session, Report of the Security Council, U.N. Doc. A/34/235 (14 May 1979) (with attachment)*





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# UNITED NATIONS

## GENERAL ASSEMBLY



## SECURITY COUNCIL

GENERAL ASSEMBLY  
Thirty-fourth session  
Item 11 of the preliminary list\*  
REPORT OF THE SECURITY COUNCIL

SECURITY COUNCIL  
Thirty-fourth year

Letter dated 14 May 1979 from the Chargé d'affaires a.i. of the  
Permanent Mission of China to the United Nations addressed to  
the Secretary-General

I have the honour to transmit to you herewith the text of a speech made by Han Nianlong, Head of the Chinese Government delegation and Vice Minister for Foreign Affairs, at the 4th plenary meeting of the Sino-Vietnamese negotiations on 12 May 1979. I request that this speech be circulated as an official document of the General Assembly, under item 11 of the preliminary list, and of the Security Council.

(Signed) LAI Ya-li  
Acting Permanent Representative of  
the People's Republic of China to  
the United Nations

\* A/34/50.

## ANNEX

Speech made by Han Nianlong, Head of the Chinese Government  
delegation and Vice-Minister for Foreign Affairs, at the  
fourth plenary meeting of the Sino-Vietnamese negotiations  
on 12 May 1979

Your Excellency Phan Hien, Head of the Government delegation of the Socialist Republic of Viet Nam,  
Colleagues on the Vietnamese Government delegation,

I find it most regrettable that in his speech at the third plenary meeting (A/34/224-S/13302, annex), Mr. Phan Hien, Head of the Vietnamese Government delegation, once again made slanderous charges, and even in abusive language, against the Chinese Government and leadership.

The Vietnamese side also vilified and distorted the eight-point proposal put forward by the Chinese Government delegation (see A/34/219-S/13294, annex), asserting that this proposal was a means to implement a "big-nation expansionist and hegemonistic policy towards Viet Nam" and contained "extremely unreasonable and arrogant demands". The Vietnamese side, confounding right and wrong, alleged that China's proposals for solving the boundary question and dividing the sea area in the Beibu Gulf (Gulf of Tonkin in international usage) contravened the Sino-French boundary accords and that the Xisha and Nansha Island groups were Vietnamese territory. But who has practised expansionism and provoked boundary and territorial disputes between China and Viet Nam? Who has violated the Sino-French boundary accords and the principles affirmed in the letters exchanged between the Central Committees of the two Parties? Who has created numerous border incidents and even provoked armed conflicts? We already made a preliminary exposition on these questions in the last two meetings (see A/34/219-S/13294 and A/34/222-S/13299). But in view of the fact that the Vietnamese side is still bent on distorting the facts to confuse public opinion, we deem it necessary to elaborate further on these points.

1. How did the boundary and territorial disputes between China and Viet Nam arise?

The boundary between China and Viet Nam is a determined boundary, delimited by the accords signed between the Chinese Qing Dynasty Government and the French Government in 1887 a/ and 1895 b/ and jointly surveyed and indicated on the ground by boundary markers. After the founding of the People's Republic of China and the

a/ Convention entre la France et la Chine, relative à la Délimitation de la Frontière entre la Chine et le Tonkin (British and Foreign State Papers, 1892-1893, vol. LXXXV, p. 748 (London, Her Majesty's Stationery Office, 1899)).

b/ Convention entre la France et la Chine, complémentaire de la Convention de délimitation de la Frontière entre le Tonkin et la Chine du 26 Juin 1887 (Ibid., 1894-1895, vol. LXXXVII, p. 523 (London, Her Majesty's Stationery Office, 1900)).

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Democratic Republic of Viet Nam, the Sino-Vietnamese boundary line being clearly defined on the whole there were no boundary disputes between the two sides. Only on a few sectors were there some differences of view left over from history waiting to be settled by the two sides.

The Government of the People's Republic of China has always taken the position that boundary questions left over from history should be settled in a fair and reasonable manner through friendly consultations in a spirit of mutual understanding and mutual accommodation, and that, pending a negotiated settlement, the status quo on the border should be maintained and conflicts avoided. Acting on these principles, the Chinese Government worked out negotiated settlements of its boundary question and signed new boundary treaties with its neighbours - Burma, Nepal, Pakistan, Afghanistan and the People's Republic of Mongolia.

Regarding the Sino-Vietnamese boundary question, the Central Committees of the Chinese and Vietnamese Parties exchanged letters in 1957-1958, in which the two sides agreed that the boundary line delimited by the Sino-French boundary accords should be respected, that the status quo of the border should be strictly maintained pending a negotiated settlement of the boundary question by the two Governments, and that the local authorities were not empowered to settle any questions of territorial ownership. Acting in line with the principles affirmed in the letters exchanged between the two Parties, the local authorities of the two countries in the border areas managed to deal satisfactorily with all kinds of issues that arose along the border. So the Sino-Vietnamese boundary was for many years a peaceful and friendly boundary.

In the two decades and more prior to 1974, the Chinese and Vietnamese sides respected each other's territorial sea and sovereignty in the Beibu Gulf area. There was a relationship of friendly co-operation on such matters as shipping, fishery, scientific research and resistance to imperialist aggression, and no disputes occurred.

The Xisha and Nansha Islands have been Chinese territory since ancient times, and this fact was solemnly acknowledged and honoured in the many notes, statements and other official documents of the Democratic Republic of Viet Nam in its newspapers, periodicals, textbooks and official maps, and in the pronouncements of its leaders. On 15 June 1956, when referring to the question of sovereignty over the Xisha and Nansha Islands, a Vietnamese Vice-Minister for Foreign Affairs stated to the Chinese side that "judging from history, these islands belong to China". On 4 September 1958, in a statement on its territorial sea, the Chinese Government declared that this definition of China's territorial sea "applies to all territories of the People's Republic of China, including ... the Dongsha Islands, the Xisha Islands, the Zhongsha Islands, the Nansha Islands ...". On 14 September 1958, Vietnamese Prime Minister Pham Van Dong stated in a note to Premier Zhou Enlai that "the Government of the Democratic Republic of Viet Nam recognizes and agrees to the statement on defining China's territorial sea made by the Government of the People's Republic of China on 4 September 1958 ... The Government of the Democratic Republic of Viet Nam respects this decision." In a statement on 9 May 1965, the Vietnamese Government reiterated its consistent

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stand of clearly recognizing the Xisha Islands as belonging to China when it expressed condemnation of the fact that "United States President Lyndon Johnson designated the whole of Viet Nam and the adjacent waters which extend roughly 100 miles from the coast of Viet Nam and part of the territorial waters of the People's Republic of China in its Xisha Islands as a 'combat zone' of the United States armed forces". All these are indisputable facts which no one can deny.

After 1974, however, the Vietnamese authorities made an about turn in their position. Relying on their sharply increased military strength accumulated during the years of war and with the backing of Soviet social imperialism, they went in for regional hegemonism in a big way and adopted a policy of aggression and expansion. They constantly created incidents and disputes along the border, nibbled at and encroached upon Chinese territory, and used the boundary question to whip up nationalistic anti-China sentiment. Moreover, the Vietnamese authorities sought expansion on the sea and wanted to occupy the greater part of the sea area in the Beibu Gulf. Brazenly going back on their own word, they laid territorial claims to China's Xisha and Nansha Islands and even sent forces to occupy some of China's Nansha Islands.

That was how boundary and territorial disputes arose between the two countries.

It is common knowledge that Viet Nam has three neighbours. Not only China but its two other neighbours suffer, and even more so, from its aggression and expansion. Viet Nam and Laos concluded a boundary agreement in 1977, which made a new demarcation of the Vietnamese-Lao boundary. There is no need to remind you of the tricks you have played and the amount of Laotian territory you have annexed. The Lao people keep an account in their minds, too. You occupied Kampuchea's coastal islands, provoked conflicts along the Kampuchean-Vietnamese border, and then carried out a massive invasion of Kampuchea. Recently, you sent reinforcements and wantonly conducted military operations to put out the flames of the Democratic Kampuchean people's armed resistance. You have brought disaster to the Kampuchean people.

Facts show clearly that it is the policy of regional hegemonism and of seeking territorial expansion pursued by the Vietnamese authorities with Soviet backing that has given rise to boundary and territorial disputes between Viet Nam on the one hand and China, Kampuchea and Laos on the other. It is, moreover, a source of turbulence and unrest in Indo-China and South-East Asia and constitutes a grave threat to peace in Asia and the rest of the world.

2. Who has departed from the principles affirmed in the letters exchanged between the Chinese and Vietnamese Parties?

In November 1956, representatives of China's Guangdong and Guangxi Provinces met representatives of Viet Nam's Hai Ninh, Lang Son and Cao Bang Provinces to discuss questions relating to border management. Their discussions touched on issues relating to the boundary. The two sides agreed to refer these to their respective central authorities for resolution. In November 1957, the secretariat

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of the Central Committee of the Viet Nam Workers' Party proposed, in a letter to the secretariat of the Central Committee of the Chinese Communist Party, that "the national border question, in view of its importance, must be settled in accordance with the existing legal principles or with new ones defined by the two Governments. Local authorities and organizations are strictly forbidden to enter into negotiations on setting up new boundary markers or on ceding territory to each other." In April 1958, the Central Committee of the Chinese Communist Party expressed its agreement to this view in a letter of reply. This meant that both sides would respect the boundary line delimited by the Sino-French boundary accords, that they would strictly maintain the status quo of the boundary pending a negotiated settlement of the boundary question by the two Governments, and that the local authorities were not empowered to settle questions pertaining to territorial ownership. These letters exchanged between the Chinese and Vietnamese Parties constitute the common basis for dealing with boundary issues prior to a negotiated settlement of the boundary question. The Chinese Government has faithfully adhered to the principles affirmed in the letters exchanged between the two Parties and has respected the boundary line delimited in the Sino-French boundary Accords. In the few sectors where there were issues left over from history, the Chinese Government has strictly kept to the jurisdiction along the border prevailing at the time of the exchange of letters, that is to say, in the early days following the liberation of China. We made no attempt to change the state of jurisdiction even in those areas which clearly belonged to China, according to the provisions of the Sino-French boundary accords, but which had been under Vietnamese jurisdiction for many years. In so doing, we proceeded entirely in the spirit of the agreement between the two Parties, namely, to maintain peace and tranquillity along the border. This does not mean that during future boundary negotiations ownership over such disputed areas will be decided in accordance with the line of actual jurisdiction. The Chinese side holds that if it is ascertained in future negotiations that certain areas under the jurisdiction of one side are situated beyond the boundary line delimited in the Sino-French boundary accords, these should, in principle, be returned to the other side unconditionally. The Vietnamese side is well aware of the above Chinese position, for it was stated explicitly on many occasions in our official documents and in the statements of Chinese leaders.

After 1974, in order to nibble off Chinese territory, the Vietnamese authorities, while expressing willingness to respect the letters exchanged between the two Parties, vigorously denied the principle of maintaining the status quo on the border affirmed by that exchange of letters and tried to negate the boundary line delimited by the Sino-French boundary accords. For this purpose, they produced specious arguments, now claiming that "a historical frontier has existed between Viet Nam and China for a long time", then that "the two sides have agreed to respect the historical boundary line", and calling for "maintaining the status quo on the border line left by history" or "restoring the status quo ante of the historical line", and so on and so forth. When you speak now of this line and then of that, what you are really after is to supplant the boundary delimited in the Sino-French accords by your unilateral "historical border line". Your intention was best expressed by one of your senior officials who said that "there were boundary conventions in the French period. But those conventions are out-dated and too elaborate and cannot be used as the basis for demarcating the boundary line".

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In recent years, under the pretext of "restoring the status quo ante of the historical boundary line", you have created numerous incidents on the Sino-Vietnamese border in a systematic, planned and purposeful way to constantly nibble off and occupy Chinese territory. You made Vietnamese border inhabitants come over to reclaim land, build roads and plant trees on Chinese territory; you sent over armed personnel to patrol, set up posts, build fortifications, lay mines, put up barriers on Chinese territory or even intrude into Chinese villages to take census and issue coupons in an attempt to change the state of jurisdiction. In many areas, Vietnamese military and political personnel, under various pretexts, claimed a boundary line at will, destroyed the original boundary markers there and surreptitiously set up new ones, thus making territorial claims on the Chinese side. In the face of increasing Vietnamese intrusions and provocations, the Chinese side, setting store by the friendship between the Chinese and Vietnamese peoples and their over-all interests, always exercised restraint and forbearance. We repeatedly proposed prompt boundary negotiations between the two sides. In the meantime we enjoined our border troops and inhabitants to keep strictly within the border, use reason and persuasion with the intruding and provoking Vietnamese personnel instead of returning blow for blow and curse for curse and absolutely not to open fire and resort to force. Our people did not return fire even when armed Vietnamese personnel opened fire and caused casualties on our side. But the Vietnamese side regarded China's restraint and forbearance as a sign of weakness and intensified its armed provocations on the border. Especially after August 1978, when you suspended the boundary negotiations between the two countries, you immediately went all out to strengthen your anti-China military dispositions in the border areas and incessantly opened fire with guns and artillery, creating incidents of bloodshed resulting in 300 casualties among our military and civilian personnel in a period of six months and thus provoked, at last, the armed border conflict.

Numerous indisputable facts prove that it is none other than the Vietnamese authorities themselves who have violated the principles affirmed in the letters exchanged between the two Parties and constantly upset the status quo on the border in an attempt to alter the boundary line fixed by the Sino-French boundary accords. The serious deterioration in the situation along the Sino-Vietnamese border is wholly the making of the Vietnamese authorities.

3. Why did the previous two rounds of negotiations fail to yield results?

In August 1974, negotiations were held between China and Viet Nam at the Vice-Minister for Foreign Affairs level on the division of the Beibu Gulf sea area. In October 1977, negotiations at the same level were again held between the two sides on the boundary question and the division of the Beibu Gulf sea area. No results were achieved at either round of negotiations, mainly because the Vietnamese side disregarded the historical facts, distorted the Sino-French boundary accords and tried to impose on the Chinese side a so-called "sea boundary line in the Beibu Gulf", which was a pure figment of its imagination.

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Back in December 1973, a Vietnamese Vice Minister for Foreign Affairs clearly stated that "the Beibu Gulf sea area has not been divided between the two countries because Viet Nam has been at war all the time". But when negotiations started in August 1974, the Vietnamese side suddenly asserted that in the Beibu Gulf "the boundary line was delimited long ago", alleging that the 1887 Sino-French Convention on the delimitation of the frontier between China and Tonkin a/ made longitude 108°3'13"E the "sea boundary line" between the two countries in the Beibu Gulf. It asserted that for the last century all governments of the two countries had "exercised sovereignty and jurisdiction" according to this line and that the Beibu Gulf was a "historical gulf" belonging to China and Viet Nam. By making these assertions, the Vietnamese side aimed at taking possession of two thirds of the Beibu Gulf sea area for itself.

It is stipulated in the paragraph about Guangdong in the Chinese text of the 1887 Sino-French Convention that "as for the islands in the sea, those to the east of the southward red line drawn by the commissioners of the two countries, passing through the hill at the east tip of Tra-Co (Wanzhu in Chinese, which is to the south of Mong Cai and southwest of Zhushan), belong to China, and those to its west Jiutoushan Island (Co To Island in Vietnamese) and the other islands, belong to Annam". The French text of the Convention describes the red line as the meridian of Paris 105°43' of east longitude, which is Greenwich longitude 108°3'13"E. Clearly, this red line only indicates the ownership of the islands but is no "sea boundary line" between the two countries in the Beibu Gulf. Moreover, the term "Gulf of Tonkin" does not occur at all in the Convention, nor is the Gulf of Tonkin included in its entirety in the map attached to the Convention. Moreover, in the historical circumstances at the signing of the Convention in the late nineteenth century, when the "doctrine of the freedom of the seas" was in vogue, it was inconceivable that China and France should regard such an expanse of the high seas as the Gulf of Tonkin as an inland sea and divide it. The Vietnamese side's fantastic interpretation of the Convention in disregard of its terms and the actualities of history is indeed a rare case in the history of international relations.

As for the Vietnamese side's assertion that for nearly a hundred years the Governments of the two countries have always exercised their sovereignty and jurisdiction in accordance with the above-mentioned longitude, it is not at all based on facts. Everyone knows that the previous Governments in China and the French colonial authorities observed the three-nautical-mile principle in regard to the territorial sea. The Government of the People's Republic of China declared a 12-nautical-mile territorial sea in September 1958. China has never exercised sovereignty over or jurisdiction in the Beibu Gulf sea area beyond its territorial sea. In September 1964, the Vietnamese Government also declared its territorial sea to be 12 nautical miles wide and published a map showing its territorial sea boundary in the Beibu Gulf. If, as the Vietnamese side claims, the vast sea area in the Beibu Gulf west of 108°3'13"E was its inland sea long ago, why did it draw another territorial sea boundary within its own inland sea? The Vietnamese assertion is absurd from the viewpoint of international law and is illogical and self-contradictory. Has any ship had to ask for permission from the Vietnamese authorities for entry into the sea west of 108°3'13"E? The "sea boundary line", a brain-child of the Vietnamese authorities, has never existed either in historical agreements or in reality. As for the assertion that the Beibu Gulf is "a

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historical gulf" belonging to China and Viet Nam, it is really news to us. We have no knowledge at all about such a declaration by previous Governments of the two countries at any time. Vietnamese insistence on this unreasonable proposition prevented any results in the negotiations, which went on for three months in vain. The division of the Beibu Gulf sea area between the two countries is still an unresolved issue.

After 1975, the Chinese side proposed on many occasions to hold negotiations on the boundary question. But the Vietnamese side always found excuses to put them off until June 1977 when it reluctantly agreed as Vice-Premier Li Xiannian personally made the proposal in a meeting with Premier Pham Van Dong. It was agreed that the division of the Beibu Gulf sea area be included as a topic in the boundary negotiations.

Negotiations started in Beijing in October 1977. The Chinese delegation suggested that the boundary question should be the first item for discussion and put forward a proposal consisting of five principles for the settlement of the boundary question. The following are the main points:

(a) Since the Sino-Vietnamese boundary is a determined boundary, the two sides should base themselves on the Sino-French boundary accords in rechecking the alignment of the entire boundary and settling all boundary and territorial disputes;

(b) Areas under the jurisdiction of one side which lie beyond the boundary line should, in principle, be returned to the other side unconditionally;

(c) The two sides should settle through friendly consultations any differences they may have as to the alignment of the boundary line in certain sectors;

(d) The two sides should then conclude a Sino-Vietnamese boundary treaty to replace the Sino-French boundary accords and delimit the national boundary and erect the boundary markers anew.

The Vietnamese side did not show interest in the fair and reasonable Chinese proposals. It clung to the unreasonable view that the sea boundary in the Beibu Gulf "was delimited long ago", and linked the question of dividing the Beibu Gulf with the boundary question. Insisting that "a border line between Viet Nam and China on land and in the Bac Bo Gulf has been delimited" in the Sino-French boundary accords, it claimed that "this is the most basic principle for the settlement of all kinds of boundary questions between the two countries"; since it was the "basis" for the entire negotiations, it must be discussed first. This was tantamount to raising a precondition which placed a great obstacle in the way of the negotiations. Although the Vietnamese side later agreed that the two sides should first discuss questions relating to the boundary, it played a new trick by submitting a "Draft Agreement on the National Land Border", insisting

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that the two Governments shelve their boundary disputes and first conclude an official boundary agreement. Obviously, the Vietnamese side harboured ulterior motives when it showed no interest in settling boundary disputes and easing the tension along the border while wanting first of all to conclude "a boundary agreement".

Desiring to facilitate the negotiations, the Chinese side gave full consideration to the Vietnamese views and, working on the basis of its original five-point proposal, presented for consultations with the Vietnamese side a comprehensive proposal listing nine principles for the settlement of the boundary question. The nine-point Chinese proposal provided in the main the following:

- (a) The two sides should check the alignment of the entire boundary line between China and Viet Nam, basing themselves on the documents with attached maps relating to the delimitation of the boundary concluded by the then Chinese and French Governments and on the boundary markers erected according to these documents and maps.
- (b) To facilitate the work of checking the alignment of the boundary, the two sides should exchange maps showing the boundary line between the two countries.
- (c) During the process of checking the boundary alignment, if the two sides did not agree on the alignment of the boundary line in certain sectors, they should seek a fair and reasonable settlement through friendly consultations in a spirit of mutual understanding and mutual accommodation.
- (d) After a joint check, the areas either side administers beyond the boundary should, in principle, be returned to the other side unconditionally; with due attention to the interests of the local inhabitants, readjustments on a fair and reasonable basis may be made in a small number of cases where both sides agree.
- (e) Where the boundary follows rivers, it shall follow the central line of the main channel in the case of navigable rivers and the thalweg of the main channel in the case of unnavigable rivers; the ownership of the islands and sandbars in these rivers shall be determined accordingly.
- (f) After checking the alignment of the entire boundary and settling the boundary and territorial disputes, the two sides shall conclude a Sino-Vietnamese boundary treaty, set up a joint commission for delimiting the boundary on the ground and erecting boundary markers, sign a boundary protocol and draw up maps of the boundary.
- (g) Pending the coming into force of the Sino-Vietnamese boundary treaty, the two sides shall respect the principles affirmed in the letters exchanged between the Central Committees of the Chinese and Vietnamese Parties in 1957-1958, maintain the status quo of the border and make no unilateral attempts in whatever form and on whatever pretext to change the extent of actual jurisdiction so as to maintain tranquillity along the border and the friendly and good-neighbourly relations between the two countries.

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To our surprise, however, the Vietnamese side deliberately distorted this sincere and reasonable Chinese proposal, picked faults with it and levelled the groundless charge that it sought to "alter the historical boundary line". The negotiations lasted more than 10 months, yet in all that time the two sides failed even to reach agreement on the procedure for conducting negotiations on the boundary question.

The above facts clearly show that the responsibility for the failure of the previous two rounds of negotiations to yield results rests squarely with the Vietnamese side. Frankly speaking, the basic reason why there has not been a negotiated settlement of the Sino-Vietnamese boundary question is that the Vietnamese authorities want to use this question as a means internally to fan up nationalistic anti-China sentiments and divert the discontent of their people and externally to cover up their aggression in Kampuchea and their control over Laos in pursuit of regional hegemonism to suit the needs of the Soviet southward-drive strategy. We cannot but point out that you are following a dangerous course.

4. China's eight-point proposal provides a fundamental solution for the disputes between China and Viet Nam.

To achieve their great goal of socialist modernization, the Chinese people have a long-lasting need for an international environment of peace and a peaceful and tranquil border. The Chinese Government has always pursued a foreign policy of peace, and wishes to live in amity with all countries, irrespective of size, on the basis of the five principles of peaceful coexistence. The Chinese Government wishes to seek a fair and reasonable solution to all outstanding issues with other countries through negotiations.

China and Viet Nam are linked by common mountains and rivers, and there is a long, traditional friendship between the two peoples. Though there are serious differences between them on a number of issues and there did occur some unpleasant things, the disputes between them are not impossible to resolve. The eight-point proposal on the handling of the relations between China and Viet Nam, which the Chinese Government delegation put forward at the second plenary meeting, has laid a solid foundation for a fundamental solution of the disputes between the two countries and for a real improvement in their bilateral relations. Moreover, it provides guiding principles for a definitive solution of the boundary and territorial disputes between the two countries. A fair and reasonable solution of the boundary question can be achieved only by honouring the Sino-Vietnamese boundary delimited in the Sino-French boundary accords. Otherwise, there will be no common basis for a solution. Prior to the holding of negotiations on the boundary question by the two Governments, border disputes could have been avoided and armed conflict averted if the Vietnamese side had respected the principles affirmed in the letters exchanged between the Central Committees of the Chinese and Vietnamese Parties in 1957-1958, namely maintaining the status quo of the border and refraining from attempting forcibly to change the extent of actual jurisdiction. The Chinese proposal includes fundamental measures to eliminate tension and ensure peace and tranquillity along the border. The Vietnamese side

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professes to be most concerned about ensuring peace and stability in the border areas, but in practice rejects the basic principle of "maintaining the status quo on the border". This fully shows that the Vietnamese side is aware of its untenable position and has ulterior motives. As to the division of the sea area in the Beibu Gulf, it is natural and indisputable that the two countries should define their respective economic zones and continental shelf in the Beibu Gulf in a fair and reasonable way in accordance with relevant principles of present-day international law of the sea. As regards the Xisha and Nansha Islands, I have already cited many hard facts to show that the Vietnamese side had before 1974 explicitly recognized the Chinese Government's sovereignty over these two island groups. Our demand is that the Vietnamese side revert to its previous position of recognizing this fact and respect China's sovereignty over these two island groups and withdraw all its personnel from those islands in the Nansha group which it has occupied. In what sense can this demand be considered "unreasonable and arrogant"? It is the Vietnamese side that is unreasonable and when it shifts positions in a perfidious manner with a view to seizing and occupying China's islands and laying claim to China's territory. In a word, China's eight-point proposal is directed at the root cause leading to the deterioration in Sino-Vietnamese relations and in the light of the facts of the disputes between the two countries. It is a fundamental solution to these disputes and sets forth basic principles for handling the relations between the two countries. It is reasonable and practicable. We still earnestly hope that the Vietnamese side will give it careful study and make a positive response so that there may be progress in our negotiations.

At the second and third plenary meetings, the Chinese Government delegation repeatedly proposed that the two sides reach a verbal agreement providing that all personnel captured in the armed conflict along the Sino-Vietnamese border shall, in principle, be repatriated as soon as possible and then turn the matter over to the Red Cross Societies of the two countries for concrete discussion and actual execution. The Vietnamese side, however, won't even agree to take up this question. Motivated by revolutionary humanitarianism, the Chinese Government is prepared at any time to release and repatriate all Vietnamese prisoners and demands the release and repatriation of all captured Chinese personnel by the Vietnamese side. Now, the Chinese side has decided unilaterally to release and repatriate the first group of captured Vietnamese armed personnel and hopes that the Vietnamese side will respond positively to this Chinese initiative.

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**Annex 487**

“May 4, 1979 Speech by Han Nianlong, Head of the Government Delegation of China, at the Fourth Plenary Meeting of the Sino-Vietnamese Negotiations at the Vice-Foreign Minister Level”, reprinted in *Beijing Review*, Vol. 22, No. 21 (25 May 1979)



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The Truth  
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Question



# BEIJING REVIEW

北京周报

Vol. 22, No. 21

May 25, 1979

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**COVER:** Stone tablets excavated by Chinese archaeological workers on Beidao Island of the Xisha Islands have the words "In Memory of Inspection" carved on them. These tablets were erected in the 28th year of the reign of Emperor Guangxu of the Qing Dynasty (1644-1911).

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## CHRONICLE

May 14

• Premier Hua Guofeng met with Mohan Salfur Rahman, Special Envoy of President Rahman of the People's Republic of Bangladesh. At the meeting, Premier Hua said: "Relations between China and Bangladesh are fine. We have a common language on many international issues. The interests of our two countries coincide."

• Vice-Premier Deng Xiaoping met with Count and Countess of Barcelona, parents of Spanish King. Vice-Premier Deng expressed hope that more Spanish friends would visit China.

May 15

• At the U.N. Disarmament Commission, Chairman of the Chinese Delegation, Lai Yachang, forward a comprehensive programme for disarmament.

May 16

• Vice-Premier Deng met with the delegation of Jiji Press of Japan led by its director Tadaya Ohata. At the meeting, Vice-Premier Deng gave his views on the realization of the four modernizations in China and on some important international questions. He pointed out that the current readjustments in the national economy concerned proportionate development of agriculture and industry in the national economy and within industry itself. They will be conducive to developing economy in a planned and proportionate way to stepping up the tempo of modernization.

May 17

• At a meeting with American physicist Tsung-dao Lee and his wife, Premier Hua said that China should continue its efforts to raise the whole nation's scientific, cultural and technical levels.

May 18

• Premier Hua met with Col. Amadou Diarra, Vice-Chairman of the Military Committee for National Liberation, Deputy Secretary General of the Malian People's Democratic Union, Minister of Finance and Commerce. Premier Hua said that China and Mali have the political basis for further co-operation.

• The first round of the Sino-Vietnamese negotiations at the vice-foreign minister level ended in Hanoi.

May 19

• Premier Hua met with Agha Shahi, Ambassador for Foreign Affairs of Pakistan.



and developed only through constant testing in practice. Where things are proved to be incompatible with the new conditions, or wrong in the process of practice, they should be corrected; new discoveries made in the course of practice should be accepted as amendments.

The policy of emancipating the mind is our Party's consistent policy. It is a long-term policy, not a temporary expedient. To put it in a popular way as Comrade Mao Zedong had put it, it is the policy of "opening wide." Its application in literature and art and science is the policy of "letting a hundred flowers blossom and a hundred schools of thought contend." Our Party has always advocated the policy of "opening wide" and has been opposed to the policy of "restricting." As Comrade Mao Zedong said: "Two alternative methods of leading our country, or in other words two alternative policies, can be adopted—to 'open wide' or to 'restrict.' To 'open wide' means to let all people express their opinions freely, so that they dare to speak, dare to criticize and dare to debate; it means not being afraid of wrong views or anything poisonous; it means to encourage argument and criticism among people

holding different views, allowing freedom both for criticism and for counter-criticism; it means not coercing people with wrong views into submission but convincing them by reasoning. To 'restrict' means to forbid people to air differing opinions and express wrong ideas, and to 'finish them off with a single blow' if they do so. That is the way to aggravate rather than to resolve contradictions. To 'open wide,' or to 'restrict'? We must choose one or the other of these two policies. We choose the former, because it is the policy which will help to consolidate our country and develop our culture." (*Speech at the Chinese Communist Party's National Conference on Propaganda Work, 1957.*)

Right now, the tremendous task of socialist modernization calls on us to further emancipate our minds. As long as we keep to the socialist road, uphold the dictatorship of the proletariat, uphold Party leadership, uphold Marxism-Leninism-Mao Zedong Thought, and as long as we skilfully use the correct method to lead this movement to emancipate the mind, we can certainly triumph over all kinds of difficulties and dangers in our way and complete our great new Long March.

## The Truth About the Sino-Vietnamese Boundary Question

*Confounding right and wrong, the Vietnamese side recently alleged that China's proposals for solving the Sino-Vietnamese boundary question and dividing the sea area in the Beibu Gulf (known internationally as Gulf of Tonkin) "contravened" the Sino-French boundary accords and that the Xisha Islands and Nansha Islands were Vietnamese territory. Who is the real violator of the Sino-French boundary accords? Who has provoked boundary and territorial disputes and even armed conflicts between China and Viet Nam? Who has practised expansionism? To help our readers understand the truth about these questions, we are publishing excerpts from the speech delivered on May 12 by Han Nianlong, Head of the Government Delegation of China, at the fourth plenary meeting of the Sino-Vietnamese negotiations at the vice-foreign minister level, and two commentaries by the Xinhua News Agency. — Ed.*

### Han Nianlong's Speech

#### 1. How Did the Boundary and Territorial Disputes Between China and Viet Nam Arise?

The boundary between China and Viet Nam is a determined boundary, delimited by the accords signed between the Chinese Qing Dynasty Government and the French Government during the period from 1885 to 1897 and jointly surveyed and indicated on the ground by boundary markers. After the founding of the People's Republic of China and the Democratic Republic of Viet Nam, the Sino-Vietnamese boundary line being clearly defined on the whole, there were no boundary disputes between the two sides. Only on a few sectors were there some differences of view left over from history waiting to be settled by the two sides.

The Government of the People's Republic of China has always taken the position that



boundary questions left over from history should be settled in a fair and reasonable manner through friendly consultations in a spirit of mutual understanding and mutual accommodation, and that pending a negotiated settlement, the status quo on the border should be maintained and conflicts avoided. Acting on these principles, the Chinese Government worked out negotiated settlements of its boundary question and signed new boundary treaties with its neighbours — Burma, Nepal, Pakistan, Afghanistan and the People's Republic of Mongolia.

Regarding the Sino-Vietnamese boundary question, the Central Committees of the Chinese and Vietnamese Parties exchanged letters in 1957-1958, in which the two sides agreed that the boundary line delimited by the Sino-French boundary accords should be respected, that the status quo of the border should be strictly maintained pending a negotiated settlement of the boundary question by the two Governments, and that the local authorities are not empowered to settle any questions of territorial ownership. Acting in line with the principles affirmed in the letters exchanged between the two Parties, the local authorities of the two countries in the border areas managed to deal satisfactorily with all kinds of issues that arose along the border. So the Sino-Vietnamese boundary was for many years a peaceful and friendly boundary.

In the two decades and more prior to 1974, the Chinese and Vietnamese sides respected each other's territorial sea and sovereignty in the Beibu Gulf sea area. There was a relationship of friendly co-operation on such matters as shipping, fishery, scientific research and resistance to imperialist aggression, and no disputes occurred.

After 1974, however, the Vietnamese authorities made an about-turn in its position. Relying on their sharply increased military strength accumulated during the years of war and with the backing of Soviet social-imperialism, they went in for regional hegemonism in a big way and adopted a policy of aggression and expansion. They constantly created incidents and disputes along the border, nibbled at and encroached upon Chinese territory, and used the boundary question to whip up nationalistic anti-China sentiment. Moreover, the Vietnamese authorities sought expansion on the sea and wanted to occupy the greater part of the sea area in the Beibu Gulf. Brazenly going back on their own word, they laid territorial claims to China's Xisha and Nansha Islands

and even sent forces to occupy some of China's Nansha Islands.

That was how boundary and territorial disputes arose between the two countries.

## 2. Who Has Departed From the Principles Affirmed in the Letters Exchanged Between the Chinese and Vietnamese Parties?

In November 1956, representatives of China's Guangdong and Guangxi Provinces met representatives of Viet Nam's Hai Ninh, Lang Son and Cao Bang Provinces to discuss questions relating to border management. Their discussions touched on issues relating to the boundary. The two sides agreed to refer these to their respective central authorities for resolution. In November 1957, the Secretariat of the Central Committee of the Viet Nam Workers' Party proposed, in a letter to the Secretariat of the Central Committee of the Chinese Communist Party, that "the national border question, in view of its importance, must be settled in accordance with the existing legal principles or with new ones defined by the two Governments. Local authorities and organizations are strictly forbidden to enter into negotiations on setting up new boundary markers or on ceding territory to each other." In April 1958, the Central Committee of the Chinese Communist Party expressed its agreement to this view in a letter of reply. This meant that both sides would respect the boundary line delimited by the Sino-French boundary accords, that they would strictly maintain the status quo of the boundary pending a negotiated settlement of the boundary question by the two Governments, and that the local authorities were not empowered to settle questions pertaining to territorial ownership. These letters exchanged between the Chinese and Vietnamese Parties constitute the common basis for dealing with boundary issues prior to a negotiated settlement of the boundary question. The Chinese Government has faithfully adhered to the principles affirmed in the letters exchanged between the two Parties and has respected the boundary line delimited in the Sino-French boundary accords. In the few sectors where there were issues left over from history, the Chinese Government has strictly kept to the jurisdiction along the border prevailing at the time of the exchange of letters, that is to say, in the early days following the liberation of China. We made no attempt to change the state of jurisdiction even in those areas which clearly belonged to China according to the provisions of the Sino-French boundary

accords but which had been under Vietnamese jurisdiction for many years. In so doing, we proceeded entirely in the spirit of the agreement between the two Parties, namely, to maintain peace and tranquillity along the border. This does not mean that during future boundary negotiations, ownership over such disputed areas will be decided in accordance with the line of actual jurisdiction. The Chinese side holds that if it is ascertained in future negotiations that certain areas under the jurisdiction of one side are situated beyond the boundary line delimited in the Sino-French boundary accords, these should, in principle, be returned to the other side unconditionally. The Vietnamese side is well aware of the above Chinese position, for it was stated explicitly on many occasions in our official documents and in the statements of Chinese leaders.

After 1974, in order to nibble at Chinese territory, the Vietnamese authorities, while expressing willingness to respect the letters exchanged between the two Parties, vigorously denied the principle of maintaining the status quo on the border affirmed by that exchange of letters and tried to negate the boundary line delimited by the Sino-French boundary accords. For this purpose, they produced specious arguments, at one time claiming that "a historical frontier has existed between Viet Nam and China for a long time," then that "the two sides have agreed to respect the historical boundary line," and calling for "maintaining the status quo on the borderline left by history" or "restoring the status quo of the historical line," and so on and so forth. When you speak now of this line and then of that, what you are really after is to supplant the boundary delimited in the Sino-French boundary accords by your unilateral "historical borderline."

Numerous indisputable facts prove that it is none other than the Vietnamese authorities themselves who have violated the principles affirmed in the letters exchanged between the two Parties and have constantly upset the status quo on the border in an attempt to alter the boundary line fixed by the Sino-French boundary accords. The serious deterioration in the situation along the Sino-Vietnamese border is wholly the making of the Vietnamese authorities.

### 3. Why Did the Previous Two Rounds of Negotiations Fail to Yield Results?

In August 1974, negotiations were held between China and Viet Nam at the vice-foreign minister level on the division of the Beibu Gulf

sea area. In October 1977, negotiations at the same level were again held between the two sides on the boundary question and the division of the Beibu Gulf sea area. No results were achieved at either round of negotiations, mainly because the Vietnamese side disregarded the historical facts, distorted the Sino-French boundary accords and tried to impose on the Chinese side a so-called "sea boundary line in the Beibu Gulf," which was a pure figment of its imagination.

Back in December 1973, a Vietnamese Vice-Foreign Minister clearly stated that "the Beibu Gulf sea area has not been divided between the two countries because Viet Nam has been at war all the time." But when negotiations started in August 1974, the Vietnamese side suddenly asserted that in the Beibu Gulf "the boundary line was delimited long ago," alleging that the 1887 Sino-French Convention on the Delimitation of the Frontier Between China and Tonkin made longitude 108 degrees 3 minutes 13 seconds E the "sea boundary line" between the two countries in the Beibu Gulf. It asserted that for the last century all governments of the two countries had "exercised sovereignty and jurisdiction" according to this line and that the Beibu Gulf was a "historical gulf" belonging to China and Viet Nam. By making these assertions, the Vietnamese side aimed at taking possession of two-thirds of the Beibu Gulf sea area for itself.

It is stipulated in the paragraph about Guangdong in the Chinese text of the 1887 Sino-French convention that "as for the islands in the sea, those to the east of the southward red line drawn by the commissioners of the two countries, passing through the hill at the east tip of Tra-Co (Wanzhu in Chinese, which is to the south of Mong Cai and southwest of Zhushan), belong to China, and those to its west, Jiutoushan Island (Co To Island in Vietnamese) and the other islands, belong to Annam." The French text of the convention describes the red line as the meridian of Paris 105 degrees 43 minutes of east longitude, which is Greenwich longitude 108 degrees 3 minutes 13 seconds E. Clearly, this red line only indicates the ownership of the islands but is no "sea boundary line" between the two countries in the Beibu Gulf. Moreover, the term "Gulf of Tonkin" does not occur at all in the convention, nor is the Gulf of Tonkin included in its entirety in the map attached to the convention. Furthermore, in the historical circumstances at the signing of the convention in the late 19th century, when the

"doctrine of the freedom of the seas" was in vogue, it was inconceivable that China and France should regard such an expanse of the high seas as the Gulf of Tonkin as an inland sea and divide it. The Vietnamese side's fantastic interpretation of the convention in disregard of its terms and the actualities of history is indeed a rare case in the history of international relations.

As for the Vietnamese side's assertion that for nearly a hundred years the governments of the two countries have always exercised their sovereignty and jurisdiction in accordance with the above-mentioned longitude, it is not at all based on facts. Everyone knows that the previous governments in China and the French colonial authorities observed the three-nautical-mile principle in regard to the territorial sea. The Government of the People's Republic of China declared a 12-nautical-mile territorial sea in September 1958. China has never exercised sovereignty over or jurisdiction in the Beibu Gulf sea area beyond its territorial sea. In September 1964, the Vietnamese Government also declared its territorial sea to be 12 nautical miles wide and published a map showing its territorial sea boundary in the Beibu Gulf. If, as the Vietnamese side claims, the vast sea area in the Beibu Gulf west of 108 degrees 3 minutes 13 seconds E was its inland sea long ago, why did it draw another territorial sea boundary within its own inland sea? The Vietnamese assertion is absurd from the viewpoint of international law and is illogical and self-contradictory. Has any ship had to ask for permission from the Vietnamese authorities for entry into the sea west of 108 degrees 3 minutes 13 seconds E? The "sea boundary line," a brain-child of the Vietnamese authorities, has never existed either in historical agreements or in reality. As for the assertion that the Beibu Gulf is "a historical gulf" belonging to China and Viet Nam, it is really news to us. We have no knowledge at all about such a declaration by previous governments of the two countries at any time. Vietnamese insistence on this unreasonable proposition prevented any results in the negotiations, which went on for three months in vain. The division of the Beibu Gulf sea area between the two countries is still an unresolved issue.

After 1975, the Chinese side proposed on many occasions to hold negotiations on the boundary question, but the Vietnamese side always found excuses to put them off until June 1977 when it reluctantly agreed as Vice-Premier Li Xiannian personally made the proposal in a

meeting with Premier Pham Van Dong. It was agreed that the division of the Beibu Gulf sea area be included as a topic in the boundary negotiations.

Negotiations started in Beijing in October 1977. The Chinese delegation suggested that the boundary question should be the first item for discussion and put forward a proposal consisting of five principles for the settlement of the boundary question. The following are the main points:

- Since the Sino-Vietnamese boundary is a determined boundary, the two sides should base themselves on the Sino-French boundary accords in rechecking the alignment of the entire boundary and settling all boundary and territorial disputes;

- areas under the jurisdiction of one side which lie beyond the boundary line should, in principle, be returned to the other side unconditionally;

- the two sides should settle through friendly consultations any differences they may have as to the alignment of the boundary line in certain sectors;

- the two sides should then conclude a Sino-Vietnamese boundary treaty to replace the Sino-French boundary accords, and delimit the national boundary and erect the boundary markers anew.

The Vietnamese side did not show interest in the fair and reasonable Chinese proposals. It clung to the unreasonable view that the sea boundary in the Beibu Gulf "was delimited long ago," and linked the question of dividing the Beibu Gulf with the boundary question. Insisting that "a borderline between Viet Nam and China on land and in the Bac Bo Gulf has been delimited" in the Sino-French boundary accords, it claimed that "this is the most basic principle for the settlement of all kinds of boundary questions between the two countries"; since it was the "basis" for the entire negotiations, it must be discussed first. This was tantamount to raising a precondition which placed a great obstacle in the way of the negotiations. Although the Vietnamese side later agreed that the two sides should first discuss questions relating to the boundary, it played a new trick by submitting a "draft agreement on the national land border," insisting that the two Governments shelve their boundary disputes and first conclude an official boundary agreement. Obviously, the Vietnamese side harboured



ulterior motives when it showed no interest in settling boundary disputes and easing the tension along the border while wanting first of all to conclude "a boundary agreement."

Desiring to facilitate the negotiations, the Chinese side gave full consideration to the Vietnamese views and, working on the basis of its original five-point proposal, presented for consultations with the Vietnamese side a comprehensive proposal listing nine principles for the settlement of the boundary question. The nine-point Chinese proposal provided in the main the following:

The two sides check the alignment of the entire boundary line between China and Viet Nam, basing themselves on the documents with attached maps relating to the delimitation of the boundary concluded by the then Chinese and French governments and on the boundary markers erected according to these documents and maps. To facilitate the work of checking the alignment of the boundary, the two sides should exchange maps showing the boundary line between the two countries. During the process of checking the boundary alignment, if the two sides did not agree on the alignment of the boundary line in certain sectors, they should seek a fair and reasonable settlement through friendly consultations in a spirit of mutual understanding and mutual accommodation. After a joint check, the areas either side administers beyond the boundary should, in principle, be returned to the other side unconditionally; with due attention to the interests of the local inhabitants, readjustments on a fair and reasonable basis may be made in a small number of cases where both sides agree. Where the boundary follows rivers, it shall follow the central line of the main channel in the case of navigable rivers and the thalweg of the main channel in the case of unnavigable rivers; the ownership of the islands and sandbars in these rivers shall be determined accordingly. After checking the alignment of the entire boundary and settling the boundary and territorial disputes, the two sides shall conclude a Sino-Vietnamese boundary treaty, set up a joint commission for delimiting the boundary on the ground and erecting boundary markers, sign a boundary protocol and draw up maps of the boundary. Pending the coming into force of the Sino-Vietnamese boundary treaty, the two sides shall respect the principles affirmed in the letters

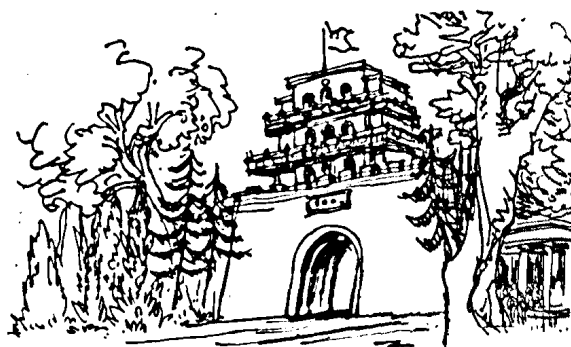
exchanged between the Central Committees of the Chinese and Vietnamese Parties in 1957-1958, maintain the status quo of the border and make no unilateral attempts in whatever form and on whatever pretext to change the extent of actual jurisdiction so as to maintain tranquillity along the border and the friendly and good-neighbourly relations between the two countries.

To our surprise, however, the Vietnamese side deliberately distorted this sincere and reasonable Chinese proposal, picked faults with it and levelled the groundless charge that it sought to "alter the historical boundary line." The negotiations lasted more than ten months, yet in all that time the two sides failed even to reach agreement on the procedure for conducting negotiations on the boundary question.

The above facts clearly show that the responsibility for the failure of the previous two rounds of negotiations to yield results rests squarely with the Vietnamese side. Frankly speaking, the basic reason why there has not been a negotiated settlement of the Sino-Vietnamese boundary question is that the Vietnamese authorities want to use this question as a means internally to fan up nationalistic anti-China sentiments and divert the discontent of their people and, externally, to cover up their aggression in Kampuchea and control over Laos in pursuit of regional hegemonism to suit the needs of the Soviet southward drive strategy. We cannot but point out that you are following a dangerous course.

#### 4. China's Eight-Point Proposal Provides a Fundamental Solution for the Disputes Between China and Viet Nam.

The eight-point proposal on the handling of the relations between China and Viet Nam, which the Chinese Government Delegation put forward at the second plenary meeting, has laid a solid foundation for a fundamental solution of the disputes between the two countries and for a real improvement in their bilateral relations.



Moreover, it provides guiding principles for a definitive solution of the boundary and territorial disputes between the two countries. A fair and reasonable solution of the boundary question can be achieved only by honouring the Sino-Vietnamese boundary delimited in the Sino-French boundary accords. Otherwise, there will be no common basis for a solution. Prior to the holding of negotiations on the boundary question by the two Governments, border disputes could have been avoided and armed conflict averted if the Vietnamese side had respected the principles affirmed in the letters exchanged between the Central Committees of the Chinese and Vietnamese Parties in 1957-1958, namely, maintaining the status quo of the border and refraining from attempting forcibly to change the extent of actual jurisdiction. The Chinese proposal includes fundamental measures to eliminate tension and ensure peace and tranquillity along the border. The Vietnamese side professes to be most concerned about ensuring peace and stability in the border areas, but in practice rejects the basic principle of "maintaining the status quo on the border." This fully shows that the Vietnamese side is aware of its untenable position and has ulterior motives. As to the division of the sea area in the Beibu Gulf, it is natural and indisputable that the two countries should define their respective economic zones and continental shelf in the Beibu Gulf in a fair and reasonable way in accordance with relevant principles of present-day international law of the sea. As regards the Xisha and Nansha Islands, I have already cited many hard facts to show that the Vietnamese side had before 1974 explicitly recognized the Chinese Government's sovereignty over these two island groups. Our demand is that the Vietnamese side revert to its previous position of recognizing this fact and respect China's sovereignty over these two island groups and withdraw all its personnel from those islands in the Nansha Group which it has occupied. In what sense can this demand be considered "unreasonable and peremptory"? It is the Vietnamese side that is unreasonable and peremptory when it shifts positions in a perfidious manner with a view to seizing and occupying China's islands and laying claim to China's territory. In a word, China's eight-point proposal is directed at the root cause leading to the deterioration in Sino-Vietnamese relations and made in the light of the facts of the disputes between the two countries. It is a fundamental solution to these disputes and sets forth basic principles for handling the relations between the two coun-

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tries. It is reasonable and practicable. We still earnestly hope that the Vietnamese side will give it careful study and make a positive response so that there may be progress in our negotiations.

## How Did the Sino-Vietnamese Border Dispute Come About?

THE Vietnamese authorities are raising a hue and cry about the alleged presence of Chinese troops on Vietnamese territory and demanding their withdrawal to the Chinese side of "the historical border-line which the two sides have agreed to respect." In fact, the so-called "historical border-line which the two sides have agreed to respect" is a "border-line" the Vietnamese authorities have themselves invented, and one which they have repeatedly changed with every step they took to nibble at Chinese territory.

What is the history of the delimitation of the Sino-Vietnamese border-line? How did the Sino-Vietnamese border dispute arise?

### Peaceful Border

In the 20-odd years following the establishment of diplomatic relations between the People's Republic of China and the Democratic Republic of Viet Nam, no major boundary dispute occurred between the two countries because:

First, the Sino-Vietnamese boundary line, 1,347 kilometres long, was jointly surveyed and delimited with markers set up in accordance with the boundary agreement officially signed over 90 years ago between the Qing Dynasty Chinese Government and the then ruling French government in Viet Nam. Though China did not suffer defeat in its war of resistance against French aggression in 1885, the Qing Dynasty Government accepted France's humiliating conditions and signed an unequal treaty — the "Sino-French Tianjin treaty." In accordance with this treaty the two countries clearly delimited the Sino-Vietnamese boundary line in the years from 1886 to 1897. They concluded, in 1887, the Sino-French Convention on the Delimitation of the Frontier, and signed, in 1895, the Supplement to the Sino-French Convention on the Delimitation of the Frontier. More than 300 boundary markers were erected along the border by the two sides.

When dealing with the history of the said period in its memorandum on the Sino-Viet-

namese boundary issue on March 15 this year, the Vietnamese Foreign Ministry, bent on pursuing a course for territorial expansion, asserted that the Government of the Qing Dynasty strove to "bring pressure to bear on France" and France "thus conceded to the Qing Dynasty" a number of places "to the detriment of the Vietnamese people." Such an allegation is not true to historical facts. How could the Qing Dynasty Government, corrupt and submissive to foreign powers as it was, "bring pressure to bear on France" and make the latter "concede" land?

Second, after the revolution triumphed in China and Viet Nam, both sides expressed their willingness to respect the existing boundary line. Although the two sides had different views on certain sections of the boundary line, the disputed area was not large and the question would not be difficult to settle.

In 1957-58 the Central Committees of the Chinese and Vietnamese Parties exchanged letters expressing willingness to respect the Sino-Vietnamese boundary line as defined in the Sino-French boundary accords, and affirming the principle that the status quo of the border would be maintained and the boundary question be settled by the two Governments, with the local authorities having no power to do so.

Third, the Sino-Vietnamese boundary was for years one where friendship prevailed. Before liberation, the revolutionaries of both countries respectively carried out their activities in the Chinese and Vietnamese border areas. After liberation, the border inhabitants and border guards of the two countries lived in amity and helped each other, and through friendly negotiations, the local authorities of the border areas reached agreements on problems of border security, border control, trade, economic construction, and contacts among border residents. They also settled a number of disputes between border inhabitants. The relations in the border areas, like those between the two countries, were amicable and co-operative.

The Vietnamese authorities, in their attempt to stir up anti-China feelings, are trying to tamper with history and write off the co-operative relations between the two countries.

### Situation Has Changed

After the 1973 armistice in Viet Nam, and especially since 1974, noticeable changes have

taken place on the Sino-Vietnamese boundary. The Vietnamese leaders have decided that since the war has ceased "it is no longer so vital" for them to follow the policy of friendship towards China, and they openly asserted that in dealing with China, "we have begun more and more to lean towards the U.S.S.R." They also maintained that the Sino-French boundary agreements "are now too old and cumbersome to give guidance in defining the frontier" (according to Hoang Tung, Member of the Central Committee of the Vietnamese Communist Party). On a number of occasions, they expressed in high-sounding phrases their respect for the Sino-French boundary agreements, but in practice they actually went back on their word, and stirred up disputes over the Sino-Vietnamese boundary.

From that time on the Vietnamese authorities have arbitrarily redefined the boundary alignment. They claimed now this particular plot of land, now that one. After a "boundary investigation" the Vietnamese authorities made territorial claims on 13 places in the Wenshan area, Yunnan Province.

They have occupied land by force and unilaterally sought to alter the status quo along the boundary.

The Shuinong area in Napo County, Guangxi, had been recognized as Chinese territory by the French colonialists. Armed Vietnamese security men repeatedly forced their way into the Shuinong Primary School and smashed the equipment, proclaiming that it was on Vietnamese territory. They also attempted to lower the national flag of China in front of the school and ferociously demanded that Chinese residents get out.

The Vietnamese authorities repeatedly sent armed security men into a number of areas including Puyingding, near Youyiguan in Guangxi, where the peoples of the two countries were in frequent contact.

They harassed the normal work and production activities of local Chinese inhabitants. They occupied these areas by force. The Vietnamese authorities think that the Sino-Vietnamese border should be delimited as they unilaterally claim, regardless of what the Chinese side has to say.

In 1975 when the Chinese and Vietnamese sides agreed to lay an oil pipeline as part of Chinese aid to Viet Nam near border marker No. 23 on the east sector of the border-line with



Viet Nam in Guangxi, the Vietnamese side arbitrarily changed the boundary line there and claimed a piece of Chinese territory. They sent engineering units to penetrate deeper into this part of Chinese territory to build reinforced concrete constructions and demanded that the Chinese fix the site for linking up the pipeline on the line unilaterally claimed by them as the boundary and refused to carry out this work on the site already agreed upon by the two sides. The Vietnamese authorities now falsely charge that China refused to link up the pipeline on the so-called boundary line, and blame China for "giving up the project."

The Vietnamese authorities have tried on various pretexts to alter those sectors of the boundary which they had formerly recognized. In 1974 they said that during the joint reconstruction of the Hanoi-Youyiguan railway in 1954, "due to misunderstanding, the railway workers did not place the joint points of the railway track of the two countries correctly on the border-line left over by history, but they placed them over 300 metres inside Vietnamese territory." This is a fabricated pretext for the annexation of Chinese territory. It was of course rejected by the Chinese side.

On several subsequent occasions, the Vietnamese authorities sent armed personnel across the joint points into Chinese territory, forcefully interrupted the normal work of the Chinese railway workers and resorted to large-scale violence against them. They provoked a series of incidents which forcibly obstructed railway construction work on the Chinese side of the border. In one incident on May 4 in 1977, they sent over 500 troops and wounded 51 Chinese workers, six of them seriously.

When trying to occupy Chinese territory, the Vietnamese side resorts to all kinds of trickery. Once, when they found a broken boundary marker, they furtively moved it into Chinese territory in the Nongxin area of Jingxi County in Guangxi, and then took photos of it. Later, under the excuse of examining boundary markers, hundreds of armed Vietnamese personnel were sent into the area in an attempt to bite off more Chinese territory with the help of the removed marker.

Xiaobazi commune is in Maguan County, Yunnan, separated from Viet Nam by a strip of water. On the Chinese side of the main channel there are three small islands — Chinese territory since ancient times. The Vietnamese authorities constructed a dam in the upper reaches of the

river, causing 90 per cent of the water flow to run between the Chinese river bank and the small islands, thus changing the course of the main channel. The local Chinese inhabitants protested but Vietnamese armed personnel drove them away with gunfire and occupied the three islands by force.

Since 1978, when the Vietnamese authorities started to whip up an anti-China and anti-Chinese campaign and force Chinese residents to move out en masse, the Sino-Vietnamese border has become the scene of many incidents, a scene of constant Vietnamese armed provocation.

The Vietnamese authorities have sent large numbers of security personnel, militia and regular armed forces to nibble at China's territory. They erected fortifications, dug trenches and bunkers, planted bamboo spikes and laid mines in Chinese territory. Vietnamese armed personnel used machineguns, sub-machineguns, rifles, mortars and rockets to fire at the Chinese border regions, sometimes for over a dozen hours at a stretch. Houses, schools, hospitals, kindergartens and farm buildings in Chinese villages in the border areas are pitted with bullet holes. Some are seriously damaged. Women washing clothes on river banks, children on their way to school, and commune members working in the fields were their targets. Chinese trains running near the border-line were subjected to constant attacks by gunfire from across the Vietnamese side of the border. In the first six weeks of this year, more than 100 Chinese civilians and frontier guards were killed, many Chinese residents in the border area were unable to reap their crops, their children could not go to school. They were compelled to leave their homes to live in mountain caves.

The Vietnamese authorities have made the following number of attacks on the Chinese border: 1974 — 121; 1975 — 439; 1976 — 986; 1977 — 752; 1978 — 1,108; 1979 (up to February 16) — 129.

From these figures, it is clear that the more energetic the Vietnamese authorities became in their opposition to China, the more frequent the border incidents and the tenser the border situation.

### China Wants Negotiations, Not War

In these years, the Chinese Government has all along made efforts to try to settle the Sino-



Vietnamese boundary issue in a fundamental way through negotiations. Following the Sino-Vietnamese negotiations on the division of the waters of Beibu Gulf in 1974, the Ministry of Foreign Affairs of China took the initiative on March 18, 1975 in proposing talks between the two countries to resolve the boundary dispute. Meanwhile, it proposed that, pending the settlement of the boundary question, both sides should strictly maintain the status quo of the boundary and take effective measures to prevent the recurrence of disputes and conflicts. Since then, China has many times urged, through diplomatic channels, the Vietnamese Government to respond to this proposal.

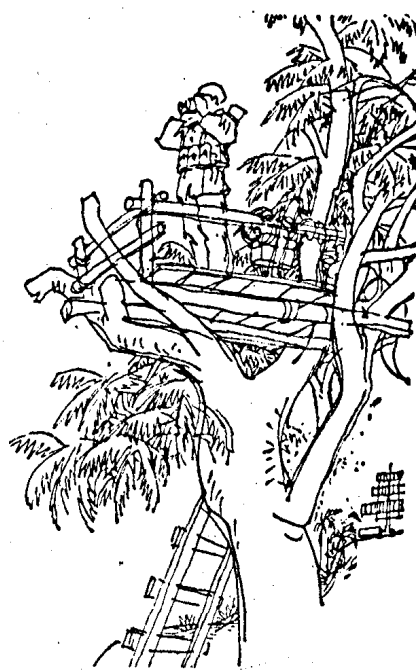
The Vietnamese side reluctantly acceded to this proposal in June 1977 when Chinese Vice-Premier Li Xiannian renewed it at a meeting with Vietnamese Premier Pham Van Dong. Boundary negotiations between the two countries at a vice-ministerial level were held at long last in Beijing in October 1977. But the Vietnamese side, lacking sincerity at the very beginning, brought up side issues by confusing the question of division of the Beibu Gulf with the boundary question. It wanted in this way to impose on China its imaginary "sea boundary line on the Beibu Gulf," which runs so close to China's Hainan Island that it incorporates two-thirds of the sea area of the Beibu Gulf into Vietnamese territory. Following a stern refutation by the Chinese side, the Vietnamese side was compelled to agree to shelve the Beibu Gulf question. But it played another trick by dishing up a "draft boundary agreement" instead of first discussing the principles governing the boundary question. It insisted on signing an official boundary agreement based on its own draft, which would solve no practical problems. In the summer of 1978 it suspended the negotiations under the pretext that its representatives were "too busy" to negotiate.

In the course of the representations being made between the two sides, the Vietnamese side insisted on its absurd contention that there has never been a disputable area on the border between the two countries except the problem of "restoring the status quo ante of the historical border-line." It means that all its territorial claims on China are just and indisputable. It also means that when the Vietnamese side accused the Chinese side of "intruding into Vietnamese territories," or "altering the historical borderline," China must "restore" it

at once without the right to defend itself. This was a downright attempt to forcibly impose its territorial demands on the other side. There was not an iota of sincerity for negotiations. Recently, the Vietnamese side has continued its line by arrogantly demanding that Chinese troops withdraw to the Chinese side of "the historical border-line which the two sides have agreed to respect." In fact, it wants the Chinese frontier troops to withdraw to the Chinese side of the so-called "border-line" created by Viet Nam at will. This unreasonable act, which tramples upon the norms of international relations, is rarely seen in the history of modern international relations.

It is clear from the above factual report that there had been no serious problems regarding the Sino-Vietnamese border—a border of peace and friendship—before the end of the Viet Nam war. However, the Vietnamese authorities decided afterwards that they were no longer so much in need of China's friendship, support and assistance and that it was their pressing need now to solicit the support of the Soviet superpower so as to realize their dream of establishing an "Indochina federation." Consequently, they began to adopt an anti-China and anti-Chinese policy. They fanned up nationalistic sentiment, fabricated lies against China on the boundary issue, and engaged in anti-China activities in a big way.

Since there are boundary disputes between China and Viet Nam, there is every reason for



the two sides to negotiate on an equal footing to settle the boundary problem. In the proposal put forward by the Chinese side on April 27 on the principles for handling the relations between China and Viet Nam, the third point is that the Sino-French boundary accords shall serve as the basis for a negotiated settlement of the boundary and territorial disputes between China and Viet Nam. Pending a settlement of the boundary question, each side shall strictly maintain the status quo of the boundary at the time when the Central Committees of the Chinese and Vietnamese Parties exchanged letters in 1957-58. Out of their policy requirements both at home and abroad, the Vietnamese authorities resorted to armed force on the border and committed military provocations and intrusions against China. They were treading a perilous path to alter the boundary line by force of arms. We hope the Vietnamese side will draw lessons from this, give up its militarist policy, stop its tricks and machinations, and work earnestly and sincerely for a peaceful settlement of the Sino-Vietnamese boundary problem through negotiations.

*(Xinhua Commentary, May 13)*

## **Xisha and Nansha Islands Belong to China**

THE Vietnamese Government Delegation to the Sino-Vietnamese negotiations and the mass media in Hanoi have recently concentrated their anti-China propaganda on China's suggestion concerning the Nansha and Xisha Islands contained in its eight-point proposal for handling Sino-Vietnamese relations.

They accused China of being "extremely unreasonable and peremptory" and "arrogantly asking Viet Nam to give up sovereignty over its own territory" when China demanded that Viet Nam respect China's sovereignty over the Nansha and Xisha Islands and withdraw all its personnel from those Nansha Islands which it occupies. Are there any grounds for this accusation? Let facts speak for themselves.

### **China's Territory**

Formerly there was no dispute between China and Viet Nam over the jurisdiction of

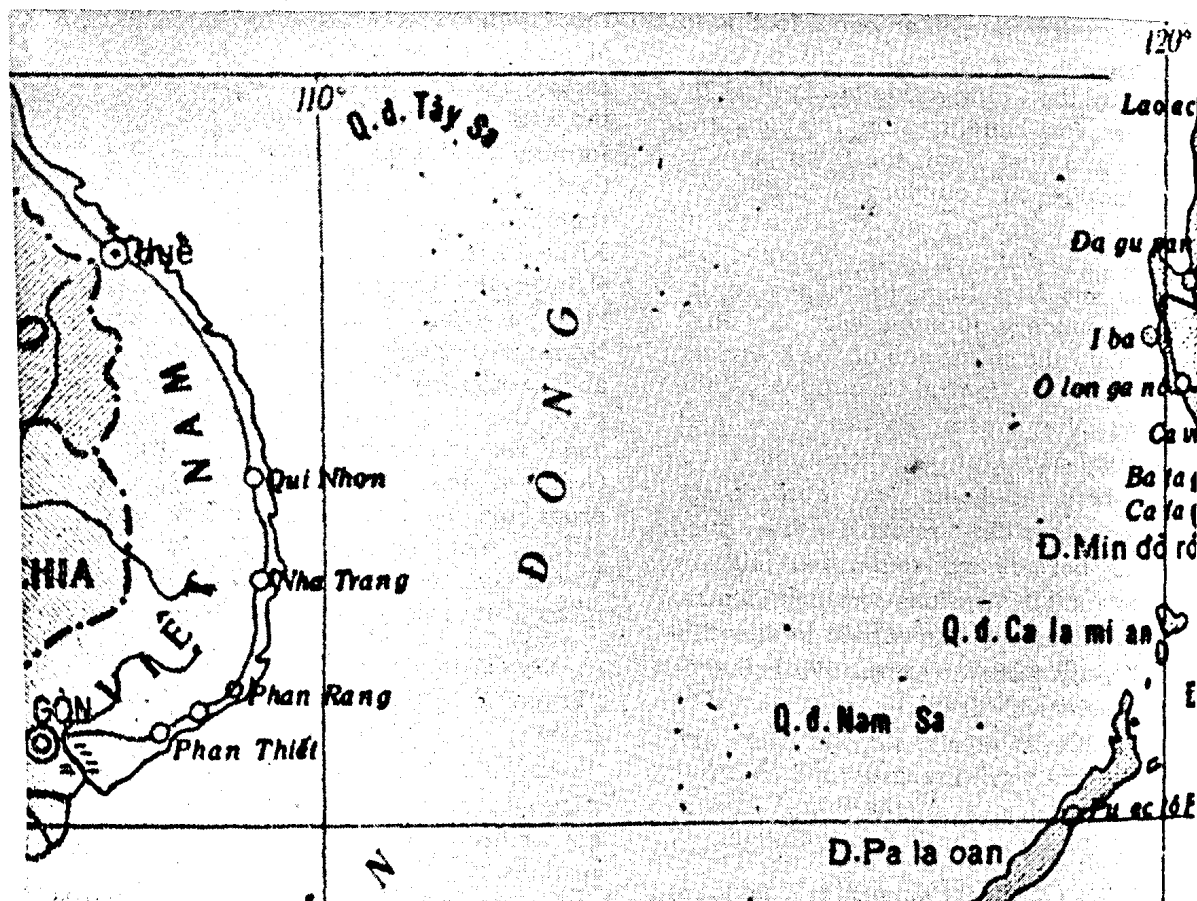
these islands. However, as the Vietnamese war of resistance against the United States was ending, the Vietnamese authorities, counting on the strength of their huge army and their formidable arsenal, became more ambitious of territorial expansion. In 1974, after China drove the south Vietnamese puppet troops out of its Xisha Islands, the Vietnamese authorities claimed the islands when they asserted that "territorial and border disputes between neighbouring countries should be studied carefully and thoroughly." In April of the following year, they flagrantly dispatched troops to invade six islands in China's Nansha Island Group. Since then, they have indulged in propaganda both inside and outside the country, alleging that the Xisha and Nansha Islands are Vietnamese territory. They have even altered maps to incorporate the islands into Viet Nam.

By claiming that the "Hoang Sa" and "Truong Sa" Islands (China's Xisha and Nansha Islands) are "Vietnamese territory" and that "the map . . . is verified by the history of the past several thousand years," the Vietnamese authorities are simply ignoring historical realities.

A host of historical records and cultural relics unearthed in modern China give ample proof that the Xisha and Nansha Islands have been part of China's territory since ancient times. Books published in Britain, Japan and France also cite ancient facts about the life and work of Chinese labouring people on these archipelagoes and their efforts to develop them. Viet Nam's historical records, too, confirm that these islands belong to China, not Viet Nam.

Since the founding of the People's Republic of China, the Chinese Government has issued statements, affirming China's sovereignty over the islands in the South China Sea. On August 15, 1951, Zhou Enlai, the then Chinese Foreign Minister, declared in his statement on the U.S.-British draft peace treaty with Japan and the San Francisco Conference that the islands in the South China Sea, including the Xisha and Nansha Islands, "have always been China's territory. Although they were occupied by Japan for some time during the war of aggression waged by Japanese imperialism, they were all taken over by the then Chinese Government following Japan's surrender."

The Chinese Government made statements in 1956, 1958, 1959, 1974 and on many occasions in recent years, reiterating China's full and



Part of a map showing the Xisha and Nansha Islands on page 19 of the "World Atlas" printed in May 1972 by the Survey and Drawing Bureau of the Vietnamese Prime Minister's Office. Here the island groups are called by their original names — "Xisha" and "Nansha" which are written "Q.d. Tay Sa" and "Q.d. Nam Sa" in Vietnamese rather than "Hoang Sa" and "Trung Sa" as they are now referred to by the Vietnamese authorities.

legitimate sovereignty over the Xisha and Nansha Islands.

China's above-mentioned stand has won respect and recognition from most of the countries in the world. At the San Francisco Conference in 1951, the then Soviet representative Gromyko (now foreign minister) proposed that the restoration of the Xisha, Nansha and other islands to China should be written into the peace treaty with Japan. He said, "it is indisputable that the age-old territories of China, such as the island of Taiwan, Pescadores [Penghu Islands], Paracel Islands [Xisha Islands] and other Chinese territories severed from her should be restored to the People's Republic of China." For several decades prior to the Vietnamese claim to these islands, all the official world atlases and encyclopedias published by the Soviet Union designated the Xisha and Nansha Islands as China's territories. So did books and maps in other parts of the world, including atlases and encyclopedias published in the 60s and the 70s in France,

West Germany, Japan, the United States and the countries in Eastern Europe.

### Viet Nam's Original Position

From the founding of the Democratic Republic of Viet Nam until 1974, Viet Nam time and again recognized China's sovereignty over the Xisha and Nansha Islands in its notes, statements and confidential documents as well as in its publications, textbooks and official maps, and in the speeches of its leaders.

On June 15, 1956, a Vietnamese Vice-Foreign Minister formally said to the Chinese side that "from a historical point of view, these islands are Chinese territory."

On September 4, 1958, the Chinese Government issued a declaration on China's territorial sea in which it clearly stated that the territory of the People's Republic of China "includes the Chinese mainland and its coastal islands, as well as Taiwan and its surrounding islands, the Penghu Islands, the Dongsha Islands, the Xisha

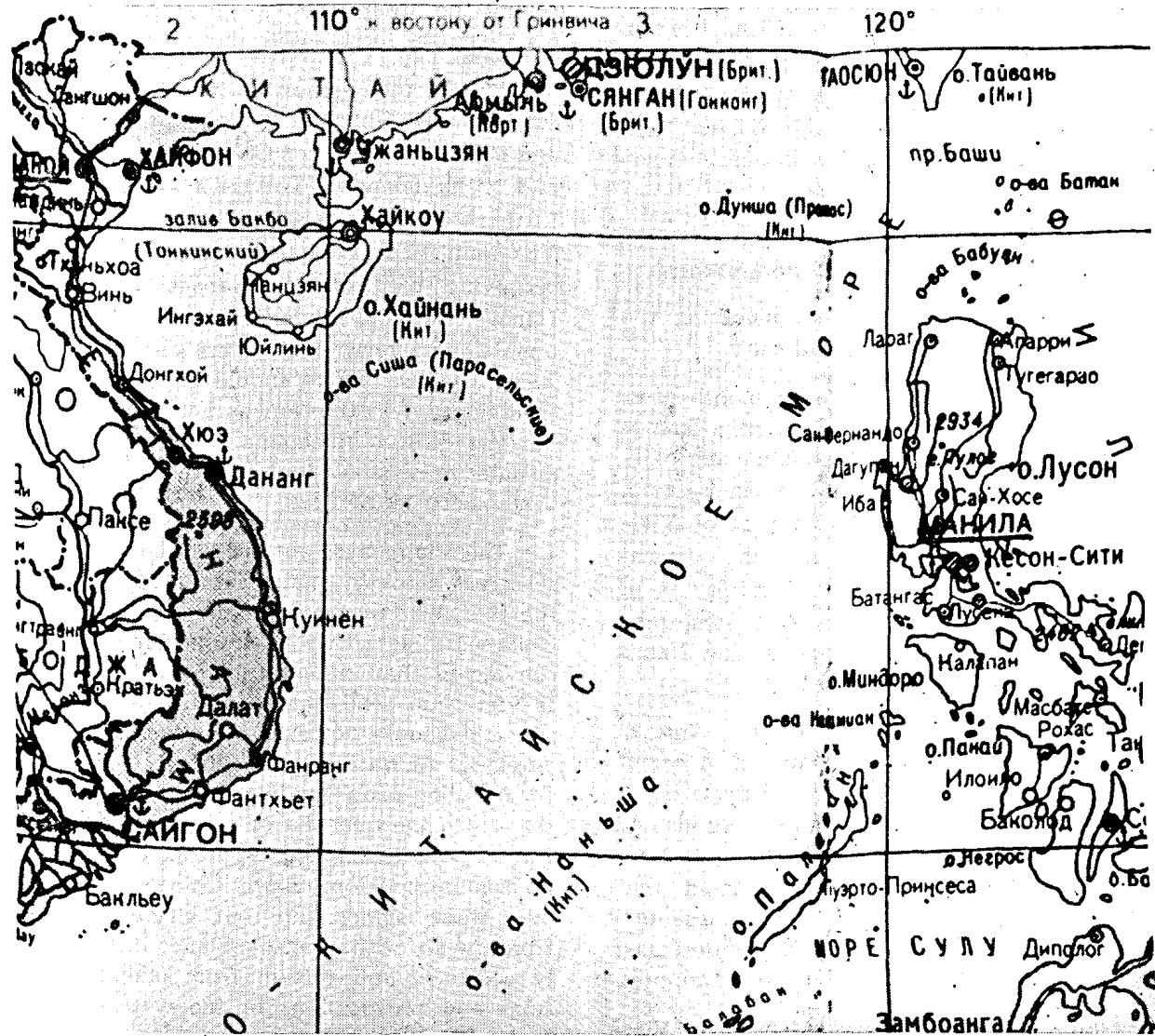


Islands, the Zhongsha Islands, the Nansha Islands. . .” On September 14 of the same year, Vietnamese Premier Pham Van Dong made it clear in his note to Premier Zhou Enlai that “the Government of the Democratic Republic of Viet Nam recognizes and supports the declaration of the People’s Republic of China on China’s territorial sea made on September 4, 1958” and that “Viet Nam respects this decision.” At that time, the Vietnamese paper *Nhan Dan* also gave detailed reports on the declaration of the Chinese Government and expressed support for it in a commentary.

In a statement of May 9, 1965 on the U.S. President’s designation of the “combat zone”

of the U.S. armed forces in Viet Nam, the Vietnamese Government recognized the Xisha Islands as belonging to China. The statement said: “U.S. President Lyndon Johnson designated the whole of Viet Nam, and the adjacent waters which extend roughly 100 nautical miles from the coast of Viet Nam and part of the territorial waters of the People’s Republic of China in its Xisha Islands as ‘combat zone’ of the United States armed forces.”

Vietnamese official maps published before 1975 called the Xisha Islands and Nansha Islands by their Chinese names and supplied notes to show that they belonged to China. For example, the world maps drawn and published by the Map Department of the General Staff of



Part of the map on pages 101 and 102 in the revised edition of the “Pocket World Atlas” published in 1975 by the General Survey and Drawing Bureau of the Soviet Union. Brackets under the names of “Сиха” (Russian for “Xisha”) and “Наньша” (Russian for “Nansha”) contain the designation “Кит.” (Russian abbreviation for “China”).

the Viet Nam People's Army in 1960 clearly were marked in the Vietnamese language with "the Xisha Islands (China)" and "Nansha Islands (China)." The Vietnamese maps published by the Vietnamese Department of Cartography in May, 1964, the world maps printed in May, 1972 and the second edition of the world political maps printed in March 1974, both by the Vietnamese National Survey and Drawing Bureau, contained the Xisha Islands and the Nansha Islands in their Chinese names in the Vietnamese language. They never were called "Hoang Sa" or "Truong Sa" Islands as they are now named by the Vietnamese authorities.

A lesson on "China" in a ninth grade geography textbook published by the Viet Nam Educational Printing House in 1974 says, "The arc made up by the Nansha and Xisha Islands, Hainan Island, Taiwan, the Penghu Islands and the Zhoushan Islands forms a 'great wall' to protect the Chinese mainland." There have been many similar descriptions in earlier Vietnamese textbooks.

#### Who Is Unreasonable and Peremptory?

An episode four years ago involving the Vietnamese authorities is significant.

On May 15, 1975, less than a month after the occupation of six of China's Nansha Islands by the Vietnamese troops, the Vietnamese daily *Guan Doi Nhan Dan* carried a Vietnamese map, marking the Nansha Islands as part of Vietnamese territory and stating that the easternmost point of the Vietnamese territory is at 109 degrees and 29 minutes east longitude. Clearly, the attempt was to justify Viet Nam's occupation of China's islands.

However, the *Vietnamese Natural Geography* and *Natural Geographical Areas of the Vietnamese Territory* published respectively in 1970 by the Viet Nam Educational Publishing House and the Viet Nam Scientific and Technological Printing House clearly stated that the easternmost point of the Vietnamese territory is at 109 degrees and 21 minutes east longitude and not 109 degrees and 29 minutes.

Moreover, the arbitrary extension of Vietnamese territory 8 minutes eastward still fails to incorporate the Nansha Islands which are located east of 109 degrees and 30 minutes E.

into Vietnamese territory. This clumsy trick is further proof that Viet Nam's claim to the Nansha Islands is unfounded.

What do all the facts show? They show indisputably that the Xisha and Nansha Islands have been an inalienable part of Chinese territory since ancient times. This is a truth recognized by the whole world, including Viet Nam in many of its past government statements and documents. The dispute over the sovereignty of the Xisha and Nansha Islands has been provoked solely by the Vietnamese authorities. They are so obsessed by their ambition for territorial expansion that they have gone back on their word and shown bad faith in their relations with other nations, a very rare case in the history of international relations. World public opinion will decide who is "extremely unreasonable and peremptory" and who is asking the other side "to give up sovereignty over its own territory."

The Vietnamese authorities have occupied six of China's Nansha Islands with armed forces and covet the whole of China's Nansha Islands and Xisha Islands. This is a serious step to further poison the relations between China and Viet Nam. The Vietnamese troops are illegally occupying part of the Nansha Islands and Hanoi's warships have repeatedly encroached upon China's territorial waters surrounding the Xisha Islands. There should be no dispute on sovereignty over the Nansha and Xisha Islands, but it has been made the subject of a major dispute in Sino-Vietnamese relations by the Vietnamese authorities.

The Vietnamese authorities' claim that they set great store by maintaining and promoting the fine relations between the Vietnamese and Chinese peoples. But one practical move is more convincing than a dozen high-flown speeches. If Viet Nam really has a desire to settle disputes, it should not evade the eight-point proposal put forward by the Chinese Government for handling problems in Sino-Vietnamese relations. On the question of sovereignty over the Nansha and Xisha Islands, it should return to its original position, respect China's sovereignty over these islands, pull out all its personnel from the six of the Nansha Islands it has illegally occupied, and refrain from making intrusions and provocations in the waters off the Xisha Islands.

(A May 14 commentary by  
Xinhua Correspondent)

Beijing Review, No. 21





### **Annex 488**

Chen Tiquang and Zhang Hongzeng, “The Issue of Delimiting the Beibu Gulf Sea -- Rebuttal of Vietnamese Errors from the Perspective of International Law”, *Guangming Daily* (2 Dec. 1980)



December 2, 1980 Guangming Daily Page 3

## The Issue of Delimiting the Beibu Gulf Sea -- Rebuttal of Vietnamese Errors from the Perspective of International Law

Chen Tiqiang, Zhang Hongzeng

Beibu Gulf (generally referred to as “Gulf of Tonkin” internationally) is a gulf encircled by the territories of China and Vietnam. It is 170 nautical miles at its widest location, has two openings, the larger of which is 125 nautical miles wide at the narrowest; this is one of the largest gulfs in the world. Even though the gulf is extremely important in economic and military terms for the two coastal nations of China and Vietnam, as of now the gulf is open to vessels of all nations. Prior to 1974, there had never been problems between China and Vietnam in their engagement in maritime transportation, fishing, and scientific research in the Beibu Gulf. In 1974, in the China-Vietnam negotiations to delimit the Beibu Gulf waters, Vietnam suddenly proposed: (1) The boundaries in Beibu Gulf had long been “clearly defined,” as the *Convention Concerning the Delimitation of the Border between China and Tonkin* between China and France had set 108°03’08” east of the Greenwich meridian as the “maritime border” between the two countries in Beibu Gulf; (2) “For several centuries,” Beibu Gulf had been the “historic gulf” between China and Vietnam. For China as one of the coastal nations, these two positions were news previously unknown; these are completely without historical or legal basis.

### I. The 1887 China-France Convention Did Not Delimit the Maritime Border in Beibu Gulf

The Vietnamese claim that the 1887 Convention delimited the maritime border between China and Vietnam in Beibu Gulf completely contradicted historical fact.

First, the China-France *Convention Concerning the Delimitation of the Border between China and Tonkin* (hereinafter *Convention*) signed in 1887 was based on Treaty of Tientsin signed by China and France on June 9, 1885. The treaty of 1885 stipulated that within six months after the treaty was signed, China and France shall both dispatch officials to “be present at the frontier between China and Tonkin to determine the boundary.” Therefore, the task of representatives from both sides was simply to determine the “boundary” at the “frontier between China and Tonkin,” but they did not have the right to delineate the boundary of the wide Beibu Gulf. This was the overall mission and objective of the *Convention* of 1887, and was the original intent of the parties to the treaty.

Second, it was clear that the scope of determination in *Convention* of 1887 was limited to “the frontier between China and Tonkin.” The issues relating to the demarcation of coastal islands was determined by the following Chinese text: “As for the islands, the red line drawn by the appraising ministers of the two countries shall be extended southward. This line

crosses the eastern mountaintop of Traco, and this line shall serve as the boundary (the Chinese name for Traco is Wanzhu, south of Mangjie and Southwest of Zhushan). Islands that lay to the east of the line shall belong to China; islands that belong to the west of the line and Mount Gao Tao in the ocean (Vietnamese name Ge Duo) shall belong to Vietnam.” The map included in the treaty had a red line that was not far from the coast, approximately to 21°23’ north. Regardless of the treaty text, the names on the map, or the islands shown on the map all clearly showed that the red line only involved land and coastal islands on the two sides of the line. It did not exceed the scope of “the frontier between China and Tonkin.” There was no mention of “Gulf of Tonkin” in the text of the treaty, and the included map did not present the entire Beibu Gulf. Thus, we know that the 1887 *Convention Concerning the Delimitation of the Border between China and Tonkin* had absolutely no intention of delineating the entire Beibu Gulf.

The Vietnamese used the corresponding clauses of “Paris meridian 105°43’ east” and “constitutes the boundary” in the French text of the treaty as a pretext to argue that the meridian constituted the “maritime boundary” between China and Vietnam for the entire Beibu Gulf. The French text of this passage is as follows: “Islands located to the east of Paris meridian 105°43’ east, or to the east of the north-south line passing through the mountaintop of Traco Island, also known as Wanzhu, belong to China. West of this meridian, Ge Duo islands and other islands shall belong to Annam.” In fact, the French text also clearly showed that Paris meridian 105°43’ east (the equivalent of 108°03’13” east of the Greenwich meridian) merely explained the position of the “red line” described in the Chinese text. To say that it “constitutes the boundary” would mean that it constitutes the demarcating line between the islands to the east and west of the line that belong to China and Vietnam. This was even more evident in the final section of the treaty. The Chinese text of this section is as follows: “Now, two sets of the boundary map shall be drawn, each set shall include three sheets, to be affixed with the seals of the inspector ministers of the two countries. The new boundary on the map shall be drawn in red.” The French text is completely consistent with this.

This is ironclad evidence proving that the boundary of land and islands demarcated in the *Convention* of 1887 was the red line in the included map; the meridian was merely used to explain the position of the red line.

Third, it is also very clear that based on the negotiation process involved in the *Convention* of 1887 that the treaty did not delimit the maritime boundary of Beibu Gulf. A great deal of historical evidence has explained that the initial stages of treaty negotiation went more smoothly. However, disputes arose over returning to China Jiangping, Huangzhu, and Bailongwei Peninsula occupied by the French military. The French took this opportunity to propose the issue of dividing the islands, in attempt to gain some islands to secure terms for exchange. On March 31, 1887, the *Summary of Question and Answers* of the discussions between the Parties recorded: French representative des Noyers said, “Now, there are three more issues. First is the line among the islands. Second is the map of contention regarding Bailongwei and Jiangping. Third, the matters that Minister Deng (referring to Chinese negotiator Deng Chengxiu.” “Des Noyers then took out a piece of paper and said that this is the maritime boundary I have drafted...from Paris meridian 105°43’ east to the east of the islands, and the islands along the coast of Annam should belong to Annam.” It was clear that the demarcation of the boundary for Beibu Gulf was not involved; the only issues discussed were “the line among the islands,” Bailongwei, and Jiangping. The “boundary on the ocean map” mentioned by France was used to demarcate the coastal islands. French materials explained the situation in the same way. French Senator [French name could not be found] responsible for reviewing the treaty stated in a report for the French Parliament: the Parties quickly determined the whole boundary over four hundred kilometers long from Zhima Pass to the ocean,” and that “only the disputes over islands and the place called ‘Bailongwei Feidi’ were not yet resolved.” (French *Diplomatic Files* 1896, No. 2, Volume 2, p. 22). As stated above, the Chinese and French information unanimously recorded: the points of dispute were only the coastal islands and Bailongwei; there was no issue regarding the maritime boundary in the Gulf of Tonkin.

In the negotiation, des Noyers indeed mentioned that the “ocean surface” to the south of Wanzhu should be demarcated. Wanzhu is a small island, and its’ “south” was evidently the nearby ocean. Even so, this was strenuously rejected by the Chinese. The view of Viceroy of Guangdong and Guangxi Zhang Zhidong, who led the negotiations on the Chinese side was exceedingly definitive. On March 20, 1887, in his telegram to negotiation representative Deng Chengxiu, he wrote, “The seas near the coast are internal seas, and whether they belong to China or to Vietnam should be discussed. As for the wider oceans outside the islands, it would be better not to discuss them...since the oceans are wide, they ought not to be possessed by Vietnam.” On April 17, Zhang Zhidong’s telegram to the bureaucratic office overseeing foreign affairs stated, “For maritime boundary, only point to the oceans near the islands, but do not discuss the open seas beyond the islands,” and “clarify the demarcate the island areas near the coast, and keep everything in the open seas the same, avoid making connotations about them.”

As we know, the interpretation of a treaty must be based on the overall treaty, its holistic objectives, and mission; interpretation must refer to the intent of the parties to a treaty, the materials prepared for negotiations, and the historical background. The Vietnamese must

not be allowed to succeed in fabricating treaty content that does not exist in the treaty text and that has been clearly rejected by Chinese negotiation representatives.

The Vietnamese side insisted that 108°03'13" east "was the maritime boundary between the two countries," but they were completely unable to explain the southern endpoint of this "boundary." This is because the treaty did not demarcate Beibu Gulf at all, therefore of course there was no southern endpoint. Real examples of using meridians to serve as demarcation lines did exist in international practice, but other than the 1493 papal bull that demarcated the new world between Spain and Portugal, a meridian boundary without an endpoint has never existed. Is Vietnam like Pope Alexander VI, trying to extend 108°03'13" east all the way to the South Pole and divide all the land and ocean to China and Vietnam?

In the 1974 negotiations, the Vietnamese proposed a strange piece of "evidence," claiming that in the *Convention* of 1887, the French "Résident supérieur de l'Annam" was responsible for performing the treaty, and therefore the boundary should be extended to the Vietnamese waters. In fact, *Convention* stipulated that the French "Résident supérieur de l'Annam-Tonkin" should appoint officials to establish boundary markers with Chinese officials. The résident supérieur was the French chief of both Tonkin and Annam, occupying two posts at the same time. The *Convention* had no mention of "Résident supérieur de l'Annam." In the 1974 negotiations, when the Chinese representative pursued a line of questioning about the location of the southern endpoint of 108°03'13" east, the Vietnamese representative first stated that the power of the Democratic Republic of Vietnam only extended to 17° north, thus the southern endpoint could only be placed as far as Con Co Island, then stated that the southern endpoint of the boundary was at Vinh of Nghệ An Province. Vinh was an inland city, and was not even located on 108°03'13" east, thus we do not know how it could be the endpoint of the "boundary" of 108°03'13" east. As for the position that the power of the Democratic Republic of Vietnam only extended to 17° north, as North and South Vietnam have now become a united country, this point is no longer valid. Now, Vietnamese changed their statement, saying that the issue was merely to "confirm the sealing line of Beibu Gulf." These excuses were all extremely absurd. If, as the Vietnamese state, the *Convention* of 1887 had already demarcated the boundary in Beibu Gulf, at the time the 17° boundary did not exist, so why was it impossible to determine the southern endpoint? If the boundary for Beibu Gulf had been drawn as early as 1887, then of course the sealing line of the gulf had been confirmed; how could it be possible that a sealing line still does not exist after nearly a hundred years? After this line of questioning left him nothing to say, the Vietnamese representative had to admit: "The map only delineated part of this boundary, the part with the starting point and vector." Thus, in actuality he admitted that the Vietnamese claim was unfounded in terms of the treaty as well as the map.

In summary, the Vietnamese story regarding 108°03'13" east being the maritime boundary between China and Vietnam in Beibu Gulf was a fabrication by Vietnam, and is without any historical basis. If this line were extended southward throughout the entire Beibu Gulf, it would be over 130 nautical miles from the coast of Vietnam, but it would only be over 30 nautical miles from Hainan Island of China. The Vietnamese imagine that they can plunder two-thirds of the waters in Beibu Gulf using this fabricated "boundary" to fulfill their greed for territory and territorial waters; this is impossible.



## II. From Contemporary International Law, It was Impossible for China and France to Have Delimited Beibu Gulf

There is a conventional principle for the interpretation of treaties: in the event that there are different interpretations, reference should be made to international legal conventions at the time the legal was signed.

What was commonly-accepted international law like in 1887? As everyone knows, that was the era of rising Western imperialism. The central maritime empires England and France were forcefully promoting the principle of “freedom of the seas” in maritime law, compressing the seas under national jurisdictions as much as possible, so that these sea powers could enjoy free rein in “international waters.” They opened certain “enclosed oceans,” vestiges of the medieval period, and forced other countries to accept three nautical miles as territorial waters. French international legal experts were extremely dissatisfied that England maintained the relic of “enclosed oceans” in the form of “king’s enclosed waters” (which was soon abandoned by the British). Well-known French international legal scholars, such as Pradier-Fodere (published *Treatise on Public International Law* in 1885) and Piédelièvre (published *Summary of Public International Law* in 1894) criticized British claims as “unfounded,” “presumptuous usurpation,” and “rebutted by legal theory.” This shows that if China and France had divided the entire Gulf of Tonkin (the current Beibu Gulf), it would have been contradictory to France’s own international legal claims at the time. Moreover, if France sought to divide the entire Gulf of Tonkin, England and the United States would not have given their tacit approval without making objections. However, a comprehensive survey of international legal works in England, United States, and France yielded no work on the division of Gulf of Tonkin between China and France.

It is necessary to point out that it is certainly possible for coastal nations to claim gulfs as their own, but the following conditions must be met: (1) The gulf is enclosed by only one nation; (2) The mouth of the gulf may not be excessively wide. With regards to width limitations, at the time there were proponents of twice the width of territorial waters (or six nautical miles), proponents (such as Pradier-Fodere and Piédelièvre) of a width that was twice the range of cannons (also six nautical miles). The widest proposition was ten nautical miles (as in the fisheries regime between France and the United Kingdom in 1839; the North Sea Fishers Convention signed by United Kingdom, France, Germany, Belgium, the Netherlands, and Denmark; by French international scholars Bonfils and Fauchille and French maritime law authority Riddell; as in the resolution adopted by Institute of International Law in 1928). Fauchille raised the example of the arbitration case relating to Fengdi Gulf in 1854, in which the court of arbitration ruled that Fengdi Gulf was international waters, “not only because the gulf was 65-75 nautical miles wide, but also more importantly, its coasts did not all belong to one country.” However, Fauchille mentioned Bay of Figuiet as an exception; its coasts belonged to France and Spain and the mouth was only 3055 meters wide. It was divided by France and Spain in 1879 by special treaty. Another exception was Gulf of Fonseca. In 1917, Central American Court of Justice judged the Gulf to be “a historical gulf with features of enclosed seas” belonging to Nicaragua, Honduras, and

El Salvador. However, no international legal scholars from France or any other country mentioned that Gulf of Tonkin belonged to France or to China and France as a territorial gulf. The question is, in practice, when have France and Vietnam exercised jurisdiction over the wide waters of Beibu Gulf? Which countries have recognized their jurisdiction?

### III. French and Vietnamese Practice in Beibu Gulf Invalidated the Vietnamese Position

The legal nature of territorial waters within a territorial gulf has generally been considered to be that of internal waters. The rationale is that the baseline for territorial waters was a straight line drawn at the mouth of the gulf, thus as a matter of fact the territorial gulf itself would not be a part of territorial waters. In territorial waters, foreign merchant ships could sail unmolested. In internal waters, foreign merchant ships must first obtain special permits before sailing through. Since 1887, French and Vietnamese ships have never handled incoming foreign ships in the wide territorial waters of Beibu Gulf as if it were internal waters, and have never even exercised their rights as though it were territorial waters. There, as of today, tens of thousands of foreign vessels have always enjoyed all freedoms of international waters.

Vietnam has insisted that “for nearly a hundred years,” the French colonial regime and the subsequent government of the Democratic Republic of Vietnam had “continuously exercised” sovereignty and jurisdiction over the region to the west of 108°03’13” east of the Greenwich meridian. The basis for this was: after 1887, China and France agreed that France would pursue and capture Chinese criminals who escape to the islands of French Annam; also, the French Governor-General of Indochina stipulated on October 11, 1889 that Chinese vessels entering “Indochinese waters” were required to register at Indochina Customs. However, these facts could only explain that France exercised jurisdiction over islands and nearby waters of French Annam, but cannot be used to confirm that France had exercised its sovereignty throughout the waters west of in the Gulf of Tonkin to the west of 108°03’13” east.

When international legal experts of France (and of all other nations) engage in discourse over historic bays, without exception they mention Bay of Cancale, but no one mentioned the Gulf of Tonkin. When the French government responded to an inquiry from the preparatory committee of the International Law Codification Conference of the League of Nations in 1930, it only mentioned Bay of Cancale. In 1958, during the Convention on the High Seas, the United Nations Secretariat prepared the “Historic Bays: Memorandum by the Secretariat of the United Nations,” listing the key historic bays in the world. As a significant bay, Beibu Gulf was not included, yet no one raised any objection to this.

Some regulations promulgated by France also show that it had never treated Beibu Gulf as its territorial gulf. For instance, in 1888, France promulgated laws prohibiting foreign vessels to fish within its territorial waters three nautical miles from the shore. In 1926, it announced that this law was applicable to French colonies, and no exception was made for the Gulf of Tonkin. On June 1, 1930, France’s *Regulations Regarding Docking by Foreign Military Vessels in Colonial Ports and Territorial Waters* stipulated that vessels from

countries friendly to France may dock in Indochina ports and “in territorial waters not exceeding six nautical miles from the low tide line,” which also did not make an exception of the Gulf of Tonkin. Furthermore, according to Article 1 of *Regulations Regarding Certain Neutrality Rules in Context of Maritime War* promulgated on October 18, 1912, the regulations were applicable to all ports and territorial waters in France and under its jurisdiction. Article 2 stipulated: the territorial water of the bay was an 11 kilometer wide region “measured starting from a straight line that crossed the bay at points nearest to the mouth of the bay without exceeding 10 nautical miles in width.” It is worth noting that according to Article 1 of *Regulations Regarding Territorial Waters Relating to the Demarcation of Fisheries in Indochina* promulgated on September 22, 1936, “For fishing, French Indochina’s territorial waters shall be measured starting from the low tide line to a width of 20 kilometers. For the bay, the 20-kilometer region shall be measured in a straight line crossing the bay starting from points nearest at the mouth of the bay not exceeding ten nautical miles.” Foreign vessels were prohibited from fishing within the 20-kilometer region. These two sets of regulations were both applicable to Vietnam, and made specific requirements regarding bays. In particular, the latter regulation was specifically focused on the issue of territorial waters in Indochina, and never mentioned the “territorial gulf” status of the Gulf of Tonkin, delimiting territorial waters and a “territorial gulf” of less than ten nautical miles in width within the “territorial gulf” of the Gulf of Tonkin. This shows that France never deemed the Gulf of Tonkin one of its “territorial gulfs.”

Now, we will turn to Vietnamese practice. (1) Since 1957, the governments of China and Vietnam established three fishery agreements. The most recent agreement line was twelve nautical miles from the baseline between the parties. Vessels of one side crossing over the other’s agreement line required permission, while the Beibu Gulf region outside of the agreement line had long been common fishing grounds for both sides. (2) In September 1964, the Vietnamese government announced that the width of its territorial waters was twelve nautical miles, and published a map marking Beibu Gulf as its territorial waters. If the western half of Beibu Gulf was already a Vietnamese “territorial gulf,” why would it delimit a territorial waters line in its internal waters? (3) On May 12, 1977, Vietnam promulgated the *Declaration on Vietnamese Territorial Waters, Contiguous Zones, Exclusive Economic Zones, and Continental Shelf*. Article 1 stated: the Vietnamese territorial waters were twelve nautical miles wide, “outside the baseline comprised of the lowest tide line to the outermost coastal islands along the Vietnamese coast”; and that “waters within the baseline and adjacent to the coast are internal waters of the Socialist Republic of Vietnam.” Vietnam’s contiguous zones, exclusive economic zones, and continental shelf of less than 200 nautical miles were extended to 200 nautical miles; all of these were measured using the aforementioned starting point. The declaration did not mention that Beibu Gulf was a Vietnamese “territorial gulf,” and did not mention that in Beibu Gulf, Vietnamese territorial waters, contiguous zones, and exclusive economic zones were still based on the line crossing the mouth of the gulf.

In spite of the above incontrovertible facts, the Vietnamese side still argued without basis that Vietnam had exercised jurisdiction over Beibu Gulf. It used the Maritime Survey Agreement in Beibu Gulf between China and Vietnam in 1961 as evidence. The agreement stipulated that data and samples from observation posts west of 108° east would be preserved by Vietnam. Vietnam attempted to use this to prove that China also recognized this line as the

boundary in Beibu Gulf. In fact, this agreement stipulated that China and Vietnam would each preserve one set of the data and samples, and that only “if there were materials that cannot be duplicated or samples that cannot be divided, data and samples from observation posts east of 108° east would be preserved by China, and data and samples from observation posts west of 108° east would be preserved by Vietnam.” Evidently, these were specific arrangements made to resolve the issue of sample preservation under special circumstances, and was completely unrelated to the “maritime boundary” between China and Vietnam in Beibu Gulf as stated by Vietnam. This point could also be proven by a diplomatic exchange of letters between China and Vietnam in the same year regarding the issue of rescue on the seas. The exchanged letters stated that a portion of the line located on 107° east would be a line delimiting the scope of rescue, “China will carry out rescue east of this line, and Vietnam will carry out rescue west of this line.” If we follow the Vietnamese logic, can we not also say that Vietnam recognized part of the Beibu Gulf maritime boundary was located on 107° east? This show that the Vietnamese claim that Vietnam had exercised sovereignty and jurisdiction over the entire area to the west of 108°03’13” east is completely without merit.

The Vietnamese position regarding whether a boundary had been drawn in the Beibu Gulf had always been contradictory, even within the same document or in the same speech. For instance, in December 1973, the deputy minister of foreign affairs of Vietnam clearly stated, “Since Vietnam has always been in a state of war, the waters of Beibu Gulf have not been delimited for the two countries.” However, in August 1974, at the Sino-Vietnamese negotiations, the Vietnamese side insisted that the boundary in Beibu Gulf had been drawn. At a negotiation meeting on August 15 of the same year, leader of the Vietnamese delegation Phan Hiền stated that the *Convention* of 1887 “already definitively confirmed the boundary between Vietnam and China in Beibu Gulf.” However, he immediately said that Sino-Vietnamese negotiation was necessary to “formally confirm” the boundary in Beibu Gulf. Similarly, the *Memorandum* released by the Vietnamese Ministry of Foreign Affairs on March 15, 1979 stated on the one hand that Paris meridian 105°43’ east was the boundary between China and Vietnam in Beibu Gulf, but on the other hand also that Vietnam would negotiate with China “to confirm the sealing line of Beibu Gulf, in order to formally confirm the boundary in Beibu Gulf.” If the *Convention* of 1887 already “confirmed” the “maritime boundary” in Beibu Gulf, then why would it need to be “formally confirmed”? What is this logic?

In summary, French and Vietnamese practice both unequivocally proved that *Convention* of 1887 have not delimited the maritime border between China and Vietnam in then-Gulf of Tonkin and in present-day Beibu Gulf.

#### IV. Reasonably Delimiting the Scope of Maritime Interests in Beibu Gulf in Reference to New Trends in Maritime Law

The Vietnamese claim that *Convention* of 1887 already delimited the “maritime boundary” between China and Vietnam in Beibu Gulf is not only in violation of historical fact, not permitted by contemporary international law, but is also negated by consistent French and Vietnamese practice. However, this is not to say that it is impossible for China and

Vietnam to arrive at any agreement regarding the demarcation of waters in Beibu Gulf. In recent years, there have been major developments in maritime law, as many ocean regions or sea bed and bottom soil originally part of “international waters” have been demarcated as exclusive fishing grounds, exclusive economic zones, or continental shelf by many countries. The new trend in international law is to have legal affirmation. Regardless of whether as continental shelf or as exclusive economic zone, Beibu Gulf should belong to China and Vietnam; it is completely legal and necessary for the two countries to divide Beibu Gulf waters, sea bed, and bottom soil on principles of equality, mutual benefit, fairness, and rationality. However, this does not mean that any one side can designate a “maritime boundary” at some location at will. The parties should engage in fair negotiations in reference to the new trends in maritime law to divide the scope of interest in the waters between the parties. This would be completely different from the Vietnamese fabrication of history, imposing modern maritime legal concepts on a treaty from nearly a hundred years ago. Vietnam has full responsibility for the inability of Sino-Vietnamese negotiations regarding the delimiting Beibu Gulf to achieve any progress.





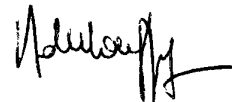




**Annex 489**

Ministry of Foreign Affairs of the People's Republic of China, *Spokesman's Statement of 28 November 1982* (28 Nov. 1982), reprinted in *Law of the Sea Bulletin*, No. 1 (1983)





LAW OF THE SEA

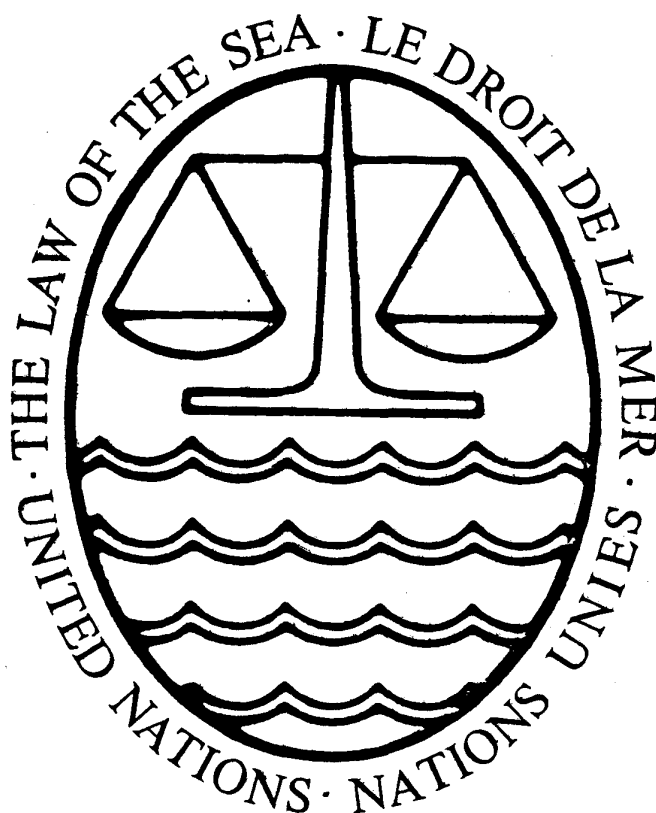
BULLETIN

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No. 1

SEPTEMBER 1983

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OFFICE OF THE SPECIAL REPRESENTATIVE  
OF THE SECRETARY-GENERAL FOR THE LAW OF THE SEA

**STATEMENT BY CHINA**

Statement dated 28 November 1982 by the spokesman of the Ministry of Foreign Affairs of the People's Republic of China

In its "Declaration on base line of Vietnam's territorial waters" issued on 12 November 1982, the Vietnamese Government groundlessly declared that the Boundary-Delimitation Convention signed between China and France in 1887 "had defined" the maritime boundary line in the Beibu Gulf, and even described China's Xisha Islands and Nansha Islands as Viet Nam's islands, announcing that base lines would be drawn for their territorial sea. This is a wilful distortion of the historical Sino-Vietnamese Boundary-Delimitation Convention and a gross violation of China's sovereignty and territorial integrity.

It must be pointed out that the Sino-Vietnamese boundary-Delimitation Convention signed between China and France in 1887 did not in any way delimit the maritime area in the Beibu Gulf. Therefore, no maritime boundary line has ever existed in the sea of the Beibu Gulf. On 26 December 1973, the Vietnamese Government formally stated to the Chinese Government that "owing to the fact that Viet Nam has been in a state of war, the maritime area of the Beibu Gulf has so far not been delimited between the two countries." This clearly indicated that originally, the Vietnamese Government also recognized the fact that China and Viet Nam had not delimited the Beibu Gulf.

The Government of the People's Republic of China hereby solemnly states that the so-called boundary line in the Beibu Gulf as asserted by the Vietnamese Government is illegal and null and void and reiterates that Xisha Islands and Nansha Islands are an inalienable part of China's sacred territory.

The Vietnamese Government's "Declaration on base line of Vietnam's territorial waters" has fully revealed the expansionist designs of the Vietnamese authorities to appropriate a vast sea area of the Beibu Gulf and to encroach upon China's territory. It is also a deliberate new step to further aggravate Sino-Vietnamese relations. The Vietnamese authorities must bear full responsibility for all the serious consequences that may arise therefrom.



**Annex 490**

People's Republic of China, *Declaration of the Government of the People's Republic of China on the baselines of the territorial sea* (15 May 1996)



**Declaration of the Government of the People's Republic of China**  
**on the baselines of the territorial sea, 15 May 1996**

In accordance with the Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone adopted and promulgated on 25 February 1992, the Government of the People's Republic of China hereby announces the baselines of part of its territorial sea adjacent to the mainland and those of the territorial sea adjacent to its Xisha Islands as follows:

I. The baselines of part of the territorial sea adjacent to the mainland are composed of all the straight lines joining the adjacent base points listed below:

1. Shandonggaojiao (1)	37° 24.0' N	122° 42.3' E
2. Shandonggaojiao (2)	37° 23.7' N	122° 42.3' E
3. Moyedao (1)	36° 57.8' N	122° 34.2' E
4. Moyedao (2)	36° 55.1' N	122° 32.7' E
5. Moyedao (3)	36° 53.7' N	122° 31.1' E
6. Sushandao	36° 44.8' N	122° 15.8' E
7. Chaoliandao	35° 53.6' N	120° 53.1' E
8. Dashandao	35° 00.2' N	119° 54.2' E
9. Macaiheng	33° 21.8' N	121° 20.8' E
10. Waikejiao	33° 00.9' N	121° 38.4' E
11. Sheshandao	31° 25.3' N	122° 14.6' E
12. Haijiao	30° 44.1' N	123° 09.4' E
13. Dongnanjiao	30° 43.5' N	123° 09.7' E
14. Liangxiongyu	30° 10.1' N	122° 56.7' E
15. Yushanliedao	28° 53.3' N	122° 16.5' E
16. Taizhouliedao (1)	28° 23.9' N	121° 55.0' E
17. Taizhouliedao (2)	28° 23.5' N	121° 54.7' E
18. Daotiaoshan	27° 27.9' N	121° 07.8' E
19. Dongyindao	26° 22.6' N	120° 30.4' E
20. Dongshadao	26° 09.4' N	120° 24.3' E
21. Niushandao	25° 25.8' N	119° 56.3' E
22. Wuqiuyu	24° 58.6' N	119° 28.7' E
23. Dongdingdao	24° 09.7' N	118° 14.2' E
24. Daganshan	23° 31.9' N	117° 41.3' E
25. Nanpengliedao (1)	23° 12.9' N	117° 14.9' E
26. Nanpengliedao (2)	23° 12.3' N	117° 13.9' E
27. Shibeishanjiao	22° 56.1' N	116° 29.7' E
28. Zhentouyan	22° 18.9' N	115° 07.5' E
29. Jiapengliedao	21° 48.5' N	113° 58.0' E
30. Weijiadao	21° 34.1' N	112° 47.9' E
31. Dafanishi	21° 27.7' N	112° 21.5' E
32. Qizhouliedao	19° 58.5' N	111° 16.4' E
33. Shuangfan	19° 53.0' N	111° 12.8' E
34. Dazhoudao (1)	18° 39.7' N	110° 29.6' E

35. Dazhoudao (2)	18° 39.4' N	110° 29.1' E
36. Shuangfanshi	18° 26.1' N	110° 08.4' E
37. Lingshuijiao	18° 23.0' N	110° 03.0' E
38. Dongzhou (1)	18° 11.0' N	109° 42.1' E
39. Dongzhou (2)	18° 11.0' N	109° 41.8' E
40. Jinmujiao	18° 09.5' N	109° 34.4' E
41. Shenshijiao	18° 14.6' N	109° 07.6' E
42. Xigudao	18° 19.3' N	108° 57.1' E
43. Yinggezui (1)	18° 30.2' N	108° 41.3' E
44. Yinggezui (2)	18° 30.4' N	108° 41.1' E
45. Yinggezui (3)	18° 31.0' N	108° 40.6' E
46. Yinggezui (4)	18° 31.1' N	108° 40.5' E
47. Gan'enjiao	18° 50.5' N	108° 37.3' E
48. Sigengshajiao	19° 11.6' N	108° 36.0' E
49. Junbijiao	19° 21.1' N	108° 38.6' E

II. The baselines of the territorial sea adjacent to the Xisha Islands of the People's Republic of China are composed of all the straight lines joining the adjacent base points listed below:

1. Dongdao (1)	16° 40.5' N	112° 44.2' E
2. Dongdao (2)	16° 40.1' N	112° 44.5' E
3. Dongdao (3)	16° 39.8' N	112° 44.7' E
4. Langhuajiao (1)	16° 04.4' N	112° 35.8' E
5. Langhuajiao (2)	16° 01.9' N	112° 32.7' E
6. Langhuajiao (3)	16° 01.5' N	112° 31.8' E
7. Langhuajiao (4)	16° 01.0' N	112° 29.8' E
8. Zhongjiandao (1)	15° 46.5' N	111° 12.6' E
9. Zhongjiandao (2)	15° 46.4' N	111° 12.1' E
10. Zhongjiandao (3)	15° 46.4' N	111° 11.8' E
11. Zhongjiandao (4)	15° 46.5' N	111° 11.6' E
12. Zhongjiandao (5)	15° 46.7' N	111° 11.4' E
13. Zhongjiandao (6)	15° 46.9' N	111° 11.3' E
14. Zhongjiandao (7)	15° 47.2' N	111° 11.4' E
15. Beijiao (1)	17° 04.9' N	111° 26.9' E
16. Beijiao (2)	17° 05.4' N	111° 26.9' E
17. Beijiao (3)	17° 05.7' N	111° 27.2' E
18. Beijiao (4)	17° 06.0' N	111° 27.8' E
19. Beijiao (5)	17° 06.5' N	111° 29.2' E
20. Beijiao (6)	17° 07.0' N	111° 31.0' E
21. Beijiao (7)	17° 07.1' N	111° 31.6' E
22. Beijiao (8)	17° 06.9' N	111° 32.0' E
23. Zhaoshudao (1)	16° 59.9' N	112° 14.7' E
24. Zhaoshudao (2)	16° 59.7' N	112° 15.6' E
25. Zhaoshudao (3)	16° 59.4' N	112° 16.6' E
26. Beidao	16° 58.4' N	112° 18.3' E
27. Zhongdao	16° 57.6' N	112° 19.6' E
28. Nandao	16° 56.9' N	112° 20.5' E
1. Dongdao (1)	16° 40.5' N	112° 44.2' E

The Government of the People's Republic of China will announce the remaining baselines of the territorial sea of the People's Republic of China at another time.





**Annex 491**

Ministry of Foreign Affairs of the People's Republic of China, "Spokesperson's Comment on China-Asean Consultation" (30 Aug. 2000)



MINISTRY OF FOREIGN AFFAIRS  
THE PEOPLE'S REPUBLIC OF CHINA

### Spokesperson's Comment on China-Asean Consultation

**Q:** It is reported that the Second China-Asean Senior Officials' Consultation on the Code of Conduct in the South China Sea was held recently in Dalian. Would you please introduce the consultation to us briefly?

**A:** The Second Meeting of Working Group of the China-Asean Senior Officials' Consultation on the Code of Conduct, which had been suggested and promoted by the Chinese side, was held in Dalian, China from 24 to 25 August. Officials in charge from the Foreign Ministries of China, the ten Asean countries and the Asean Secretariat attended the meeting.

During the meeting, views have been furthered exchanged and difference narrowed on the consulted working draft of the Code of Conduct. Positions and views have been drawing closer. The Code of Conduct will be a political document to promote good neighborliness and regional stability instead of a legal document to solve specific disputes.

The consultation has, once again, shown the sincerity and positive attitude of the Chinese side towards the formulation of the Code of Conduct. It was the Chinese side that proposed the draft last October and then took the initiative in hosting the just-concluded consultation. It has also put forward many positive and constructive recommendations on the draft of the Code of Conduct. The main difficulties that currently exist do not lie with the Chinese side. We hope that relevant countries can, in light of the spirit of seeking common ground while putting aside differences, demonstrate necessary political sincerity and flexibility so as to make positive contribution to the smooth formulation of the Code of Conduct.

August 30, 2000



**Annex 492**

Office of the President of the Taiwan Authority of China, “The President Attended the Opening Ceremony for ‘Republic of China Southern Historical Exhibition’” (1 Sept. 2014)





The President Attended the Opening Ceremony for “Republic of China’s Southern Territory Historical Archives Exhibition ”

Date of Publication: September 1, 103rd year of the Republic [2014]

[...]

President Ma Ying-jeou attended the opening ceremony for “Republic of China’s Southern Territory Historical Archives Exhibition” today (the first) at Academia Historica. He explained the legitimacy of our country’s claims of sovereignty over the islands in the South China Sea, and he hoped to further extend the ideals of “East China Sea Peace Initiative” to the South China Sea region in order to peacefully resolve disputes.

In his remarks, the President first expressed his sincere gratitude to and approval for the scholars and experts who have long researched the South China Sea issue, as well as for the military soldiers and officers who have devoted themselves to the protection of our country’s territory. The President stated that South China Sea is located on one of the busiest maritime transport routes in the world and has abundant biological and non-biological resources, thus it has long received international attention. The separate occupation of islands by various claimant countries has increasingly intensified controversies in this region. For example, in May of this year China established oil drilling platforms in the waters near the Xisha Islands, which elicited Vietnamese riots against the ethnic Chinese population; this in turn affected Taiwanese business investments in Vietnam and resulted in major losses. This shows that the South China Sea issue is potentially explosive and deserves consideration by various sectors of society.

The President listed our government’s proactive actions in relation to South China Sea affairs in the last 6 years. First, in July 2010, Ministry of the Interior formally activated the administrative station for “Dongsha Atoll National Park,” which executed the “Dongsha Atoll

Research Station Project” and promoted Dongsha as an important research site for international marine research. Second, in 2011, Ministry of Economic Affairs gradually designated the mineral zones surrounding the Dongsha Islands and Taiping Island of the Nansha Islands and have completed preliminary geological exploration and scientific surveys in the waters. Third, starting in 2011, the Ministry of National Defense and Coast Guard Administration held the “Nansha Research Camp” and “Dongsha Experience Camp” respectively, in order to strengthen the youth’s understanding of the importance of the Nansha Islands. Fourth, in December 2011, the Ministry of Economic Affairs constructed solar photovoltaic systems in Taiping Island of the Nansha Islands to build an island with low carbon emissions. Fifth, in August 2012, the Ministry of Science and Technology officially activated our country’s first 2,700-ton class large marine research vessel “RV Ocean Researcher 5” to elevate marine scientific research output. Sixth, starting in November 2013, the Ministry of Transportation and Communications, the Ministry of National Defense, and the Coast Guard Administration jointly executed basic infrastructure construction in Taiping Island. Seventh, in December 2013, the Ministry of Transportation and Communications completed the deployment of communication networks in Taiping Island, facilitating connection channels and emergency communications services.

The President said that all of our government’s actions in the South China Sea region are peaceful, “not related to the military.” The purposes of these actions are to help the Taiwanese better understand the South China Sea Islands as part of our country’s territory and to demonstrate to the international society that our country has diligently engaged in operations and management of these islands. Therefore, in the future when there is any negotiation over the South China Sea, “the Republic of China will not be absent,” because our country has already played a very important role there.

The President pointed out that exploration of the South China Sea issue can be pursued from various perspectives, including the perspectives of history, geography, geology, and international law. Among these, in terms of international law, there is traditional international law on territory and sovereignty, as well as the *United Nations Convention on the Law of the Sea* involving territorial waters and resources. In terms of historical evidence, as early as 1935 our country published the “Map of South China Sea Islands and Their Locations” and asserted its sovereignty over the South China Sea Islands. In 1947, after the War of Resistance was won, the government dispatched ships “Zhongye” and “Taiping” to reclaim various islands in South China Sea that had been previously under Japanese occupation, re-conduct surveys, erect monuments, make maps, and station troops. Furthermore, Taiwan published the “Comparison List of New and Old Names in South China Sea” and “Map of South China Sea Islands and Their Locations,” and at the time no country had publically protested these actions. In fact, “there is also a great deal of evidence in history” for our country’s ancient people’s management of the South China Sea Islands; in the future, textual research of historical materials for the southern territories should continue to be enhanced.

The President further mentioned that in 1930 the “Far East Meteorological Conference” was held in Hong Kong, at which time it was resolved that our country would establish meteorological monitoring stations in the South China Sea region. In 1955, at the first “International Civil Aviation Organization (ICAO) Pacific Regional Aviation Conference,” the member states in attendance resolved that our government would be responsible for providing the weather reports for Dongsha, Xisha, and Nansha Islands. The resolutions of these two international conventions showed that the attending countries acknowledged and respected our government’s territorial sovereignty over the South China Sea Islands. In addition, after Japan surrendered at the end of World War II, the United States undertook surveys and cartography in the South China Sea Islands and also notified our country to help

facilitate these efforts. These all prove that at the time foreign governments acknowledged and acquiesced to the territorial claims of our country over the South China Sea Islands.

In regards to international law involved in the South China Sea Islands, the President mentioned that in 1945, President Truman proposed the Truman Proclamations, asserting that the United States had sovereign rights over the sea bed and subsoil within the Gulf of Mexico and could engage in related development work. Before this point, no country had proposed similar claims to the sea bed and subsoil outside their territorial waters or contiguous areas; this led to significant controversy, causing fishing disputes between the United States and other Central American countries. It was not until the first meeting of the *United Nations Convention on the Law of the Sea* convened by the United Nations in 1958 and the proposition of the four conventions including *Convention on the Continental Shelf* “that the concept of continental shelf was officially established in international society.”

The President stated that in 1947, our country announced the “Map of South China Sea Islands and Their Locations.” At the time, other than the territorial waters, there were no other claims and concepts of maritime space. Therefore, there continue to be different opinions when each party is exploring how international law should be drawn upon to resolve the disputes in the South China Sea. In fact, similar issues have appeared for the issue of Diaoyu Islands. At that time, the proposed so-called “inter-temporal law,” meaning that when international disputes happen, the applicable international law is not the law in effect when the disputes happen, but rather is the law in effect when the claims were raised; “in this way, it better conforms to the actual situations.” However, the principle of “the land dominates the sea” in the *United Nations Convention on the Law of the Sea* still applies to the disputes over territorial sovereignty or over territorial waters, thereby resulting in various countries fighting over the islands and reefs in the South China Sea.

The President also used our country's experience in handling the issue of East China Sea Islands to explain that territorial sovereignty and maritime space questions can be treated separately. The President said that on August 5, 2012, he proposed the "East China Sea Peace Initiative," asserting that "sovereignty cannot be severed, but resources can be shared." Last year Taiwan also signed the *Taiwan-Japan Fisheries Agreement* with Japan, which peacefully resolved the 40 year-long fisheries controversy between the two sides, so that fishermen from both countries can fish in high-quality fishing grounds twice the size of Taiwan. The Initiative received broad international acclaim after its proposition; for instance, United States Assistant Secretary of State for East Asian and Pacific Affairs Daniel Russel has openly praised the Initiative several times. In August 13 of this year, in a diplomatic policy speech, U.S. Secretary of State John Kerry also praised the Initiative for the promotion of regional peace and stability. These have all given our country more confidence in expressing its opinions in the East China Sea issues, and our country hopes to extend these means to the South China Sea region to resolve disputes peacefully.

The President further explained that at the current time, our country, mainland China, Vietnam, and the Philippines have each occupied islands in the South China Sea, resulting in further difficulties in the resolution of disputes over sovereignty. However, the area is rich in resources, and if it is possible to follow the principles of "safeguarding sovereignty, putting aside disputes, pursuing peace and reciprocity, and promoting joint exploration and development," if both sides would be able to temporarily put aside their differences and share fishery resources, then it would be possible to achieve mutual benefit, just as Taiwan and Japan were able to do when they suspended their dispute over sovereignty over the Diaoyu Islands. In addition, May 9 of last year, Filipino patrol boats fired on and killed a Taiwanese fisherman, after which our side issued four demands to the government of the Philippines, including apology, prosecution of perpetrators, compensation, and signing of a fishery

agreement. After three months of proactive negotiations, the Philippines agreed to respond in a positive manner. At the current time, even though the two sides have not yet formally signed a fishery agreement, they have come to three points of consensus: “no military force in legal enforcement, mutual notification in advance, and release as soon as possible after detention.”

Finally, the President stressed that on the South China Sea issue, the government will insist on defense of national sovereignty by collecting and publishing related historical materials to accentuate Taiwan’s claims of sovereignty. The Taiwanese government will also find ways to reduce regional tensions and peacefully resolve disputes. Moreover, the government hopes that scholars and experts in various fields will continue to assist the government in collecting solid discourse and evidence, on the basis of which to “ensure that in any discussions, negotiations, or formulations of behavioral rules for various parties in the future, the Republic of China will not be excluded.”

Senior advisor of the President Hu Wei-chen, Secretary General Yang Chin-tian, Minister of the Interior Chen Wei-jen, National Security Council Deputy Secretary General Chang Ta-tung, and Academia Historica President Lu Fang-shang were all present at this event.

[...]





## 總統出席「中華民國南疆史料特展」開幕典禮

公布日期

中華民國103年09月01日



### 熱門單元

- 新聞稿
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- 行程手札
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### 總統府也在這裡

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馬英九總統今(1)日上午前往國史館出席「中華民國南疆史料特展」開幕典禮，除說明我國對南海諸島主權主張之正當性，並盼進一步將「東海和平倡議」之理念延伸至南海地區，以和平方式解決爭端。

總統致詞時首先對多年來研究南海議題的學者專家，以及曾經致力捍衛我國領土的國軍官兵，表

達誠摯的感謝與肯定之意。總統表示，南海位處世界最繁忙的海洋交通路線之一，並具有豐富的生物及無生物資源，長期受到國際關注；而各聲索國分別占領島礁的作為，使此區域的爭議日趨白熱化，例如今年5月中國大陸在西沙附近海域設置鑽油平臺，引發越南群眾排華暴動事件，更波及在越投資臺商，造成極大損失；凡此均顯示南海議題實為「未爆彈」，值得各界共同思考。

總統並列舉過去6年來我政府積極推動南海事務的相關作為：第一，民國99年7月，內政部正式啟用「東沙環礁國家公園」管理站，執行《東沙國際海洋研究站計畫》，推動東沙成為國際海洋研究重鎮。第二，經濟部於民國100年陸續劃設東沙島週邊與南沙太平島的礦區，並初步完成地質探勘及海域科學調查工作。第三，從民國100年起，由國防部與海岸巡防署分別辦理「南沙研習營」與「東沙體驗營」，以強化青年學子對南沙群島重要性之認知。第四，民國100年12月，經濟部在南沙太平島增建太陽光電系統，打造低碳島。第五，民國101年8月，科技部正式啟用我國第1艘2,700噸級的大型海洋研究船「海研五號」，提升海洋科研能量。第六，自民國102年11月起，由交通部、國防部與海巡署共同執行南沙太平島交通基礎整建工程。第七，民國102年12月，交通部建置完成南沙太平島上的通信網路，便捷聯繫管道與緊急通信服務。

總統說，上述我政府在南海地區的作為是和平的，「不是軍事的」，目的在讓國人更加瞭解我國的領土南海諸島，同時也向國際展示我國用心經營與管理相關島嶼，未來進行任何有關南海的協商與談判時，「中華民國都不能缺席」，因為我國在其中扮演非常重要的角色。

總統指出，探討南海議題可從多種角度，包括歷史、地理、地質及國際法等，其中，在國際法方面，又分為有關傳統領土與主權的國際法，以及涉及海域與資源的《海洋法》。在歷史論據方面，我國早在民國24年即公布「南海各島嶼圖」，提出擁有南海諸島主權的主張；民國36年抗戰勝利後，政府派遣中業艦及太平艦前往南海收復許多遭日本占領的島嶼，重行勘查、建碑、測圖及駐軍，並公布「南海新舊名稱對照表」及「南海諸島位置圖」，當時無任何國家對此公開提出抗議。事實上，我國古代人民經營南海諸島的歷程，「在歷史上也是斑斑可考」，未來應持續加強南疆史料的考證。

總統進一步提到，民國19年「遠東氣象會議」在香港舉行，當時決議由我國在南海地區設置氣象觀測機關；民國44年，第一屆「國際民航組織(ICAO)太平洋地區飛航會議」，出席的會員國決議由我國提供東、西、南沙的氣象報告；從前述兩項國際會議的決議顯示，與會各國代表承認並尊重我國政府對於南海諸島的領土主權。此外，在第二次大戰結束、日本投降後，美國前往南海島礁進行測繪，也事先通知我國給予便利；凡此均證明外國政府當時即承認與默認我國擁有南海諸島的領土主張。

針對南海爭議涉及的國際法，總統提到，美國總統杜魯門於民國34年提出「杜魯門宣言」(Truman Proclamations)，主張美國對於墨西哥灣海域內的海床與底土具有主權上的權利(sov<sup>er</sup>ign rights)，可進行相關開發工作，在此之前從未有任何國家對於領海或臨接區以外的海床及底土提出類似主張，因此引發許多的爭議，也造成美國與其他中美洲國家的捕魚糾紛；直到民國47年聯合國舉辦第一次的《海洋法》會議，並提出《大陸礁層公約》等四個公約，「國際上才正式確立有大陸礁層的概念」。

總統表示，我國在民國36年宣布「南海諸島位置圖」，當時除領海外，尚未有其他海域主張與概念，因此各方在探討如何引用《國際法》解決南海爭議時仍有不同意見。事實上，類似問題也出現在釣魚臺列嶼議題，當時他提出所謂的《時際法》(inter-temporal law)，意指在國際爭端發生時，適用的國際法並非爭端發生時的法律，而是先前提出主張時的法律，「這樣比較能符合實際的情況」；然而不論是領土主權或海域的爭議，仍是適用於《海洋法》的「陸地決定海洋」原則，也因此造成各國搶占南海島礁的情形。

總統並以我國處理東海議題的經驗，說明領土主權與海域的問題可分開處理。總統說，他在民國101年8月5日提出「東海和平倡議」，主張「主權不能分割、資源可以共享」，去年更與日本簽署《臺日漁業協議》，以和平方式解決雙方長達40年的漁業爭議，讓兩國漁民均可在相當臺灣面積兩倍大的高品質漁場捕魚。該倡議提出後，廣獲國際肯定，例如美國亞太助理國務卿羅素(Daniel Russel)曾多次公開肯定該倡議；而今年8月13日，美國國務卿凱瑞(John Kerry)發表外交政策演說時，更稱許該協議有助於促進區域和平及穩定；凡此均讓我國更有信心在東海議題上表達意見，並盼將此一作法擴大運用到南海地區，以和平方式解決爭端。

總統進一步說明，目前我國與中國大陸、越南及菲律賓等國各自占領南海諸島，以致解決主權爭議更加困難，然而當地存在豐富資源，若能採取「主權在我、擱置爭議、和平互惠、共同開發」的理念，如同臺日之間雖然存在釣魚臺列嶼主權的爭議，但雙方能夠暫時擱置爭議，共同分享漁業資源，

也能達成互惠雙贏的結果。此外，去年5月9日發生菲律賓海巡船槍殺我漁民的事件，我方向菲國政府提出道歉、懲兇、賠償及簽署漁業協議等四項要求，經過三個月的積極協商，菲國均同意給予正面回應，目前雙方雖尚未正式簽署漁業協議，但已達成「執法不用武力、事前相互通報、扣捕後儘速釋放」等三項重要共識。

最後，總統強調，在南海議題上，政府會堅定捍衛國家主權，透過蒐集及提出相關史料以彰顯我主權主張，並找出降低區域緊張的方式，以和平解決爭議，也期盼各領域學者專家持續協助政府蒐集堅實論據，並以此為基礎，「確保未來在任何有關南海的協商、談判或制定各方行為規則時，中華民國將不會被排除在外」。

包括總統府資政胡為真、楊秘書長進添、內政部長陳威仁、國家安全會議副秘書長張大同及國史館館長呂芳上等均出席是項活動。

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### **Annex 493**

Office of the President of the Taiwan Authority of China, “Opening Ceremony for the Exhibition of Historical Archives on the Southern Territories of the Republic of China”, YouTube Video (remarks of President Ma Wing-jeou begin at 47:10) (1 Sept. 2014), *available at* <https://www.youtube.com/watch?v=h89dhJWqViw> (accessed 27 Jan. 2015)



Annex 493 appears to be an unabridged recording of President Ma's speech. The video was accessed and downloaded from youtube at the following address on 27 Jan. 2015:  
<https://www.youtube.com/watch?v=h89dhJWqViw>. President Ma's remarks begin at 47:10.

The file is available as Annex 493 in the electronic submission. A transcript and translation thereof are produced as Annex 495.





#### **Annex 494**

Office of the President of the Taiwan Authority of China, “Excerpts from Remarks at Opening Ceremony for the Exhibition of Historical Archives on the Southern Territories of the Republic of China” (1 Sept. 2014), *available at* <http://www.president.gov.tw/Default.aspx?tabid=131&itemid=33125&rmid=514> (accessed 27 Jan. 2015)



Counsel for the Philippines accessed the website referenced in the Tribunal's question 15 on 29 December 2014. Sometime thereafter, between 29 December 2014 and 15 January 2015, the video at the link referred to by the Tribunal was edited to remove certain statements. This annex contains the edited version of President Ma's speech as it appeared on the Taiwanese government website on 29 December 2014. The file is available as Annex 494 in the electronic submission. A transcript and translation thereof are produced as Annex 495. The parts highlighted in yellow are the parts which do not appear in the edited version, but which may be seen in the unedited recording of President Ma's remarks in Annex 493 in the electronic submission.



### **Annex 495**

Transcript of Office of the President of the Taiwan Authority of China, President Ma Ying-jeou, “Excerpts from Remarks at Opening Ceremony for the Exhibition of Historical Archives on the Southern Territories of the Republic of China” (1 Sept. 2014), *available at* <http://www.president.gov.tw/Default.aspx?tabid=131&itemid=33125&rmid=514> (accessed 27 Jan. 2015)





### Video of Speech from YouTube (Speech by President of Taiwan)

<https://www.youtube.com/watch?v=h89dhJWqViv>

Transcription [Mandarin Chinese]	Translation [English]
<p>(Start b47:17)</p> <p>馬英九總統：吳資政、楊秘書長、張副秘書長、各部會首長、各機關同仁、國史館館長、各位甄選委員、各位學術界先進、各位女士先生，大家早安，大家好。今天很榮幸能夠來參加「中華民國南疆史料特展」開幕式，與國內各相關領域的學者，共同來探討相關問題，這點我覺得非常的有意義。</p>	<p>President Ma Ying-jeou: Senior Advisor Wu, Secretary General Yang, Deputy Secretary General Chang, heads of departments, colleagues of various institutions, President of Academia Historica, members of the Selection Committee, scholars, ladies and gentlemen: Good morning! I am honored to be here today for the opening ceremony of the “Republic of China’s Southern Territory Historical Data Exhibition,” and to explore certain issues with scholars of various fields. I think this will be very meaningful.</p>
<p>馬：我也借這個機會向在場許多長期以來對這個議題進行研究、發表論文並提出建議的學者專家，當然還有包括一些曾經為捍衛我們國家的領土而付出心血的國軍部隊，表達最誠摯的感謝跟肯定之意。</p>	<p>Ma: I would also like to take this opportunity to express my most sincere gratitude and appreciation to the many scholars and experts gathered here who have expended much of their time in doing research, publishing papers and making suggestions with regard to this subject matter, and also, of course, to our soldiers who have made great sacrifice in defending the territory of our country.</p>
<p>馬：各位都知道，南海是全世界最繁忙的海洋交通路線之一。東北亞國家它的能源，幾乎有一大半都是經過這個海域來取得或者是通行。那它本身的生物跟無生物的資源也是非常的豐富，因此引起各國的覬覦。</p>	<p>Ma: As you all know, the South China Sea is one of the busiest maritime transport routes in the world. Countries of Northeast Asia get most of their energy sources from or through this sea region. It is also rich in biotic and abiotic resources and thus coveted by many countries.</p>

Transcription [Mandarin Chinese]	Translation [English]
<p>馬：在過去這段時間，剛剛我們呂館長提到的，這些「聲索國」分別都占領了一部分的南沙相關的島礁，因此爭議開始越來越白熱化。尤其是在今年5月，中共在西沙附近探油所造成的緊張關係，不但在海上發生，也延伸到陸上。台商遭遇到最大的一次排華的暴動，造成極大的損失。所以這個議題本身它確實是一個未爆彈，值得我們大家共同關注。</p>	<p>Ma: As President Lu of Academia Historica mentioned, these “claimant states” have occupied some islets in the Nansha Archipelago, and the disputes have been worked up to a fever pitch. Communist China’s oil drilling near Xisha in May of this year caused tensions to spill from sea onto land: some overseas Taiwanese businessmen encountered the biggest anti-Chinese riot ever and sustained huge losses. This issue is truly a ticking time bomb. It deserves our attention.</p>
<p>馬：那麼在處理這個問題的時候，其實有很多不同的角度，包括歷史的、地理的、地質的、國際法的。國際法又包括了傳統有關領土、主權的國際法，跟有關海域、區域跟資源的海洋法。</p>	<p>Ma: There are actually many different ways to approach this problem, including history, geography, geology, and international law. International law in turn includes traditional international law relating to territories and sovereignty, and maritime law relating to sea regions, areas, and resources.</p>
<p>馬：那麼在這6年當中，我們政府很積極地進行了下面幾項工作。第一，我是97年上任，99年，內政部在7月份就正式啟用「東沙環礁國家公園」管理站，建立國際研究的平台，執行《東沙國際海洋研究站計畫》，推動東沙成為國際海洋研究的重鎮。</p>	<p>Ma: For the past six years, our government has been very actively engaged in the following endeavors. First, after I took office in 2008, the Ministry of the Interior opened a station in the Dongsha Atoll National Park in July 2010, establishing a platform for international research. It also implemented the Dongsha International Maritime Research Station Project, and promoted Dongsha as an important site of international maritime research.</p>

<b>Transcription [Mandarin Chinese]</b>	<b>Translation [English]</b>
<p>馬：第二個，民國100年，經濟部陸續在東沙島周邊跟南沙太平島的礦區，劃設面積合計49,500平方公里，也完成了初步地質探勘跟海域科學調查的工作。</p>	<p>Ma: Second, in 2011, with regard to the mining areas surrounding Dongsha Island and at Nansha's Taiping Island, the Ministry of Economic Affairs demarcated areas totaling 49,500 square kilometers, and also completed preliminary geological exploration and scientific surveys.</p>
<p>馬：第三項，從民國100年起，由國防部與海巡署分別辦理「南沙研習營」跟「東沙體驗營」，合計16個梯次，有314位師生參與這個活動。主要的是要讓我們年輕的朋友能夠了解，南沙的重要性以及跟我們國家的關係。</p>	<p>Ma: Third, starting in 2011, the Ministry of National Defense and the Coast Guard Administration held 16 sessions of “Nansha Research Camp” and “Dongsha Experience Camp” with participation by 314 teachers and students. The main purpose of these camps is to help the younger generation to understand the importance of Nansha to our country.</p>
<p>馬：第四，就是從民國100年12月開始，經濟部在南沙島增建太陽光電系統，打造低碳島。因為我們在台灣本島跟澎湖、綠島，都在進行打造低碳島的工作。因此我們把這個工作推廣到太平島，這個效果還相當地顯著，它的用電已經占它整體用電相當大的部分。</p>	<p>Ma: Fourth, beginning in December 2011, the Ministry of Economic Affairs expanded the photovoltaic system at Nansha to lower its carbon footprint. Since we have been lowering our carbon footprint on Taiwan and the outer islands such as Penghu and Green Island, we thought it appropriate to extend this effort to Taiping Island as well, and the effects have been significant. Much of Taiping Island's power consumption comes from solar energy.</p>
<p>馬：第五點就是，民國101年8月，科技部正式啟用我國第1艘2,700噸級的大型海洋研究船「海研五號」，提升我們研究的能量。將來對於這個區域資源的調查，地質的現況，都有很大的幫助。</p>	<p>Ma: Fifth, in August 2012, the Ministry of Science and Technology officially put the first 2,700-ton maritime research vessel “Ocean Researcher 5” into service, thereby elevating our capabilities for maritime research. This will be of great help in surveying for regional resources and geological conditions in the future.</p>
<p>馬：第六，從民國102年11月起，由交通部、國防部跟海巡署共同執行「南沙太平島交通基礎整建工程」。南沙雖然是有碼</p>	<p>Ma: Sixth, in November 2013, work began on an infrastructure project on Taiping Island, administered jointly by the Ministry</p>

<b>Transcription [Mandarin Chinese]</b>	<b>Translation [English]</b>
頭、有機場，但是因為長期海蝕的結果，現況不是很理想，因此要趕快能夠把它整修，才能夠讓我們的船、還有機，能夠接近並且降落或者停泊。	of Transportation and Communications, the Ministry of National Defense, and the Coast Guard Administration. Even though Taiping Island has a harbor and an airport, their current conditions are less than ideal due to long-term erosion by the sea. We want to do some repair work quickly so that our ships can dock and our planes can land.
馬：第七點，民國102年12月，交通部建置完成太平島的通信網路，提供駐防人員、海上作業漁船經過附近的話，都可以聯繫，並且必要的時候，可以提供緊急的服務。	Ma: Seventh, in December 2013, the Ministry of Transportation and Communications finished the construction of a communications network on Taiping Island, providing communication capabilities for defense personnel stationed on the island and fishing boats nearby. Emergency services can also be provided when necessary.
馬：那麼我們這些作為，當然都是和平的，不是軍事的。目的是一方面讓我們國人多了解我們自己的領土：南海諸島，二方面也讓國際間了解我們在很用心地經營、管理這些島嶼。同時在未來進行任何有關南海的協商、談判的時候，中華民國都不能缺席，因為我們在這裡扮演很重要的角色。	Ma: Of course, our efforts are peaceful, not military. Our purpose is to help our countrymen understand that our territory comprises many islands in the South China Sea, and to let the international community know that we have been diligently engaged in managing these islands. The Republic of China has to be present in any future negotiations regarding islands of the South China Sea, because we are playing a very important role there.
馬：這次的展覽，剛剛館長也講，它最主要是，我們早在民國24年，也就是1935年，就公布「南海各島嶼圖」，以及在36年抗戰勝利之後，我們收復了許多原來被日本占領的島嶼，然後再公布了「南海諸島位置圖」。所以我們對於南海諸島主權的主張，可以說在很早就開始了。而且在那個時候，我們做這些主張的時候，沒有任何一個國家提出抗議或者不同的意見。因為事實上，這些島嶼我國古代人民使用，歷史也是斑斑可考。我想南疆的史料	Ma: As the President of Academia Historica mentioned, the point we want to stress in this exhibition is that we had published a map of the islands of South China Sea as early as 1935, and that in 1947, after our victory against Japan, we recovered many islands from Japan and published the map of the islands of South China Sea and their locations. We can therefore say that our claim over the South China Sea islands began a long time ago. Furthermore, no country

Transcription [Mandarin Chinese]	Translation [English]
<p>最重要的在這一方面，還需要做進一步的加強。</p>	<p>protested or expressed a different opinion when we made the claim. This is because there is in fact copious historical evidence that these islands were used by the people of our country in ancient times. I think that this is the most salient point that these historical archives of our southern territory show, and we must strengthen this point further.</p>
<p>馬：那麼在民國19年，也就是1930年，有一次在香港舉行「遠東氣象會議」。當時我國在南海地區，就受到他們的委託，決議設置氣象觀測機關。民國44年，第一屆「國際民航組織太平洋地區飛航會議」，那個時候ICAO剛剛成立，在太平洋舉行這項會議的時候，出席的會員國就決議，由我國來提供東、西、南沙的氣象報告。這兩個國際組織的行動，都很清楚地顯示，他們承認並且尊重我國政府對於南海諸島的領土主權。</p>	<p>Ma: There was a “Far East Meteorological Conference” held in Hong Kong in 1930. Our nation was asked to establish a meteorological monitoring system in the South China Sea by a resolution of this conference. When the first ICAO (International Civil Aviation Organization) aviation conference of the Pacific region was held in 1955, ICAO had just been established. The meeting was held in the Pacific region, and the member states in attendance passed a resolution that our nation would provide the weather reports for Dongsha, Xisha, and Nansha Islands. The resolutions of these two international conferences clearly showed that they acknowledged and respected our government’s territorial sovereignty over the islands of South China Sea.</p>
<p>馬：在二次大戰結束，日本投降後，我們海軍派了「中業」跟「太平」兩艘軍艦，到南海諸島去接收，並且重新進行勘察、建碑、撤除駐軍。</p>	<p>Ma: After Japan surrendered at the end of World War II, our navy sent two military vessels “Zhongye” and “Taiping” to the South China Sea for the hand-over of the islands, and we conducted new surveys, erected monuments, and saw to the retreat of soldiers stationed there.</p>
<p>馬：事實上各位都知道，南海諸島很多島嶼，有一個部分是鄭和當年下西洋的時候所命名的。那我們這兩艘海軍軍艦去的時候，也命名了兩個島嶼，其中一個最大的</p>	<p>Ma: In fact, as everyone knows, many islands in the South China Sea were named by Zheng He on his westward expeditions. When we sent these two navy vessels, we also named</p>



Transcription [Mandarin Chinese]	Translation [English]
<p>就是太平島，就是因為「太平艦」的關係，而命名為太平島。那麼也有個「中業島」，實際上這個都是史跡斑斑可考。</p>	<p>two islands there. We named the biggest island Taiping, and another island Zhongye, after the names of the two vessels. These historical facts are backed up by evidence.</p>
<p>馬：我們在36年公布了，年底的時候公布「南海新舊名稱對照表」和「南海諸島位置圖」，也沒有任何國家提出抗議。後來美國前往南海島礁進行測繪的時候，都事先通知我國，希望給他們便利，我們都予以配合。這都證明，外國政府在那個時候，對於我們的主張，基本上都是承認，或者是默認的。</p>	<p>Ma: When we published the list of old and new names of the South China Sea and the map of the islands of South China Sea and their locations at the end of 1947, there was no objection by any country. When the United States conducted cartographic surveys of the islands and reefs in the South China Sea, they notified us and sought our help, and we accommodated them. This proved that foreign governments at the time acknowledged or acquiesced to our claim over the islands of South China Sea.</p>
<p>馬：各位都知道，我們那時候宣布的時候，1947年，民國36年。在1945年的時候，美國總統杜魯門曾經做了一個大陸礁層的宣言。我想在座學海洋法的先進都知道，他做這個宣布的時候，是說美國對於墨西哥灣裡面的海床跟底土，具有主權上的權利。他沒有說主張主權，而是說「主權上的權利」，是sovereign right，不是sovereignty。因此他可以進行相關的開發工作。那宣言在海洋法的歷史上，也算是一個石破天驚的宣告，因為從來沒有一個國家，曾經對於自己領海以外，或者鄰接區以外的海床 - seabed跟底土 - subsoil提出這樣的主張。當然這個主張其實在之後也引發了很多爭議，很多中南美洲的國家就藉機會宣布，索性主張200海哩的領海。後來美國跟這些國家在捕魚的時候，曾經發生了很多的糾紛。</p>	<p>Ma: As everyone knows, we made the proclamation in 1947. In 1945, President Truman issued a proclamation regarding continental shelf. I am sure that the maritime law experts here know that what President Truman meant was that the U.S. had sovereign rights over the sea bed and subsoil in the Gulf of Mexico. He didn't make a sovereignty claim, but spoke of a sovereign right. In other words, he mentioned "sovereign right," not "sovereignty." He was then able to conduct development work in the Gulf. The proclamation was an earth-shattering event in the history of maritime law, because no other country had made such a claim to the sea bed or subsoil beyond the boundary of its territorial waters or contiguous zone. Of course, this claim elicited a lot of controversy. Many Central and South American countries took the opportunity to make the same claim, even to claim territorial waters of 200 nautical miles. Later, there were many disputes between the</p>

Transcription [Mandarin Chinese]	Translation [English]
	US and these countries over fishing rights.
<p>馬：一直到1958年聯合國舉行第一次《海洋法》會議，並且提出了《大陸礁層公約》，一共四個：《領海及鄰接區公約》、《公海公約》，還有《養護公約》，再加上《大陸礁層公約》。國際上才正式確立有大陸礁層的概念。我們在1947年宣布的時候，還沒有這些東西。那個時候領海的觀念是3海哩。最多有緝私，就抓走私的，一倍或者最多是到12海哩，完全沒有其他的所謂海域的主張。</p>	<p>Ma: It wasn't until the first meeting of the <i>United Nations Convention on the Law of the Sea</i> in 1958 and the <i>Convention on the Continental Shelf</i> (there were four conventions: <i>Convention on the Territorial Sea and Contiguous Zone</i>, <i>Convention on the High Seas</i>, <i>Convention on Fishing and Conservation of Living Resources of the High Seas</i>, and <i>Convention on the Continental Shelf</i>) that there was a clearly defined concept of continental shelf in the world. When we made our proclamation in 1947, these things did not exist. The concept of territorial sea was 3 nautical miles at the time. If there was smuggling, we would try to capture the smugglers at twice the distance or at most 12 nautical miles. There was no claim at all on other so-called sea regions.</p>



Transcription [Mandarin Chinese]	Translation [English]
<p>馬：現在這些問題發生之後，當然大家在研究國際法的時候，就發現到底要引用哪些國際法。因為我們對於南海地區的使用，可能在很早以前，就是說宋朝、甚至唐朝的時候，古書上就有記載。到底怎麼樣來看待這些東西，其實類似的問題在釣魚台問題發生的時候也有。當時我也曾經提出來，在許多比較古早的領土爭執上，有所謂的《時際法》，「時」是時代的時，「際」是國際的際，英文叫做inter-temporal law。就是在國際爭端發生的時候，它適用的國際法，不是爭端發生的時候的法律，而是在先前他提出主張的時候的法律。這樣的話才比較能夠符合實際情況。所以適用哪一些法律，本身也會有爭議。但是無可諱言的，不論是在領土主權或者海域，它基本的原則還是「海洋決定陸地」[註：此為口誤，正確應是『陸地決定海洋』]，這個是在1969年國際法院在《大陸礁層案》中所做的很重要的宣誓，就是「land determines the sea」：陸地決定海洋。有了這個原則，大家當然就會拼命去搶占這些島礁。</p>	<p>Ma: Now that we have all these problems, we need to study international law to solve them, and we need to know which international law to apply. We made use of the South China Seas region a long time ago, because ancient books have recorded it in the Song Dynasty, or even the Tang Dynasty. How should we consider these things? Actually, similar issues came up with the dispute over Diaoyu Islands, and I proposed the same thing at the time: There is a so-called “inter-temporal law” in many older territorial disputes. That is, when an international dispute happens, the applicable law is not the law in effect when the dispute happens, but rather the law in effect when the claims are made. In this way, it would conform more to the actual situation. As we can see, there may be dispute in deciding which law is applicable. However, the basic principle is still “the sea determines the land,” [note: this was misspoken, the correct words should be “the land dominates the sea”] whether it concerns territorial sovereignty or sea region. This was an important declaration made by the International Court of Justice in the 1969 <i>Continental Shelf Case</i>: land determines the sea. This is the reason that every nation is doing everything it can to seize these islands.</p>
<p>馬：但是從東海的經驗來看，領土、主權的爭議跟海域的爭議，其實不一定需要混為一談，並不是不能分開來處理。尤其是各位都知道，主權涉及到國家跟民族的權益還有尊嚴，往往是具有非常高的民族主義色彩，因此要想能夠得到非常清楚的確定，不容易。但另外一方面，資源的開發卻不是不能夠透過合作來解決。</p>	<p>Ma: However, based on our experience in the East China Sea, the disputes over territory and sovereignty do not have to be mixed with disputes over sea regions; we can separate the two. As everyone knows, sovereignty involves the rights and dignity of nations, which has the tendency to become very nationalistic, and it is difficult to achieve clear confirmation. In contrast, it is not impossible to resolve resource development issues through cooperation.</p>

Transcription [Mandarin Chinese]	Translation [English]
<p>馬：所以在兩年前的8月5號，我提出「東海和平倡議」的時候，也是從這個角度出發，也就是國家的主權不能分割，但是天然資源可以分享。從這個角度，我們跟日本爭執了四十多年的釣魚台列嶼的主權跟漁權，變成可以把主權的爭議擱置，然後在漁權的爭議上，達成台日漁業協議，讓有台灣面積兩倍大的海域——七萬多平方公里——能夠讓台灣的漁民來使用，不受到日本法律跟海上保安廳的干擾。那麼，這個協議簽了一年多，很明顯地把簽協議前一年17個爭端，降低到只有一個，而且很快地就解決。</p>	<p>Ma: Therefore, when I proposed the “East China Sea Peace Initiative” on August 5 two years ago, it was based on this principle: national sovereignty cannot be divided, but natural resources can be shared. Based on this principle, our dispute with Japan over the sovereignty and fishing rights on Diaoyu Islands for over forty years was turned into a situation in which we could shelve the dispute over sovereignty and reach the Taiwan-Japan Fisheries Agreement, so that a sea region twice the size of Taiwan, or more than 70,000 square kilometers, could be used by Taiwanese fishermen without interference from Japanese law or the Japanese Coast Guard. So, one year after executing this agreement, we have significantly reduced the number of disputes from 17 in the previous year to only 1 in the following year, and this single case was resolved quickly.</p>
<p>馬：但另外一方面，我們漁民的漁獲量卻大為增加，尤其是這次在七萬多平方公里的海域當中，包括了45,030平方公里高品質的漁場，讓我們漁民在這個領域的漁獲量，增加到過去的兩到三倍。</p>	<p>Ma: Moreover, our fishermen have greatly increased their catch. The sea region of more than 70,000 square kilometers includes 45,030 square kilometers of high-quality fishing grounds, and our fishermen are able to double or triple their catch in this region.</p>
<p>馬：那另外一方面，琉球的漁民也可以在這個領域打漁。雙方最近都已經談妥了一個分開時段跟區域下繩的機制，什麼叫「下繩」呢？因為捕鮪魚不是用網，是用「延繩釣」，因此他們叫做「下繩」。下繩的時候，不同的區域、不同的時間，因為他們跟我們下繩的方法不一樣，他們是南北向，我們是東西向，跟我們一起打漁，一定會絞在一起，用這種方式把這個隔開，雙方相安無事。所以我們這個用和平方式、外交手段解決爭端的模式，受到世界各國的肯定。美國負責亞太事務的助</p>	<p>Ma: Furthermore, fishermen from Ryukyu can also fish here. Recently, the two sides have negotiated an agreement for “dropping the lines” at separate times and regions. What is meant by dropping the lines? Tuna fishing is not done by nets, but by a method called “long line operation,” and that’s why lines have to be dropped into the sea. This operation has to happen in different times and regions, because the Japanese fishermen drop the lines in the north-south direction, and our fishermen do it in the east-west direction. If</p>

<p style="text-align: center;"><b>Transcription</b> <b>[Mandarin Chinese]</b></p>	<p style="text-align: center;"><b>Translation</b> <b>[English]</b></p>
<p>理國務卿Daniel Russell多次地對這點表示肯定。在8月13號，美國國務卿John Kerry在夏威夷發表外交政策演說的時候，也特別對我們台日漁業協議能夠解決區域的爭端，表示肯定。6月份，Russell跟澳洲的國防部長David Johnson在新加坡參加香格里拉會議的時候，也同樣地對這個協議表示肯定。</p>	<p>both sides fish together, the lines will get tangled up. The two sides are at peace with each other now because they don't fish at the same time. So our peaceful and diplomatic model of dispute resolution has met with approval from many countries of the world. Daniel Russell, the United States Assistant Secretary of State for East Asian and Pacific Affairs, has expressed his appreciation for this agreement many times. When Secretary of State John Kerry delivered a speech on foreign policy in Hawaii on August 13, he also expressed his appreciation of the Taiwan-Japan Fisheries Agreement for resolving regional disputes. Mr. Russell and David Johnson, the Australian Minister for Defense, also expressed their appreciation for this Agreement when attending the Shangri-La Dialogue in Singapore in June.</p>
<p>馬：各位，這道理很簡單，東海、南海的問題擾擾攘攘已經幾十年了，這是第一次能夠用和平的、外交的手段解決爭端，這对大家來講真是「空谷足音，跫然而喜」的感覺。</p>	<p>Ma: Ladies and gentlemen, the reason for this is very simple. Disputes in East China Sea and South China Sea have been going on for several decades. This is the first time we were able to resolve our differences via peaceful and diplomatic means. It is certainly an occasion for joy.</p>

Transcription [Mandarin Chinese]	Translation [English]
<p>馬：我們認為，這樣一個做法，並不是不能夠擴張到南海去。因為各位可以看得出來，越南占了29個島，菲律賓占了十幾個，大陸占了7個，我們占了2個。在這種情況下，你要想解決領土的爭議，確實不是非常容易。但是從另外一方面，資源就在那個地方，無論是生物的跟非生物的，如果照我們剛才所提出的概念：主權在我、擱置爭議、和平互惠、共同開發。也就是說，主權無法分割，但是資源可以共享。透過資源的共享來找出一個解決的辦法。</p>	<p>Ma: We believe that this method of resolving disputes can be extended to the South China Sea, where there are 29 islands occupied by Vietnam, a dozen by the Philippines, 7 by China, and 2 by us. Under these circumstances, it is certainly not easy to resolve territorial disputes. But looking at it another way, the resources are there, be they biotic or abiotic. We can follow the concept that I just proposed, that is to say, maintaining sovereignty, shelving disputes, pursuing peace and reciprocal benefits, and promoting joint development. We can claim sovereignty and share the resources at the same time. We can find a solution through sharing the resources.</p>
<p>馬：我們跟日本釣魚台的爭議並沒有解決啊，爭議還在，但是暫時不會對我們雙方生活造成影響。本來漁民打漁受限，抱怨連連，甚至於，各位都記得，在兩年前，9月25號，蘇澳漁會動員了58艘漁船、292位漁民，到釣魚台去宣示主權。對方日本出動了34艘的船艦來攔阻，我們海巡署出動了12艘，他們在那個海域對峙，互相噴水砲，但是這個消息在全球媒體都廣為報導，大家都理解到，中華民國也是這個爭議的一方。我們的漁民，他們是爭生存，他們要顧生活。所以在這種情況底下，那是9月間的事情，我們8月宣布了「東海和平倡議」，11月，日本政府就願意跟我們來進行相關的談判。談到4月，就得到了一個成果。到現在為止，使得這個海域40年的爭議能夠解決。</p>	<p>Ma: We still have not resolved our dispute with Japan over the Diaoyu Islands, but it does not affect the lives of our two peoples for now. In the past, fishermen had restrictions on fishing, and they always complained, to the point where, I think everyone remembers two years ago on September 25, the Suao Fishermen's Association mobilized 58 fishing boats and 292 fishermen and sailed to Diaoyu Islands to demonstrate our sovereignty. Japan dispatched 34 vessels to block them, and our Coast Guard Administration mobilized 12 vessels. The two sides confronted each other and fired water cannons at each other. This story was reported throughout the world, and everyone came to know that Republic of China was a party to this dispute. Our fishermen were fighting for their livelihood. That was in September. We proposed the "East China Sea Peace Initiative" in August, and the Japanese government began to negotiate with us in November. By April, an agreement was made. A solution was found</p>

Transcription [Mandarin Chinese]	Translation [English]
	for a 40-year-old dispute over this sea region.
<p>馬：同樣的，我們跟菲律賓在南海，因為「廣大興28號」的船員在去年的5月9號，被菲律賓海巡人員槍殺而造成的爭議，我們經過三個月非常積極的協商談判之後，菲方對於我們所提出來的四個要求——第一是道歉，第二是賠償，第三是懲兇，第四是簽漁業協定——基本上都有了回應。在去年的8月8號父親節，菲律賓總統的特使特別到屏東小琉球，向洪石城先生的家屬道歉、賠償。同時菲律賓的司法部也決定以殺人罪homicide起訴持自動步槍掃射我們漁民的8名海巡隊員。那麼至於漁業協議，到目前為止還沒有簽訂，但是雙方已經就執法的模式，建立了一個共識：也就是說，第一，不得使用武力；第二，執法前先通報，相互通報；第三，對於這個，就是，第三個最重要的就是將來在處理相關的問題，如果涉及到人的逮捕，或船的扣押的話，儘速地釋放。</p>	<p>Ma: Similarly, we have a dispute with the Philippines in the South China Sea over an incident on May 9 of last year, when a Philippine patrol vessel opened fire and killed a sailor on the “Guangdaxing No. 28” fishing boat. After three months of proactive negotiations, the Philippine government basically responded to all four of our demands: an apology, a payment of compensation, punishment for the killers, and the execution of a fishery agreement. A special envoy of the Philippine president went to Hsiao Liouciou in Pingtung on August 8, Father’s Day last year to apologize and offer compensation to the family of Mr. Hung Shicheng. The Philippine Department of Justice also decided to charge the 8 patrol personnel who used automatic rifles to fire on our fishermen with homicide. We have not signed a fishery agreement with the Philippines yet, but we have reached a consensus on law enforcement: first, no force may be used; second, mutual notification before enforcing the law; third, and this is the most important, when detaining people or boats is involved, they should be released as soon as possible.</p>
<p>馬：其實這個內容，完全都是1982年《海洋法公約》有關專屬經濟區第74條的內容。我們都沒有提這些公約，我們跟日本談，也都沒有提。但是把這些精神放進去，所以我們跟日本就簽訂了一個所謂 joint conservation and management zone，就是聯合的、共同的養護跟管理區，雙方都可以使用，但是就不會去用別的國家的法律來管制。我想這種和平解決爭端的方式，應該多給它有發展的機會。</p>	<p>Ma: Actually, these ideas originate from Article 74 on exclusive economic zones in the 1982 <i>United Nations Convention on the Law of the Sea</i>. We didn’t mention this convention by name in our negotiations with Japan, but we negotiated with the spirit of the convention. We created a joint conservation and management zone with Japan. It is an area that can be used by both sides, but it is not governed by the law of another country. I think that we should give this method of</p>



Transcription [Mandarin Chinese]	Translation [English]
	peaceful resolution more opportunities for development.
<p>馬：所以我們談南海，一方面國家的主權一定要捍衛，因此有關主權的主張，一定要儘量地去搜尋，然後提出來。但是同樣的，我們在解決問題的時候，就不是像兩輛火車一直對撞，而是希望能夠找出一個降低緊張、得到解決的方式。</p>	<p>Ma: So when we talk about South China Sea, we must defend our national sovereignty. We must do research on sovereignty claims and publicize them. But when we try to resolve issues, we must not act like two speeding trains on a collision course. We must find a way to reduce tension and resolve problems.</p>
<p>馬：從「東海和平倡議」提出以來，所看到的反應跟實際的效果，讓我們很有信心，能夠在這個議題上，表達意見，並且提出我們的看法。我們都知道這個不是那麼快可以解決的問題，因此相關的準備非常的重要。我還是希望大家，尤其是在這個領域的學者，無論是歷史的、地理的、科技的，還有法律的學者，盡可能去搜尋在過去差不多將近一千多年的歷史當中，當時歷朝政府所提出來的一些主張。這些主張也許在現代的國際法上並不具有很大的意義，可是在那個年代，在那個現代國際法還沒有誕生的年代所做的這些主張，在那個時候具有什麼樣的意義呢？我覺得可以好好去探索。這一點來講，其實也是我剛剛講的，所謂inter-temporal law《時際法》一個很重要的內涵。</p>	<p>Ma: Since our proclamation of the East China Sea Peace Initiative, seeing the positive responses and the actual effects has made us very confident that we can express our views on this subject. We all know that this is not a problem that can be resolved quickly, and diligent research is very important. It is my hope that all of us, particularly the scholars of history, geography, technology or law, will search for claims made by the government of various dynasties in the past thousand years. These claims may not have much meaning in modern international law, but what was their meaning in the era that they were made, before the birth of modern international law? I think we should explore this. This is also an important aspect of the inter-temporal law that I mentioned a while ago.</p>

<b>Transcription [Mandarin Chinese]</b>	<b>Translation [English]</b>
<p>馬：所以我想今天這樣的活動，一方面可以彰顯中華民國高度地關切南海諸島，二方面也可以表示我們具有相當堅實的證據，不論是歷史的、地理的或者其他使用上的證據，然後進一步地以這個為基礎，我們希望能夠在任何有關南海的協商、談判，或者制定有關各國的行為規範的時候，中華民國不能夠被排除。這是我們今天舉行這樣的會議，很重要的一個目標。最後，我再次感謝各位撥冗來參加，也祝各位一切順利，謝謝大家。</p>	<p>Ma: So, I think our event today serves a number of purposes. It demonstrates first of all that the Republic of China has a high level of concern for the islands of South China Sea, and it also shows that we have solid evidence, whether it is historical, geographical or pertaining to usage, to back up our claims. We will use it as our basis in any negotiations and talks regarding the South China Sea, or in formulating norms of behavior. The Republic of China cannot be excluded from these occasions. This is an important objective for our meeting today. Finally, I would like to thank everyone again for taking the time to participate in this meeting. I wish you well. Thank you all.</p>
(End 1:08:38)	



### **Annex 496**

Office of the President of the Taiwan Authority of China, “President Ma attends opening ceremonies of Exhibition of Historical Archives on the Southern Territories of the Republic of China” (1 Sept. 2014), *available at* <http://english.president.gov.tw/Default.aspx?tabid=491&itemid=33215&rmid=2355> (accessed 25 Feb. 2015)





## President Ma attends opening ceremonies of Exhibition of Historical Archives on the Southern Territories of the Republic of China

Date

2014/09/01



President Ma Ying-jeou visited the Academia Historica on the morning of September 1 to attend the opening ceremonies of the Exhibition of Historical Archives on the Southern Territories of the Republic of China. The president explained the justification for the ROC's advocacy of sovereignty over islands in the South China Sea, and urged that the concepts behind his East China Sea Peace Initiative be extended to the South China Sea to resolve disputes in the area peacefully.

In remarks, President Ma first expressed thanks and praise to scholars and experts for their research on topics related to the South China Sea, as well to ROC soldiers for their defense of the nation's territory. The president remarked that some of the busiest marine transport routes in the world pass through the South China Sea. In addition, the area has abundant living and non-living resources, he said, which explains the longstanding attention given to the region by the international community. He acknowledged that claimant countries have occupied various islands and reefs there, which has fueled an increasingly heated regional dispute regarding sovereignty over various islets.

President Ma cited the many actions taken by the ROC government over the past six years in actively dealing with affairs in the South China Sea. First, in July of 2010, the Ministry of the Interior formally inaugurated the Management Station at the Dongsha Atoll National Park to implement the Dongsha Atoll Research Station Project. The aim is to promote Dongsha (also known as the Pratas Islands) as an international hub for marine research, he

said. Second, the Ministry of Economic Affairs in 2011 mapped mining areas around Pratas Atoll and Taiping Island, the latter of which is part of the Spratly Islands, and it completed preliminary geological exploration and oceanic survey work. Third, starting from 2011, the ROC's Ministry of National Defense and Coast Guard Administration began holding the Spratly Islands Program and the Dongsha Island Camps to strengthen awareness among youth of the importance of the Spratly Islands. Fourth, in December 2011, the Ministry of Economic Affairs built a photovoltaic system on Taiping Island in the Spratlys to create an environmentally friendly low-carbon island. Fifth, in August 2012 the Ministry of Science and Technology formally began using Taiwan's first 2,700-ton class marine research vessel, the *Ocean Researcher V*, to bolster the capacity of the ROC to carry out marine research in the area. Sixth, starting in November 2013, the Ministry of Transportation and Communications, the Ministry of National Defense, and the Coast Guard Administration began carrying out joint transportation infrastructure work on Taiping Island. And seventh, in December 2013, the Ministry of Transportation and Communications completed a communications network on Taiping Island, thereby creating an avenue for rapid communications and emergency communications services.

President Ma remarked that all of these measures are peaceful rather than military in nature. The objective, he said, is to help the public better understand the ROC's islands in the South China Sea, while at the same time demonstrating to the international community the ROC's detailed and careful management of these islands. In the future when negotiations or talks are held regarding the South China Sea, the ROC must be present, as the nation has an important role in this discourse, the president emphasized.

President Ma commented that issues related to the South China Sea can be discussed from a variety of angles, including history, geography, geology, and international law. He first addressed the aspect of international law, stating that this can be divided into two portions; one pertains to historical territory and sovereignty as defined under international law, and the other involves issues of seas and resources that are addressed in the United Nations Convention on the Law of the Sea. President Ma commented that a historical argument can be made for ROC sovereignty over the various islands because the ROC back in 1935 issued the *Map of Chinese Islands in the South China Sea* to advocate ROC sovereignty over the islands in the area. The president added that in 1947, two years after China's victory in the War of Resistance against Japan, the government dispatched the *Zhongye* and *Taiping* warships to the South China Sea to recover islands in the area that had been occupied by Japan. At that time, a re-exploration of the islands was carried out, monuments were

erected, and the islands were mapped and garrisoned, he said. In addition, the government also released a table comparing the old and new names of islands in the South China Sea, and issued the *Location Map of the South China Sea Islands*, he stated. When these documents were released, no nation publicly raised any opposition, the president said. In fact, he said, there are all sorts of historical references to Chinese activity on the islands in the South China Sea since ancient times. President Ma called for stepped up efforts to research the history of the South China Sea.

President Ma further mentioned that at Far Eastern Meteorological Conference, which was held in Hong Kong in 1930, it was decided that the ROC would set up a weather station in the South China Sea. Then in 1955 at the first conference of the International Civil Aviation Organization on aviation in the Asia-Pacific region, the member nations resolved that it be the ROC that would provide weather reports on the Pratas, Spratly, and Paracel Islands, he said. The president stressed that the resolutions passed at these two international conferences indicated recognition and respect for the ROC's territorial sovereignty over the islands in the South China Sea. Meanwhile, after the conclusion of World War II and the surrender of Japan, the United States went to the islands in the South China Sea to carry out mapping, and it notified the ROC before doing so, he said. All of these examples, the president stated, prove that foreign governments at that time recognized and acquiesced to the ROC claims to sovereignty over the islands in the region.

As for the dispute in the South China Sea and international law, President Ma mentioned that US President Harry S. Truman in 1945 issued his Truman Proclamations, advocating that the United States had sovereign rights to the seabed and sub-soil in the Gulf of Mexico and that it could engage in related development work. Prior to that proclamation, however, no nation had made any such claim to the seabed or sub-soil of territorial seas or contiguous areas, he said, so Truman's move triggered considerable debate and sparked fishing disputes between the United States and Central American nations. It was not until 1958, when the Convention on the Continental Shelf and three other conventions were adopted at the first United Nations Conference on the Law of the Sea, that "the concept of a continental shelf was formally confirmed internationally," the president stated.

President Ma added that when the ROC issued the *Location Map of the South China Sea Islands* in 1947, aside from the concept of territorial waters, no other concepts regarding maritime zones existed, nor had any claims been made. Consequently, different parties still have varying opinions on how to apply international law to resolve the dispute in the South

China Sea, he said. In fact, the president remarked, a similar problem has arisen with respect to the Diaoyutai Islets in the East China Sea, adding that he once pointed out that the principle of intertemporal law applies in the matter of the Diaoyutais. Under this principle, "a juridical fact must be appreciated in the light of the law contemporary with it, and not of the law in force at the time when a dispute in regard to it arises or falls to be settled" [as Judge Max Huber stated in the *Island of Palmas* case]. The principle that "sovereignty over land determines ownership of the surrounding waters," which is set out in the United Nations Convention on the Law of the Sea, applies to disputes concerning sovereignty over both land and sea, he stated, explaining that this is why nations are seeking to occupy islands and reefs in the South China Sea.

President Ma also pointed to the ROC's experience in handling the issue in the East China Sea as an example of how questions regarding territorial sovereignty and seas can be handled separately. The president said that on August 5, 2012 he unveiled his East China Sea Peace Initiative, which advocates that although sovereignty over national territory cannot be compromised, natural resources can be shared. Last year, Taiwan and Japan signed a fisheries agreement, thus using peaceful means to resolve a 40-year fishing dispute, he noted, adding that the agreement allows fishermen from the two nations to operate in high-quality fishing grounds in an area twice the size of Taiwan. The president stated that the international community responded positively to the announcement of the peace initiative. This has given the ROC even more confidence to express its opinion on issues in the South China Sea, he remarked, further expressing his hope that the same principle of resolving disputes through peaceful means can be applied to the South China Sea.

The president also explained that the ROC, mainland China, Vietnam, and the Philippines occupy various islands in the South China Sea, which makes resolving the sovereignty dispute even more complex. What's more, the area has abundant resources, he said, remarking that he hopes the concept of "safeguarding sovereignty, shelving disputes, pursuing peace and reciprocity, and promoting joint exploration and development" can be applied. He stated that while Taiwan and Japan still have a sovereignty dispute over the Diaoyutai Islets, both sides have decided to temporarily shelve the dispute and instead jointly share the fishing resources of the area, thereby resulting in mutual benefit.

Lastly, President Ma stressed that the government will resolutely defend national

sovereignty in the South China Sea. It will assemble and release related historical documents that highlight the ROC's sovereignty over islands in the area, he emphasized, and will find ways to reduce tensions in the waters around the islands so as to resolve the dispute peacefully. The president expressed hope that scholars and experts will continue helping the government to prepare solid arguments so that the ROC will not be absent from any future negotiations, talks, or decisions regarding territorial disputes in the South China Sea.

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**Annex 497**

Taipei Economic and Cultural Office in Malaysia, “President Ma vows Taiwan will play important role in South China Sea talks” (2 Sept. 2014)





**Taipei Economic and Cultural Office in Malaysia**  
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**▶ President Ma vows Taiwan will play important role in South China Sea talks**

Post Date: 2014/9/2

Taipei, Sept. 1 (CNA) President Ma Ying-jeou said Monday that the Republic of China plays a "very important role" in the South China Sea and "will not be absent" from any future international negotiations regarding the territorial disputes there.

The ROC government has had sovereignty over the islands of the disputed South China Sea for a long time, during which no other countries disputing its claims, Ma asserted while making an address at the opening of an exhibition on historical archives relating to the islands that make up the country's "southern territories."

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In recent years, the government has conducted a series of peaceful, non-military activities in the region to show the international community its intense efforts to manage these islands and play a major role, he said.

Among these efforts, Ma listed the opening of an administrative office for the Dongsha Atoll National Park in 2010 to promote the Dongsha (Pratas) Islands as a center for international maritime research.

In 2011, the government completed an initial geological exploration and marine survey in an area stretching 49,500 square kilometers near the Dongsha and the Nansha (Spratly) Islands, he said.

In the same year, the government built a photovoltaic system on the Nansha Islands with the goal of reducing carbon emissions there, he continued.

Taiwan has completed a communications network on Taiping Island, the largest of the Nanshas, and Ma said the government is working on improving the island's transportation infrastructure.

He said the exhibition can highlight the importance of the islands to Taiwan and show the documents that constitute the basis for the country's claims over the area.

"The ROC cannot be excluded in either consultations or negotiations related to the South China Sea or discussions of a code of conduct among the countries concerned," he said.

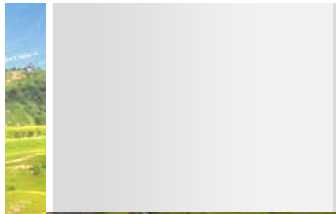
Ma proposed that claimant nations put aside their disputes and jointly explore and develop maritime resources in the South China Sea.

Such an approach has been proven viable in resolving the fishing dispute between Taiwan and Japan near the disputed Diaoyutai Islands in the East China Sea, he said.

Lu Fang-shang, the head of exhibit organizer Academia Historica, argued the historical items on display at the national archives prove the ROC's sovereignty over the South China Sea and that the country should seek to resolve territorial disputes through historical investigation, a legal basis and international cooperation.

He pointed to a map of the South China Sea published by the Ministry of the Interior in 1947, which includes a U-shape line to demarcate the islands as ROC territory.

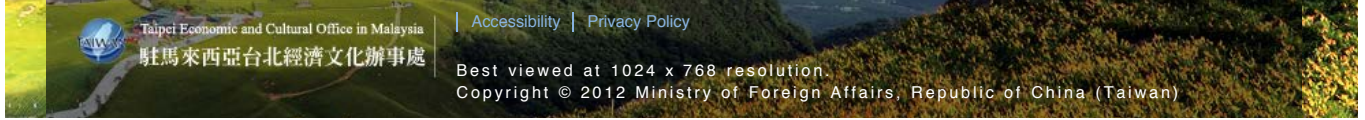
In 1956, an ROC Naval fleet was dispatched to patrol the South China Sea and escort soldiers to Taiping Island, he added. The military continuously manned the island until 2000, when the task was taken over by the Coast Guard Administration.



The ROC insists that the island groups and their surrounding waters are all an integral part of its territory. These claims partly or wholly overlap with claims by China, Vietnam, the Philippines, Malaysia, Indonesia and Brunei.

The Exhibition of Historical Archives on the Southern Territories of the Republic of China will run at Academia Historica until Oct. 31.

(By Kelven Huang, Hsieh Chia-chen and Y.F. Low)



**Annex 498**

Association of Southeast Asian Nations, *Report of the Third Meeting of the Working Group of ASEAN-China Senior Official Consultations on the Code of Conduct in the South China Sea* (11 Oct. 2000)





**Report**  
**of the Third Meeting of the Working Group**  
**of ASEAN - China Senior Official Consultations**  
**on the Code of Conduct in the South China Sea.**

( 11 October 2000, Ha Noi, Viet Nam )

1. The Third Meeting of the Working Group of the ASEAN – China Senior Official Consultations on the Code of Conduct in the South China Sea was held in Ha Noi, Viet Nam on 11 October 2000. The Meeting was co- chaired by Mr. Nguyen Hong Quong, Deputy Director-General of the ASEAN Department, Foreign Ministry of Viet Nam, and Mr. Luo Zhaohui, Political Counsellor of the Asian Department, Foreign Ministry of China. The Meeting was attended by representatives of the ASEAN member countries and China. The List of Participants appears as ANNEX A.
2. The Meeting further exchanged views on the outstanding issues of the Consolidated Working Draft of the Code of Conduct in the South China Sea agreed upon during the Second Meeting of the Working Group in Dalian, China on 24-25 August. The Meeting agreed on a Third Consolidated Working Draft which appears as ANNEX B (Rev. 2).
3. The Meeting reaffirmed that the Code of Conduct is a political and not legal document and is not aimed at resolving disputes in the area. It would serve as a political guideline for behaviour and conduct of activities among parties concerned which will make an important contribution to confidence-building and good-neighbourliness between ASEAN and China.
4. The Meeting was conducted in a constructive and co-operative spirit and made new progress.



### **Annex 499**

Socialist Republic of Viet Nam, National Boundary Commission, “On Viet Nam’s Sovereignty over Hoang Sa and Truong Sa Archipelagoes”, in *Paracel & Spratly Islands Belong to Viet Nam: Historical Evidence and Legal Grounds*



**HISTORICAL EVIDENCE AND LEGAL**  
**GROUND**

**PARACEL & SPRATLY**  
**ISLANDS**

**BELONG TO VIET NAM**

**MANY AUTHORS**

**TRE PUBLISHING HOUSE**

**ON VIET NAM'S SOVEREIGNTY OVER  
HOANG SA AND TRUONG SA ARCHIPELAGOES  
(*PARACEL & SPRATLY ISLANDS*)**

**NATIONAL BOUNDARY COMMISSION**

The Paracel (Hoang Sa) and the Spratly (Truong Sa) Islands are two archipelagoes offshore Vietnam: the closest point of the Paracel (Hoang Sa) archipelago is approximately 120 nautical miles east of Da Nang and Re Island, a coastal island of Vietnam; the closest point of the Spratly (Truong Sa) archipelago is about 250 nautical miles to the east of Cam Ranh Bay.

In the old days, with vague information about Hoang Sa and Truong Sa archipelagoes, navigators only knew about a large area in the middle of the sea with submerged cays, which was very dangerous for watercrafts. The ancient Vietnamese called the area *Bãi Cát Vàng* (Golden Sandbank), *Hoàng Sa* (Golden Sand), *Vạn Lý Hoàng Sa* (Ten-Thousand-Li Golden Sand), *Đại Trường Sa* (Grand Long Sand), or *Vạn lý Trường Sa* (Ten-Thousand-Li Long Sand) as indicated in ancient books and maps of Viet Nam. Most of the nautical maps charted by Western navigators from the 16<sup>th</sup> to the 18<sup>th</sup> centuries depict Hoang Sa and Truong Sa archipelagoes as a single archipelago named Pracel, Parcel, or Paracel.<sup>1</sup>

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<sup>1</sup> These nautical maps were charted by Portuguese, Dutch, and French navigators, including Lazaro Luis, Fer danão Vaz Dourdo, João Teixeira, Janssonius, Willem Jansz Blaeu, Jacob Aertsz Colom, Theunis Jacobsz, Hendrick Doncker, Frederich De Wit Pietre du Val, Henricus E. Van Langren, etc.

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Later, progress in science and navigation allowed the differentiation between the two archipelagoes of Paracel and Spratly. It was not until 1787-1788, over 200 years ago, that the Paracel and Spratly archipelagoes were located clearly and accurately as they are known today by the Kergariou-Lochmaria survey mission to help distinguish the Paracel archipelago from the the Spratly archipelago in the South.

All of the above-mentioned maps define Pracel (including both the Paracel and the Spratly islands) as an area in the middle of the East Sea, to the east of mainland Viet Nam and located further offshore compared to Viet Nam's coastal islands.



*A 16<sup>th</sup>-century nautical map by the Portuguese*



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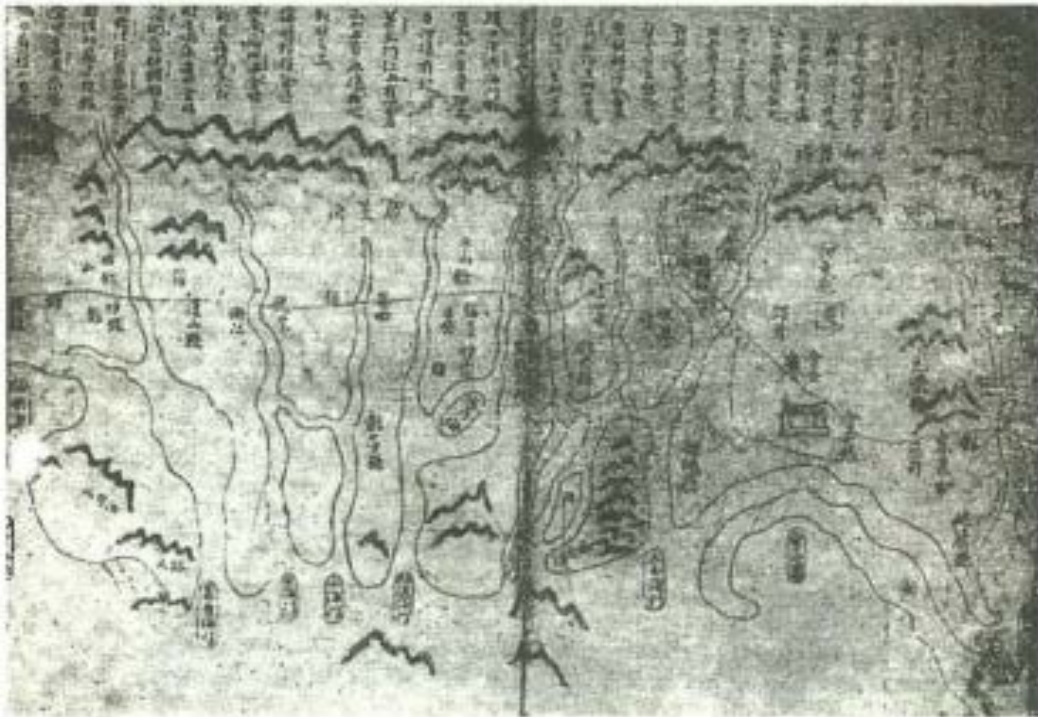
The two archipelagoes named as “Paracel” and Spratley” or “Spratly” islands in past and present international nautical maps are indeed those that are Viet Nam’s Paracel and Spratly archipelagoes.

### 1. Viet Nam’s historical sovereignty over the Paracel and Spratly archipelagoes

The Vietnamese people have long discovered the Paracel and Spratly archipelagoes, and Viet Nam has occupied and exercised its sovereignty over the two archipelagoes in a truthful, continuous, and peaceful manner.

Many ancient geography books and maps of Viet Nam clearly indicate that *Bãi Cát Vàng*, *Hoàng Sa*, *Vạn Lý Hoàng Sa*, *Đại Trường Sa*, or *Vạn Lý Trường Sa* ( *The Paracel* and *Spratly* archipelagoes) have long been included within the territory of Viet Nam.

*Toán Tập Thiên Nam Tứ Chí Lộ Đồ Thư* (The Handbook of the South’s Road Map), compiled in the 17<sup>th</sup> century by a man named Đỗ Bá, aka Công Đạo, clearly



*A page of Toán Tập Thiên Nam Tứ Chí Lộ Đồ Thư (The Handbook of the South's Road Map)*

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noted in the maps of Quảng Ngãi prefecture in Quảng Nam area that “in the middle of the sea is a long sandbank, called *Bãi Cát Vàng (Golden Sand)*,” “the Nguyen rulers<sup>1</sup> during the last month of every winter send 18 boats there to collect goods, mainly jewelries, money, guns, and ammunition.”

In *Giáp Ngọ Bình Nam Đồ* (The Map for the Pacification of the South in the Giáp Ngọ Year) made by Duke Bùi Thế Đạt in 1774,<sup>2</sup> *Bãi Cát Vàng (Golden Sand)* is also indicated as a part of Viet Nam’s territory.<sup>3</sup>

During his assignment in Southern Vietnam, scholar Lê Quý Đôn (1726-1784) in 1776 compiled the book named *Phủ biên tạp lục* (Miscellaneous Records of the Pacified Frontiers) on the history, geography, and administration of Cochinchina under the Nguyen lords (1558-1775). In this book, Lê Quý Đôn described that *Đại Trường Sa* (the Paracel and Spratly archipelagoes) was under the jurisdiction of Quảng Ngãi prefecture.

“An Vĩnh commune,<sup>4</sup> Bình Sơn district, Quảng Ngãi prefecture has a mountain<sup>5</sup> outside its seaport called Ré island, which is 30-li<sup>6</sup> wide. It takes four *canh*<sup>7</sup> to reach the island, on which there is a ward named Tứ Chính with bean-growing inhabitants. Further offshore is the *Đại Trường Sa* (Grand Long Sand) island, where there are plenty of sea products and other goods. It takes the Hoang Sa Flotilla, founded to collect those products and goods, three full days to reach the island, which is near Bắc Hải.”

“... An Vĩnh commune of Bình Sơn district, Quảng Ngãi prefecture is close to the sea. Offshore to the northeast of the commune stand over a group of 130 islands and mountains separated by waters which can take from few *canh* to a day to travel across. Streams of fresh water sometimes can be found on these mountains. Within the islands is an over-30-li long, flat, and vast golden sand bank, on which the water

<sup>1</sup> Reference to the Nguyen lords, the feudal rulers of Cochinchina (South Viet Nam) from 1558 to 1775.

<sup>2</sup> Other documents recorded as *Doan Quan Cong* (Doan Duke).

<sup>3</sup> In *Hong Duc Ban Do* (The Hong Duc Atlas).

<sup>4</sup> To the south of Sa Ky seaport, An Vinh ward on Re island also belongs to this commune.

<sup>5</sup> For Vietnamese and Chinese people, the word “Son” means mountain but is also used to indicate an island in the sea. For example, most of islands beyond *Hàngzhou Bay* (South of Shanghai) are called mountains by the Chinese: *Bạch Sơn* (White Mountain), *Đại Ngư Sơn* (Big Fish Mountain), *Đại Dương Sơn* (Big Goat Mountain), *Tiểu Dương Sơn* (Small Goat Mountain), *Trường Bạch Sơn* (Long White Mountain), *Trúc Sơn* (Bamboo Mountain), *Tù Sơn* (Prison Mountain), etc. The Chinese also uses the word “Son” to refer to a few Vietnamese mountains such as *Cửu Đầu Sơn* (Nine Heads Mountain, i.e. *Có Tô* island), *Bất Lao Sơn* (Tiredless Mountain, i.e. *Chàm* isles), *Ngoại La Sơn* (i.e. *Ré* isles), etc.

<sup>6</sup> Li is the ancient Vietnamese unit for measuring length and equivalent to 0.5 km.

<sup>7</sup> Cahn is the ancient Vietnamese unit for measuring time and is equivalent to 2 hours.

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is so transparent that one can see through. The islands are home to innumerable swift nests and thousands or tens of thousands of other kinds of birds that alight around humans instead of avoiding them. There are many sea curios on the sandbank. Among the volutes are the Indian volutes which can be as big as a mat; on their ventral side are opaque beads, different from pearls, and as big as fingertips; their shells can be carved into identification badges or calcinated to provide lime for house construction. There are also turbinidae that can be used for furniture inlay, and *Babylonia areolata*. All of these species here can be salted for food. Hawksbill sea turtles are oversized. There are also soft-shell sea turtles, informally called *trắng bông*, similar to but smaller than the normal hawksbill sea turtles; their thin shell can be used for furniture inlay, and their thumb-sized eggs can be also salted for food.



An extract of *Phủ biên tạp lục* (Miscellaneous Records of the Pacified Frontiers)

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There is a kind of sea cucumber, normally called *đồn đọt*, swimming about the shore; they can be used as food after lime treatment, gut removal, and drying. Before serving this dish, one should process it with crab juice and scrape all the dirt off. It will be better if cooked with shrimp and pork.

(...)

The Nguyễn rulers also established the Bắc Hải Flotilla without a fixed number of sailors, selected from Thứ Chính village in Bình Thuận or from Cảnh Dương commune. Volunteer sailors joining the flotilla will be exempted from poll tax, patrol, and transportation fees. These sailors travel in small fishing boats to Bắc Hải, Côn Lôn island, and other islands in Hà Tiên area, collecting goods from ships, and sea products such as turtles, abalones, and sea cucumbers. Bac Hai Flotilla is under the command of Hoàng Sa Flotilla. The collected items are mostly sea products and rarely include jewelries.”

Among those documents that have been preserved until today is the following order dated 1786 by Lord Superior:

“Hereby command Hội Đức Hầu, captain of the Hoàng Sa Flotilla, to lead four fishing boats to sail directly towards Paracel and other islands on the sea, to collect jewelries, copper items and cannons, small artillery,<sup>1</sup> sea turtles, and exotic fish, and to return to the capital to submit all of these items in accordance with the current regulation.”

Bishop J. L. Taberd, in his 1837 *Ghi Chép Về Địa Lý Nước Cochinchine* (Note on the Geography of Cochinchina), also describes “Pracel or Paracel” as a part of Cochinchina’s territory and indicates that Cochinchinese people refer to Pracel or Paracel as *Cát Vàng*.<sup>2</sup> In *An Nam Đại Quốc Họa Đồ* (Tabula geographica imperii Anamitici – The Map of the An Nam Empire) published in 1838, Bishop Taberd depicted part of Paracel and noted “Paracel seu *Cát Vàng*” (Paracel or *Cát Vàng*) for the archipelago farther than those near the shore of Central Viet Nam, corresponding to the area of the Paracel archipelago nowadays.<sup>3</sup>

<sup>1</sup> Indicating small canons.

<sup>2</sup> *Ghi chép về địa lý nước Cochinchine* (Note on the Geography of Cochinchina) by Bishop Jean-Louis Taberd was published in the 1837 Journal of the Asiatic Society of Bengal, vol. 6, p. 745.

<sup>3</sup> Tabula geographica imperii Anamitici” is attached in the 1838 Latin-Annamese Dictionary (Dictionarium Latino-Anamiticum).

*Đại Nam Nhất Thống Toàn Đồ* (The Complete Map of the Unified Dai Nam), the map of Việt Nam under the Nguyễn Dynasty in 1838 indicated that *Hoàng Sa* (No.1) and *Vạn lý Trường Sa* (No.2) are Vietnamese territories. These archipelagoes were depicted to be further offshore compared to those near the Central coast of Vietnam.

*Đại Nam Nhất Thống Chí* (The Geography of the Unified Dai Nam), the geography book completed in 1882<sup>1</sup> by the National History Institute of the Nguyễn Dynasty (1802-1845), indicates that the Paracel archipelago is part of Viet Nam's territory and was under the administration of Quang Ngai province.

In the paragraphs describing the topography of Quang Ngai province, the book described:

“In the east of Quảng Ngãi province is a sand island (i.e. Paracel island, in which sands and waters are alternate, forming trenches. In the west is the area of mountainous people with the steady and long rampart. The south borders Bình Định province, separated by the Bến Đà mountain pass. The north borders Quảng Nam province, marked by the Sa Thổ Creek...”

“...The previous custom of maintaining the Hoang Sa Flotilla was continued in the early days of the Gia Long Era but later abandoned. At the beginning of the Minh Menh<sup>2</sup> Era, freighters were sent to the area for sea route survey. They found an area with verdant plants over white sands and a circumference of 1,070 *trượng*. In the middle of the island is a well. In the southwest lies an ancient temple with no clear indication of the construction time. Inside the temple is a stele engraved with four characters *Vạn Lý Ba Bình* (Calm Sea for Ten Thousand Li). This island had previously been called *Phật Tự Sơn* (The Mountain of Buddha's Temple). In the east and the west of the island is an atoll named Bàn Than Thạch (coral reef). It emerges over the water level as an isle with a circumference of 340 *trượng* and a height of 1,2 *trượng*. In the 16<sup>th</sup> year of the Minh Menh Era, freighters were ordered to transport bricks and stones to the area to build a temple. In the left side of the temple, a stone stele was erected as a marker, and trees are planted all over three sides, namely the left, the right, and the back of the temple. While building the temple's foundation, the military laborers found as much as 2,000 catties of copper leaves and cast iron.”

Many Western navigators and Christian missionaries in the past centuries attested that Paracel (Pracel or Paracel) belongs to Viet Nam's territory.

<sup>1</sup> The part on Central provinces was re-compiled and published in 1909.

<sup>2</sup> Referred to as Minh Mang in some other documents (noted by Tre Publisher).



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A Western clergyman wrote in a letter during his 1701 trip on the ship *Amphitrite* from France to China that: “Paracel is an archipelago of the Kingdom of An Nam.”<sup>1</sup>

J. B. Chaigneau, one of the counsellors to Emperor Gia Long, wrote in the 1820 complementary note to his *Hồi Ký Về Nước Cochinchine (Mémoire sur la Cochinchine* or *Memoir on Cochinchina*):<sup>2</sup>

“The country of Cochinchina, whose emperor has just ascended to the throne, includes the regions of Cochinchina and Tonkin<sup>3</sup>... some inhabited islands are not too far from the shore, and the Paracel archipelago is composed of uninhabited small islands, creeks, and cays.”<sup>4</sup>

In the article “Geography of the Cochinchinese Empire,”<sup>5</sup> written by Gutzlaff and published in 1849, some parts clearly indicate that Paracel is part of Viet Nam’s territory and even noted the archipelago with the Vietnamese name *Cát Vàng*.

As sovereigns of the country, successive feudal dynasties in Viet Nam had for many times conducted survey on the terrains and resources of the Paracel and Spratly archipelagoes over centuries. The results of these surveys have been recorded in Vietnamese geography and history books since the 17<sup>th</sup> century.

*Toản Tập Thiên Nam Tứ Chí Lộ Đồ Thư* reads:

“In the middle of the sea is a long sandbank, called *Bãi Cát Vàng*, with a length of 400 li and a width of 20 li, spanning in the middle of the sea from Đại Chiêm<sup>6</sup>

<sup>1</sup> J.Y.C. cited from *Mystery of the atolls – Journal of the voyage to the Hoàng Sa Islands [Mystere des atolls – Journal de voyage aux Paracels]* in the July 3, 10, and 17, 1941 issues of the weekly magazine *Indochina*. “The Kingdom of An Nam” indicates the then-Viet Nam.

<sup>2</sup> “Cochinchine” (French) or “Cochinchina” (English) in the documents quoted here by the Western authors bear two meanings depending on its context, indicating: a) the country of Viet Nam at that time, named Cochinchine country here; and b) Đàng Trong (southern Vietnam) at that time, named Cochinchine region here.

<sup>3</sup> Đàng Ngoài (le Tonkin).

<sup>4</sup> A. Salles cited from *The Memoir of Cochinchina* by J. B. Chaigneau [*Le mémoire sur la Cochinchine de J. B. Chaigneau*], published in the 1923 *Bulletin des amis du vieux Huê* (Bulletin of the Friends of Old Hue), vol. 2, p. 257.

<sup>5</sup> “Geography of the Cochinchinese Empire” was published in the 1849 *Journal of the Royal Geography Society of London*, vol. 19, p. 93.

<sup>6</sup> Đại Chiêm Seaport is now called Đại Seaport under the province of Quảng Nam-Đà Nẵng.

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to Sa Vinh<sup>1</sup> Seaports. Foreign ships would be drifted and stranded on the bank if they traveled on the inner side (west) of the sandbank under the southwest wind or on the outer side under the northeast wind (east). Their sailors would starve to death and leave all their goods there.”<sup>2</sup>

“During the last month of every winter, the Nguyễn rulers send 18 boats to *Bãi Cát Vàng* to collect goods, mainly jewelries, money, guns, and ammunition.”

*Đại Nam Thực Lục Tiền Biên* (The First Part of the Chronicles of Đại Nam), the historical document collection about the Nguyen lords completed by the National History Institute in 1844, reads:

“Offshore of An Vĩnh commune, Bình Sơn district, Quảng Ngãi prefecture are home to more than 130 sandbanks whose distances from each other can take anywhere from a few *canh* to a day to travel. They span an area of thousands of li, and are thus called *Vạn lý Hoàng Sa*. There are freshwater wells on the sandbanks, and sea products of the area include sea cucumber, sea turtles, volutes, so on and so forth.”

“Not long after the founding of the dynasty, the Hoang Sa Flotilla was established with 70 sailors selected from An Vinh commune. In the third month of every year, they sail for about three days to the islands. They collect goods there and return in the eighth month. There is also another flotilla named Bắc Hải, whose sailors are chosen from Từ Chính village in

**The administrative report dated June 27 in the 11<sup>th</sup> year of Minh Menh Era (1830)**

*The Imperial Naval Defense Officer at the Đà Nẵng Seaport reported on the incident of a French merchant ship in the Paracel archipelago. Officer Nguyễn Văn Ngữ sent a patrol boat to save the victims after learning of the incident.*

“Your subject Nguyễn Văn Ngữ, who is holding the office at the Đà Nẵng Seaport, respectfully bow before Your Majesty to report the following:

In the hour of Dần (3-5AM) on the 20<sup>th</sup> day of this month, Dauochily, t h e h e a d o f



*French merchant ship, Deputy Captain Idore, and envoys*

Bình Thuận or Cảnh Dương commune,

<sup>1</sup> Sa Vinh Seaport is now called Sa Huynh Seaport under the province of Quang Ngai.  
<sup>2</sup> *Bãi Cát Vàng* was for long characterized by dangerous submerged clays in the East Sea.



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headed by Lê Quang Quỳnh led the ship to Lữ Tống for trading as reported. At the same time on the 27th, we suddenly saw the Deputy Captain and 11 sailors riding on a small boat towards the dock, saying that their vessel was sunk by water and sand waves and water level reached over 8m in the boat when it arrived at the territory of Paracel at around 9-11 pm on the 21st of this month. They all decided to promptly move two boxes of public silver, some tools and food to two small boats and returned to the mainland. But, no signs were seen from the vessel run by Dauochily and the envoys. Your subject immediately dispatched patrolling boats at the dock with fresh water towards the sea, trying to search for them. Fortunately, we found Dauochily, the envoys and 15 sailors at about 12-13 o'clock, protecting and leading them to the dock. The envoys headed by Lê Quang Quỳnh said that they were tired, exhausted, and needed to rest for a few days. Once recovered, they would come back to the citadel for public service. Your subject humbly makes this report in full and respectfully presents to Your Majesty. Faithfully,

Dated June 27 in the 11th year of the Emperor Minh Menh Era (1830)

Your subject Nguyen Van Ngu signed"

(<http://biengioilanhtho.gov.vn>)

ordered to sail to Bắc Hải and Côn Lôn areas to collect goods. This flotilla is under the command of Hoang Sa Flotilla."

*Đại Nam Thực Lục Chính Biên* (The Main Part of the Chronicles of Đại Nam) is the historical document collection about the Nguyễn emperors compiled by the National History Institute. The part on Emperors Gia Long, Minh Mệnh, and Thiệu Trị was completed in 1848, recording the events of Emperor Gia Long's occupying of the Paracel archipelago in 1816, and the temple construction, stele erection, tree planting, measurement, and mapping of the islands following Emperor Minh Mệnh's order.<sup>1</sup>

*Volume 52* reads:

"In the Bính Tý year, the 15<sup>th</sup> year of the Gia Long Era (1816)...

His Majesty the Emperor commanded the naval forces and Hoàng Sa Flotilla to sail to the Paracel archipelago for sea route survey."

*Volume 104* reads:

"In the eighth month, during the autumn, of the Quý Tỵ year, the 14<sup>th</sup> year of the Minh Mệnh Era (1833)...

His Majesty the Emperor told the Ministry of Public Works that: "In the territorial

<sup>1</sup> Book 2, volume 122.

waters of the Quảng Ngãi province, there is a golden sand strip. The water, as well as its depth and shallowness, and the sky in that range cannot be distinguished from afar. Trading boats have recently become victims of its shoal. We shall prepare sampans, waiting until next year to go to the area for constructing temple, erecting stele, and planting many trees. Those trees will grow luxuriant in the future, thus serving as recognition remarks for people to avoid getting stranded in shoal. That shall benefit everyone forever.”

*Volume 154* reads:

“In the sixth month, during the summer, of the Ất Mùi year, the 16<sup>th</sup> year of the Minh Mệnh Era (1835)... a temple was built on Paracel island, under the administration of Quảng Ngãi province. Paracel, in the territorial waters of Quảng Ngãi, has a white sand island covered by luxuriant plants with a well in the middle. In the southwest of the island is an ancient temple in which there is a stele engraved with four characters *Vạn Lý Ba Bình*.<sup>1</sup> Bach Sa island has a circumference of 1,070 *trượng*; previously referred to as *Phật Tử Sơn*, the island is surrounded by a gently-sloping atoll in the east, west, and south. In the north is an atoll named *Bàn Than Thạch*, emerging over the water level with a circumference of 340 *trượng*, an elevation of 1.3 *trượng*, as high as the sand island. Last year, His Majesty the Emperor had already considered ordering the construction of a temple and a stele on it, but the plan could not be executed due to harsh weather conditions. The construction had to be postponed until this year when the naval captain Phạm Văn Nguyên and his soldiers, the capital’s patrol commander, and laborers from the provinces of Quảng Ngãi and Bình Định came and carried building materials with them to build the new temple (seven *trượng* away from the ancient temple). A stone stele and a screen were erected on the left hand side and in the front of the temple, respectively. They finished all the works in ten days and returned to mainland.”

*Volume 165* reads:

“On the first day of the first month, during the spring, in the Bính Thân year, the 17<sup>th</sup> year of the Minh Mệnh Era (1836)...

The Ministry of Public Works submitted a petition to His Majesty the Emperor, saying that: In the frontier of our country’s territorial waters, the Paracel is a critical and hardly-accessible area. We have had the map of the area made; however, due to its wide and long topography, the map only covers part of it, and this coverage is not sufficiently

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<sup>1</sup> “*Vạn Lý Ba Bình*”: Calm Sea for Ten Thousand Li.

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detailed. We shall deploy people to the area for detailed sea route survey. From now on, in the last ten days of the first month of every year, we shall implore Your Majesty's permission to select naval soldiers and the capital's patrolmen to form a unit on a vessel. This unit shall travel to Quảng Ngãi within the first ten days of the second month, requesting the provinces of Quảng Ngãi and Bình Định to employ four civilian boats to travel together to the Paracel. For every island, cay, or sandbank that they encounter, they shall measure its length, width, elevation, area, and circumference, as well as the surrounding water's depth; they shall record the presence of submerged cays and banks, and the topography. Maps shall be drawn from these measurements and records. Also, they shall record the departure date, departure seaports, directions, and estimated distance on the traveling routes. These people shall also look for the shore to determine the provinces, their directions and distances to the surveyed positions. One and all must be recorded clearly and presented once they return."

"His Majesty the Emperor approved the petition, ordered the naval detachment commander Phạm Hữu Nhật to command a battleship and bring ten wooden steles to be used as markers in the area. (Each wooden stele is five meters long, five decimeters wide,

**The Nguyen Dynasty's Royal Records (the 19<sup>th</sup> Century)**

*The royal records of the Nguyen Dynasty refer to the petitions by officials of the ministries, namely the Ministry of Public Works, the Ministry of Finance, and other bodies; the Emperors' orders on the exercise of Viet Nam's sovereignty over the Paracel archipelago, such as surveying, measuring, and mapping the Paracel region, erecting markers, etc.*

*The order dated July 18 of the 16<sup>th</sup> year of the Minh Mạng Era (1835) on the award and punishment for those who worked in the Paracel can be used as an example. The petition by the Ministry of Public Works on February 12 of the 17<sup>th</sup> year of the Minh Mạng Era (1836) included the Emperor's order as follows: each battleship has to bring with it 10 wooden steles (used as markers) which are each four or five meters long, five decimeters wide, and engraved with characters: "The Bình Thân year (the 17<sup>th</sup> year of the Minh Mạng Era), the name of the detachment commander responsible for survey and marking in the Paracel." The order dated July 13 of the 18<sup>th</sup> year of the Minh Mạng Era (1837) said that naval soldiers, the capital's patrolmen, and ordinary people of Quảng Ngãi and Bình Định provinces were ever sent to the Paracel for measurement, marking, and mapping. There is also a petition by the Ministry of Public Works on intercalary April 2 of the 19<sup>th</sup> year of the Minh Mạng Era (1838) regarding the cancellation of departure to the Paracel due to harsh weather conditions.*

(See Tienphong online)



A page of *Đại Nam Thực Lục Chính Biên*



A petition submitted by the Ministry of Public Works to Emperor Thieu Tri in 1847

one decimeter thick, and is engraved with characters meaning: The 17<sup>th</sup> year of the Minh Mệnh Era, the Bính Thân year, Detachment Commander Pham Hữu Nhật of the Navy, complying with the order to go to the Paracels for management and survey purposes, arrived here and therefore placed this sign).”

*Đại Nam Thực Lục Chính Biên* also recorded that, in 1847, the Ministry of Public Works submitted a petition to Emperor Thieu Tri, saying: Paracel is within the territory of our country. It is a regular practice that we deploy boats to the area for sea route surveys every year. However, due to the busy work schedule of this year, we implore Your Majesty’s permission to postpone the survey trip until next year. Emperor Thieu Tri wrote “*Đình*” (Adjourned) in the petition to approve it.

*Đại Nam Nhất Thống Chí* (The Geography of Unified Đại Nam -1882) reads:

“Paracel island lies in the east of Re island under the administration of Binh Son district. From Sa Kỳ Seaport, it can take three or four days to sail to the island under favorable winds. There are more than 130 small islands, separated by waters which can take a few *canh* or a day to travel across. Within the island is the golden sandbank

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spanning tens of thousands of li and thus is called *Vạn lý Trường Sa*. There are freshwater wells, and numerous birds gather on the bank. Sea products there include sea cucumbers, sea turtles, volutes, etc. Goods from ships wrecked by storms drift onto the bank.”

Other books completed under the Nguyễn Dynasty, such as the 1821 *Lịch Triều Hiến Chương Loại Chí* (Classified Rules of Dynasties), the 1833 *Hoàng Việt Địa Dư Chí* (Geography of the Viet Empire), the 1876 *Việt Sử Cương Giám Khảo Lược* (Outline of the Viet History Chronicles) all have a similar description for the Paracel archipelago.

As a result of the aforementioned richness of sea products and goods from wrecked ships in the Paracel and Spratly archipelagoes, the Vietnamese feudal dynasties had long exercised sovereignty over the archipelagoes. Many ancient history and geography books of Viet Nam provide evidence of the organization and operation of the Paracel flotillas, which performed these exploitation duties.

Succeeding the Nguyen lords in governing the country, the Tay Son Dynasty always paid fair attention to maintaining and deploying Paracel flotillas although it had to continuously deal with the invasions of the China's Qing Dynasty and Siam.

**The Nguyen Dynasty Saved 90 British Nationals Wrecked in the Paracel**

*Đại Nam Thực Lục Chính Biên Đệ Nhị Kỳ*, a wood-carved records of the Nguyễn Dynasty, reads: in December 1836, a British merchant ship traveled through the Paracel, got stranded, broken, and wrecked; more than 90 persons were saved and led by the Nguyễn Dynasty officials to the Bình Định coast. In so doing, Emperor Minh Mạng and the Nguyen court during his reign proved the realization of practical activities to affirm the country's sovereignty over the Paracel archipelago. Such actions as planting trees and erecting stele or helping wrecked Western ships evidently demonstrate that the Nguyen dynasties proclaimed their exclusive sovereignty in this archipelago.

(See Science and Life Newspaper Online)



*The Nguyen Dynasty's wood-carved record on the Emperor Minh Mạng's help for Western ship wrecked in the Paracel archipelago*

Under the Tây Sơn Dynasty, the Imperial Court continued organizing various forms of exploitation of the Paracel archipelago with the awareness that it was exercising sovereignty over the archipelago.

From the foundation of the Nguyễn Dynasty in 1802, until the 1884 Treaty of Huế with France, the Nguyễn emperors had made all efforts to consolidate Viet Nam's sovereignty over the Paracel and Spratly archipelagoes.

The Hoàng Sa Flotilla, later reinforced by the Bắc Hải Flotilla, was maintained and remained active under the Nguyễn lords (1558-1783) to the Tây Sơn Dynasty (1786-1802) and the Nguyễn Dynasty (1802-1945).

In conclusion, ancient history and geography books of Viet Nam as well as evidence found in documents written by several Western navigators and clergymen all point to the fact that successive dynasties in Viet Nam have held sovereignty over the Paracel and Spratly archipelagoes for centuries. The Vietnamese states-founded Paracel flotillas' regular presence from five to six months annually to perform certain duties in these archipelagoes is itself incisive evidence, demonstrating the exercise of Vietnamese sovereignty. The acquisition and exploitation by Viet Nam of these archipelagoes were never opposed by any other countries, further proving that the Paracel and Spratly archipelagoes have long been parts of Viet Nam's territory.

## **2. France representing the State of Viet Nam to further exercise sovereignty over the Paracel and Spratly archipelagoes**

Since the conclusion of June 6, 1884 Treaty of Hue with the Nguyen court, France had represented Viet Nam in all of its external relations and protected Viet Nam's sovereignty and territorial integrity. Within the framework of the treaty's commitments, Viet Nam's sovereignty over the Paracel and Spratly archipelagoes was further exercised by France.

Hereunder are some examples:



## PARACEL &amp; SPRATLY ISLANDS BELONG TO VIETNAM

The French battleships often patrolled in the East Sea, including the areas of the Paracel and Spratly archipelagoes.

In 1899, Paul Doumer, the then Governor-General of Indochina, sent a proposal to Paris for building a lighthouse on Paracel island (Pattle) within Paracel archipelago to guide ships in the area. The plan, however, was not implemented due to a budget issue.

Since 1920, Indochinese ships of customs had intensified their patrol in the area of the Paracel archipelago to prevent smuggling.

In 1925, the Institute of Oceanography in Nha Trang sent the ship De Lanessan for an oceanography survey in the Paracel archipelago. In addition to A. Krempf, the then Institute's Director, other researchers including Delacour, Jabouille, etc. also joined the trip for their geological and biological research and other studies.

On March 3, 1925, the Minister of Military Affairs Than Trọng Huề of the Imperial Court reaffirmed that the Paracel archipelago is within Viet Nam's territory.

In 1927, the ship De Lanessan went to the Paracel archipelago for a scientific survey.



*An administrative base of the Spratly archipelago under French colony period*



## PARACEL &amp; SPRATLY ISLANDS BELONG TO VIETNAM

In 1929, the Pierre-De Rouville delegation proposed that four lighthouses be set up at four corners of the Paracel archipelago, namely Tri Tôn (Triton island), Đá Bắc (the North), Linh Côn (Lincoln) islands, and Bom Bay reefs (Bombay).

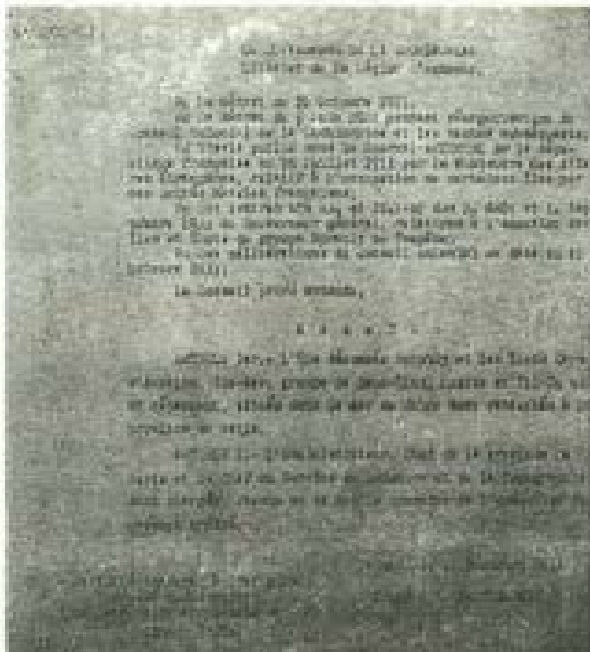
In 1930, the gunboat La Malicieuse went to the Paracel archipelago.

In March 1931, the ship Inconstant went to the Paracel archipelago.

In June 1931, the ship De Lanessan went to the Paracel archipelago.

In May 1932, the battleship Alerte went to the Paracel archipelago.

From April 13, 1930 to April 12, 1933, the Government of France deployed the naval units to garrison in major islands of the Spratly archipelago, namely Spratly (Spratley), An Bang (Caye d'Amboine), Ba Bình (Itu Aba), Song Tử (group des deux îles),<sup>1</sup> Loại Ta (Loaita), and Thị Tứ (Thitu).



*Decree No. 4702-CP dated December 21, 1933 by the Governor of Cochinchina*

On December 21, 1933, the then-Governor of Cochinchina, M. J. Krautheimer, signed the decree of annexing the islands of Spratly, An Bang, Ba Bình, Song Tu, Loi Ta, and Thi Tu to Ba Ria province.<sup>2</sup>

In 1937, the French authorities sent a civil engineer named Gauthier to the Paracel archipelago to examine the positions for building lighthouses and a seaplane terminal.

In February 1937, the patrol ship Lamotte Piquet commanded by Rear-Admiral Istava came to the Paracel archipelago.

<sup>1</sup> Song Tu Tay and Song Tu Dong islands.

<sup>2</sup> Today's Dong Nai province.

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On March 29, 1938, Emperor Bao Dai signed the Imperial Edict to split the Paracel archipelago from Nam Nghia province and annex them to Thua Thien province.<sup>1</sup>

On June 15, 1938, the then-Governor-General of Indochina, Jules Brévié, signed the Decree on Establishing an Administrative Unit in the Paracel archipelago under Thua Thien province.

In 1938, France erected a sovereignty stele, and it completed the constructions of a lighthouse, a meteorological station, a radio station on the Paracel island (île Pattle), and a meteorological station and a radio station on Itu Aba island within the Paracel archipelago.



Imperial Edict signed by Emperor Bao Dai on March 29, 1938

The inscription on the stele reads: “The French Republic, The Kingdom of An Nam, The Paracel Islands, 1816 – Pattle Island – 1938” (1816 and 1938 are the years of Viet Nam’s sovereignty exercise over the Paracel archipelago by Emperor Gia Long, and of the French erection of the stele, respectively).

On May 5, 1939, the Governor-General of Indochina Jules Brévié signed the decree to amend the Decree of June 15, 1938. The new decree established two administrative delegations, namely the Delegations of Croissant and its Dependents, and Amphitrite and its Dependents.



Decree of May 5, 1939 issued by the Governor-General Jules Brévié

<sup>1</sup> Today’s Thua Thien-Hue province.



*The sovereignty stele erected by France in 1938*

For the whole time it represented Viet Nam in its external relations, France consistently affirmed the sovereignty of Viet Nam over the Paracel and Spratly archipelagoes, and protested actions that violated this sovereignty. For instance,

- On December 4, 1931 and April 24, 1932, France opposed the Government of China on the intention of the Guangdong provincial authorities to invite bids for exploiting guano on the Paracel archipelago.

- On July 24, 1933, France informed Japan of the fact that it deployed forces to the main islands in the Spratly archipelago.

- On April 4, 1939, France opposed the Japan's inclusion of some islands within the Spratly archipelago under its jurisdiction.

### **3. Protection and exercise of Viet Nam's sovereignty over the Paracel and Spratly archipelagoes since the end of World War II**

After returning to Indochina after World War II, in early 1947, France requested the Republic of China to withdraw their troops from some islands in the Paracel and Spratly archipelagoes that they illegally occupied in late 1946. The French armed forces resumed control of the Paracel and Spratly archipelagoes and rebuilt their meteorological and radio stations.

On September 7, 1951, Trần Văn Hữu, the head of the State of Viet Nam's delegation at the San Francisco Conference on the Treaty of Peace with Japan, declared that the

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and Spratly archipelagoes have long been the territories of Viet Nam, and that "... to stifle the germs of discord, we affirm our right to the Paracel and Spratly archipelagoes, which have always belonged to Viet Nam."

This statement did not meet any objections and/or reserves of opinion from 51 national representatives attending at the conference.

In 1953, the French ship Ingénieur en chef Girod went on its survey trip on oceanography, geology, geography, and ecology in the Paracel archipelago.

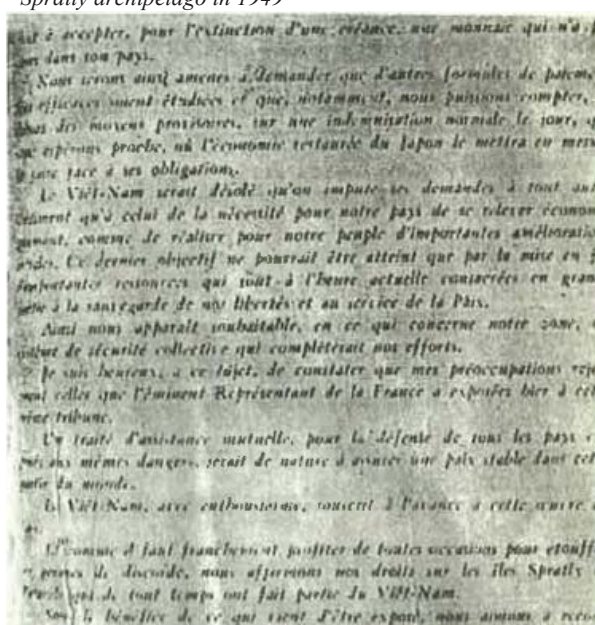
Station Name	Latitude	Longitude	Altitude	Notes
1111	11° 22' N	113° 00' E	10	
1112	11° 22' N	113° 00' E	10	
1113	11° 22' N	113° 00' E	10	
1114	11° 22' N	113° 00' E	10	
1115	11° 22' N	113° 00' E	10	
1116	11° 22' N	113° 00' E	10	
1117	11° 22' N	113° 00' E	10	
1118	11° 22' N	113° 00' E	10	
1119	11° 22' N	113° 00' E	10	
1120	11° 22' N	113° 00' E	10	
1121	11° 22' N	113° 00' E	10	
1122	11° 22' N	113° 00' E	10	
1123	11° 22' N	113° 00' E	10	
1124	11° 22' N	113° 00' E	10	
1125	11° 22' N	113° 00' E	10	
1126	11° 22' N	113° 00' E	10	
1127	11° 22' N	113° 00' E	10	
1128	11° 22' N	113° 00' E	10	
1129	11° 22' N	113° 00' E	10	
1130	11° 22' N	113° 00' E	10	

The World Meteorological Organization's (WMO) document confirming Itu Aba (Ba Binh) meteorological stations in the Spratly archipelago in 1949

Later governments in South Viet Nam, including both the Sai Gon Administration (the Republic of Viet Nam) and the Provisional Revolutionary Government of the Republic of South Viet Nam, exercised Viet Nam's sovereignty over the Paracel and Spratly archipelagoes.

Here are a few examples:

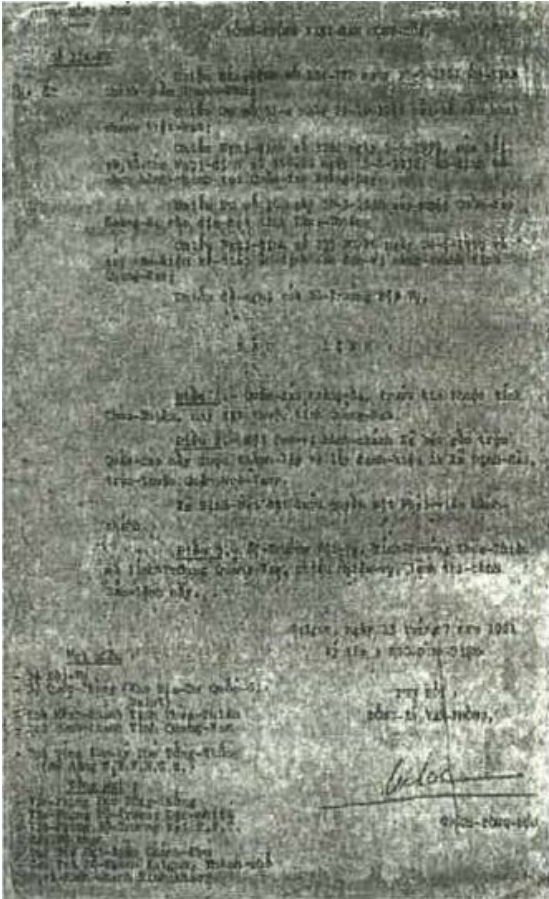
In 1956, the naval forces of the Sai Gon Administration took over the Paracel and Spratly archipelagoes when France withdrew its troops.



The statement of Viet Nam's delegation at the 1951 San Francisco Conference (on the review France-Asie, No. 66-67, November – December 1951)



PARACEL & SPRATLY ISLANDS BELONG TO VIETNAM



Decree No. 174-NV dated July 13, 1961 by President Ngô Đình Diệm of the Republic of Việt Nam

In 1956, with the assistance of the Sai Gon Administration’s naval forces, the Department of Mining, Technology and Small Industries organized a survey on four islands, namely Paracel (Pattle), Quang Anh (Money), Huu Nhat (Robert), and Duy Mong (Drumond).

On October 22, 1956, the Sài Gòn Administration placed the Spratly archipelago under the province of Phước Tuy.

On July 13, 1961, the Sai Gon Administration transferred the jurisdiction of the Paracel archipelago from Thừa Thiên province to Quảng Nam province. The administrative commune of Định Hải, headed by an administrative envoy directly under the district of Hoa Vang, was established in the archipelago.

From 1961 to 1963, the Sài Gòn Administration built sovereignty steles on major islands within the Spratly archipelago, such as Spratly, An Bang, Song Tử Tây, etc.

On October 21, 1969, the Sài Gòn Administration annexed Định Hải commune into Hòa Long commune, also under Hòa Vang district of Quảng Nam province.

In July 1973, the Institute of Agricultural Research under the Ministry of Agricultural Development and Land conducted its investigation on Nam Ai (Nam Yết) island within the Spratly archipelago.

In August 1973, the Sài Gòn Administration’s Ministry of National Planning and

## PARACEL &amp; SPRATLY ISLANDS BELONG TO VIETNAM

Development, in collaboration with Maruben Corporation of Japan, conducted an investigation on phosphates in the Paracel archipelago.

On September 6, 1973, the Sài Gòn Administration annexed the islands of Spratly, An Bang, Itu Aba, Song Tử Đông, Song Tử Tây, Loại Ta, Thị Tứ, Nam Ai, Sinh Tồn and surrounding ones into Phước Hải commune, Đất Đỏ district, Phước Tuy province.

Fully aware of Viet Nam's long-lasting sovereign over the Paracel and Spratly archipelagoes, the South Viet Nam's governments decisively defended that sovereignty whenever a foreign country exposed intentions to scramble for or invade any islands within the two archipelagoes.

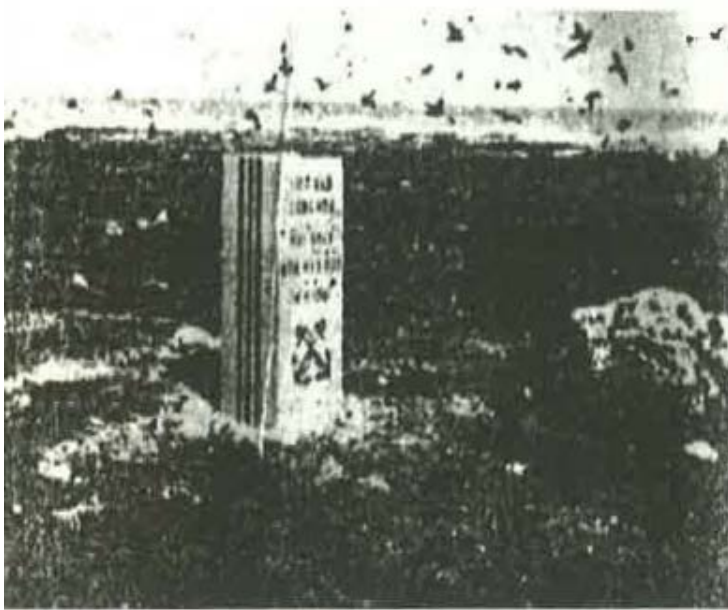
On June 16, 1956, the Sai Gon Administration's Ministry of Foreign Affairs issued a statement to re-affirm Viet Nam's sovereignty over the Spratly archipelago. In the same year, the Sài Gòn Administration strongly objected to the occupation of the eastern islands within the Paracel archipelago by the People's Republic of China.

On February 22, 1959, the Sài Gòn Administration detained 82 people who claimed to be "fishermen" from the People's Republic of China and had landed on the islands of Hữu Nhật, Duy Mộng, and Quang Hoa within the Paracel archipelago.



*Decree No.420-BNV/HCDP/26 dated September 6, 1973 by the Ministry of the Interior of the Republic of Viet Nam*

## PARACEL &amp; SPRATLY ISLANDS BELONG TO VIETNAM



*Viet Nam's sovereignty stele erected on Spratly island of the Spratly archipelago (1961)*

On April 20, 1971, the Sài Gòn Administration once again re-affirmed that Spratly archipelago is a part of Việt Nam's territory.

On July 13, 1971, the Sài Gòn Administration's Foreign Minister re-affirmed Viet Nam's sovereignty over the archipelago at the July 10, 1971 Press Conference.

On January 19, 1974, the military forces of the People's Republic of China occupied the southwestern islands of the Paracel archipelago. This violation of Viet Nam's territorial integrity was condemned on the same day by the Sài Gòn Administration.

On January 26, 1974, the Republic of South Viet Nam Provisionary Revolution Government declared its three-point position on the solution for territorial disputes; and proclaimed on February 14, 1974 that the Paracel and Spratly archipelagoes are parts of Viet Nam's territory.

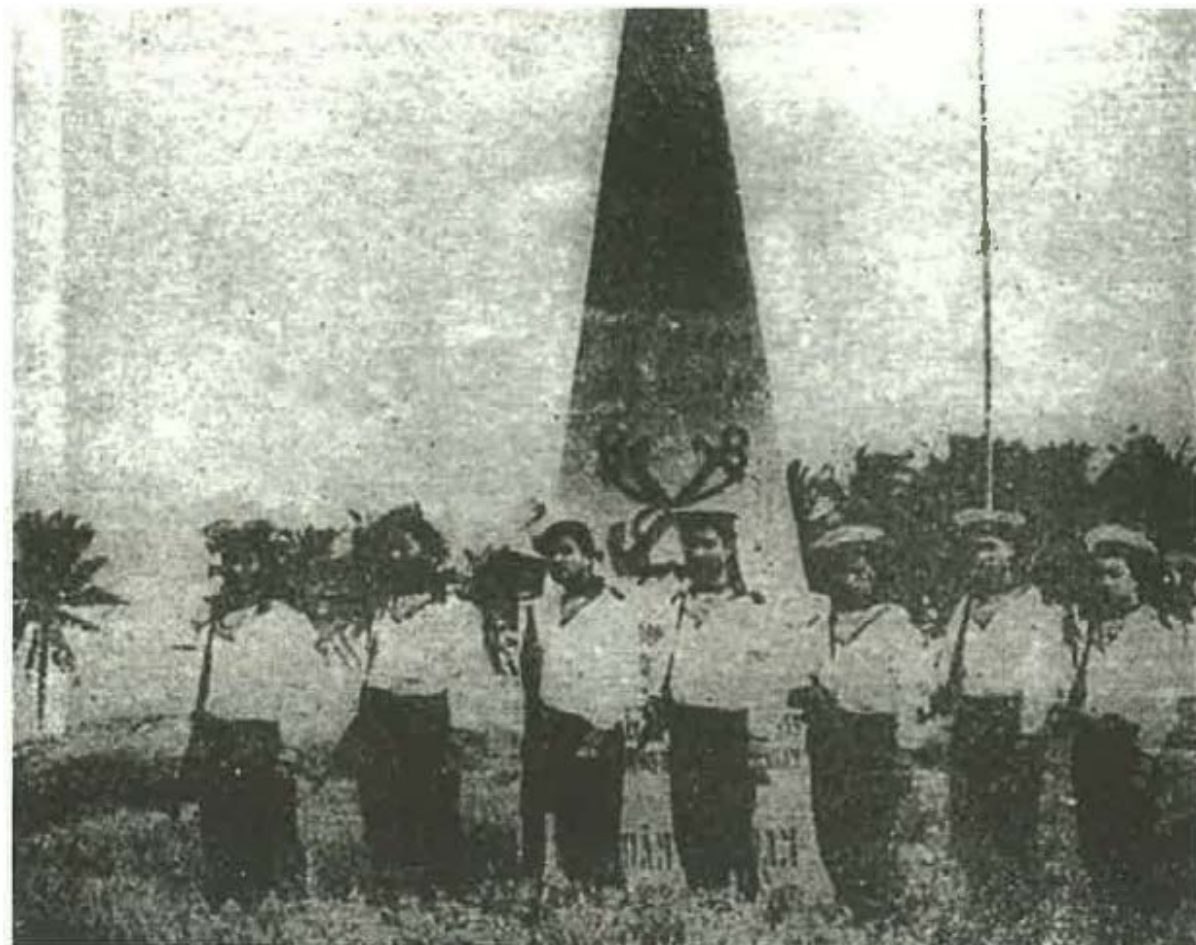
On May 5-6, 1975, the Republic of South Việt Nam Provisionary Revolution Government announced its liberation of islands in the Spratly archipelago, which had been under the control of the Sài Gòn Administration. On June 28, 1974, the Republic of South Việt Nam Provisionary Revolution Government affirmed its sovereignty over the Paracel and Spratly archipelagoes at the First Session of the Third Conference on the Law of the Sea held in Caracas.

In September 1975, the delegation of the Republic of South Viet Nam Provisionary Revolution Government at the Colombo Meteorological Conference stated that the Paracel archipelago is Viet Nam's territory, and requested that the Viet Nam's

m e t e o r o l o g i c a l



## PARACEL &amp; SPRATLY ISLANDS BELONG TO VIETNAM



*Viet Nam's Navy on Song Tu Tay island (Spratly archipelago)*

station in the archipelago be registered in the WMO's list of meteorological stations (this station had previously been entered in the WMO's list under the registration number 48.860).

The State of the Socialist Republic of Việt Nam has promulgated various important legal documents on the sea and two archipelagoes of Paracel and Spratly, namely the 1977 announcement of the Government of Việt Nam on the territorial sea, the contiguous zone, the exclusive economic zone, and the continental shelf of the country; the 1982 announcement of the Government of Viet Nam on the baseline used to calculate the width of Viet Nam's water territories; the 1992 Constitution of the Socialist Republic of Viet Nam; the Resolution of the Viet Nam's National Assembly, Tenure IX, at the fifth session in 1994 on the approval of the 1982 United Nations Convention on Sea Law; and the 2003 National Boundary Law.

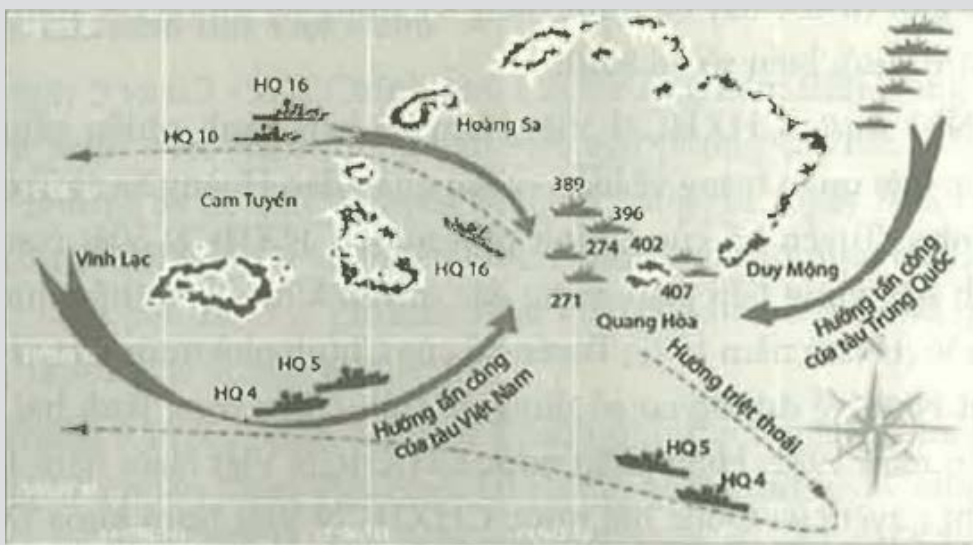
PARACEL & SPRATLY ISLANDS BELONG TO VIETNAM

**THE 1974 SEA BATTLE IN PARACEL**

*In the morning of February 19, 1974, a China's corvette labeled Kronstadt encroached upon the sea territories of Viet Nam and attacked the destroyer Trần Khánh Dư numbered HQ-04. The Republic of Viet Nam's warships fired back in self-defense. This lightning fast and incommensurable battle sunk the Nhật Tảo fleet of Viet Nam and Major Ngụy Văn Thà, the Republic of Vietnam's naval captain of the destroyer, died. All of the 58 military officers, including sailors and sea commandos of the Republic of Viet Nam, sacrificed their lives and China has forcefully occupied the Paracel archipelago of Viet Nam since then.*



*Destroyer Tran Khanh Du HQ-04, one of four warships in the 1974 sea battle of Paracel*



*Map of fighting directions at the January 19, 1974 sea battle of Paracel*

## PARACEL &amp; SPRATLY ISLANDS BELONG TO VIETNAM

In terms of administration, in 1982 the Government of Viet Nam established the Spratly and Paracel archipelagoes districts under Đồng Nai and Quảng Nam-Đà Nẵng provinces, respectively. After some administrative revisions, the Paracel archipelago is currently under Đà Nẵng city, while the Spratly archipelago belongs to Khánh Hòa province.

The Government of the Socialist Republic of Viet Nam has repeatedly affirmed Viet Nam's sovereignty over the Paracel and Spratly archipelagoes in diplomatic notes sent to the involved parties, in the statements of the Ministry of Foreign Affairs, and in international meetings, including the WMO meeting in Geneva (June 1980), in the International Geological Congress in Paris (July 1980), and so on.

The State of Viet Nam has also issued white papers of 1979, 1981, and 1988 on the sovereignty of Viet Nam over the Paracel and Spratly archipelagoes to affirm that these two archipelagoes are inseparable territories of Viet Nam and that Viet Nam has full sovereignty over them in accordance with international law and practice.

On March 14, 1988, the Ministry of Foreign Affairs of the Socialist Republic of Viet Nam issued a statement condemning the China's acts that caused military conflict and occupied some submerged cays in the Spratly archipelago.

In April 2007, the Government of Viet Nam decided to establish the Spratly

*The World Meteorological Organization's (WMO) document in 1973 confirming Paracel Meteorological Stations of Viet Nam*

township, Song Tử Tây, and Sinh Tồn communes under Spratly district in the Spratly archipelago.

### **Conclusion**

Three following major points can be drawn with reference to the aforementioned historical documents as well as international law and practice:

1. The State of Viet Nam has actually possessed the Paracel and Spratly archipelagoes for long since the time when the two archipelagoes were not under the sovereignty of any other country.
2. The State of Viet Nam for hundreds of years since the 17<sup>th</sup> century has indeed exercised its sovereignty over the Paracel and Spratly archipelagoes in a continuous and peaceful manner.
3. The State of Viet Nam has always been proactive in protecting its rights and titles against any intentions and actions that violate Viet Nam's sovereignty, territorial integrity, and rights in the Paracel and Spratly archipelagoes.

*Source: <http://www.biengioilanhtho.gov.vn>*

**BẰNG CHỨNG LỊCH SỬ VÀ CƠ SỞ PHÁP LÝ**

**HOÀNG SA,  
TRƯỜNG SA  
LÀ CỦA VIỆT NAM**

**PARACEL & SPRATLY ISLANDS BELONG TO VIETNAM**

**NHIỀU TÁC GIẢ**

**NHÀ XUẤT BẢN TRẺ**



# VỀ CHỦ QUYỀN CỦA VIỆT NAM ĐỐI VỚI HAI QUẦN ĐẢO HOÀNG SA VÀ TRƯỜNG SA

ỦY BAN BIÊN GIỚI QUỐC GIA

**H**oàng Sa và Trường Sa là hai quần đảo ở ngoài khơi Việt Nam: quần đảo Hoàng Sa chỗ gần nhất cách đảo Ré, một đảo ven bờ của Việt Nam, khoảng 120 hải lý; cách Đà Nẵng khoảng 120 hải lý về phía Đông; quần đảo Trường Sa chỗ gần nhất cách vịnh Cam Ranh khoảng 250 hải lý về phía Đông.

Nhận thức của các nhà hàng hải thời xưa về Hoàng Sa và Trường Sa lúc đầu mơ hồ; họ chỉ biết có một khu vực rộng lớn rất nguy hiểm cho tàu thuyền vì có những bãi đá ngầm. Ngày xưa người Việt Nam gọi là Bãi Cát Vàng, Hoàng Sa, Vạn Lý Hoàng Sa, Đại Trường Sa hoặc Vạn Lý Trường Sa như các sách và bản đồ cổ của Việt Nam đã chứng tỏ. Hầu như tất cả các bản đồ của các nhà hàng hải phương Tây từ thế kỷ XVI đến thế kỷ XVIII đều vẽ chung quần đảo Hoàng Sa và quần đảo Trường Sa làm một dưới cái tên Pracel, Parcel hay Paracel.<sup>(1)</sup>

1 Bản đồ của nhà hàng hải Bồ Đào Nha, Hà Lan, Pháp như Lazaro Luis, Fer danão Vaz Dourdo, João Teixeira, Janssonius, Willem Jansz Blaeu, Jacob Aertsz Colom, Theunis Jacobsz, Hendrick Doncker, Frederich De Wit Pietre du Val, Henricus E. Van Langren, v.v...

## HOÀNG SA, TRƯỜNG SA LÀ CỦA VIỆT NAM

Về sau, với những tiến bộ của khoa học và hàng hải, người ta đã phân biệt có hai quần đảo: quần đảo Hoàng Sa và quần đảo Trường Sa. Mãi cho đến năm 1787 - 1788, cách đây hai trăm năm, đoàn khảo sát Kergariou-Lochmaria mới xác định được rõ ràng và chính xác vị trí của quần đảo Hoàng Sa (Paracel) như hiện nay, từ đó phân biệt quần đảo này với quần đảo Trường Sa ở phía Nam.

Các bản đồ trên nói chung đều xác định vị trí khu vực Pracel (tức là cả Hoàng Sa và Trường Sa) là ở giữa Biển Đông, phía đông Việt Nam, bên ngoài những đảo ven bờ của Việt Nam.



*Bản đồ hàng hải của người Bồ Đào Nha thế kỷ XVI*



## HOÀNG SA, TRƯỜNG SA LÀ CỦA VIỆT NAM

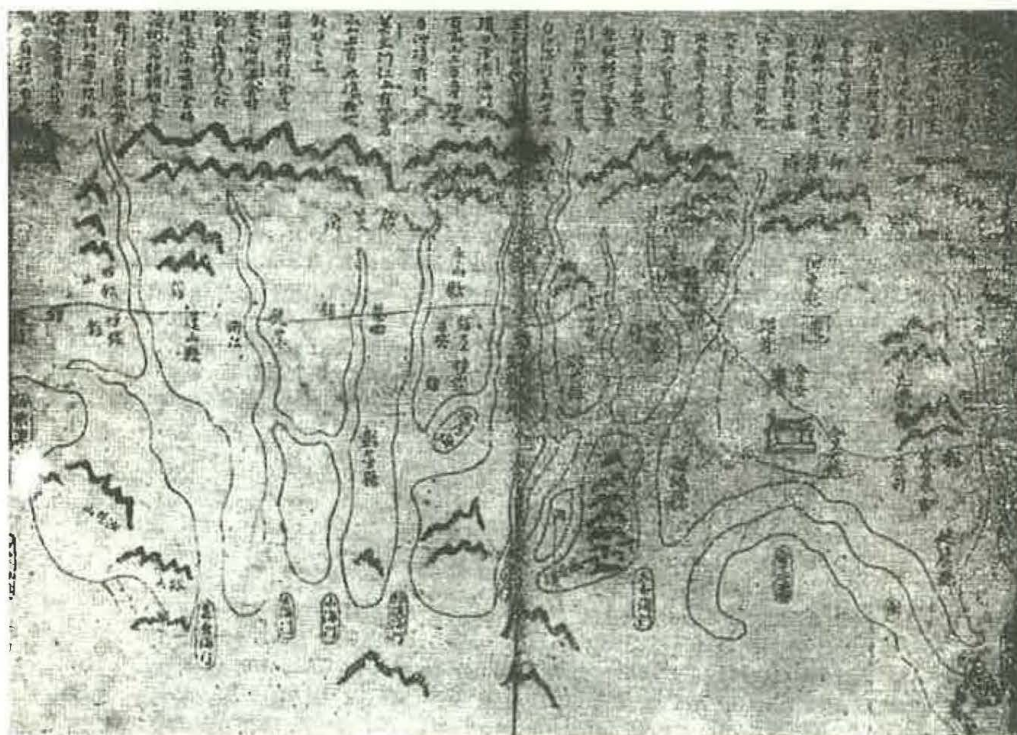
Hai quần đảo mà các bản đồ hàng hải quốc tế xưa và nay ghi là Paracel và Spratley hoặc Spratly chính là quần đảo Hoàng Sa và quần đảo Trường Sa của Việt Nam.

### 1. Chủ quyền lịch sử của Việt Nam đối với hai quần đảo Hoàng Sa và Trường Sa

Từ lâu, nhân dân Việt Nam đã phát hiện quần đảo Hoàng Sa và quần đảo Trường Sa, nhà nước Việt Nam đã chiếm hữu và thực hiện chủ quyền của mình đối với hai quần đảo đó một cách thật sự, liên tục và hòa bình.

Nhiều sách địa lý và bản đồ cổ của Việt Nam ghi chép rõ Bãi Cát Vàng, Hoàng Sa, Vạn Lý Hoàng Sa, Đại Trường Sa hoặc Vạn Lý Trường Sa từ lâu đã là lãnh thổ của Việt Nam.

*Toản tập Thiên Nam Tứ Chí Lộ Đồ Thư*, tập bản đồ Việt Nam do Đỗ Bá, tên chữ là Công Đạo, soạn vẽ vào thế kỷ XVII, ghi rõ



*Toản tập Thiên Nam Tứ Chí Lộ Đồ Thư (trích)*

## HOÀNG SA, TRƯỜNG SA LÀ CỦA VIỆT NAM

trong lời chú giải bản đồ vùng Phủ Quảng Ngãi, xứ Quảng Nam: “giữa biển có một bãi cát dài, gọi là Bãi Cát Vàng”, “Họ Nguyễn<sup>(1)</sup> mỗi năm vào tháng cuối mùa Đông đưa mười tám chiếc thuyền đến lấy hóa vật, được phần nhiều là vàng bạc, tiền tệ, súng đạn”.

Trong *Giáp Ngọ Bình Nam Đồ*, bản đồ xứ Đàng Trong do Đoán quận công Bùi Thế Đạt<sup>(2)</sup> vẽ năm 1774, Bãi Cát Vàng cũng được vẽ là một bộ phận của lãnh thổ Việt Nam.<sup>(3)</sup>

*Phủ Biên Tạp Lục*, cuốn sách của nhà bác học Lê Quý Đôn (1726-1784) biên soạn năm 1776, viết về lịch sử, địa lý, hành chính xứ Đàng Trong dưới thời chúa Nguyễn (1558-1775) khi ông được triều đình bổ nhiệm phục vụ tại miền Nam, chép rõ đảo Đại Trường Sa (tức Hoàng Sa và Trường Sa) thuộc phủ Quảng Ngãi.

“Xã An Vĩnh,<sup>(4)</sup> huyện Bình Sơn, phủ Quảng Ngãi, ở ngoài cửa biển có núi<sup>(5)</sup> gọi là cù lao Ré, rộng hơn 30 dặm,<sup>(6)</sup> có phường Tứ Chính, dân cư trồng đậu, ra biển bốn canh thì đến, phía ngoài nữa lại có đảo Đại Trường Sa. Trước kia có nhiều hải vật và hóa vật của tàu, lập đội Hoàng Sa để lấy, đi ba ngày đêm mới đến, là chỗ gần xứ Bắc Hải”.

“... Phủ Quảng Ngãi, huyện Bình Sơn có xã An Vĩnh, ở gần biển, ngoài biển về phía Đông Bắc có nhiều cù lao, các núi linh tinh hơn 130 ngọn, cách nhau bằng biển, từ hòn này sang hòn kia hoặc đi một ngày hoặc vài canh thì đến. Trên núi có chỗ có suối nước ngọt. Trong đảo có bãi cát vàng, dài ước hơn 30 dặm, bằng

1 Tức chúa Nguyễn, cát cứ xứ Đàng Trong từ năm 1558 đến năm 1775

2 Có tài liệu ghi là Đoan quận công (chú thích của NXB Trẻ)

3 Trong tập Hồng Đức bản đồ.

4 Ở phía Nam cửa biển Sa Kỳ, phường An Vĩnh ở cù lao Ré cũng thuộc xã này.

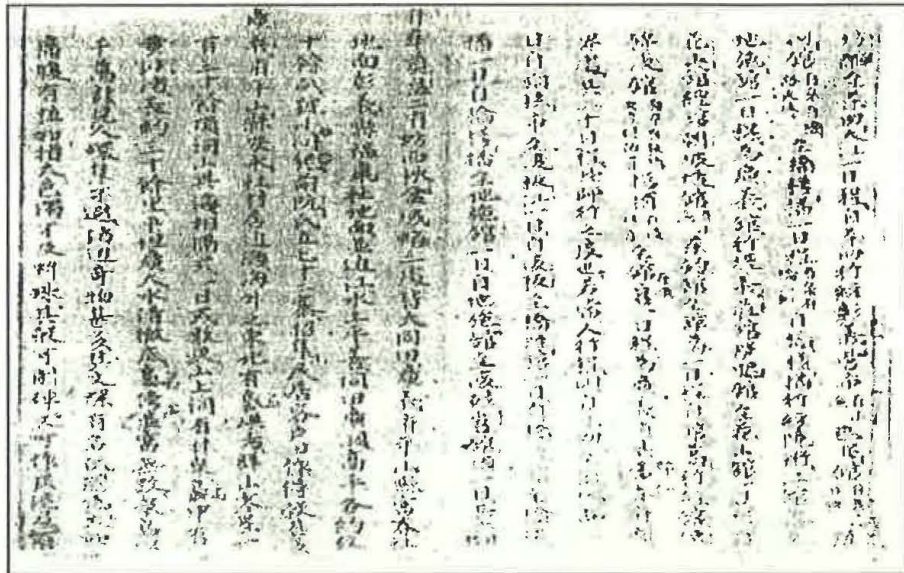
5 Đối với người Việt Nam cũng như người Trung Quốc, chữ Hán “Sơn” có nghĩa là núi, nhưng cũng được dùng để chỉ các hải đảo. Thí dụ: Phần lớn các đảo ở ngoài cửa vịnh Hàng Châu (Nam Thượng Hải) đều được người Trung Quốc gọi là sơn: Bạch Sơn, Đại Ngư Sơn, Đại Dương Sơn, Tiểu Dương Sơn, Trường Bạch Sơn, Trúc Sơn, Tù Sơn v.v... Người Trung Quốc cũng dùng “Sơn” để chỉ một số đảo của Việt Nam như Cửu Đầu Sơn (đảo Cô Tô), Bất Lao Sơn (cù lao Chàm), Ngoại La Sơn (cù lao Ré) v.v...

6 Dặm: Đơn vị đo lường thời xưa của Việt Nam, tương đương 1/2km.



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phẳng rộng lớn, nước trong suốt đáy. Trên đảo có vô số yến sào; các thứ chim có hàng nghìn, hàng vạn, thấy người thì đậu vòng quanh không tránh. Trên bãi vật lạ rất nhiều. Ốc vân thì có ốc tai voi to như chiếc chiếu, bụng có hạt to bằng đầu ngón tay, sắc đục, không như ngọc trai, cái vỏ có thể đeo làm tấm bài được, lại có thể nung vôi xây nhà; có ốc xà cừ, để khảm đồ dùng; lại có ốc hương. Các thứ ốc đều có thể muối và nấu ăn được. Đôi môi thì rất lớn. Có con hải ba, tục gọi là trắng bông, giống đôi môi, nhưng nhỏ hơn, vỏ mỏng có thể khảm đồ dùng, trứng bằng đầu ngón tay cái,



Phủ Biên Tạp Lục (trích)

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muối ăn được. Có hải sâm tục gọi là con đọt đọt, bơi lội ở bến bãi, lấy về dùng vôi xát qua, bỏ ruột phơi khô, lúc ăn thì ngâm nước cua đồng, cạo sạch đi, nấu với tôm và thịt lợn càng tốt.

(...)

Họ Nguyễn lại đặt đội Bắc Hải, không định bao nhiêu suất, hoặc người thôn Thứ Chính ở Bình Thuận, hoặc người xã Cảnh Dương, ai tình nguyện đi thì cấp giấy sai đi, miễn cho tiền sưu cùng các tiền tuân đò, cho đi thuyền câu nhỏ ra các xứ Bắc Hải, cù lao Côn Lôn và các đảo ở Hà Tiên, tìm lượm vật của tầu và các thứ đồi mồi, hải ba, bào ngư, hải sâm, cũng sai cai đội Hoàng Sa kiêm quản. Chẳng qua là lấy các thứ hải vật, còn vàng bạc của quý ít khi lấy được”.

Trong số tư liệu còn tìm thấy ngày nay, có thể kể từ sai sau đây để năm 1786 của quan Thượng tướng công:

“Sai cai Hội Đức Hầu đội Hoàng Sa dẫn bốn chiếc thuyền câu vượt biển đến thẳng Hoàng Sa và các cù lao trên biển thu lượm đồ vàng bạc, đồ đồng và đại bác, tiểu bác,<sup>(1)</sup> đồi mồi, hải ba cùng cá quý mang về kinh đô dâng nộp theo lệ”.

Giám mục J.L.Taberd, trong bài *Ghi chép về địa lý nước Cochinchine* xuất bản năm 1837, cũng mô tả “Pracel hay Paracel” là phần lãnh thổ nước Cochinchine và nói rõ người Cochinchine gọi Pracel hay Paracel là “Cát Vàng”.<sup>(2)</sup> Trong *An Nam Đại Quốc Họa Đồ* xuất bản năm 1838, ông đã vẽ một phần của Paracel và ghi “Paracel hay Cát Vàng” (Paracel seu Cát Vàng) ở ngoài các đảo ven bờ miền Trung Việt Nam, vào khu vực quần đảo Hoàng Sa hiện nay.<sup>(3)</sup>

1 Chỉ loại pháo cỡ nhỏ.

2 *Ghi chép về địa lý nước Cochinchine* (“Note on Geography of Cochinchina”) của giám mục Jean-Louis Taberd đăng trong “Tạp chí của Hội châu Á Bengal” (The Journal of the Asiatic Society of Bengal) tập VI, 1837, tr.745.

3 Đính trong cuốn *Từ điển La tinh - An Nam* (Dictionarium Latino-Anamiticum), 1838.



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*Đại Nam Nhất Thống Toàn Đồ*, bản đồ nước Việt Nam đời Nguyễn vẽ vào khoảng năm 1838, ghi “Hoàng Sa” (số 1) - “Vạn Lý Trường Sa” (số 2) thuộc lãnh thổ Việt Nam, phía ngoài các đảo ven bờ miền Trung Việt Nam thuộc lãnh thổ Việt Nam.

*Đại Nam Nhất Thống Chí*, bộ sách địa lý Việt Nam do Quốc sử quán nhà Nguyễn (1802-1845) soạn xong năm 1882<sup>(1)</sup>, ghi Hoàng Sa là bộ phận lãnh thổ Việt Nam thuộc tỉnh Quảng Ngãi.

Đoạn nói về hình thể tỉnh Quảng Ngãi, cuốn sách viết:

“Phía Đông tỉnh Quảng Ngãi, có đảo cát (tức đảo Hoàng Sa, liền cát với biển làm hào; phía tây nam miền sơn man, có lũy dài vững vàng, phía nam liền với tỉnh Bình Định, có đèo Bến Đá chắn ngang, phía Bắc giáp tỉnh Quảng Nam, có ghềnh Sa Thổ làm giới hạn...”

“... Đầu đời vua Gia Long phỏng theo lệ cũ đặt đội Hoàng Sa, sau lại bỏ; đầu đời Minh Mệnh<sup>(2)</sup>, thường sai người đi thuyền công đến đấy thăm dò đường biển, thấy một nơi có cồn cát trắng chu vi 1.070 trượng, cây cối xanh tốt, giữa cồn cát có giếng, phía Tây Nam còn có ngôi miếu cổ, không rõ dựng từ thời nào, có bia khắc 4 chữ “Vạn Lý Ba Bình” (muôn dặm sóng yên). Cồn cát này xưa gọi là Phật Tự Sơn, phía đông và phía tây đảo đều có đá san hô nổi lên một cồn chu vi 340 trượng, cao 1 trượng 2 thước ngang với cồn cát, gọi là Bàn Than Thạch. Năm Minh Mệnh thứ 16, sai thuyền công chở gạch đá đến đấy xây đền, dựng bia đá ở phía tả để ghi dấu và tra hột các thứ cây ở ba mặt tả hữu và sau. Binh phu đắp nền miếu đào được đồng lá và gang sắt có đến hơn 2.000 cân”.

Nhiều nhà hàng hải, giáo sĩ Phương Tây trong những thế kỷ trước đều xác nhận Hoàng Sa (Pracel hay Paracel) thuộc lãnh thổ Việt Nam.

1 Phần viết về các tỉnh Trung Bộ, được soạn lại và khắc in năm 1909.

2 Có tài liệu ghi là Minh Mạng. (chú thích của NXB Trẻ)

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Một giáo sĩ phương Tây đi trên tàu Amphitrite từ Pháp sang Trung Quốc năm 1701 viết trong một lá thư rằng: “Paracel là một quần đảo thuộc vương quốc An Nam.”<sup>(1)</sup>

J.B. Chaigneau, cố vấn của vua Gia Long, năm 1820 đã viết trong phần chú bổ sung vào cuốn *Hồi ký về nước Cochinchine*:<sup>(2)</sup>

“Nước Cochinchine mà nhà vua bấy giờ đã lên ngôi Hoàng đế gồm xứ Cochinchine và xứ Đông Kinh<sup>(3)</sup>... một vài đảo có dân cư không xa bờ biển và quần đảo Paracel do những đảo nhỏ, ghenh và đá không có dân cư hợp thành...”<sup>(4)</sup>

Trong bài *Địa lý vương quốc Cochinchina*<sup>(5)</sup> của Gutzlaff, xuất bản năm 1849, có đoạn nói rõ Paracel thuộc lãnh thổ Việt Nam và chú thích cả tên Việt Nam là “Cát Vàng”.

Với tư cách là người làm chủ, trong nhiều thế kỷ nhà nước phong kiến Việt Nam đã nhiều lần tiến hành điều tra khảo sát địa hành và tài nguyên hai quần đảo Hoàng Sa và Trường Sa. Các sách địa lý và lịch sử của Việt Nam từ thế kỷ XVII đã ghi lại kết quả các cuộc khảo sát đó.

Trong *Toán tập Thiên Nam Tứ Chí Lộ Đồ Thư*, có ghi:

“Giữa biển có một bãi cát dài, gọi là Bãi Cát Vàng, dài độ 400 dặm, rộng 20 dặm, đứng dựng giữa biển, từ cửa Đại Chiêm<sup>(6)</sup>

- 1 J.Y.C trích dẫn trong bài *Bí mật các đảo san hô - Nhật ký về cuộc hành trình đến Hoàng Sa*. (Mystere des atolls - Journal de voyage aux Paracels) đăng trong tuần báo *Đông Dương* (Indochine) trong các số ngày 3, 10, 17 tháng 7 năm 1941. - Danh từ vương quốc An Nam trong tài liệu chỉ nước Việt Nam thời bấy giờ.
- 2 Danh từ Cochinchine (tiếng Pháp) hoặc Cochinchina (tiếng Anh) trong tài liệu phương Tây trích dẫn ở đây có 2 nghĩa tùy theo văn cảnh: a) nước Việt Nam thời bấy giờ, sách này dịch là nước Cochinchine; b) Xứ Đàng Trong thời bấy giờ, sách này dịch là xứ Cochinchine.
- 3 Tức Đàng Ngoài (le Tonkin).
- 4 A. Salles trích dẫn trong bài *Hồi ký về nước Cochinchine của J.B. Chaigneau* (Le mémoire sur la Cochinchine de J.B. Chaigneau) đăng trong *Tạp chí của những người bạn thành Huế cổ* (“Bulletin des amis du vieux Huế”) số 2 năm 1923 trang 257.
- 5 Bài *Địa lý của vương quốc Cochinchina* (Geography of the Cochinchinese Empire) đăng trong *Tạp chí Hội Địa lý Hoàng gia Luân Đôn* (The Journal of the Royal Geography Society of London) tập XIX, 1849, trang 93.
- 6 Cửa Đại Chiêm nay là cửa Đại, thuộc tỉnh Quảng Nam - Đà Nẵng.



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đến cửa Sa Vinh<sup>(1)</sup>, mỗi lần có gió Tây Nam thì thương thuyền các nước đi ở phía trong trôi dạt ở đây,... có gió Đông Bắc thì thương thuyền đi ở phía ngoài cũng trôi dạt ở đây, đều cùng chết đói hết cả, hàng hóa thì đều để lại ở nơi đó.”<sup>(2)</sup>

“Họ Nguyễn mỗi năm vào tháng cuối mùa đông đưa 18 chiếc thuyền đến (Bãi Cát Vàng) lấy hóa vật, được phần nhiều là vàng bạc, tiền tệ, súng đạn”.

*Đại Nam Thực Lục Tiền Biên*, bộ sử về chúa Nguyễn do Quốc sử quán nhà Nguyễn soạn xong năm 1844, có đoạn viết:

“Xã An Vĩnh, huyện Bình Sơn, Phủ Quảng Ngãi, ở ngoài biển, có hơn 130 bãi cát, cách nhau hoặc một ngày đường hoặc vài trống canh, kéo dài không biết mấy ngàn dặm, tục gọi là Vạn Lý Hoàng Sa. Trên bãi có giếng nước ngọt. Sản vật có hải sâm, đồi mồi, ốc hoa, vich v.v...”

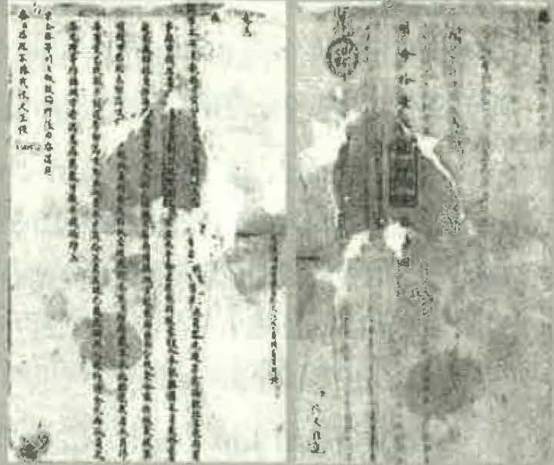
“Hồi đầu dựng nước, đặt đội Hoàng Sa gồm 70 người, lấy dân xã An Vĩnh sung vào, hàng năm đến tháng 3 đi thuyền ra đảo, độ ba ngày đêm thì đến, thu lượm hóa vật, đến tháng 8

### Châu bản triều Nguyễn ngày 27 tháng 6 năm Minh Mệnh thứ 11 (1830)

*Quan Thủ ngự của biển Đà Nẵng tâu trình việc thuyền buôn người Pháp gặp nạn tại Hoàng Sa. Thủ ngự Nguyễn Văn Ngữ được báo đã sai thuyền tuần tiễu cứu họ.*

“Thần là Nguyễn Văn Ngữ chức Thủ ngự của biển Đà Nẵng chấp tay dập đầu trăm lạy kính cẩn tâu việc:

Giờ Dần ngày 20 tháng này, chủ thuyền buôn



1 Cửa Sa Vinh nay là cửa Sa Huỳnh, thuộc tỉnh Quảng Ngãi.

2 Bãi Cát Vàng từ lâu là một khu vực có nhiều đá ngầm nguy hiểm ở Biển Đông.



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Phủ Lãng Sa là Đô-ô-chi-ly cùng Tàiphó Y-đóa và bọn phái viên Lê Quang Quỳnh đi thuyền qua Lữ Tống buôn bán, việc đã tâu báo. Giờ Dần ngày 27 chợt thấy Tàiphó Y-đóa và 11 thủy thủ đi một chiếc thuyền nhẹ vào cửa tấn, nói canh hai ngày 21 tháng này, thuyền qua phía tây Hoàng Sa bị mắc cạn, nước ngập vào thuyền hơn tám thước. Thương thuyền đã bàn bạc dọn gấp hai rương tiền bạc công cùng một số dụng cụ, lương ăn, chia nhau lên hai chiếc thuyền nhỏ theo gió trở về bờ. Nhưng thuyền của Đô-ô-chi-ly cùng phái viên, tiền bạc đi sau chưa thấy về. Thần lập tức sức cho thuyền tuần tiễu ở tấn mang nước ngọt ra biển tìm kiếm. Nay xin tâu báo là đến giờ Ngọ thì gặp Đô-ô-chi-ly cùng phái viên, thủy thủ 15 người, hiện đã đưa về tấn, người và tiền bạc đều an toàn. Còn các phái viên là bọn Lê Quang Quỳnh đều nói bị mệt, kiệt sức, xin nghỉ ngơi vài hôm, sau khi bình phục sẽ lập tức về kinh để thi hành công vụ. Thần xin soạn tập tâu, kính cẩn tâu trình đầy đủ. Thần không viết run sợ. Kính tâu.

Ngày 27 tháng 6 năm Minh Mệnh thứ 11 (1830)

Thần Nguyễn Văn Ngữ ký”

(<http://biengioilanhtho.gov.vn>)

trở về nộp. Lại có đội Bắc Hải mộ dân ở phường Tứ Chính ở Bình Thuận hoặc xã Cảnh Dương sung vào, được lệnh đi thuyền ra các vùng Bắc Hải, Côn Lôn thu lượm hóa vật. Đội này cũng do đội Hoàng Sa kiêm quản”.

*Đại Nam Thực Lục Chính Biên* là bộ sử ký do Quốc sử quán triều đình nhà Nguyễn soạn, viết về các đời vua nhà Nguyễn. Phần viết về các đời vua Gia Long, Minh Mệnh, Thiệu Trị được soạn xong năm 1848, ghi sự kiện Gia Long chiếm hữu các đảo Hoàng Sa năm 1816, sự

kiện Minh Mệnh cho xây miếu, dựng bia trồng cây, đo đạc, vẽ bản đồ các đảo này. <sup>(1)</sup>

*Quyển 52:*

“Năm Bính Tý, niên hiệu Gia Long thứ 15 (1816)...

Vua phái thủy quân và đội Hoàng Sa cưỡi thuyền ra Hoàng Sa để thăm dò đường thủy”.

*Quyển 104:*

“Tháng tám mùa thu năm Quý Tỵ, Minh Mệnh thứ 14 (1833)...

Vua bảo Bộ Công rằng: Trong hải phận Quảng Ngãi, có một

1 Kỳ thứ 2, quyển 122.

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dải Hoàng Sa, xa trông trời nước một màu, không phân biệt được nông hay sâu. Gần đây, thuyền buôn thường (mắc cạn) bị hại. Nay nên dự bị thuyền mảnh, đến sang năm sẽ phái người tới đó dựng miếu, lập bia và trồng nhiều cây cối. Ngày sau cây cối to lớn xanh tốt, người dễ nhận biết ngõ hầu tránh khỏi được nạn mắc cạn. Đó cũng là việc lợi muôn đời”.

*Quyển 154:*

“Tháng sáu mùa hạ năm Ất Mùi, Minh Mệnh thứ 16 (1835)... dựng đền thờ thần (ở đảo) Hoàng Sa thuộc Quảng Ngãi, Hoàng Sa ở hải phận Quảng Ngãi, có một chỗ nổi cồn cát trắng, cây cối xanh um, giữa cồn cát có giếng, phía Tây Nam có miếu cổ, có tấm bài khắc 4 chữ “Vạn Lý Ba Bình”.<sup>(1)</sup> Cồn Bạch Sa chu vi 1.070 trượng, tên cũ là Phật Tự Sơn, bờ đông, tây, nam đều đá san hô thoải uốn quanh mặt nước. Phía bắc, giáp với một cồn toàn đá san hô, sừng sững nổi lên, chu vi 340 trượng, cao 1 trượng 3 thước, ngang với cồn cát, gọi là Bàn Than Thạch. Năm ngoái vua toan dựng miếu, lập bia ở chỗ ấy, nhưng vì sóng gió không làm được. Đến đây mới sai cai đội thủy quân Phạm Văn Nguyên đem lính và giám thành cùng phu thuyền hai tỉnh Quảng Ngãi, Bình Định, chuyên chở vật liệu đến dựng miếu (cách tòa miếu cổ 7 trượng). Bên tả miếu dựng bia đá; phía trước miếu xây bình phong. Mười ngày làm xong rồi về”.

*Quyển 165:*

“Năm Bính Thân, niên hiệu Minh Mệnh thứ 17 (1836), mùa xuân, tháng giêng, ngày mồng 1...

Bộ Công tâu: Cương giới mặt biển nước ta có xứ Hoàng Sa rất là hiểm yếu. Trước kia, đã phái vẽ bản đồ mà hình thể nó xa rộng, mới chỉ được một nơi, cũng chưa rõ ràng. Hàng năm, nên phái người đi dò xét cho khắp để thuộc đường biển. Từ năm nay trở về

1 Vạn Lý Ba Bình: muôn dặm sóng yên.



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sau, mỗi khi đến hạ tuần tháng giêng, xin phái thủy quân và vệ giám thành đắp một chiếc thuyền ô, nhằm thượng tuần tháng hai thì đến Quảng Ngãi, bắt hai tỉnh Quảng Ngãi, Bình Định thuê 4 chiếc thuyền của dân, hướng dẫn ra đúng xứ Hoàng Sa, không cứ là đảo nào, hòn nào, bãi cát nào; khi thuyền đi đến, cũng xét xem xứ ấy chiều dài, chiều ngang, chiều cao, chiều rộng, chu vi, và nước biển xung quanh nông hay sâu, có bãi ngầm, đá ngầm hay không, hình thể hiểm trở, binh dị thể nào, phải tường tất đo đạc, vẽ thành bản đồ. Lại xét ngày khởi

hành, từ cửa biển nào ra khơi, nhằm phương hướng nào đi đến xứ ấy, căn cứ vào đường đi, tính ước được bao nhiêu dặm. Lại từ xứ ấy, trông vào bờ biển, đối thẳng vào là tỉnh hạt nào, phương hướng nào, đối chênh lệch là tỉnh hạt nào, phương hướng nào, cách bờ biển chừng bao nhiêu dặm. Nhất nhất nói rõ, đem về dâng trình”.

“Vua y lời tâu, phái Suất đội Thủy quân Phạm Hữu Nhật đem binh thuyền đi, chuẩn cho mang theo 10 cái bài gỗ, đến nơi đó dựng làm dấu ghi (mỗi bài gỗ dài 5 thước, rộng 5 tấc, dày 1 tấc, mặt

### Châu bản triều Nguyễn (thế kỷ 19)

*Châu bản triều Nguyễn là những bản tấu, phúc tấu của các đình thần các bộ, như bộ Công, bộ Hộ và các cơ quan khác, hay những dụ của nhà vua về việc thực thi chủ quyền của Việt Nam trên quần đảo Hoàng Sa, như việc vãng thám, đo đạc, vẽ họa đồ Hoàng Sa, cắm cột mốc...*

*Như Dụ ngày 18 tháng 7 năm Minh Mạng thứ 16 (1835) thưởng phạt những người công tác tại Hoàng Sa. Phúc tấu của Bộ Công ngày 12 tháng 2 năm Minh Mạng thứ 17 (1836) ghi lời châu phê của vua Minh Mạng: Mỗi thuyền vãng thám Hoàng Sa phải đem theo 10 tấm bài gỗ (cột mốc) dài 4, 5 thước, rộng 5 tấc, khắc sâu hàng chữ: “Năm Bính Thân (Minh Mạng thứ 17), họ tên cai đội thủy quân phụng mệnh đi đo đạc, cắm mốc ở Hoàng Sa để lưu dấu.” Dụ ngày 13 tháng 7 Minh Mạng 18 (1837) có đoạn cho biết trước có phái thủy sư, giám thành, binh dân hai tỉnh Quảng Ngãi, Bình Định đi Hoàng Sa đo đạc, cắm mốc, vẽ họa đồ. Tấu của bộ Công ngày 2 tháng 4 nhuận năm Minh Mạng thứ 19 (1838) về việc hoãn khởi hành ra Hoàng Sa bởi gió mưa lớn.*

*(Theo Tienphong online)*

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Một trang Đại Nam Thực Lục Chính Biên



Tờ tâu của Bộ Công đệ trình lên vua Thiệu Trị năm 1847

bài khắc những chữ “Minh Mệnh thứ 17, năm Bính Thân, thủy quân Chánh đội trưởng suất đội Phạm Hữu Nhật, vâng mệnh đi Hoàng Sa trông nom đo đạc đến đây lưu dấu để ghi nhớ”).

Cũng trong Đại Nam Thực Lục Chính Biên có ghi, năm 1847 Bộ Công đệ trình lên vua Thiệu Trị tờ tâu, trong đó có viết: Xứ Hoàng Sa thuộc vùng biển nước ta. Theo lệ hàng năm có phái binh thuyền ra xem xét thông thuộc đường biển. Năm nay bận nhiều công việc xin hoãn đến năm sau. Vua Thiệu Trị đã phê: “Đình”.

Đại Nam Nhất Thống Chí (1882) có ghi:

“Đảo Hoàng Sa: ở phía Đông cù lao Ré huyện Bình Sơn. Từ bờ biển Sa Kỳ ra khơi thuận gió, ba bốn ngày đêm có thể đến. Ở đó có đến hơn một trăm ba mươi đảo nhỏ, cách nhau hoặc một ngày đường hoặc vài trống canh. Trong đảo có bãi cát vàng, liên tiếp kéo dài không biết mấy ngàn dặm tục gọi là Vạn Lý Trường



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Sa. Trên bãi có giếng nước ngọt, chim biển tụ tập không biết cơ man nào. Sản xuất nhiều hải sâm, đồi mồi, ốc hoa, vích... Hóa vật của các tàu thuyền bị nạn bão trôi giạt ở đây”.

Các sách khác thời Nguyễn như *Lịch Triều Hiến Chương Loại Chí* (1821), *Hoàng Việt Địa Dư Chí* (1833), *Việt sử Cương Giám Khảo Lược* (1876) cũng mô tả Hoàng Sa một cách tương tự.

Do đặc điểm của Hoàng Sa và Trường Sa là có nhiều hải sản quý lại có nhiều hóa vật của tàu bị đắm như trên đã nói, Nhà nước phong kiến Việt Nam từ lâu đã tổ chức việc khai thác hai quần đảo đó với tư cách một quốc gia làm chủ. Nhiều sách lịch sử và địa lý cổ của Việt Nam đã nói rõ tổ chức, phương thức hoạt động của các đội Hoàng Sa có nhiệm vụ làm việc khai thác đó.

Kế tiếp các chúa Nguyễn, nhà Tây Sơn phải liên tiếp đối phó với sự xâm lược của nhà Thanh và của Xiêm, tuy vậy vẫn luôn luôn quan tâm đến việc duy trì và sử dụng các đội Hoàng Sa.

### Nhà Nguyễn cứu 90 người Anh bị chìm tàu ngoài Hoàng Sa

Một bản triều Nguyễn sách *Đại Nam Thực Lục Chính Biên Đệ Nhị Kỳ* cho biết: Vào tháng 12.1836, thuyền buôn Anh Cát Lợi (tức nước Anh ngày nay) đi qua Hoàng Sa, mắc cạn, bị vỡ và đắm; hơn 90 người được nhà Nguyễn cứu sống đưa vào bờ biển Bình Định. Qua đó chứng tỏ trong thời kỳ làm hoàng đế, vua Minh Mạng và vương triều Nguyễn đã có những việc làm thiết thực để khẳng định chủ quyền đối với quần đảo Hoàng Sa. Từ những việc làm như trồng cây, lập miếu thờ ở Hoàng Sa hay cho cứu vớt tàu phương Tây bị mắc cạn ở Hoàng Sa đã cho thấy vương triều Nguyễn có chủ quyền riêng ở quần đảo này.

(Theo Báo Khoa học và Đời sống online)



Bản dập một bản triều Nguyễn phản ánh việc vua Minh Mạng cho giúp đỡ tàu phương Tây bị mắc cạn ở Hoàng Sa

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Nghĩa là thời Tây Sơn, Nhà nước vẫn tiếp tục tổ chức việc khai thác Hoàng Sa với ý thức thực hiện chủ quyền của mình đối với Hoàng Sa.

Từ khi nắm chính quyền năm 1802 đến khi ký với Pháp Hiệp ước 1884, các vua nhà Nguyễn ra sức củng cố chủ quyền của Việt Nam đối với hai quần đảo Hoàng Sa và Trường Sa.

Đội Hoàng Sa, sau được tăng cường thêm đội Bắc Hải, được duy trì và hoạt động liên tục từ thời các chúa Nguyễn (1558-1783) đến nhà Tây Sơn (1786-1802) và nhà Nguyễn (1802-1945).

Như vậy qua các sách lịch sử, địa lý cổ của Việt Nam cũng như chứng cứ của nhiều nhà hàng hải, giáo sĩ phương Tây nói trên, từ lâu và liên tục trong hàng mấy trăm năm, từ triều đại này đến triều đại khác, Nhà nước Việt Nam đã làm chủ hai quần đảo Hoàng Sa và Trường Sa. Sự có mặt đều đặn của các đội Hoàng Sa do Nhà nước thành lập trên hai quần đảo mỗi năm từ 5 đến 6 tháng để hoàn thành một nhiệm vụ do Nhà nước giao, tự nó đã là một bằng chứng đanh thép về việc Nhà nước Việt Nam thực hiện chủ quyền của mình đối với hai quần đảo đó. Việc chiếm hữu và khai thác của Nhà nước Việt Nam không bao giờ gặp phải sự phản đối của một quốc gia nào khác; điều đó càng chứng tỏ từ lâu quần đảo Hoàng Sa và quần đảo Trường Sa đã là lãnh thổ Việt Nam.

### **2. Việc nước Pháp nhân danh Nhà nước Việt Nam tiếp tục thực hiện chủ quyền đối với quần đảo Hoàng Sa và quần đảo Trường Sa**

Từ khi ký với triều đình nhà Nguyễn Hiệp ước 6.6.1884, Pháp đại diện quyền lợi của Việt Nam trong quan hệ đối ngoại cũng như việc bảo vệ chủ quyền và toàn vẹn lãnh thổ của Việt Nam. Trong khuôn khổ sự cam kết chung đó, Pháp tiếp tục thực hiện chủ quyền của Việt Nam đối với hai quần đảo Hoàng Sa và Trường Sa.

Sau đây là một vài bằng chứng:



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Các pháo hạm của Pháp thường xuyên tiến hành tuần tiễu trong vùng Biển Đông, kể cả Hoàng Sa và Trường Sa.

Năm 1899 toàn quyền Đông Dương Paul Doumer đề nghị với Paris xây tại đảo Hoàng Sa (Pattle) trong quần đảo Hoàng Sa một cây đèn biển để hướng dẫn các tàu biển qua lại vùng này, nhưng kế hoạch không thực hiện được vì thiếu ngân sách.

Từ năm 1920, các tàu hải quan Đông Dương tăng cường tuần tiễu ở vùng Hoàng Sa để ngăn chặn buôn lậu.

Năm 1925, Viện Hải dương học Nha Trang cử tàu De Lanessan ra khảo sát ở quần đảo Hoàng Sa về hải dương học. Ngoài A. Krempf, Giám đốc Viện Hải dương học, còn có các nhà khoa học khác như Delacour, Jabouille... nghiên cứu về địa chất, về sinh vật v.v...

Cũng trong năm 1925, ngày 3 tháng 3, Thượng thư Bộ Binh của Triều đình Huế Thân Trọng Huề lại khẳng định Hoàng Sa là lãnh thổ Việt Nam.

Năm 1927 tàu De Lanessan ra khảo sát khoa học quần đảo Trường Sa.



*Cơ sở hành chính đảo Trường Sa dưới thời Pháp thuộc*



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Năm 1929 phái đoàn Perrier - De Rouville đề nghị đặt 4 cây đèn biển ở 4 góc của quần đảo Hoàng Sa (đảo Tri Tôn, đảo Đá Bắc, đảo Linh Côn, bãi Bom Bay).

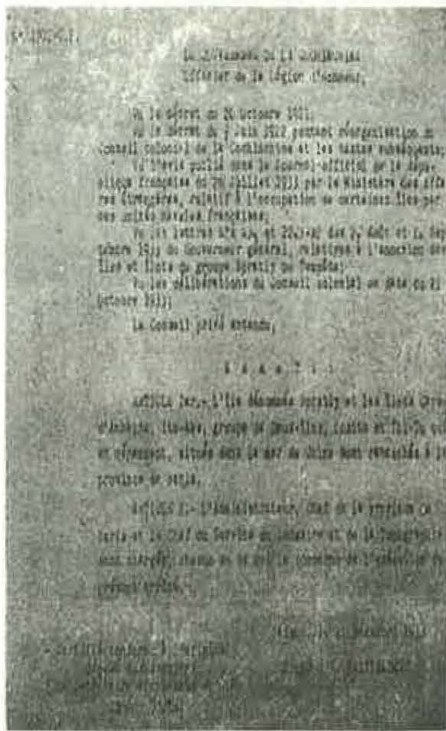
Năm 1930 tàu thông báo La Malicieuse tới quần đảo Hoàng Sa.

Tháng 3.1931 tàu Inconstant ra quần đảo Hoàng Sa.

Tháng 6.1931, tàu De Lanessan ra quần đảo Hoàng Sa.

Tháng 5.1932, pháo hạm Alerte ra quần đảo Hoàng Sa.

Từ 13.4.1930, đến 12.4.1933, chính phủ Pháp đã cử các đơn vị hải quân lần lượt ra đóng các đảo chính trong quần đảo Trường Sa: Trường Sa (Spratley), An Bang (Caye d'Amboine), Itu Aba, nhóm Song Tử (groupe des deux îles),<sup>(1)</sup> Loại Ta và Thị Tứ.



Nghị định số 4702 - CP ngày 21.12.1933 của Thống đốc Nam kỳ

Ngày 21.12.1933, thống đốc Nam Kỳ M. J. Krautheimer ký Nghị định sáp nhập các đảo Trường Sa, An Bang, Itu Aba, nhóm Song Tử, Loại Ta và Thị Tứ vào địa phận tỉnh Bà Rịa.<sup>(2)</sup>

Năm 1937, nhà đương cục Pháp cử kỹ sư công chính Gauthier ra quần đảo Hoàng Sa nghiên cứu chỗ xây dựng đèn biển, lập bãi thủy phi cơ.

Tháng 2.1937 tuần dương hạm Lamotte Piquet do Phó đô đốc Istava chỉ huy thăm quần đảo Hoàng Sa.

1 Tức đảo Song Tử Tây và đảo Song Tử Đông.

2 Nay thuộc tỉnh Đồng Nai.

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Ngày 29.3.1938, vua Bảo Đại ký Dụ tách quần đảo Hoàng Sa khỏi địa hạt tỉnh Nam Nghĩa đặt vào tỉnh Thừa Thiên.<sup>(1)</sup>

Ngày 15.6.1938 toàn quyền Đông Dương Jules Brévié ký Nghị định thành lập một đơn vị hành chính tại quần đảo Hoàng Sa thuộc tỉnh Thừa Thiên.

Năm 1938, Pháp dựng bia chủ quyền, xây dựng xong đèn biển, trạm khí tượng, đài vô tuyến điện ở đảo Hoàng Sa (île Pattle), trong quần đảo Hoàng Sa, xây dựng trạm khí tượng, đài vô tuyến điện ở đảo Itu Aba trong quần đảo Trường Sa.

Hàng chữ trên bia: “Cộng hòa Pháp, Vương quốc An-nam, quần đảo Hoàng Sa, 1816 - đảo Pattle - 1938” (1816 là năm vua Gia Long thực hiện chủ quyền của Việt Nam đối với các đảo Hoàng Sa, 1938 là năm dựng bia).

Ngày 5.5.1939 toàn quyền Đông Dương Jules Brévié ký Nghị định sửa đổi nghị định ngày 15.6.1938 nói trên và thành lập tại quần đảo Hoàng Sa hai cơ quan đại lý “Croissant và các đảo phụ thuộc”, “Amphitrite và các đảo phụ thuộc”.

1 Nay thuộc tỉnh Thừa Thiên - Huế



Dụ của vua Bảo Đại, ký ngày 29.3.1938.



Nghị định của Toàn quyền Đông Dương Jules Brévié ký ngày 5.5.1939



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*Bia chủ quyền do Pháp dựng ở đảo Hoàng Sa năm 1938*

Suốt trong thời gian đại diện Việt Nam về mặt đối ngoại, Pháp luôn luôn khẳng định chủ quyền của Việt Nam đối với các quần đảo Hoàng Sa và Trường Sa và phản kháng những hành động xâm phạm nghiêm trọng chủ quyền của Việt Nam ở hai quần đảo đó như:

- Ngày 4.12.1931 và ngày 24.4.1932, Pháp phản kháng chính phủ Trung Quốc về việc chính quyền Quảng Đông lúc

đó có ý định cho đấu thầu khai thác phân chim trên quần đảo Hoàng Sa.

- Ngày 24.7.1933, Pháp thông báo cho Nhật việc Pháp đưa quân ra đóng các đảo chính trong quần đảo Trường Sa;

- Ngày 4.4.1939, Pháp phản kháng Nhật đặt một số đảo trong quần đảo Trường Sa thuộc quyền tài phán của Nhật.

### **3. Việc bảo vệ và thực hiện chủ quyền của Việt Nam đối với các quần đảo Hoàng Sa và Trường Sa từ sau Chiến tranh Thế giới thứ hai đến nay.**

Khi trở lại Đông Dương sau Chiến tranh Thế giới thứ hai, đầu năm 1947 Pháp đã yêu cầu quân Trung hoa Dân Quốc rút khỏi các đảo của hai quần đảo Hoàng Sa và Trường Sa mà họ đã chiếm đóng trái phép cuối năm 1946, và Pháp đã cho quân đến thay thế quân đội Trung Quốc, xây dựng lại trạm khí tượng và đài vô tuyến điện.

Ngày 7.9.1951, trưởng đoàn đại biểu của Chính phủ Bảo Đại Trần Văn Hữu tuyên bố tại Hội nghị San Francisco về việc ký hòa

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ước với Nhật Bản, rằng từ lâu quần đảo Hoàng Sa và quần đảo Trường Sa là bộ phận của lãnh thổ Việt Nam: "... và cũng vì cần phải dứt khoát lợi dụng tất cả mọi cơ hội để dập tắt mầm mống các tranh chấp sau này, chúng tôi khẳng định chủ quyền đã có từ lâu đời của chúng tôi đối với các quần đảo Trường Sa và Hoàng Sa".

Tuyên bố đó không gặp sự chống đối hoặc bảo lưu nào của đại diện 51 quốc gia tham dự Hội nghị.

Năm 1953, tàu Ingénieur en chef Girod của Pháp khảo sát ở quần đảo Hoàng Sa về hải dương, địa chất, địa lý, môi sinh.

Chính phủ Sài Gòn, sau đó là cả Chính phủ Sài Gòn và Chính phủ Cách mạng Lâm thời Cộng hòa miền Nam Việt Nam, cũng đều thực hiện chủ quyền của Việt Nam đối với quần đảo Hoàng Sa và quần đảo Trường Sa.

Dưới đây là một vài bằng chứng:

Năm 1956, lực lượng hải quân của chính quyền Sài Gòn tiếp quản các quần đảo Hoàng Sa và Trường Sa khi Pháp rút quân về nước.

The image shows a document titled "ASIA - ASIE" with a table listing various countries and their data. The table is organized into two main sections: "ASIA - ASIE" and "Royaume Chinois - Chine". Each section lists countries with columns for names, numbers, and other identifiers. The document is a historical record of the 1953 Geneva Conference on the Indochina Question.

Văn kiện của Tổ chức Khí tượng Thế giới (OMM) năm 1949 ghi nhận Trạm khí tượng Itu Aba ở đảo Ba Bình, quần đảo Trường Sa

... à accepter, pour l'extinction d'une espèce, une monnaie qui n'a pas cours dans son pays.

Nous venons ainsi amenés à demander que d'autres formules de paiement qui impliquent des études et que, notamment, nous puissions compter, en attendant des moyens provisoires, sur une indemnisation normale le jour, qui est très proche, où l'économie restaurée du Japon le mettra en mesure de faire face à ses obligations.

Le Viet-Nam serait légitime qu'on impute ses demandes à tout autre titre que celui de la nécessité pour notre pays de se relever économiquement, comme de réaliser pour notre peuple d'importantes améliorations sociales. Ce dernier objectif ne pourrait être atteint que par la mise en jeu d'importantes ressources qui sont à l'heure actuelle consacrées en grande partie à la sauvegarde de nos libertés et au service de la Paix.

Nous nous apparaît souhaitable, en ce qui concerne notre cause, le maintien de l'unité collective qui compléterait nos efforts.

Je suis heureux, à ce sujet, de constater que mes préoccupations rejoignent celles que l'éminent Représentant de la France a exposées hier à cette même tribune.

Un traité d'assistance mutuelle, pour la défense de tous les pays et pour les mêmes dangers, serait de nature à assurer une paix stable dans cette partie du monde.

Le Viet-Nam, avec enthousiasme, concourt à l'avance à cette œuvre de paix.

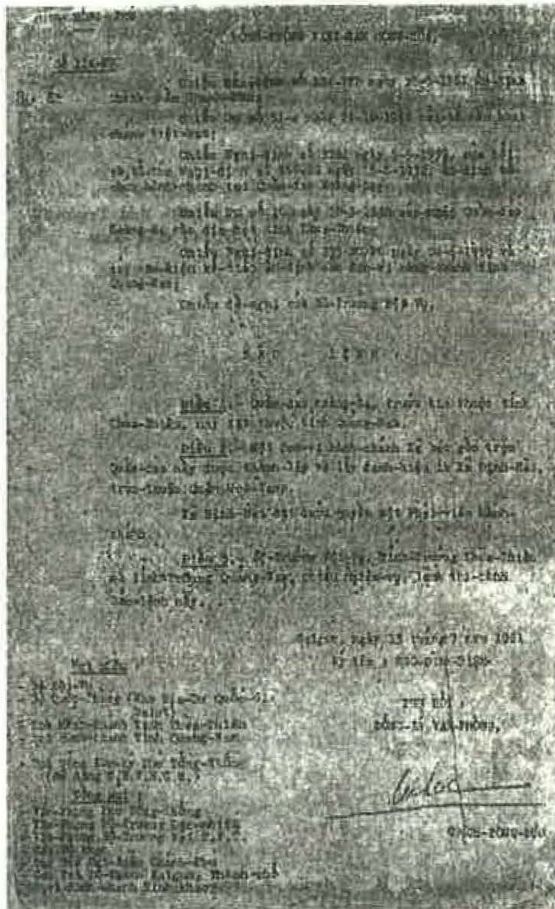
Il nous est fait franchement plaisir de toutes occasions pour étouffer nos peines de divorce, nous affirmions nos droits sur les îles Spratly et les îles qui de tout temps ont fait partie du Viet-Nam.

Soit le bénéfice de ce qui vient d'être exposé, nous sommes à recon-

Lời tuyên bố của Đoàn đại biểu Việt Nam tại Hội nghị San Francisco (1951). (Đăng trong tạp chí France-Asie số 66-67 tháng 11-12/1951)



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Sắc lệnh số 174-NV ngày 13.7.1961 của Tổng thống Việt Nam Cộng hòa Ngô Đình Diệm

lập tại quần đảo này một xã lấy tên là xã Định Hải, trực thuộc quận Hòa Vang và đặt dưới quyền một phái viên hành chính.

Từ 1961 đến 1963, chính quyền Sài Gòn lần lượt cho xây bia chủ quyền ở các đảo chính của quần đảo Trường Sa như: Trường Sa, An Bang, Song Tử Tây, v v...

Ngày 21.10.1969, chính quyền Sài Gòn sáp nhập xã Định Hải vào xã Hòa Long cũng thuộc quận Hòa Vang, tỉnh Quảng Nam.

Tháng 7.1973, Viện Khảo cứu Nông nghiệp thuộc Bộ Phát triển Nông nghiệp và Điền địa Sài Gòn tiến hành khảo sát đảo Nam Ai (Nam Yết) thuộc quần đảo Trường Sa.

Tháng 8.1973, với sự hợp tác của Công ty Nhật Maruben

Năm 1956, Sở Hầm mỏ, kỹ nghệ và tiểu công nghiệp miền Nam tổ chức một cuộc khảo sát với sự giúp đỡ của hải quân của chính quyền Sài Gòn trên 4 đảo: Hoàng Sa (Pattle), Quang Ảnh (Money), Hữu Nhật (Robert), Duy Mộng (Drumond).

Ngày 22.10.1956, chính quyền Sài Gòn đặt quần đảo Trường Sa trực thuộc tỉnh Phước Tuy.

Ngày 13.7.1961, chính quyền Sài Gòn đặt quần đảo Hoàng Sa, trước kia thuộc tỉnh Thừa Thiên, vào tỉnh Quảng Nam và thành

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Corporation, Bộ Kế hoạch và Phát triển Quốc gia Sài Gòn tiến hành khảo sát phốt phát ở quần đảo Hoàng Sa.

Ngày 6.9.1973, chính quyền Sài Gòn sáp nhập các đảo Trường Sa, An Bang, Itu Aba, Song Tử Đông, Song Tử Tây, Loại Ta, Thị Tứ, Nam Ai, Sinh Tồn và các đảo phụ cận vào xã Phước Hải, quận Đất Đỏ, tỉnh Phước Tuy.

Có ý thức về chủ quyền từ lâu đời của Việt Nam đối với quần đảo Hoàng Sa và quần đảo Trường Sa, các chính quyền miền Nam Việt Nam đều bảo vệ chủ quyền đó mỗi khi có nước ngoài biểu thị ý đồ tranh giành hay xâm chiếm đảo nào đó trong hai quần đảo.

Ngày 16.6.1956, Bộ Ngoại giao chính quyền Sài Gòn tuyên bố một lần nữa khẳng định chủ quyền của Việt Nam đối với quần đảo Trường Sa. Đồng thời cũng trong năm này, chính quyền Sài Gòn đã kịch liệt phản đối việc Cộng hòa Nhân dân Trung Hoa chiếm nhóm đảo phía Đông quần đảo Hoàng Sa của Việt Nam.

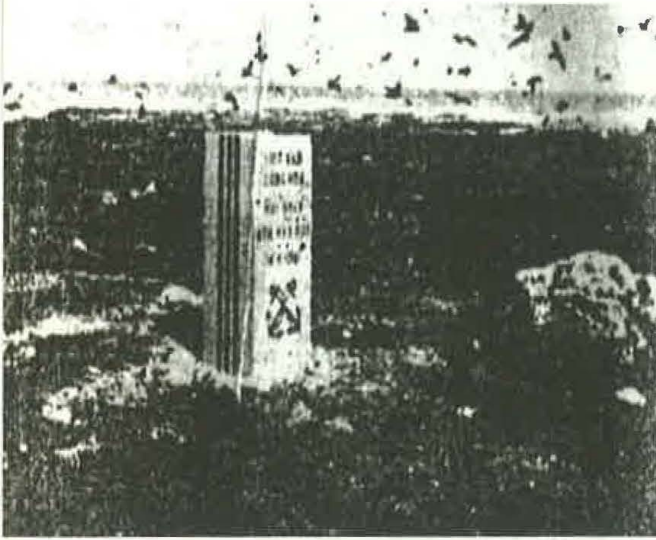
Ngày 22.2.1959, chính quyền Sài Gòn bắt giữ trong một thời gian 82 “ngư dân” Cộng hòa Nhân dân Trung Hoa đổ bộ lên các đảo Hữu Nhật, Duy Mộng và Quang Hoa trong quần đảo Hoàng Sa.



*Ng nghị định số 420-BNV/HCDP/26 ngày 6 tháng 9 năm 1973 của Bộ Nội vụ Việt Nam Cộng hòa.*



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*Bia chủ quyền Việt Nam dựng trên đảo Trường Sa, quần đảo Trường Sa (1961)*

Ngày 20.4.1971, chính quyền Sài Gòn khẳng định một lần nữa quần đảo Trường Sa thuộc lãnh thổ Việt Nam.

Ngày 13.7.1971, Ngoại trưởng chính quyền Sài Gòn khẳng định một lần nữa chủ quyền của Việt Nam đối với quần đảo đó trong cuộc họp báo ngày 10.7.1971.

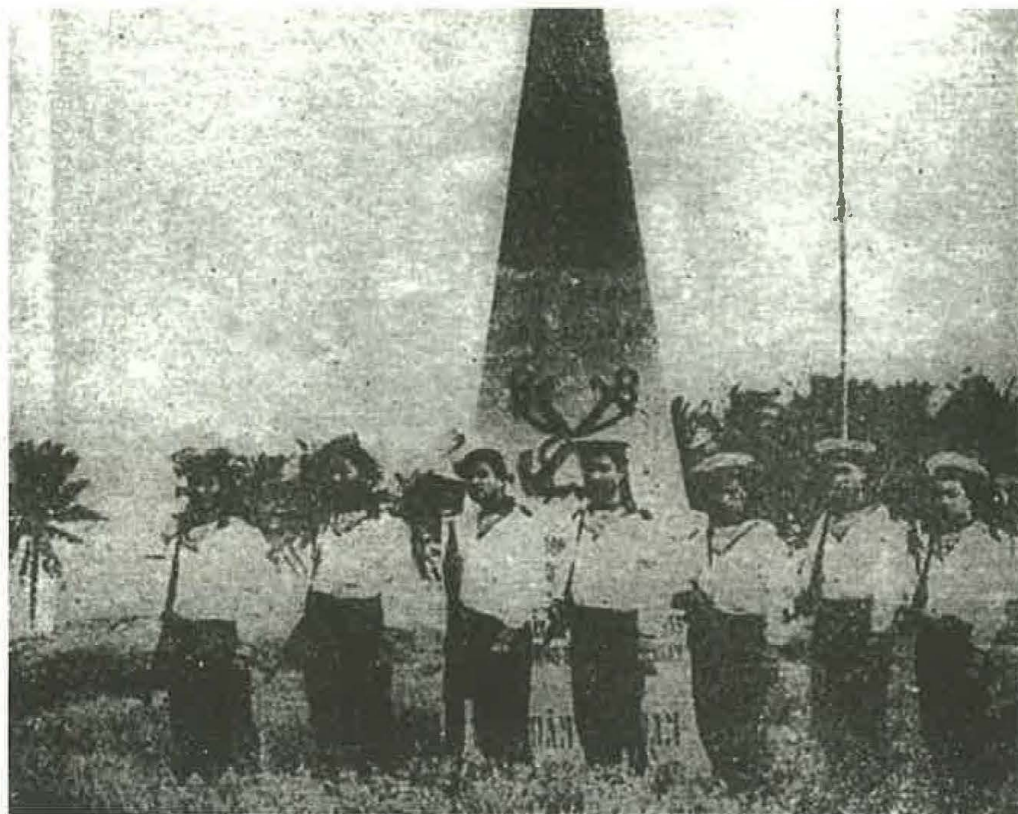
Ngày 19.1.1974, lực lượng quân sự của Cộng hòa Nhân dân Trung Hoa chiếm đóng nhóm Tây Nam của quần đảo Hoàng

Sa, và cũng trong ngày này chính quyền Sài Gòn tuyên bố lên án Cộng hòa Nhân dân Trung Hoa xâm phạm toàn vẹn lãnh thổ của Việt Nam. Ngày 26.1.1974, Chính phủ Cách mạng Lâm thời Cộng hòa miền Nam Việt Nam tuyên bố lập trường ba điểm về việc giải quyết các vấn đề tranh chấp lãnh thổ; ngày 14.2.1974 tuyên bố khẳng định quần đảo Hoàng Sa và quần đảo Trường Sa là một bộ phận của lãnh thổ Việt Nam.

Ngày 5 và 6.5.1975, Chính phủ Cách mạng Lâm thời Cộng hòa miền Nam Việt Nam thông báo việc giải phóng các đảo ở quần đảo Trường Sa do chính quyền Sài Gòn đóng giữ. Ngày 28.6.1974, CPCMLTCHMNVN lại tuyên bố tại khóa họp thứ nhất Hội nghị Luật Biển lần thứ 3 ở Caracas rằng quần đảo Hoàng Sa và quần đảo Trường Sa là của Việt Nam.

Tháng 9.1975, Đoàn đại biểu Chính phủ Cách mạng Lâm thời Cộng hòa miền Nam Việt Nam tại Hội nghị khí tượng ở Colombo tuyên bố quần đảo Hoàng Sa là của Việt Nam, và yêu cầu Tổ chức Khí tượng Thế giới tiếp tục ghi tên trạm khí tượng Hoàng Sa của Việt Nam trong danh mục trạm khí tượng của Tổ chức Khí tượng

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*Hải quân Việt Nam trên đảo Song Tử Tây (thuộc quần đảo Trường Sa)*

Thế giới (trước đây đã được đăng ký trong hệ thống các trạm của OMM dưới biểu số 48.860).

Nhà nước CHXHCN Việt Nam đã ban hành nhiều văn bản pháp luật quan trọng về biển và hai quần đảo Hoàng Sa và Trường Sa như: Tuyên bố của Chính phủ nước CHXHCN Việt Nam về lãnh hải, vùng tiếp giáp, vùng đặc quyền kinh tế và thềm lục địa của Việt Nam năm 1977; Tuyên bố của Chính phủ nước CHXHCN Việt Nam về đường cơ sở dùng để tính chiều rộng lãnh hải Việt Nam năm 1982; Hiến pháp nước CHXHCN Việt Nam năm 1992; Nghị quyết của Quốc hội nước CHXHCN Việt Nam khóa IX, kỳ họp thứ 5 năm 1994 về việc phê chuẩn Công ước của Liên Hiệp Quốc về Luật biển năm 1982; Luật Biên giới quốc gia năm 2003.



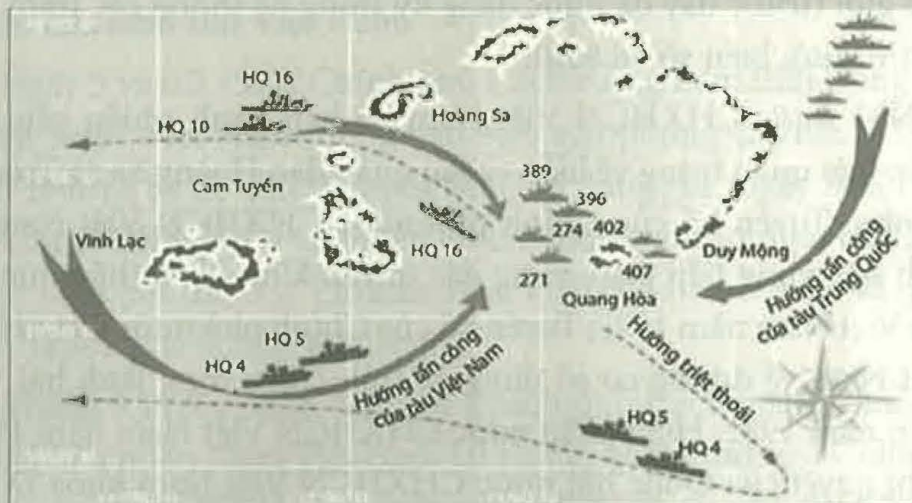
## HOÀNG SA, TRƯỜNG SA LÀ CỦA VIỆT NAM

**HẢI CHIẾN HOÀNG SA 1974**

Sáng ngày 19.02.1974, một hộ tống hạm của Trung Quốc loại Kronstadt xâm phạm lãnh hải Việt Nam, rồi bắn vào khu trục hạm Trần Khánh Dư mang số HQ-04. Để tự vệ, các chiến hạm của Việt Nam Cộng hòa phản pháo. Cuộc giao tranh chớp nhoáng và không cân xứng này làm cho hạm đội Nhật Tảo của Việt Nam bị đánh đắm, hạm trưởng là Thiếu tá Hải quân Việt Nam Cộng hòa Nguyễn Văn Thà tử trận. Tổng cộng 58 quân nhân Quân đội Việt Nam Cộng hòa, gồm thủy thủ và lực lượng Biệt hải hy sinh. Trung Quốc chiếm đóng quần đảo Hoàng Sa của Việt Nam từ đó.



Khu trục hạm Trần Khánh Dư HQ-04, một trong bốn tàu tham gia trận hải chiến Hoàng Sa 1974



Sơ đồ các hướng tấn công hải chiến Hoàng Sa ngày 19.1.1974

## HOÀNG SA, TRƯỜNG SA LÀ CỦA VIỆT NAM

Về quản lý hành chính, năm 1982, chính phủ Việt Nam đã quyết định thành lập huyện đảo Trường Sa thuộc tỉnh Đồng Nai và huyện đảo Hoàng Sa thuộc tỉnh Quảng Nam - Đà Nẵng. Sau khi điều chỉnh địa giới hành chính, hiện nay huyện Hoàng Sa thuộc thành phố Đà Nẵng và huyện Trường Sa thuộc tỉnh Khánh Hòa.

Chính phủ Cộng hòa Xã hội Chủ nghĩa Việt Nam đã nhiều lần khẳng định chủ quyền của Việt Nam đối với quần đảo Hoàng Sa và Trường Sa hoặc trong các công hàm gửi các bên có liên quan, hoặc trong các tuyên bố của Bộ Ngoại giao, hoặc trong các hội nghị của Tổ chức Khí tượng Thế giới ở Genève, (tháng 6.1980), của Đại hội Địa chất Thế giới ở Paris (tháng 7 năm 1980) v.v...

Nhà nước Việt Nam đã nhiều lần công bố “Sách trắng” (năm 1979, 1981, 1988) về chủ quyền của Việt Nam đối với hai quần đảo Hoàng Sa, Trường Sa, khẳng định hai quần đảo Hoàng Sa, Trường Sa là một bộ phận không thể tách rời của lãnh thổ Việt Nam, Việt Nam có đầy đủ chủ quyền đối với hai quần đảo này, phù hợp với các quy định của luật pháp và thực tiễn quốc tế.

Ngày 14.3.1988, Bộ Ngoại giao nước CHXHCN Việt Nam ra Tuyên bố lên án Trung Quốc gây xung đột vũ trang và chiếm đoạt một số bãi đá ngầm tại Trường Sa.

Tháng 4.2007, chính phủ Việt Nam quyết định thành lập thị



Văn kiện của Tổ chức Khí tượng Thế giới (OMM) năm 1973 ghi nhận Trạm khí tượng Hoàng Sa của Việt Nam



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trấn Trường Sa, xã Song Tử Tây và xã Sinh Tồn thuộc huyện Trường Sa.

**Kết luận**

Từ những tư liệu lịch sử rõ ràng, và căn cứ vào những nguyên tắc của luật pháp và tập quán quốc tế, có thể rút ra kết luận sau đây:

1. Từ lâu, Nhà nước Việt Nam đã chiếm hữu thực sự quần đảo Hoàng Sa và quần đảo Trường Sa khi mà các quần đảo đó chưa thuộc chủ quyền của bất cứ quốc gia nào.

2. Từ thế kỷ XVII đến nay, suốt trong mấy thế kỷ, Nhà nước Việt Nam đã thực hiện một cách thực sự, liên tục và hòa bình chủ quyền của Việt Nam đối với hai quần đảo Hoàng Sa và Trường Sa.

3. Nhà nước Việt Nam luôn luôn bảo vệ tích cực các quyền và danh nghĩa của mình trước mọi mưu đồ và hành động xâm phạm tới chủ quyền, toàn vẹn lãnh thổ và quyền lợi của Việt Nam đối với hai quần đảo Hoàng Sa và Trường Sa.

*Nguồn: <http://www.biengioilanhtho.gov.vn>*