

White Paper on the Hoang Sa (Parcel) and Truong Sa (Spratly) Islands

Republic of Vietnam
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Foreword

The Vietnamese archipelagoes of Hoang Sa (Parcel) and Truong Sa (Spratly) are both situated in the South China Sea off the Republic of Vietnam's shore. Their very modest size by no means lesser the importance given them by the Vietnamese: to Vietnamese hearts, these remote insular territories are as dear as could be any other part of the fatherland. The Hoang Sa Islands to the North were occupied by force of arms by the People's Republic of China on January 20, 1974, following a brazen act of invasion which left the world extremely indignant. As for the Truong Sa Islands 500 km to the South, two other foreign powers are illegally stationing troops on four of the main islands in the archipelago.

The Government of the Republic of Vietnam and the Vietnamese people, determined to defend their sovereignty and the territorial integrity of the country, solemnly denounce the occupation of these Vietnamese territories by foreign troops. Regarding the Hoang Sa (Parcel) Islands, not only was the gross violation of Vietnamese sovereignty by the People's Republic of China a defiance of the law of nations and the Charter of the United Nations: in-as-much as this involved the use of force by a world power against a small country in Asia, it also constitutes a threat to peace and stability in South East Asia. In the case of the Truong Sa (Spratly) Islands, although foreign occupation was not preceded by bloodshed, it nevertheless represents a grave violation of the territorial integrity of the Republic of Vietnam. The rights of the Vietnamese people over those islands have been as firmly established there as on the Hoang Sa archipelago.

The Republic of Vietnam fulfils all the conditions required by international law to assert its claim to possession of these islands. Throughout the course of history, the Vietnamese had already accomplished the gradual consolidation of their rights on the Hoang Sa Islands. By the early 19th century, a systematic policy of effective occupation was implemented by Vietnamese emperors. The Truong Sa Islands, known to and exploited by Vietnamese fishermen and laborers for many centuries, were formally incorporated into Vietnamese territory by France on behalf of Vietnam. On both archipelagoes, Vietnamese civil servants assured a peaceful and effective exercise of Vietnamese jurisdiction. The continuous display of state authority was coupled with the constant Vietnamese will to remain the owner of a legitimate title over those islands. Thus military defense of the archipelagoes and diplomatic activities were put forth in the face of false claims from other countries in the area. Vietnamese rights being indisputable, the People's Republic of China chose to resort to military force in order to assert her sudden claims to the Hoang Sa (Parcel) Islands. Two other foreign powers took advantage of the war situation in Vietnam to militarily occupy some of the Truong Sa (Spratly) Islands over which they have no legal rights. Since both the Hoang Sa and Truong Sa Archipelagoes are situated below the 17th parallel, this is primarily a matter of concern for the Republic of Vietnam.

This White Paper is designed to demonstrate the validity of the claims made by the Republic of Vietnam. It is also an appeal for justice to the conscience of all law-abiding and peace-loving nations in the world.

Proclamation by the Government of the Republic of Vietnam (1974)

The noblest and most imperative task of a Government is to defend the sovereignty, independence and territorial integrity of the Nation. The Government of the Republic of Vietnam is determined to carry out this task, regardless of difficulties it may encounter and regardless of unfounded objections wherever they may come from.

In the face of the illegal military occupation by Communist China of the Parcels Archipelago which is an integral part of the Republic of Vietnam, the Government of the Republic of Vietnam deems it necessary to solemnly declare before world opinion, to friends and foes alike, that :

The Hoang Sa (Parcel) and Truong Sa (Spratly) archipelagoes are an indivisible part of the territory of the Republic of Vietnam. The Government and People of the Republic of Vietnam shall not yield to force and renounce all or part of their sovereignty over those archipelagoes.

As long as one single island of that part of the territory of the Republic of Vietnam is forcibly occupied by another country, the Government and People of the Republic will continue their struggle to recover their legitimate rights.

The illegal occupant will have to bear all responsibility for any tension arising there from.

On this occasion, the Government of the Republic of Vietnam also solemnly reaffirms the sovereignty of the Republic of Vietnam over the islands off the shores of Central and South Vietnam, which have been consistently accepted as a part of the territory of the Republic of Vietnam on the basis of undeniable geographic, historical and legal evidence and on account of realities.

The Government of the Republic of Vietnam is determined to defend the sovereignty of the Nation over those islands by all and every means.

In keeping with its traditionally peaceful policy, the Government of the Republic of Vietnam is disposed to solve, through negotiations, international disputes which may arise over those islands, but this does not mean that it shall renounce its sovereignty over any part of its national territory.

(Proclamation by the Government of the Republic of Vietnam dated February 14, 1974)

The Early Historical Rights of Vietnam

The Vietnamese have had knowledge of the Hoang Sa Islands long before the arrival to the South China Sea of Westerners who publicized internationally the name of "Parcels" for this part of their territory. It has been scientifically determined that the Vietnamese presence on this archipelago started in the 15th century. The systematic exploitation of the islands' resources started early and gradually developed Vietnamese interest in these territories, leading in the 18th century to official state decision such as the formation of the Hoang Sa Company to ensure a rational exploitation of those islands. As evidenced by reliable Vietnamese and foreign sources, Vietnam progressively asserted her rights and the Hoang Sa archipelago was formally taken possession of the Vietnamese authorities in the year 1816.

Geographic position.

The Hoang Sa Archipelago is a string of islets off the Vietnamese coast between 111 and 113 degrees longitude East of Greenwich, and between 15045' and 17015' North latitude. The nearest island in the archipelago is roughly at equal distance from the coast of Vietnam and the southern shore of Hainan Island in China. Using Pattle Island (dao Hoang Sa), the largest of the group, as a point of reference, the distances are as follows:

Pattle to the Vietnamese harbor of Danang: 200 nautical miles.

Pattle to the closest shore on Hainan: 150 nautical miles.

Pattle to the closest shore in the Philippines: 450 nautical miles.

Pattle to the closest shore in Taiwan: 620 nautical miles.

The Hoang Sa Islands are divided into two groups: to the East lies the Tuyen Duc (or Amphitrite) Group and to the West lies the

Nguyet Thiem (or Crescent) Group. The main islands are:

Tuyen Duc Group:

Dao Bac - North Island
Dao Trung - Middle Island
Dao Nam - South Island
Phu Lam - Wooded Island (French: Ile Boisee)
Hon Da - Rocky Island
Dao Linh Con - Lincoln Island
Dao Cu Moc - Tree Island
Con Nam - South Bank

Nguyet Thiem Group:

Dao Hoang Sa - Pattle Island
Dao Cam Tuyen - Robert Island
Dao Vinh Lac - Money Island
Dao Quang Hoa - Duncan Island
Dao Duy Mong - Drummond Island
Dao Bach Qui - Passu Keah Island
Dao Tri Ton - Triton Island.

Apart from Pattle, the only other large island is Phu Lam or Wooded Island in the Amphitrite Group. The total surface area of the isles in both Groups barely exceeds 10 square kilometers or about 5 square miles. Most Islets were originally coral reefs and have the appearance of bare sand-banks, except for Wooded Island and Pattle Island, which is known for its coconut trees. The islands are surrounded by rings of reefs which make the approach by vessels very dangerous. An abundance of tortoises, sea slugs and other marine creatures are found there. Rich beds of phosphate have been produced by the interaction of the sea birds' guano with tropical rains and the coral limestone. The climate on the archipelago is marked by constant humidity and little variation in mean temperatures. In economic terms, the Hoang Sa Islands have been frequented long ago by Vietnamese fishermen and in recent times have attracted many companies exploiting phosphate.

First Vietnamese document on the Hoang Sa Islands.

Evidence showing Vietnamese sovereignty over the Hoang Sa Islands extends back over three hundred years. The oldest Vietnamese document on this part of the national heritage is the work done sometime between 1630 and 1653 by a scholar named Do Ba and also known under the penname of Dao Phu. It is a series of maps of Viet Nam which constitutes the third part of the "Hong Duc Atlas" (1): the Atlas started under the reign of Emperor Le Thanh Tong alias Hong Duc (1460-1497). Notes accompanying the maps clearly indicate that as far back as the early 17th century, Vietnamese authorities had been sending, on a regular basis, ships and men to these islands, which at that time were named "Cat Vang" (both "Cat Vang" and "Hoang Sa" mean "yellow sand"). These are the islands now known internationally by the name "Parcels".

The following is the translation of Do Ba's remarks:

"At the village of Kim Ho, on both banks of the river, stand two mountains each containing a gold deposit exploited under government control. On the high sea, a 400-ly long and 200-ly large archipelago (2) called "Bai Cat Vang" (Yellow sand banks) emerges from the deep sea facing the coastline between the harbor of Dai Chiem and the harbor of Sa Vinh (3). During the South-West monsoon season, commercial ships from various countries sailing near the coasts often wreck on the insular territories. The same thing happens during the North-East monsoon season to those ships sailing on the high sea. All the people on board wrecked ships in this area would starve. Various kinds of wrecked cargoes are amassed on these islands. Each year during the last month of winter, the Nguyen rulers send to the islands an 18-junk flotilla in order to salvage them. They obtain big quantities of gold, silver, coins,

rifles and ammunitions. From the harbor of Dai Chiem the archipelago is reached after a journey of one-and-a-half day, while one day suffices if one embarks from Sa Ky''. (4)

Although geographical descriptions of former times are not as precise as they are now, it is clear from the above that the ‘yellow sand’ or Hoang Sa Islands have been part of the economic heritage of the Empire of Vietnam at least before 1653, the latest year when Do Ba could have completed his map drawing. Moreover, an eminent Vietnamese historian and scholar, Vo Long Te, has been able to determine that, taking into account other factors in the Do Ba's text (e.g. historical references and linguistic style), the salvage expeditions described therein actually started in the 15th century (5).

First evidence from foreign sources.

Vietnamese scholars are not the only people to record that Vietnam, formerly known as the ‘empire of Annam’, had early displayed state authority over the Hoang Sa Islands. Actually, foreign sources have been even more accurate in regard to the dates concerning Vietnamese sovereignty. As presented above, on the basis of the Do Ba document, economic exploitation of the Hoang Sa Islands by Vietnamese started, at least, before 1653. However as early as 1634, the Journal of Batavia. Published by the Dutch East Indies Company, recorded incidents showing that Vietnamese jurisdiction was then already recognized by citizens of other countries.

According to the Journal of Batavia published in 1634-1636, (6) on July 20.1634, three Dutch ships named Veenhuizen, Schagen (7) and Grootebroek left Touron (present-day Da Nang) on their way to Formosa, after having come from Batavia (present-day Djakarta). On the 21st, the three ships were caught in a tempest and lost contact with one another. The Veenhuizen arrived in Formosa on August 2 and the Schagen. on August 10. But the Grootebroek capsized near the Parcel Islands, north of the 17th Parallel. Of the cargo estimated at 153,690 florins, only 82,995 florin-worth of goods severe recovered by the surviving crew, the rest went down to the bottom of the sea. Of the ship's company nine men were also missing.

After he had taken every disposition to have the remains of the cargo safely stored on the islands, under the guard of 50 sailors, the captain of the Grootebroek took to sea with another 12 sailors and headed toward the Vietnamese coast to seek help in the realm of the Nguyen Lords. However, when the group reached the mainland, they were taken prisoners by fishermen and their money was confiscated. This led to a dispute with the Vietnamese authorities. The dispute resulted in further visits by Dutch ships to the Vietnamese Court (*and ultimately, to the granting of free trade rights to Dutchmen and the establishment of the first Dutch factory in Vietnam, headed by Abraham Duijcker*). For our purposes here, however, the significant fact was that, when the Grootebroek sank, the sailors chose to go to Vietnam instead of China, although China was nearer. This is undoubtedly because they assumed the country exercising jurisdiction over the site of the wreckage would naturally provide rescue and be more responsive to their claims.

Testimony by Vietnamese historian Le Qui Don.

Other references to the early historical rights of Vietnam over the Hoang Sa Islands (called ‘Pracels’ in the Journal of Batavia account) are made by the Encyclopedist Le Qui Don (1726-1784) in his history work Phu Bien Tap Luc (Miscellaneous Records on the Pacification of the Frontiers). Le Qui Don was a mandarin sent to the South by the Court in order to serve as administrator in the realm recently taken over by the Court from the Nguyen Lords (hence the appellation of ‘Frontier Provinces’ for these lands in the title of the book).

In his work, Le Qui Don recorded many of the things he saw or heard while on duty in the southern realm. As a consequence, there were several references to the islands belonging to the Nguyen realm. The most extensive and precise reference to the Parcel Islands occurs on pages where it is said:

“The village of An Vinh, Binh Son District, Quang Ngai Prefecture, is close by the sea. To the northeast (of the village) there are many islands and miscellaneous rockheads jutting out of the sea, totaling 130 altogether. From the rockheads out to the islands, it sometimes takes a day (by sea) or at least a few watches. On top of the rocks there sometimes are freshwater springs. Linking the islands is a vast strip of yellow sand of over 30 ly in length, a flat and vast expanse where the water is clear and can be seen through to the bottom”.

On a following page, the fauna and flora of the Parcels are described in detail, thus allowing one to compare them with later scientific descriptions made in the twentieth century: sea-swallows and their valuable nests (among the thousands of varieties of birds found on the islands), giant conches called “elephant-ear conches”, mother-of-pearls, giant tortoises and smaller varieties of turtles, sea urchins, and so forth.

Regarding the usefulness of these islands and their exploitation, Le Qui Don has this to say:

“When they encounter strong winds, large sea-going ships usually take shelter in these islands,”.

“In the past, the Nguyen had created a Hoang Sa Company of 70 men, made up of people from An Vinh village. Every year they take turns in going out to the sea, setting out during the first month of the lunar calendar in order to receive instructions regarding their mission. Each man in the company is given six months worth of dry food. They row in five fishing boats and it takes them three days before they reach the islands. They are free to collect anything they want, to catch the birds as they see fit and to fish for food. They (sometimes) find the wreckage of ships which yield such things as bronze swords and copper horses, silver decorations and money, silver rings and other copper products, tin ingots and lead, guns and ivory, golden bee-hive tallow, felt blankets, pottery and so forth. They also collect turtle shells, sea urchins and striped conches in huge quantities.

“This Hoang Sa Company does not come home until the eighth month of the year. They go to Phu Xuan (present-day Hue) to turn in the goods they have collected in order to have them weighed and verified, then get an assessment before they can proceed to sell their striped conches, sea turtles and urchins. Only then is the Company issued a certificate with which they can go home. These annual collections sometimes can be very fruitful and at other times more disappointing, it depends on the year. It sometimes happens that the company can go out and return empty-handed.

“I (Le Qui Don) have had the opportunity to check the records of the former Count of Thuyen Duc and found the following results:

“In the year of Nham Ngo (1702), the Hoang Sa Company collected 30 silver ingots.

“In the year of Giap Than (1704), 5,100 catties of tin were brought in.

“In the year of At Dau (1704), 126 ingots of silver were collected.

“From the year of Ky Suu (1709) to the year of Quy Ti (1713) i.e. during five consecutive years, the company managed to collect only a few catties of tortoise shell and sea urchins. At one time, all they collected included a few bars of tin a few stone bowls and two bronze cannons”.

It is clear from the above that in the eighteenth century at least, the Nguyen Lords of southern Vietnam were very much concerned with the economic possibilities of the Hoang Sa (Parcel Islands and in fact actually organized the annual exploitation of this archipelago. The fact that no counterclaims were made by any other nation is patent proof that the Nguyens' sovereign rights over the islands were not challenged by any country.

Elsewhere in the book, Le Qui Don also records an incident dating from 1753 which throws some light over the question of Chinese-Vietnamese relationships regarding the Parcel Islands. *“The shores of the Hoang Sa Islands are not far from Lien-chou Prefecture in*

Hainan Province, China. (For that reason) our ships sometimes meet with fishing boats from our Northern neighbor (China) on the high sea. Ship-mates from both countries inquire about one another in the midst of the ocean... On one occasion, there was a report coming from the hall officer in charge of sea traffic investigations in Wen-ch'ang District, Ch'iung-chou Prefecture (Hainan Island, China), which says: "In the eighteenth year of Ch'ien-lung (1753), ten soldiers from An Binh Village belonging to the Cat Liem Company, District of Chuong Nghia, Quang Ngai Prefecture, Annam, set out during, the seventh month to go to the Van Ly Truong Sa (7) to collect sea products. Eight of the ten men went ashore for the collection of products, and two remained on the ship to watch it. A typhoon soon developed which caused the anchor cord to split, and the two who remained in the ship were washed into the port of Ch'ing-lan. After investigation the Chinese officer found the story to be correct and consequently had the two Vietnamese escorted home to their native village. Lord Nguyen Phuc Chu subsequently had the Governor of Thuan Hoa (present-day Thua Thien) Province, the Count of Thuc Luong, write a courtesy note to the hall officer of Wen-ch'ang to acknowledge his help".

This story illustrates a number of points, besides the general civility of intercourse already evinced at the time between China and Vietnam. It is apparent from the story that the Chinese officer from Wen-ch'ang was not bothered by the fact that the Vietnamese were intruding into Chinese territorial waters when they went to the Van Ly Truong Sa. The only concern of the officer was to find out whether the statements made by the two Vietnamese sailors had any basis in fact. In other words, the Chinese officer was only worried about the possibility of the Vietnamese being spies sent into Hainan under the pretense of a storm encountered at sea. When this was disproved, the Chinese immediately had the Vietnamese released and dealt with them very kindly by having them escorted home. The whole incident clearly proves that Vietnamese exploitation of the economic resources on the Parcels in the eighteenth century was a very open activity, carried out peacefully and acknowledged by the Chinese to be an exercise of legitimate rights over the islands.

A famous geography book written by Phan Huy Chu and printed in 1834 by the name of Hoang Viet Dia Du Chi contains a text on the Hoang Sa Islands which does not present much that is new in comparison to the information in Le Qui Don's work. Only two minor differences are found:

The Hoang Sa Company, according to this geographical work, was still composed of 70 men from An Vinh Village. However, they receive dry food and get instruction to go out to sea in the third month of the lunar calendar (rather than in the first, as recorded by Le Qui Don. They begin their return journey in the sixth month.

In the eight month, they arrive home through the port of Eo (Thuan An).

From the above, it can be seen that exploitation of the Parcel Islands was becoming an operation of diminishing return in the early nineteenth century, thus necessitating an excursion of two months only, instead of the six-month excursion needed in the eighteenth century. However Vietnamese interests in the islands were not merely economic, as can be seen in the following testimonies.

Confirmation by other foreign sources.

Various foreign authors confirmed that the Hoang Sa Islands were fully part of the Vietnamese territory as early as the 18th century. For instance, testimony in 1701 by a missionary travelling on the Amphitrite (reportedly the first French ship to enter South-China Sea late in the 17th century) describing frightening dangers experienced by ships in the vicinity of the Parcels, mentioned specifically that this archipelago belonged to the Empire of Annam i.e., a former name for Vietnam (8).

Another document dated April 10, 1768 and called "Note sur l'Asie demandee par M. de la Borde a M. d'Estaing" (now held in French archives) (9) provides evidence of intense

patrol operations between the Parcels and the coast of Vietnam by Vietnamese naval units. When French Admiral d'Estaing was planning a raid against the Vietnamese city of Hue in order to set a French establishment in Indochina, he reported that Vietnamese vessels frequently cruised between the Parcels and the coast and thus, "would have reported about his approach". This fact apparently caused him to cancel the raid planned against Vietnam. This demonstrates that as long as two centuries ago, the Hoang Sa Islands were already included in the Vietnamese system of defense and that the most evident acts in the exercise of state jurisdiction were regularly performed by Vietnamese authorities.

In the same document, Admiral d'Estaing also gave various detailed descriptions of the defense installations on the shore. He wrote that "the Hue citadel contained 1,200 cannons, of which 800 were made of bronze, many bearing the arms of Portugal and the date 1661. There were also some smaller pieces (bearing the arms of Cambodia and the monogram of the British Company of India) that had been salvaged from driftwood of wrecked vessels in the Parcels".

In another proposal made in 1758-59 for a French attempt against Vietnam and presented in his *Memoire pour une entreprise sur la Cochinchine* proposee a M. de Magon par M. d'Estaing (10), admiral d'Estaing made another mention of the Hoang Sa Islands in his description of the defense of Lord Vo Vuong's palace. Built on the bank of a river, he reported "the palace was surrounded by an 8 to 9-foot high wall without any kind of fortification. There were many cannons that were designed for decoration, rather than for use. Admiral d'Estaing put the number of cannons at 400, many being Portuguese pieces "taken here from ships wrecked on the Parcels".

In a book published in London in 1806: "a Voyage To Cochinchina", John Barrow told the story of a British journey to Vietnam and indicated that the Parcels were part of the Vietnamese economic world. The journey described in the book was made by Count Maccartney, then British Envoy to the Chinese Court. Leaving England on September 2, 1792, Count Maccartney stopped in Tourane (Danang) between May 24 and June 16, 1793 in order to enter into contact with the King of Cochinchina. The 3-week long stay gave John Barrow leisure to study Vietnamese vessels. Therefore, he provided in his book a detailed description of different types of boats used by the Cochinchinese in order to reach, among other places, the Parcel Islands where they collected trepang and swallow nests (11).

Thus Vietnamese and foreign sources agree that the Hoang Sa Islands have for centuries been included within the scope of Vietnamese interests and aims. These sources recognize the perfection of the sovereign title upheld by the Vietnamese in the course of time in relation to a growing number of states. The progressive intensification of Vietnamese control over the Hoang Sa Islands reached a decisive and irreversible point at the beginning of the 19th century, when the reigning Nguyen dynasty developed a systematic policy toward complete integration of the archipelago into the national community.

CHAPTER II

THE EXERCISE OF VIETNAMESE SOVEREIGNTY OVER THE HOANG SA ISLANDS

Historical consolidation of the Vietnamese title to the Hoang Sa Islands continued under the Nguyen dynasty' i.e., after 1802. From that date, it is possible to speak of a Parcel policy , by the successive emperors of Vietnam as manifested through systematic measures taken in the fields of administration, defense,. transports and economic exploitation.

Formal taking of possession by Emperor Gia Long.

The first emperor of the Nguyen dynasty, Gia Long, consecrated the will of the Vietnamese to confirm their sovereignty over the Hoang Sa Islands by formally taking possession of the archipelago. According to various historic sources, in the year 1816 the Vietnamese flag was planted in a formal ceremony on the Parcels. In 1837 the Reverend,

Jean-Louis Taberd, then Bishop of Isauropolis, wrote the following in his "Note on the Geography of Cochinchina printed in the Journal of the Royal Asiatic Society of Bengal, India, (12):

"The Prancel or Parcels is a labyrinth of small islands, rocks and sand-banks, which appears to extend up to the 11st degree of north latitude, in the 107th parallel of longitude from Paris. Some navigators have traversed part of these shoals with a boldness more fortunate than prudent, but others have suffered in the attempt. The Cochinchinese called them Con-Vang. Although this kind of archipelago presents nothing but rocks and great depths which promise more inconveniences than advantages, the king GIA LONG thought he had increased his dominions by this sorry addition. In 1816, he went with solemnity to plant his flag and take formal possession of these rocks, which it is not likely any body will dispute with him".

The Reverend Jean Louis Taberd was not the only one to give testimony in support of Vietnamese sovereignty over the Parcels. Another foreigner, a Frenchman who spent many years in the Far East and who was a contemporary eyewitness, wrote (13):

"Cochinchina, of which the sovereign king today carries the title of Emperor, includes Cochinchina proper, Tonkin: a few scarcely inhabited islands not far from the coastline and the Parcel archipelago made up of islets, coral reefs and uninhabited rocks. It was in 1816 that the present Emperor (Gia Long) took possession of this archipelago".

Consolidation of sovereignty under subsequent emperors.

Numerous documents in Vietnamese archives give the most convincing facts about the display of the Nguyen dynasty's authority over the Hoang Sa Islands. One of the striking facts was the order given in 1833 by Emperor Minh Mang to his minister of Public Work to plant trees on some of these islands because *"trees will grow up and will offer a luxuriant vegetation that would allow navigators to reconnoiter these vicinities so to avoid having their ships being wrecked in these not very deep waters. This will be for the profit of ten thousand generations to come"* (14). Considering the fact that most ships that sank in the area were foreign-owned, there is no doubt that the Vietnamese executed this act to meet their international responsibilities. Thus, by offering certain guarantees to other states and their nationals, by being an identifiable addressee of international claims regarding the Hoang Sa Islands, Vietnam further asserted her title to the property of these territories (15).

One year later, in 1834, the same emperor Minh Mang sent Garrison Commander Truong Phuc Si and 20 other men to the Hoang Sa archipelago in order to make a map of the area (16). This mission apparently was not carried out to the satisfaction of officials in the Ministry of Public Works who, two years later, reported to the Emperor that because of the size of the area, *"only one island had been drawn on a map which is not as precise and detailed as we would wish"*. The report added that since these islands were *"of great strategic importance to our maritime borders"*, it would be appropriate to send out missions each year in order to explore the whole archipelago and to get accustomed to the sea routes there.

The report further pointed out that all the islands, islets and mere sand-banks must be surveyed in order to get a description of their relief and size, and to determine coordinates and distances. The Emperor approved the recommendations and sent a Navy team to the Hoang Sa Islands for the purposes set in the report (1836). Ten markers were taken along on the vessel to be planted on the islands which the team would reconnoiter. On each marker was the inscription: *"In the year Binh Than, 17th Year of the reign of Minh Mang, Navy Commander Pham Huu Nhat, commissioned by the Emperor to Hoang Sa to conduct map surveyings, landed at this place and planted this marker so to perpetuate the memory of the event"* (17). The data gathered in the survey were used in the drawing of the remarkable *"Detailed map of the Dai Nam"* (see Fig. 8) (18) achieved circa 1838. Although not locating the two

archipelagoes of Hoang Sa and Truong Sa at their proper place, the “**Detailed Map**” had the merit of mentioning these archipelagoes specifically by their names. The islands later known as Parcels and Spratlys were then clearly and indisputably considered parts of the Vietnamese territory.

In other action lying within the normal display of state jurisdiction. Emperor Minh Mang ordered, in the 16th year of his reign (1835), the building of a temple on one of the Hoang Sa Islands. The following is recorded in Vietnamese annals (19): *“Among the Hoang Sa Islands located in the territorial waters of Quang Nghia (present day Quang Nam) Province, there exists the island of Bach Sa (white-sand island) where the vegetation is luxuriant. In the middle of the island is a well and in its South-West part, a temple with a sign on which is, engraved the sentence , “Van Ly Ba Binh” - (the waves calm down over ten thousand leagues). To the North of this isle is another one built with coral with a perimeter measuring 340 truong 2 xich and an altitude of 1 truong 3 thuoc (20). It is as high as the Island of White-Sand and called Ban Than Thach (21). Last year (1834), it was the intention of the Emperor to build there a temple and a stele, but the project was postponed because of unfavorable winds and waves. This year, the Emperor ordered Navy Commander Pham Van Nguyen to head an Elephant Garrison Detachment and boatmen hired in the provinces of Quang Nghia and Binh Dinh to transport materials for the purpose of building a temple on that island. This temple is 7 truong distant from the old one, and has a stonemark to its left and a brick screen in front. Upon completion of the work which lasted 10 days, the team returned home”* (22). Another document indicates that the stonemark just mentioned was 1 thuoc 5 tac high and 1 thuoc 2 tac wide (23). Under the reign of Emperor Minh Mang, communications between the Hoang Sa islands and the mainland were intense enough to justify the construction of a temple dedicated to the Gods of Hoang Sa right on the beach of Quang Ngai in 1835. That city was a main harbour from which boats going to these islands originated (24).

Time has probably erased traces of these works performed almost 140 years ago and for which light materials were largely used. But all the Vietnamese documents quoted are official publications kept until now in Vietnamese archives or prestigious foreign institutions. These reliable recordings of facts in Vietnam's national life demonstrate clearly that one of the major concerns of the Nguyen emperors' territorial policy was to consolidate sovereignty over the Hoang Sa Islands. As a result, Vietnamese jurisdiction became so obvious that contemporary foreign witnesses never thought of it as a contested matter. We already mentioned Bishop Jean-Louis Taberd's and J.B. Chaigneau's testimonies, but other foreign publications of the 19th Century also recognized the Vietnamese possession: a western map drawn in 1838 showed the - Parcel or Cat Vang Islands as part of the Annam Empire (5). A geography book written under the auspices of the (French) Ethnography Society mentioned the Parcels or Kat Vang as one of the very numerous islands and archipelagoes belonging to Vietnam (26). It must be stressed that all French works quoted had been produced at a time when the French did not yet control Vietnam and, therefore, had no interest in defending French claims to sovereignty over these islands.

Preservation of rights under French colonial rule.

In the second half of the 19th century, the Southern part of Vietnam, named Cochinchina, became a French possession (1867). This was followed by the establishment of a French protectorate over the remaining Vietnamese territory (1883). Therefore the French temporarily took over the responsibility to defend the territorial integrity of the “Annam Empire”. On behalf of Vietnam, the French continued the normal exercise of sovereignty over the Hoang Sa Islands (Parcels).

They did fulfil their responsibilities. Although kept busy by the task of strengthening their authority on the Indochina mainland, the French colonial government did not forget the

far-off islands and took all the necessary measures to ensure an orderly administration, an adequate defense and a better knowledge of what a French author called in 1933 “the infinitely small Parcels of our colonial domain” (27). The Vietnamese title to sovereignty was not only preserved, it was reinforced. On the other hand, numerous scientific studies about the islands were produced which could only be conducted if the Parcels were firmly under French-Vietnamese control.

The international responsibility that the Nguyen emperors had already accepted in regard to navigation of foreign vessels was not neglected by the French, who completed in 1899 a feasibility study for the construction of a lighthouse on one of the Hoang Sa Islands. Unfortunately, this project, which was supported by Indochina Governor General Paul Doumer, could not be realized for lack of funds. However, French patrol vessels assured the security of sea traffic and conducted many rescue operations for wrecked foreign ships in the Parcel. Beginning in 1920, apparently worried by the suspect presence of various kinds of vessels in the Hoang Sa area, the Indochinese customs authorities started making regular inspections to the islands for the purpose of checking illegal traffic. As early as the end of World War I, the French control was so evident that Japanese nationals called on French Indochina's authorities for the exploitation of phosphate. This was the case of the Mitsui Bussan Kaisha Company, which extracted phosphates for many years from two islands, Ile Boisee (Phu Lam) and Ile Roberts (Cam Tuyen). The Japanese Government, on its part, implicitly recognized French jurisdiction in 1927. In a report to the Minister of Colonies in Paris dated March 20, 1930, the French Governor of Indochina wrote that in 1927, the Japanese consul in Hanoi, Mr. Kurosawa, was instructed by his government to inquire with the French authorities about the status of some groups of islands in the South China Sea. But the Consul declared that, according to instructions from the Japanese Government, the Parcels were expressly left outside of the discussions, the question of ownership of these islands not being a matter of dispute with France (Japan was then involved in controversies over the Truong Sa or Spratly Islands).

The French jurisdiction was sufficiently firm and peaceful to permit such actions as the conduct of scientific surveys on the islands. An impressive list of superior-level scientific studies in all-fields was made available by colonial institutions or private authors. Starting in 1925, with the first recorded scientific mission on the vessel De Lanessan by scientists from the famed Oceanographic Institute of Nha Trang, knowledge about this part of Vietnamese territory increased. The trip by the De Lanessan confirmed the existence of rich beds of phosphate, which became the object of many detailed studies. For example:

Maurice Clerget, *Contribution a l'etude des iles Parcels, les phosphates. Nhatrang, Vietnam 1932.*

A. Lacroix, *Les ressources minerales de la France d'Outre-Mer, tome IV (Parcels' phosphate: p. 165), Paris 1935.*

United Nations, ECAFE, *Phosphate Resources of Mekong Basin Countries, 4. Vietnam, (1): Parcel Islands, Bangkok 1972.*

The De Lanessan survey mission also proved the existence of a continental shelf which reaches out in platforms from the Vietnamese coast into the sea: the Parcels rest on one of these platforms, and thus are joined to the coast of Vietnam by a submarine plinth. In the following years, the names of many French ships have entered the history of both the Parcel and Spratly archipelagoes: the *Alerte*, *Astrobale*, *Ingenieur-en-Chef Girod* made other survey trips to the Hoang Sa Islands. The result was an increasing number of other scientific publications about these islands in all fields of human concern and activities. Some of these are:

A. Krempf, *La forme des recifs coralliens et le regime des vents alternants, Saigon 1927.*

J. Delacour and P. Jabouille, Oiseaux des iles Parcels, Nha Trang, 1928.

Numerous reports called Notes of the Oceanographic Institute of Indochina in Nhatrang containing valuable scientific data about the Parcels, for instance the "5th Note" (1925-26) and the "22nd Note" (1934).

French scientists continued to work for Vietnam-in its early years of independence and continued to contribute to our knowledge of these Vietnamese islands. Among them was Mr. E. Saurin, the author of numerous studies of great scientific value:

Notes sur les iles Parcels (Geologic archives of Vietnam No. 3), Saigon 1955.

A propos des galets exotiques des iles Parcels (Geologic archives of Vietnam No. 4), Saigon 1957.

Faune Malacologique terrestre des iles Parcels (Journal de Conchiliologie, Vol. XCVIII), Paris 1958.

Gasteropodes marins des iles Parcels, Faculty of Sciences, Saigon, Vol. I: 1960, Vol. II: 1961.

Another French scientist, H. Fontaine, produced, 'in cooperation with a Vietnamese colleague a remarkable study of the islands' flora called "Contribution de la connaissance de la flore des iles Parcels" (Faculty of Sciences, Saigon 1957). These scientific achievements, accomplished over a long period of time, could only have been achieved by a country exercising sovereignty over these islands to the fullest extent. As a matter of fact, Vietnam would not run any risk by challenging other countries having a pretense to sovereignty over the Hoang Sa Islands to show the list of scientific publications they had made available in the past.

In their acts mentioned above, the French, who merely took over rights and responsibilities temporarily transferred to them by the people under their "protection", simply assured a normal continuation of jurisdiction on behalf of the Vietnamese. However, in the face of unfounded Chinese claims over and illegal actions connected with, the Hoang Sa Islands in 1932, the French felt that it was necessary to take defensive measures. Since 1909, China has made sporadic claims over the islands. On one occasion during that year, the provincial authorities of Kuang Tung sent gun-boats to conduct a reconnaissance mission there. On March 20, 1921 the Governor of Kuang Tung, signed a peculiar decree annexing the Hoang Sa Islands to the Chinese Island of Hainan. However, his action went unnoticed because it is recorded only in the provincial records therefore, nobody could know about it in order to make comments or to protest. Although not followed by occupation of any sort, actions such as these were enough to cause some preemptive actions by the French. For instance, in 1930 crew-members of La Malicieuse landed on many of the Hoang Sa Islands to plant flags and set up "sovereignty columns".

More serious was the Chinese intention to invite bids for the exploitation of the islands' phosphate. When the Chinese intent became known, the French Government protested to the Chinese Embassy in Paris by a note dated December 4, 1931. A few months later, when the Chinese effectively called for bids, the Paris Government renewed the protests by a Note dated April 24, 1932. This time the French strongly reaffirmed their rights with substantive supporting arguments, e.g. the former rights exercised by the emperors of Vietnam, the official taking of possession by Emperor Gia Long in 1816, and the sending of Indochinese troops to guard the islands, etc...On September 29, 1932, the Chinese Government rejected the French protest on the ground that at the time Gia Long took possession of the islands, Vietnam was a vassal state of China. It may be true that, as in other periods of its history, Vietnam was then a nominal vassal of China (although it was never quite clear when this situation started or ended), but it is certain that by this reply China implicitly recognized that Vietnam had asserted its claim to the Hoang Sa Islands. The Chinese Government also appeared confused about the legal distinction between suzerainty

and sovereignty: even if Vietnam was a vassal state of China in 1816, the formal relationship of suzerainty could not preclude such Vietnamese acts of sovereignty as the incorporation of new territories.

Convinced of her legitimate rights in the dispute, France by a diplomatic note to China dated February 28, 1937, proposed that a settlement of the conflicting claims be reached through international arbitration. But China knew the risks involved in such a challenge and declined the offer. Thus, the Chinese government simply responded by reaffirming its claim to the islands. That negative attitude caused the French to send military units, composed of Vietnamese soldiers and called Garde Indochinoise, to many of the Hoang Sa Islands (28). These units built many -sovereignty columns-, of which there exists photographic records. The column on Pattle Island contained the following inscription in French:

Republique Francaise
Empire d'Annam
Archipel des Parcels
1816 - Ile de Pattle 1938

These dates marked the taking of possession -by Emperor Gia Long and the year the column was erected (29).

These troops, commanded by French officers, were to stay on the islands until 1956 with a brief interruption after 1941. Men the Japanese seized the Parcels (and the Spratlys) by force in -that year, France was the only power to officially protest against it. ' In 1946, shortly after their return to Indochina at the end of World War II, the French sent troops on the vessel Savorgnan de Brazza to re-occupy the archipelago. However, events in the French-Vietminh war compelled these troops to withdraw from the Parcels in September, 1946. Informed that Chinese troops (who had supposedly arrived to disarm defeated Japanese troops pursuant to agreements between the Allied powers) continued to stay on the islands, the French issued a formal protest on January 13, 1947. Then they dispatched the warship Le Tonkinois to the area. Crewmembers found Boisee Island (Phu Lam) still occupied (January 17.1947). The Chinese troops refused to leave and, being outnumbered, the French-Vietnamese soldiers left for Pattle Island where they established their headquarters. They also rebuilt the Weather Station which had operated for 6 years in the past, between 1938 and 1944. The new station became operative in late 1947 and, under international station code 48860, provided the world with meteorological data for 26 more years, until the day when Communist Chinese troops seized the Hoang Sa archipelago by force (January 20.1974).

Beginning in the 1930's, these disputes, with China had already motivated the French authorities in Indochina to take stronger measures in administrative organization. By Decree No. 156-SC dated June 15.1932 the Governor General of Indochina gave the Hoang Sa Islands the name of "Delegation des Parcels" - and the status of an administrative unit of Thua Thien Province. This decree was later confirmed by a Vietnamese imperial ordinance signed by Emperor Bao Dai on March 30, 1938 (the confirmation was necessary because, as the ordinance recalled, the Hoang Sa Islands had traditionally been part of Quang Nam and Quang Ngai provinces, from whence communications with the islands had originated). A subsequent Decree of May 5.1939 by the French Governor General divided the archipelago into two Delegations: Crescent et Dependences, and Amphitrite et Dependences.

These administrative measures were adequately completed by the organization of services on the islands. For instance, health checks were regularly made on the workers, called coolies by the French, during their stay there. Consequently, civil service officers were appointed on a regular basis. These officers had to stay permanently on either Pattle Island (for the Crescent and Dependences Group) or Boisee Island (for the Amphitrite and Dependences Group). However, because of the islands' bad climate, they were allowed long vacations on the mainland and were relieved after short periods. One of these former civil

servants is Mr. Mahamedbhay Mohsine. a French citizen of Indian origin who.. outraged by the Chinese invasion of 1974, has offered to testify anywhere on the legitimacy of Vietnamese rights. Between May 5.1939 and March 13, 1942, Mr. Mohsine served as Administrative Officer or Delegeue administratif for the Parcels. He was first posted on Pattle, then on July 16.1941 was ordered to relieve a colleague, Deputy-Inspector Willaume, on Boisee. Later Mr. Mohsine was officially recommended for an award of distinction in consideration of his contribution to French colonial expansion in the remotest parts of Indochina (30).

Mr. Mahamedbhay was only one of the many civil servants and military personnel who, by serving the French colonial cause on the Hoang Sa Islands, directly contributed to the preservation of Vietnamese rights which had only temporarily been exercised by the French. At an early stage,, French action had been only intermittent - intermittence which is not at all incompatible with the maintenance of the rights but in the last 30 years of their presence, the French did fulfill all the obligations of a holder of title. Thus the French accomplished a valuable conservator act in the safeguarding of legitimacy for the Vietnamese sovereignty over the Hoang Sa Islands.

Return to Vietnamese sovereignty.

After the French-Vietnamese Agreement of March 8.1949, Vietnam gradually regained its independence. Although some French troops were intermittently stationed on some of the Hoang Sa Islands until 1956, it was on October 14.1950 that the French formally turned over the defense of the archipelago to the Vietnamese. General Phan Van Gao, then Governor of Central Vietnam, went in person to Pattle Island to preside over the ceremony. The general made the trip to the remote and isolated island because, as he reported to Prime Minister Tran Van Huu in Saigon:

“I was persuaded that my presence among the Viet Binh Doan (Regional Guard Unit) would have a comforting impact on its morale on the day the unit took over heavy responsibilities” (31).

No doubt Premier Tran Van Huu was pleased by the Governor's initiative, since in the following year (1951) he was to attend the San Francisco Peace Conference with Japan where he solemnly and unequivocally reaffirmed the rights of his country over both the Parcel and Spratly archipelagoes. After its defeat in 1945, Japan had relinquished all its claims to these islands that their forces had occupied. This matter will be discussed further in another chapter.

Reassuming all responsibilities for the Hoang Sa archipelago, the Vietnamese felt that it was more practical to re-incorporate it as part of Quang Nam Province (as things were before the French decree of 1932) because links between these insular territories and the mainland had always originated from the Quang Nam provincial capital of Da Nang. A proposal to that end was made in 1951 by regional authorities in Hue (32), but it was a full ten years later that the President of the Republic, Ngo Dinh Diem, signed a Decree (33) transferring the Hoang Sa Islands from the jurisdiction of Thua Thien Province back to Quang Nam. The entire archipelago was given the status of a ‘‘Xa’’ (village on the mainland). Administrative organization was again perfected 8 years later: by a Prime Minister's Decree (34) the islands became part of a village on the mainland of Quang Nam, the village of Hoa Long, Hoa Vang District.

Most Vietnamese officials posted on the Hoang Sa Islands were thus from Quang Nam Province and usually detached for about a year from their regular position on the mainland. The first civilian officer to be appointed by an independent Vietnamese Government was M. Nguyen Ba Thuoc (appointed December 14.1960 by Arrete No. 241-13NV/NV/3). After 1963 however, due to war conditions in the Republic of Vietnam, the administrative officers-assigned there have always been military men. They were usually NCOs in command of the Regional Forces stationed on Duncan Island. Thus they bore the title of ‘‘Duncan Island Chief’’, concurrently in charge of Administrative affairs for the Hoang Sa Islands.

Whether civilian or military, these officers helped ensure peaceful Vietnamese sovereignty over the islands. Scientific surveys continued, with Vietnamese scientists joining their French colleagues in order to deepen the knowledge about these remote territories. Manned by Vietnamese technicians, the Pattle Weather Station continued providing the world with meteorological data until its forced closure in 1974. The exploitation of phosphate resumed after 1956 with the following yields:

1957-58-59,000 metric tons

1957-58-60 1960 1.570 metric tons

1957-58-61 1961 2.654 metric tons

1957-58-62 1962 and after 12.000 metric tons extracted, but left on the islands.

In 1956 the Ministry of Economy granted the first license to exploit phosphate on the 3 islands of Vinh Lac (Money Island), Cam Tuyen (Roberts) and Hoang Sa (Pattle) to a Saigon businessman named Le Van Cang. In 1959, a license was issued to the "Vietnam Fertilizers Company" which contracted actual extraction and transportation to a Singapore company Yew Huatt (4, New Bridge Road, Singapore 1). Among other clauses, the Vietnamese Company committed itself to obtain from the Government of the Republic of Vietnam the granting of fiscal exemptions and the privilege to use radio facilities at the Pattle Weather Station. After 1960, commercial exploitation of Pattle was granted to the Vietnam Phosphate Company, which stopped all operations in 1963 because of insufficient returns. Interests in phosphate exploitation surfaced again in 1973 when the Republic of Vietnam faced serious problems of fertilizer shortage.

In August of that year, the "Vietnam Fertilizer Industry Company" finished a feasibility study conducted jointly with a Japanese partner, Marubeni Corporation of Tokyo. The survey on the islands lasted two weeks, and Marubeni Corporation provided the engineers needed.

It is no wonder that the exercise of normal sovereignty by the Republic of Vietnam has had to be coupled with actions which are more or less military-oriented. Confronting unfounded claims by China in the Hoang Sa Islands, the Armed Forces of the Republic have been required to display constant vigilance in the defense of this part of Vietnamese territory. As an example, when the Chinese nationalist troops which had refused to leave Phu Lam (Wooded or Boisee) Island in 1947 withdrew in 1950 following Marshall Chiang Kai Shek's defeat, Communist Chinese troops landed there immediately to continue the illegal occupation. A Vietnamese Navy unit assumed responsibility for the defense of the archipelago in 1956. This unit was relieved the following year by a Marine Company. After 1959, the task was assigned to Regional Forces of Quang Nam Province. Vietnamese warships have patrolled the Hoang Sa waters regularly in order to check illegal occupants on the many islands. In this regard, the People's Republic of China appears to have followed guerrilla-type tactics: it surreptitiously introduced first fishermen, then soldiers onto Vietnamese territory. They even built strong fortifications on the two islands of Phu Lam and Linh Con. On February 22, 1959, the Republic of Vietnam's Navy thwarted this tactic by arresting 80 fishermen from mainland China who had landed on the three islands of Cam Tuyen, Duy Mong and Quang Hoa. These fishermen were humanely treated and promptly released with all their equipment after being taken to Da Nang.

The broad range of actions by the Vietnamese authorities regarding the Hoang Sa Islands provides an undeniable evidence of Vietnamese sovereignty. These actions include, among others, the approval of international contracts connected with the islands' economy, police operations against aliens, extraction of natural resources, the providing of guarantees to other states, and so forth. Vietnamese sovereignty was first built between the 15th and 18th centuries, consecrated by the Nguyen emperors, then temporarily assumed by the French, and

finally continued in a normal manner by independent Vietnam. The exercise of Vietnamese jurisdiction was effectively displayed under a large variety of forms. It was open, peaceful, and not, like the Communist Chinese claim, asserted *jure belli*. Any interruption of Vietnamese sovereignty was due only to foreign powers' illegal military actions against which Vietnam, or France on behalf of Vietnam, had always protested in a timely fashion. Convinced of their legitimate rights over the Hoang Sa Islands, the Vietnamese will never indulge in compromises in the defense of their territorial integrity (see Chapter IV).

CHAPTER III

THE TRUONG SA (SPRATLY) ISLANDS BELONG TO THE VIETNAMESE

The Vietnamese islands of Truong Sa, known internationally as the Spratly archipelago, are situated off the Republic of Vietnam's coast between approximately 80 and 11040 North latitude. In the course of history, the Vietnamese people have had intermittent contact with these islands known for their dangerous grounds and access. Unlike the case of the Hoang Sa (Parcel) Islands, the former emperors of Vietnam did not have the time to strengthen these contacts through the organization of an administrative jurisdiction. However, the French, who occupied the Southern part of Vietnam known as Cochinchina, took all those measures necessary for the establishment of the legal basis for possession of the Spratly Islands. In 1933, the Spratlys were incorporated into the French colony of Cochinchina and from that year forward have had an adequate administrative structure.

It is true that French jurisdiction was disrupted by the Japanese invasion of 1941. However, shortly after the Japanese defeat in 1945, France returned Cochinchina to Vietnam, which then recovered all the rights attached to the former French colony. Immediately thereafter, Vietnamese sovereignty over the Truong Sa Islands faced groundless claims from other countries in the area which military occupied some of the islands of the archipelago.

Geographic and historic background.

The Truong Sa archipelago is spread over hundreds of miles in the South China Sea. However, it only contains 9 islands of relatively significant:

Truong Sa or Spratly Island proper.

An Bang or Amboyna Cay.

Sinh Ton or Sin Cowe.

Nam Yet or Nam Yit.

Thai Binh or Itu-Aba.

Loai Ta.

Thi Tu.

Song Tu Tay or South West Cay.

Song Tu Dong or North East Cay.

Because of the size of the area, the archipelago is divided into many groups. Using the main island of Spratly (which gave its name to the whole archipelago) as a point of reference, the distances to the shores of surrounding countries are as follows:

Spratly Island to Phan Thiet (Republic of Vietnam) 280 nautical miles

Spratly Island to the closest shore of Hainan Island (People's Republic of China) 580 nm

Spratly Island to the closest shore on Palawan Island (Philippines) 310 nm

Spratly Island to the closest shore of Taiwan 900 nm

Like the Hoang Sa Islands, the Truong Sa archipelago is composed of little coral islands which are often surrounded by smaller reefs. Because of their proximity to the coast of Vietnam, these islands have always been frequented by fishermen from the southern part of Vietnam. These fishermen made regular expeditions to the islands and sometimes stayed there for prolonged periods of time. Vietnamese history books often made reference to the, Dai Truong Sa Dao-, a term used to designate both the Parcel and Spratly archipelagoes and, more

generally, all insular possessions of the Vietnamese (50). The map published circa 1838 by Phan Huy Chu and called ‘Dai Nam Nhat Thong Toan Do’ (fig. 8, page 32) expressly mentioned the Spratlys, under the name Van Ly Truong Sa, as part of Vietnamese territory, although the archipelago was not located at its proper place because of the use of ancient geographic techniques.

These distant islands were often neglected by the Vietnamese authorities of the time. The emperors did not implement a systematic policy of occupation on the Truong Sa Islands as they had for the other archipelago, Hoang Sa. Furthermore, the Empire of Vietnam lost interest in the islands off the Cochinchinese shore as the French occupation of Cochinchina began in 1852. For their part, the French took some time before consolidating their rights to the Truong Sa archipelago. Their first recorded action was a scientific reconnaissance of the Spratlys by the vessel De Lanessan following its exploration of the Parcels (1927). This scientific mission was followed by an official expedition in 1930 on the sloop la Malicieuse, in the course of which the French flag was hoisted on the highest point of an island called Ile de la Tempete.

Legal basis of Vietnamese possession.

In 1933, the French Government decided to take official possession of the islands. Three ships, the *Alerte*, the *Astrolabe* and the *De Lanessan* took part in the expedition. The following are relevant quotations from an account given by H. Cucherousset in *L'Eveil economique de l'Indochine* (No. 790 of May 28, 1933):

‘The three vessels first of all visited Spratley and confirmed French possession by means of a document drawn up by the Captains, and placed in a bottle which was subsequently embedded in cement.

‘Then the Astrolabe sailed south west to a point 70 miles from Spratley and 200 miles from Borneo, and arrived at the caye (sandy island) of Amboine, at the northern extremity of the Bombay Castle Shallows. Possession was taken of the island in the manner related above. This cave protrudes two meters 40 cm above the sea at high tide.

‘Two-thirds of the rock which forms the caye is covered with a thick layer of guano, which the Japanese do not seem to have completely exploited.

‘Meanwhile, the Alerte sailed towards the atoll Fiery Cross (or Investigation) at a point about 80 miles north-west of Spratly and equidistant from Cape Padaran and the southern point of Palawan Island. The whole of this vast reef protrudes only at a few points above the surface of the sea.

At the same time the De Lanessan proceeded towards the London reefs, at about 20 miles north-east of Spratly. There it discovered the wreckage of the Francois Xavier, which was wrecked there in 1927 while on its way from Noumea to Indochina via this part of the China Sea, in which, in spite of its great depth, navigators are not advised to sail too boldly.

‘Itu Aba, which is surrounded by a reef, is mentioned in the naval instructions of 1919 as being covered with bushes and thickets with the nests of many sea birds, and a number of banana and coconut trees growing around a well....

‘The De Lanessan and Astrolabe later sailed north where, about 20 miles from the Tizard bank, is situated the Loaita bank, an atoll of the same kind. The two vessels took formal possession of the main island, on which are also to be found the remains of plantations and an unexhausted phosphate working. Loaita Island is a sandy isle, low, covered with bush, and a bare 300 metres in diameter.

‘The Alerte for its part visited the Thi-Thu reef, at about 20 miles north of the Loaita bank, and took possession of an island and of this atoll, still by means of the same ritual. This little low and sandy isle possesses a well, a few bushes, and some stunted coconut trees. A fair anchorage is to be found on the southern bank’.

Further north still, at the level of Nhatrang, is the atoll named "North Danger", the *Alerte* took possession of two sandy islands (cayes) where it found some Japanese fishing. The *De Lanessan* went there too and explored the little island. The latter is perceptibly higher than the others, the highest point reaching 5 metres. The phosphate beds are considerable and were much exploited by the Japanese.

After possession had been taken, the French Ministry of Foreign Affairs published the following notice in the French Journal Officiel dated July 26.1933 (page 7837)

'Notice concerning the occupation of certain islands by French naval units.

The French government has caused the under mentioned isles and islets to be occupied by French naval units:

1.- Spratley Island, situated 8o39' latitude north and 111o55' longitude east of Greenwich, with its dependent isles (Possession taken April 13.1930).

2.- Islet caye of Amboine, situated at 7o52' latitude north and 112o55' longitude east of Greenwich, with its dependent isles (Possession taken April 7.1933).

3.- Itu Aba Island situated at latitude 10o2' north and longitude 114o21' east of Greenwich, with its dependent isles (Possession taken April 10.1933).

4.- Group of two islands situated at latitude 111o29' north and longitude 114o21' east of Greenwich, with their dependent isles (36) (Possession taken April 10.1933).

5.- Loaita island, situated at latitude 10o42' north and longitude 114o25' east of Greenwich, with its dependent islands (Possession taken April 12.1933).

6.- Thi Tu Island. situated at latitude 11o7' north and longitude 114o16' east of Greenwich, with its dependent islands (Possession taken April 12.1933).

The above-mentioned isles and islets henceforward come under French sovereignty (this notice cancels the previous notice inserted in the Official Journal dated July 25.1933, page 7784).

Notification of the occupation was made by France to interested countries between July 24 and September 25.1933. With the exception of Japan, no State which could have had an interest in the matter raised any protest against this act. Three powers in the area remained silent and unconcerned: the United States (then occupying the Philippines), China, and the Netherlands (then occupying Indonesia). In Britain, Foreign Under-secretary Butter declared 6 years later that France exercised full sovereignty over the Spratly archipelago and that all matters relevant to these islands were primarily a French concern (37).

The Japanese protested the French occupation on the ground that, in the past, Japanese subjects had carried out exploitation of phosphate on some of these islands. It was true that Japanese companies had operated on the Spratlys without the permission and knowledge of French authorities. But Japan had never made any attempt toward taking possession of these islands. In 1939, claims by the Japanese militarist government then in power assumed a tougher tone: Japan declared that she had decided to -place the Spratly or Tempest Islands off the coast of Indoch'na under Japanese jurisdiction-. The decision first appeared merely on paper, but was followed two years later by forcible military occupation of the archipelago (1941). In any case, in the San Francisco Peace Treaty of 1951, Japan relinquished all titles and claims to the Parcel and Spratly Islands.

It should also be noted that the French occupation of the Spratly Islands in 1933 did not arouse any protest from the United States government, which was then acting on behalf of the Philippines. Five years earlier, the United States did engage in a dispute with the Netherlands over the island of Palmas off the Philippine coast (38). Since the United States did not act where a Philippine claim could have been made, this indicates that there was no ground for a challenge of French rights on behalf of the Philippines. It was only 35 years after the French took possession of the Spratly Islands that Philippine troops, taking advantage of

the war situation in the Republic of Vietnam, surreptitiously occupied some islands in the Vietnamese archipelago:

Loai Ta 10o41'N - 114o25'E

Thi Tu 11o03'N - 114o17'E

Song Tu Dong 11o27'N - 114o21'E

All of these three islands are in the list of islands published in the French Official Journal of July 26, 1933 which recorded the possession of the Spratlys by French naval units. The present position of the Philippine government that these islands are not part of the Spratly archipelago but only *res nullius* when Philippine troops occupied them is, therefore, obviously erroneous. All three islands (which were artificially given Malayo-Spanish sounding names) are an integral part of the Vietnamese Truong Sa archipelago. Moreover, it remains to be determined in a common and friendly spirit whether or not some other, smaller, islands occupied by Philippine soldiers are dependent islets of these Vietnamese main islands. In this regard, it should be recalled here that when the French took possession of the Spratlys, they only listed the major islands in the official act and indicated that these islands were incorporated - with their dependent islets.

The Philippine government has also argued that the remaining islands of the Spratly archipelago (i.e., those not occupied by Philippine troops) are still -subject to the disposition of Allies in the past world war-. According to this theory, when Japan relinquished its rights over the Spratlys by the San Francisco Peace Treaty, its jurisdiction was assumed by the Allied powers who have, not yet ceded the archipelago to any particular country. No reasoning can be more disputable, since the Spratlys were already and fully part of Vietnamese territory before World War II. These islands were merely seized militarily by Japan and, just like Mindoro or Guam, must simply return to their legitimate owner. It is obvious that military occupation by Japan could not result in any transfer of sovereignty over those islands and that Vietnam was *ipso facto* reinstated in her lawful rights after the defeat of Japan. In the San Francisco Peace Treaty, it was simply said that:

'Japan renounces all right, title and claim to the Spratly Islands and to the Parcel Islands''.

Previously, the Cairo Declaration (1943) the Yalta Agreement and the Potsdam Declaration (1945), which are the basic documents for postwar territorial settlements, contained no clause contrary to the sovereignty of Vietnam over both archipelagoes. There have not been any other legal texts that attribute these territories to any country - as was correctly pointed out by the Philippine government. Thus, all sovereign rights must be returned to their legal titular, i.e., Vietnam which, since 1949 had inherited (or rather retaken) all of the former French rights over these territories. Therefore, the short clause about the Parcels and Spratlys in the San Francisco Peace Treaty was merely designed to confirm that Japan withdrew all her claims in earlier disputes with France.

It is to the credit of the Philippine government that it has not associated itself with the burlesque adventure of one of its private citizens, Mr. Tomas Cloma, who has pretended to - discover - the Vietnamese Truong Sa islands in 1956 and has proclaimed an independent - Freedomland - covering most of this archipelago (39). But the fact remains that Philippine troops are presently stationed on some of the islands described by Mr. Cloma as part of K Freedomland v. This matter must be settled in accordance with international law and the Charter of the United Nations. The Vietnamese people are entirely confident that the legal and peaceful channels available to solve such disputes will confirm the legitimacy of their rights.

Regarding China, it must be stressed that few people have had knowledge of any Chinese claims over the Spratlys in the past (40). In a sudden move on August. 24, 1951, Netv China in Peking attacked both French and Philippine claims regarding these islands and stated that they must be considered to be - outposts of Chinese national territory -. Subsequently, the

People's Republic of China continued to issue statements filled with threats to use force in order to seize the Truong Sa archipelago (41). But it was the Republic of China's government which took the initiative and sent troops from Taiwan to occupy Thai Binh Island (Itu-Aba) on June 8, 1956. Itu-Aba is the largest island of the Spratlys and thus was a kind of - capital - where all French services were centered. As late as December 1973, the Far Eastern Economic Review of Hongkong reported that a marker still stood there with the inscription: (France - Ile ItuAba et Dependances - 10 Aouit 1933 - (42).

Exercise of normal state authority.

The headquarters of a French administrative officer, who also commanded a guard detachment was located on Itu Aba Island. Because of the isolation and the hard living conditions on the island, only volunteers to the post were sent there. Sometimes, no government official would volunteer, so the Indochinese authorities had to recruit private citizens by means of contracts which lasted one year. These contracts contained generous allowances and other largesses in an attempt to retain volunteers on the island. One of the a 'contract officials', was Mr. Burollaud who held out for 2 years (1938-1940). It was apparently difficult to find a successor for Mr. Burollaud, since the Governor General in Hanoi had to send a note dated August 22, 1940 throughout Indochina (and to the French possession of Kouang-Tcheou-Wan in ichina) to look for a volunteer - who must be a European. The official finally recruited turned-out to be most unlucky, since, according to an eyewitness named Tran Van Manh who was serving at that time with the Itu-Aba Meteorological Station, he was seized and tied to the flag pole by Japanese troops occupying the Spratlys in 1941 (43). Regarding administrative organization, 3 months after the official incorporation of the Spratlys, the Governor General of Indochina signed Decree No. 4762-CP dated December 21.1933 making the archipelago a part of the Cochinchinese province of Ba-Ria. After Cochinchina was returned to Vietnam, this organization was confirmed in 1956 by a Decree of the President of the Republic of Vietnam (44). Seventeen years later, the Spratlys were attached to a village of the same province (the name of which had in the meantime changed to Phuoc Tuy), the village of Phuoc Hai, Dat Do district (45). State activities on the Spratlys were necessarily restricted because the islands were uninhabited and situated too far away from the mainland. In 1938, the Indochina Meteorological Service set up a weather station on Itu-Aba, which was considered the best place in the South China Sea to provide meteorological data for neighbouring countries. The Station functioned in French hands for over 3 years after which it was reported to have continued operations under Japanese military occupation. Before the Japanese seizure, the Itu-Aba station was important enough to be given an international code number: 48919. Data provided by the Station were recorded all over the world qnd were listed under - French Indochina - Cochinchina,,. The French also continued scientific surveys of the Spratlys after 1933. For instance, a valuable geographic and aeologic study of the Spratlys was made available in the 22nd Report of the Oceanographic Institute of Indochina (46).

Thus, on behalf of Vietnam, the French conducted various kinds of activities which substantiate the right to sovereignty over a territory. These also include diplomatic activities to ensure the protection of possession by the authority in control. France defended with success the Spratlys against Japanese aims. The Ministry of Foreign Affairs in Paris protested energetically on April 4, 1939 when Japan announced that she had 'placed the islands under her jurisdiction'. France remained active right until 1956, the year when all her troops finished their withdrawal from Indochina. ' As late as May 1956, after Mr. Tomas Cloma created his so-called 'Freedomland', the French Charge d'Affaires in Manila was reported to have reminded the Philippine government of the French rights resulting from the 1933 occupation (47). At the same period, the French Navy vessel Dumont d'Urville made a visit to Itu-Aba in a demonstration of French - Vietnamese interest in the archipelago. The Republic

of Vietnam's Ministry of Foreign Affairs, for its part, issued a statement on June 1, 1956 recalling the Vietnamese rights. Two weeks later, Foreign Minister Vu Van Mau of the Republic of Vietnam reaffirmed at length the rightful position of his country (48). He recalled, among other facts, that five years earlier the head of the Vietnamese Delegation at the San Francisco Peace Conference had solemnly reaffirmed Vietnamese sovereignty over the Truong Sa archipelago and that the statement was not challenged by any participating country, including China and the Philippines.

From 1956 on, in the face of Chinese and Philippine groundless pretenses, the Republic of Vietnam's Navy began to launch various operations to reassert control over the Truong Sa Islands. Crewmembers erected sovereignty steles on almost all of them and built poles to hoist the Vietnamese flag. The cruiser Tuy Dong (HQ-04) was assigned these missions in August 1956. In 1961, the two cruisers Van Kiep and Van Don landed on the islands of Song Tu Tay (South-West Cay) Thi Tu, Loai Ta and An Bang. Two other islands, Truong Sa (Spratly proper) and Nam Ai (Nam Yit) were visited the following year by the cruisers Tuy Dong and Tay Ket. Finally, in 1963, all of the sovereignty steles on the main islands were systematically rebuilt by crew members of the three vessels Huong Giang, Chi Lang and Ky Hoa:

May 19, 1963 steles on Truong Sa Island (Spratly proper)

May 20, 1963 steles on An Bang Island

May 22, 1963 steles on Thi Tu and Loai Ta Islands

May 24, 1963 steles on Song Tu Dong (North East Cay) and Song Tu Tay (South West Cay).

The pace of these patrol and control operations were reduced after 1963 due to the war situation in the Republic of Vietnam. That does not mean, however, that Vietnamese rights on the Truong Sa archipelago have been diminished, even if foreign powers were then able to take advantage of the situation to commit illegal intrusion in some of these islands. These rights had been openly established in the name of Vietnam when the French incorporated the archipelago into Indochina. Moreover, these territories were traditionally known and frequented by Vietnamese in the past. The French action of 1933 was entirely in conformity with international rule and practice. It was challenged by no one except Japan, who later relinquished all her claims. An effective presence and a peaceful exercise of sovereignty have been firmly assured. This has only been interrupted once and temporarily when Japan seized the Truong Sa Islands by force in 1941. As in the case of the Hoang Sa Islands, a foreign military presence has not and will not break the will of the Vietnamese to remain as the owner of all their territories. Therefore, let it be reminded that the islands now illegally occupied by foreign troops are indivisible parts of the Truong Sa archipelago which belong to the Vietnamese people.

CHAPTER IV

THE DEFENSE OF THE LEGITIMATE RIGHTS OF VIETNAM

In preceding Chapters, it has been mentioned that the Vietnamese have always assured an appropriate defense of their rights over the Hoang Sa (Parcel) and Truong Sa (Spratly) Islands. Vietnamese or French troops were stationed permanently on both archipelagoes in a display of authority that is inherent to rightful sovereignty. In the diplomatic field, it has been recalled that France remained active until 1956 in the defense of the legitimate title it held on behalf of Vietnam. In 1932, then again in 1939, France issued particularly strong protests against pretenses from China concerning the Parcels and from Japan concerning the Spratlys.

Independent Vietnam had later to confront serious challenges to her sovereignty over these islands. At the San Francisco Peace Conference of 1951, Vietnam unequivocally reaffirmed its rights over both archipelagoes. The Vietnamese chief delegate clearly stated the position that, in settlement of territorial problems resulting from World War II, only Vietnam

was entitled to recover the Hoang Sa and Truong Sa Islands from Japan. The defense of this cause continued actively during the following years. In response to the Chinese invasion of January 19-20, 1974, the Republic of Vietnam's soldiers fought heroically in the face of superior military force. Backed by all segments of the population, they kept alive the Vietnamese tradition that the temporary loss of physical control over a territory does not mean the relinquishing of a legitimate right.

From the San Francisco Peace Conference to 1973.

When Japanese military control ended in 1945, the Hoang Sa and Truong Sa Islands returned ipso facto to their legitimate owners. However, the confusion resulting from the war allowed other countries make bolder moves toward asserting their groundless claims. Specifically, the Republic of China illegally continued to station on some of the Hoang Sa Islands the troops that had been sent there to disarm Japanese soldiers in implementation of the Potsdam agreement. Thus the successive governments of newly independent Vietnam assumed the task of doing their utmost to protect the territorial integrity of the country. The first opportunity to do so was at the San Francisco Conference held in 1951 to work out a peace treaty with Japan. The gathering was attended by delegates from 51 countries. According to agreements reached, Japan renounced all rights and claims to the Parcel and Spratly Islands. The head of the Vietnamese delegation to this Conference was Prime Minister Tran Van Huu, who was also Minister of Foreign Affairs. On September 7, 1951, during the seventh plenary session of the Conference, the Vietnamese delegate made the following statement:

“as we must frankly profit from all the opportunities offered to us to stifle the germs of discord, we affirm our right to the Spratly and Parcel Islands, which have always belonged to Vietnam”.

The statement aroused no objections from any of the 51 countries attending the Conference. This must be considered as having been the universal recognition of Vietnamese sovereignty over these islands. The declaration by Premier Huu was designed to reaffirm an existing right, therefore it has an effect erga omnes, i.e., even vis-a-vis those countries not represented at the Conference (for instance, the People's Republic of China).

On the other hand, the full text of Article 2 of the Peace Treaty shows that the two archipelagoes were considered as one single entity in the settlement of territorial matters:

Chapter II Territory

Article 2

a) Japan, recognizing the independence of Korea renounces all right, and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet.

b) Japan renounces all right, title and claim to Formosa and the Pescadores.

c) Japan renounces all right, title and claim to the Kurile Islands, and to that portion of Sakhalin and the islands adjacent to it over which Japan acquired sovereignty as a consequence of the Treaty of Portsmouth of September 5, 1905. (d) Japan renounces all right, title and claim in connection with the League of Nations Mandate System, and accepts the action of the United Nation Security Council of April 2, 1947, extending the trusteeship system to the Pacific Islands formerly under mandate to Japan.

e) Japan renounces all claim to any right or title to or interest in connection with any part of the Antarctic area, whether deriving from the activities of Japanese nationals or otherwise.

f) Japan renounces all right, title and claim to the Spratly Islands and to the Parcel Islands.

The Treaty does not specify which countries were to recover which specific territories renounced by Japan. However, from the above, it is clear that each sub-paragraph is relevant to the rights of one particular country, for example:

sub-paragraph (b): rights of China.

sub-paragraph (c): rights of the USSR.

sub-paragraph (d): rights subsequently conferred upon the United States.

sub-paragraph (f): rights of Vietnam.

This interpretation was confirmed by the refusal by the Conference to consider a Soviet amendment that would include the Parcels and Spratlys into the sphere of Chinese rights. The Soviet amendment reads as follows:

‘1. To Article 2.

‘(a) To include, instead of paragraphs (b) and (f), a paragraph reading follows: Japan recognizes full sovereignty of the Chinese People's Republic over Manchuria, the Island of Taiwan (Formosa) with all the islands adjacent to it, the Penlinletao Islands (the Pescadores), the Tunshatsuntao Islands (the Pratas Islands), as well as over the Islands of Sishatsuntao and Chunshatsuntao (the Parcel Islands, the group of Amphitrites, the shoal of Maxfield) and Nanshatsuntao Islands including tile Spratly, and renounces all right, title and claim to the territories named here in.

The Soviet Amendment was defeated during the 8th plenary session of the Conference. The President of the Conference ruled it out of order, the ruling being sustained by a vote of 46 to 3 with 1 abstention (49). Chinese claims to the Parcels and Spratlys were thus overwhelmingly disregarded.

At a later date, the government of the Republic of China restated its claims based on the separate peace treaty between it and Japan (April 28.1952). Actually, the provision concerning the Parcels and Spratlys in that treaty was an exact restatement of Article 2 (f) of the San Francisco Treaty. Once again, Japan declined to specify in favor of which country it renounced its occupied territories. In any case, it must be stressed again that there exists an elementary principle of law that a state (in this case Japan) cannot transfer more rights than it itself possesses, in accordance with the maxim *Nemo dat quod non habet*. Generally speaking, the illegitimacy of China's claims over the Hoang Sa and Truong Sa archipelagoes is due to the lack of *animus occupandi* on Chinese's part. It is true that fishermen from Hainan Island have frequented these islands in the past and that Chinese travelers occasionally stopped there. But unlike what has been done by Vietnam, activities by private Chinese citizens were never followed by governmental action. As late as 1943, although Marshall Chiang Kai Shek represented the only country having claims to the Parcels and Spratlys at the Cairo Conference, he did not have any reference to these islands included in the final Declaration (which did state that Manchuria, Formosa and the Pescadores must be returned to China). Because of the weakness of its argument, China has always declined all suggestions, repeatedly made, in the past by France, that the dispute be settled before international courts.

For the same reason, the People's Republic of China had to resort to gratuitous affirmations, threats and violence to assert her claims to the Vietnamese Hoang Sa and Truong Sa Islands. These claims are a mere revival of the old Chinese imperialistic drive known to all South-East Asia nations. The islands, islets, shoals and banks that the People's Republic of China claims as a the outposts of Chinese territory)) cover the entire South China Sea, and would virtually convert the whole sea into a communist Chinese lake.

After the San Francisco Peace Conference, successive Vietnamese Governments have assured a systematic defense of the Hoang Sa and Truong Sa islands by all means available to a sovereign state. After 1956, when stability had returned to the Republic of Vietnam following the Geneva Agreement of 1954, military and diplomatic activities became more intense. As mentioned before, navy patrols were conducted on a regular basis. When deemed necessary, the government of the Republic of Vietnam solemnly reiterated its rights over the islands (statements by the Ministry of Foreign Affairs on June 1.1956 and July 15.1971). Necessary steps were also taken vis-a-vis foreign governments in order to assert the

Vietnamese title. For instance, a note to the Malaysian Government dated April 20, 1971 contained all the convincing arguments in support of Vietnamese sovereignty. This sovereignty was so evident that it could only be contested through military actions.

The Chinese invasion of January 19-20, 1974.

Before 1974, the People's Republic of China had aired sporadic claims to the Hoang Sa and Truong Sa Islands. Occasionally, it conducted secret actions against the islands, such as the intrusion of - fishermen, into Vietnamese uninhabited territories. However, at the beginning of 1974, the People's Republic of China resorted to blatantly aggressive tactics in order to militarily seize the Hoang Sa archipelago. The following is an account of the invasion made by the Minister of Foreign Affairs of the Republic of Vietnam. In the face of the extremely grave situation created by the PRC's imperialistic action, RVN Foreign Minister Vuong Van Bac summoned the heads of all diplomatic missions in Saigon on January 21st, 1974 and made the following statement:

Excellencies,

Gentlemen,

"I have invited you to gather here today to inform you of recent events which have taken place in the area of the Hoang Sa (Parcel) archipelago off the central coast of Vietnam. These events have created an emergency situation susceptible of endangering peace and stability in South East Asia and the world.

"The Hoang Sa (Parcel) and Truong Sa (Spratly) archipelagoes are a part of the territory of the Republic of Vietnam. The sovereignty of our country over these archipelagoes based on historical, geographical and legal grounds as well as on effective administration and possession, is an undeniable fact.

"On the 11th of January 1974, the Ministry of Foreign Affairs of Red China suddenly claimed sovereignty over these archipelagoes. Our Ministry of Foreign Affairs immediately rejected those unfounded pretensions.

"From then on, Communist China chose to use force to seize that portion of our national territory. It sent men and warships into the area of the islands of Cam Tuyen (Robert), Quang Hoa (Duncan) and Duy Mong (Drumond) of the Hoang Sa (Parcel) archipelago, and landed troops on these islands.

"On January 16, 1974, the Ministry of Foreign Affairs of the Republic of Vietnam issued a statement to denounce these unlawful acts.

"In the meantime, in accordance with international regulations, naval units of the Republic of Vietnam instructed those men and ships violating the land and sea territory of the Republic of Vietnam to leave the area.

"The Red Chinese authorities not only refused to put an end to their unlawful incursions but also sent in additional reinforcements in troops and warships. They opened fire on the troops and naval units of the Republic of Vietnam, causing casualties and material damages. The Ministry of Foreign Affairs of the Republic of Vietnam issued a communique on the 19th of January alerting world public opinion on these serious acts of hostility.

"On the 20th of January 1974, the Red Chinese authorities escalate further in the use of force against an independent and sovereign country. They sent their warplanes to bomb three islands: Cam Tuyen (Robert), Vinh Lac (Money) and Hoang Sa (Pattle) where units of the Armed Forces of the Republic of Vietnam were stationing, and also 'landed their troops - with the aim of capturing these islands.

"Communist China is therefore openly using force to invade a portion of the Republic of Vietnam's territory in violation of international law, of the Charter of the United Nations, of the Paris Agreement of January 27, 1973 which it pledged to respect and of the Final Act of March 2, 1973 of the International Conference on Vietnam to which it is a signatory.

‘The Government and people of the Republic of Vietnam shall not yield to such brazen acts of aggression. They are determined to safeguard their national territory.

‘I kindly request you to report to your Governments on this grave situation. The Government of the Republic of Vietnam also wishes that your Governments would adopt an appropriate attitude and take appropriate action in view of those acts committed recently by the Communist Chinese authorities in the Hoang Sa (Parcels) archipelago, in complete disregard for international law and the sovereignty of other nations.

Thank you.

In the naval battle, the soldiers of the Republic of Vietnam fought heroically although they were outnumbered and outgunned. They suffered 18 deaths and 43 wounded, and, in addition, 48 Vietnamese personnel were illegally detained by the PRC's invaders. Among those were four civilian employees of the Pattle Meteorological Station: this is an evidence that Vietnamese authorities were conducting peaceful activities on the islands before troops had to be sent in to cope with PRC's provocations. Strongly condemned by world opinion, the PRC government had to release these personnel within 3 weeks in an attempt to appease the indignation caused by its blatant violation of the law of nations. Opinions sympathetic to the Republic of Vietnam were expressed everywhere in the world, especially in Asia where Vietnam was often hailed as the nation resisting communist Chinese expansionism. Even the Soviet newspaper Pravda accused the PRC a not to hesitate to resort to arms in order to impose its will in Southeast Asia, specifically on the Parcel and Spratly Islands - (50). Also in Moscow, Tass provided a summary of an article from ‘New Times - (a Soviet political weekly). The article quoted the PRC's support of separatist movements in Burma, Bangladesh and India among other Peking's provocations in order to - intensify pressures on independent countries of Asia)-. According to -New Times, this coincided with Peking's military actions on the Parcels (51).

Convinced of its rightful position, the Republic of Vietnam appealed to world opinion and sought the intervention of all bodies that could contribute to a peaceful settlement. As early as January 16.1974 its Minister for Foreign Affairs sent a note to the President of the Security Council of the United Nations to bring to his attention the grave tensions created by the PRC's false claims. After he had presented arguments in support of Vietnamese' sovereignty over the Hoang Sa Islands, Minister Vuong Van Bac wrote: *‘In view of all the Precise facts listed above, the sudden challenge by Communist China of the Republic of Vietnam's sovereignty over the Parcels archipelago and its violation of the Republic of Vietnamese sovereignty are unacceptable. They constitute a threat to the peace and security of this region.*

‘The Government and people of the Republic of Vietnam are determined to defend their sovereignty and their territorial integrity and reserve the right to take all appropriate measures to this end.

‘The Republic of Vietnam considers the situation created by the above People's Republic of China's action as one which is likely to endanger international peace and security. Therefore the Government of the Republic of Vietnam wishes to request the Security Council to take all appropriate measures that the Council deems necessary to correct that situation’. The Minister addressed the United Nations again on January 20.1974, while troops of the Republic of Vietnam were still fighting back the PRC's invaders in the Hoang Sa waters. He wrote to the Secretary General of the U.N. to inform him of the hostilities that started on January 19.1974 when the Chinese landing party opened fire on Vietnamese defenders. After denouncing the clear case of aggression across international borders, against an independent and sovereign state. Minister Vuong Van Bac requested that the Secretary General, in accordance with Article 99 of the Charter of the United Nations, draw the attention of the Security Council on the grave situation. For its part, K the Government of

the Republic of Vietnam accepts in advance the obligations of pacific settlement provided in the Charter of the United Nations, and - reaffirms its faith on the United Nations and its acceptance of the purposes and principles enunciated in the Charter of the Organization. Although the Government of the Republic of Vietnam was fully aware that the PRC, as a permanent member of the Security Council had the power of veto (a fact which left little hope for any constructive debate or positive action), it chose to request an immediate meeting of the Security Council. The attention of the Council must be drawn on the grave situation resulting from the PRC's aggression because, as Minister Bac pointed out in his note of January 24.1974 to the Council's President (Ambassador Gondola Facio): *'It behooves the Security Council and its members to fulfill their responsibilities and to decide on what to be done to correct that situation'*. Indeed, the PRC promptly tried to justify its blatant act of invasion by presenting a completely distorted version of the facts. A PRC's statement referred to c actions by the Saigon authorities in South Vietnam which sent naval and air forces to encroach on the Yungle Islands of China's Hsisha Islands(!).

In a press conference on January 25.1974, the President of the Security Council stated that the Vietnamese request had all legal grounds to deserve consideration, therefore he regretted that a Council meeting could not be convened for that purpose.

The legitimacy of its rights motivated the Republic of Vietnam to use all available means of action to defend its just stand. A recourse to the International Court of Justice has been contemplated. On January 22.1974 the President of the Republic of Vietnam wrote personal letters to the Heads of State in all friendly countries. After he had presented how the PRC's violation of Vietnamese sovereignty created a threat to peace in South East Asia, President Nguyen Van Thieu concluded:

'I am therefore writing to you.... to kindly request that you raise your voice in defense of peace and stability in this area of the world and resolutely condemn the violation by the PRC of the sovereignty of the Republic of Vietnam over the archipelago of Hoang Sa'. In other actions taken in defense of Vietnamese sovereignty, the Minister for Foreign Affairs of the Republic of Vietnam solemnly reaffirmed before the 3rd United Nations Conference on the Law of the Sea in Caracas that the Vietnamese people will not yield to the PRC's act of violence and that they will never renounce any part of their insular territories (June 28.1974). The Government of the Republic of Vietnam also sent a note on January 21.1974 to the signatories of the Act of the International Conference on Vietnam (March 2.1973). This document, signed in Paris by 12 countries including the PRC and in the presence of the Secretary General of the United Nations acknowledged, and provided guarantees for, the provisions of the agreement to end the war signed on January 27.1973. First the Vietnamese note presented the facts related to the PRC's aggression, then it pointed out that:

'It is clear from these developments that the government of the People's Republic of China is deliberately resorting to the use of force as a means of acquiring territories, which is a gross violation of...the Agreement to End the War and Restore Peace in Vietnam signed in Paris on January 27, 1973 and the Act of the International Conference on Vietnam signed at Paris on March 2nd, 1973.

'The Government of the Republic of Vietnam wishes to call the particular attention of the Parties to Article 1 of the Paris Agreement and Article 4 of the Act of the Paris International Conference, which both solemnly recognize that the territorial integrity of Vietnam must be strictly respected by all states and especially by the signatories of the Final Act.

'In view of the seriousness of the present situation, the Government of the Republic of Vietnam appeals to the Parties, in the interest of peace and stability in the Western Pacific area, to take all measures which the Parties deem appropriate as provided in Article 7 of the Act of the international Conference on Vietnam - (52). The PRC's aggressive aims is not

limited to the Hoang Sa Islands. There were indications that Chinese troops were preparing to head for the Truong Sa (Spratly) archipelago after they had seized the Parcels on January 20.1974 (53). On the other hand, in February 1974, the Philippines and the Republic of China also restated their claims to the Truong Sa Islands. The Republic of Vietnam rejected these unfounded claims by separate notes to the Republic of China (January 29.1974) and to the Philippines (February 12.1974). But the Government of the Republic of Vietnam also deemed it necessary to make its position clear to x friends and foes alike, and to reiterate its right before an universal audience. Thus, a solemn proclamation at the governmental level was issued on February 14.1974. This declaration is the text reproduced at the beginning as an introduction to this White Paper.

CONCLUSION

UNANIMITY OF THE PEOPLE OF THE REPUBLIC OF VIETNAM AGAINST AGGRESSION

The events of January 1974 had the effect of cementing the entire Vietnamese nation into a bloc resolutely united in order to defend the national sovereignty. After the invasion by troops of the People's Republic of China, all newspapers (including those of the Opposition) and other media in Saigon unanimously backed the Government of the Republic of Vietnam in its determination to fight for the Hoang Sa Islands. The media's opinion and the feeling of the people can be summarized by the following editorial in the Dan Chu daily: "In the middle of a difficult battle to repulse 400.000 North Vietnamese back to the North and a struggle for economic development, the Parcels battle is another burden on our shoulder. The naval battle between us and China has temporarily ceased with both sides suffering heavy casualties and material damages. But in reality, it was only just a beginning. The method to carry on the fight will be flexible depending on the development of the situation but the goal remains the same. The South Vietnamese will not stay idle, crossing their arms, to see their ancestral inheritance stolen away". Although the Vietnamese are known to be war-weary, enthusiastic mass rallies were held in virtually every city and town to condemn the PRC's aggression. Everywhere the people unanimously adopted resolutions denouncing before public opinion the violation of Vietnamese sovereignty. Most of these resolutions also asked the Government and Armed Forces of the Republic of Vietnam to take appropriate measures against the invaders. The warship Ly Thuong Kiet received a hero welcome by an overwhelmingly enthusiastic crowd upon its return from the Hoang Sa battle. On January 21.1974 the Vietnamese Confederation of Labor stated that Communist China committed a an extremely serious act infringing on the Republic of Vietnam's sovereignty and crudely challenging the national spirit of the Vietnamese people living from Nam Quan Pass (54) to Ca Mau Cape. , The Saigon Students Union issued a declaration which vehemently denounced the invasion to University students over the world. The War Veterans Association made a solemn proclamation to condemn the -Red China's violation of intemational law- and expressing deep gratitude to the Vietnamese combatants or their heroic fight against the aggressors. Abroad, Vietnamese students and residents in several countries demonstrated in an attempt to alert world opinion: in Tokyo, Ottawa, New York etc....Vietnamese students marched against the PRC's diplomatic mission, in Geneva, Vietnamese students went on a hunger strike to draw attention on the PRC's violation of international public order. The indignation of the entire Vietnamese people at home and abroad was reflected in a true manner in the declaration of the National Assembly (Senate and House of Representatives) of the Republic of Vietnam. This declaration says, in part, that c Communist China... has clearly demonstrated her scheme of invasion and expansion, (and) poses a serious threat to peace in the Pacific Region. Therefore, the National Assembly denounces to the public opinion at home and abroad Communist China's brutal act of invasion, seriously infringing upon the territorial sovereignty of the Republic of Vietnam and - urgently appeals to the United Nations Security Council, the

International Court of Justice and peace-loving countries in the world to take positive actions to put an end to the above-mentioned brutal act...' The people of the Republic of Vietnam are thus unanimous in their determination to defend the integrity of their territory. On behalf of the Vietnamese nation, the Republic of Vietnam resolutely demands that all portions of her territory that are illegally occupied be restored to Vietnamese sovereignty. The Government of the Republic of Vietnam solemnly condemns the brazen act of invasion of the Hoang Sa Islands by troops of the People's Republic of China in January.1974. It strongly denounces illegal actions against its Truong Sa territories by any other country. It rejects all claims by any power over these Islands and regards attempts to occupy them as violations of international law and of Vietnamese sovereignty. Although deeply committed to the cause of peace, the Republic of Vietnam must reserve the right to consider all means of action if occupying powers decline to follow the lawful and peaceful channels of settlement to restore Vietnamese rights.

The Hoang Sa archipelago and some of the Truong Sa Islands have temporarily been lost. But these insular territories will live for ever in Vietnamese hearts and will some day be restored to the Fatherland.

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Notes:

We are sorry! Due to the printing difficulties, we can not complete the auditing this paper.

1. The Atlas is being kept at the "Ecole Francaise d'Extreme Orient", Tokyo Bunko Library in Tokyo, Japan, has a microfilm of it under reference number 100891.
2. Ly is an ancient unit of measure (1 ly: 483 meters or 528 yards).
3. Dai Chiem: present-day Cua Dai, province of Quang Nam, Sa Vinh: present-day Sa Huynh, province of Quang Ngai.
4. The author assumedly included in three Hoang Sa archipelagoes main islands and reefs closer to the Vietnamese shore than the islands designated as the Parcels in the 20th century...
5. Internationally-known Vietnamese historians have, directly or indirectly, contributed to the task of determining the date of the Do Ba document. Among them are Prof. Hoang Xuan Han and historian Truong Buu Lam, who has been associated with many American universities. Details on this question can be found in Vo Long Te, Les Archipels de Hoang Sa et Truong Sa selon les anciens ouvrages Vietnamiens d'Histoire et de Geographie. - Saigon. 1974.
6. Summarized and commented in Bulletin de l'Ecole Francaise d'Extreme Orient, Vol. XXXVI, 1936.
7. This term is often used to designate all the distant insular possessions of Vietnam.
8. Lettres edifiantes et curieuses des Missionnaires de Chine, quoted in the Revue Indochine, No. 46, p. 7.
9. The document was reprinted in Bulletin des etudes indochinoises, tome XVII, No. 1 Hanoi, 1942.
10. Archives of the French Navy, Ministere de la Marine, Paris. The document was reprinted in Bulletin de la Societe des Etudes indochinoises, tome XVIII, No. 1, Hanoi, 1942.

11. Translation into French from Arrow's book is available in Paul Boudet and Andre Masson. *Iconographie historique de l'Indochine Francaise*, p. 250-300. Paris, editions G. Van Oest. 1907.
12. Issue of April 1837. pp. 737-745.
13. Jean Baptiste Chaigneau, *Notice sur la Cochinchine*, presented and commented by A. Salles in *Bulletin des amis du Vieux Hue*, No. 2, April-June 1923, p. 253-283.
14. History annals called -Dai Nam Thuc Luc Chinh Bien, 1833, 104th Volume).
15. Principle of international law established after the Palmas Island dispute (1928). See United Nations -Reports of International Arbitral Awards, pp. 829-855.
16. History annals Dai Nam Thuc Luc Chinh Bien
17. History annals Dai Nam Thuc Luc Chinh Bien, 165th volume.
18. In Vietnamese: - Dai Nam Nhat Thong Toan Do - Dai Nam is a former name for Vietnam.
19. Dai Nam Thuc Luc Chinh Bien, 154th Volume. The same description is given by the Dai Nam Nhat Thong Chi (Dai Nam Comprehensive Encyclopedia). 6th Volume devoted to Quang Nghia, present day Quang Nam, Province.
20. Truong, xich, thuoc are ancient units of measure (1 truong: 3.91 yards or 3.51 meters , 1 xich or thuoc : 14.1 inches or 0.36 m.).
21. This isle is erroneously named Ban-Na in other publications, for example Sauvaire Jourdan "Les Parcelles infiniment petits de notre domaine colonial".
22. Annals Dai Nam Thuc Luc Chinh Bien, 154th Volume.
23. Kham Dinh Dai Nam Hoi Dien Su Le, or Administrative records of the Dai Nam, Ministry of Public Works, p. 25.
24. History Annals Su Quoc trieu chanh bien toat yeu, Year of original publication unknown. Reprinted in 1935.
25. Map named Tabula Geographica Imperii Annamitici 1838, reprinted in J. Silvestre, *l'Empire d'Annam et le peuple annamite*, Paris 1889., Felix Alean, editeur
26. E. Cortambert and L. de Rosny, *Tableau de la Cochinchine*, Paris 1862.-Armand.
27. Sauvaire Jourdan "Les Parcelles infiniment petite de notre domains colonial" in *La Nature*, issue of November 1, 1933, Paris.
28. Reported by the French Daily...
29. The French engineer who supervised the work, Mr. Andre Faucheux, is presently 75 years old and lives in Paris.
30. ...
31. Memorandum No. 1104 VP/CT/M dated October 30.1950.
32. Memorandum No. 1220-VP/CT/M dated September 17.1951 and signed by the Director of Political and Legal Affairs, Government Delegation to Central Vietnam.
33. Decree No. 174-NV dated July 13.1961.
34. Decree No. 709-BNV/HCDP/26 dated October 21.1969 signed by Mr. Tran Thien Khiem.
35. ...
36. The coordinates correspond to those of Song Tu Dong (North East Cay) and Shira Island.
37. ...
38. It may be noted that the principles established by the international Court of Justice in the Palmas decision (1928) cannot but reinforce Vietnamese rights, for instance, the emphasis given to the actual exercise of sovereignty over mere geographic contiguity (see Reports of International Arbitral Awards, United Nations. p. 829).

39. The lack of seriousness in this undertaking does not deserve further comments. Mr. Tomas Cloma was reported arrested by the Philippine police in November 1974 on charge of committing acts detrimental to state authority on insular territories.

40. For instance, a comprehensive study of the Spratlys question by Professor Charles Rousseau in *Revue Generale de Droit International Public*, July-September 1972, does not mention any sort of Chinese claims to this archipelago prior to 1951.

41. *New China*, bulletin dated February 4.1974.

42. *Far-Eastern Economic Review*, HongKong, Dec 21.1973.

43. Mr. Tran Van Manh is presently the Chief of Tuy Hoa Meteorological Service, Republic of Vietnam.

44. Decree No. 143-NV signed on October 22.1956 by the late President Ngo Dinh Diem.

45. Arrete No. 420-BNV/HCDP/25X signed on September 6.1973 by the Minister of the Interior.

46. *Rapport sur le fonctionnement de l'Institut Oceanographique de l'Indochine*, 22, Note, Saigon 1934.

47. Reported by Prof. Charles Rousseau in *Revue General de Droit International Public* July-September 1972, p.830.

48. Vietnam Press.

49. Conference for the Conclusion and Signature of the Peace Treaty with Japan - Record of Proceedings: U.S. Dept. of State Publication 4392, December 1951. page 292.

50. Agence France Presse news dispatch sent from Moscow, February 10.1974.

51. Reuter news dispatch from Moscow, February 21.1974.

52. Article 7 (a): In the event of a violation of the Agreement or the Protocols which threaten the peace, the independence, sovereignty, unity or territorial integrity of Vietnam, or the right of the South Vietnamese people to self-determination, the parties signatory to the Agreement and the protocols shall, either individually or jointly, consult with the other Parties to this Act with a view of determining necessary remedial measures.

53. As presented in Chapter III. on February 4.1974 the PRC issued a particularly aggressive statement on the Truong Sa archipelago.

54. The Nam Quan pass marks the border between Vietnam and China.