

THE PROCESS OF POSSESSING AND EXERCISING SOVEREIGNTY OF VIETNAM OVER THE PARACEL AND SPRATLY ISLANDS - TRUE, UNINTERRUPTED, PEACEFUL AND TRANSPARENT

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Sovereignty of Vietnam over the Paracel and Spratly Islands was early applied by the Vietnamese feudal dynasties. This fact was most obvious in the beginning of the 17th century and lasted until the year of 1932, when the France officially inherited this right and continued to execute the sovereignty over these two archipelagos on behalf of Vietnam. In the Second World War, these two archipelagos were occupied illegally by Japan. But in the 1951 San Francisco Conference, the sovereignty of Vietnam over the Paracel and Spratly Islands was solemnly affirmed by the representative of Vietnam government and was confirmed by the international community in the San Francisco Peace Treaty signed on 8th September 1951.

In 1956, the People's Republic of China occupied illegally the Woody Island (Vietnamese name: Phu Lam) belonging to Paracel Islands. In 1974, the PRC attacked and occupied the whole Paracel Islands. In 1988, PRC again attacked and occupied three reefs of Spratly Islands. However, thanks to the animus insurance, the sovereignty of Vietnam over these two archipelagos was not discontinued.

Since the 17th century, by various effective ways in political, military, law-abiding, economic and cultural aspects, the process of possessing and exercising sovereignty of Vietnam over the Paracel and Spratly Islands has been developed actually (truly), uninterruptedly, peacefully and transparently.

I. Paracel is not an unclaimed territory (Terra Nullius) at least since 17th century

Throughout Chinese history from Qin, Han Dynasty until after 2nd World War, there was no documentation to confirm East Sea, Paracel and Spratly island belong to China (*East Sea* is called 中国南海 *Trung Quốc Nam Hải*, 花南 *Hoa*

Nam, South China Sea by Chinese and maritime, it has been called *biển Tây Philippine*, *West Philippine Sea* by Philippine since 2012; Chinese name Hoàng Sa island as 西沙 *Tây Sa*, English: Paracels and Trường Sa island as 南沙 *Nam Sa*, English: Spratlys).

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Meanwhile, many Chinese ancient documents written by Chinese people admitted Paracel and Spratly under the sovereignty of Vietnam (Refer to: Lưu Văn Lợi, 1995; Trần Xuân Hiến, 2014; <http://www.biendong.net/hoang-sa-truong-sa/372-th-tch-trung-hoa-tha-nhn-hoang-sa-trng-sa-thuc-vit-nam.html>)^(*).

China often propagates their sovereignty over East Sea has been over 2,000 years. However, majority of main evidences are records of contemporary and later people regarding to sea routes from China to overseas and activities such as exploration, trading, fishing etc. Thereby they have a record of geography, history, customs etc. in regions where they witnessed. There is also document saying Chinese, Japanese, Vietnamese and other countries' fishermen used to live on the islands when trading, fishing or being hit by maritime disasters etc. depending on the season. However, there is no document recording clearly when and how long the season was (Refer to: Keith Johnson, 2014; Phạm Hoàng Quân,

2013). This alone will not have any meaning in terms of sovereignty. Researchers are sometimes encountered confusion or deliberate confusion of less objective historians. Under international law, the exercise of rights and sovereignty over the island waters nowadays does not depend either on the discovery, exploration and trading on sea or on the observer's knowledge of the island. Since 8th century, the Nordic, Dutch, Spanish and English have had the reputation of being Viking^(*) which including explorers, merchants, soldiers and even pirates who rampaged on many seas globally. The marine records of Anglo-Saxons have long been an abundant and precious reference source of mankind. Subsequently, Indian, Chinese, Philippines and Vietnamese have also presented on many areas of the Pacific and Indian Ocean. The East did not have Vikings or many explorers, hence the presence of Easterners was only for the purpose of trading, fishing etc.

Recently, China has added a Muslim explorer named Trịnh Hòa into island dispute record. But in fact, Trịnh Hòa only passed by East Sea and the record of his 7 voyages does not mention anything about either Paracel or Spratly: From 1405-1433, Minh Thành Tổ appointed Court eunuch Trịnh Hòa to be commander of "voyages to western countries" expedition with 7 visits to Indian Ocean and Arabian Sea to

(*) Regarding to the name "Paracel": In 1838, French missionaries Joan-Luis-Taberu published a book called "Dictionarium Latino-An Namiticum completum et novo ordine dispositum ("Vietnamese – Latin Dictionary"). In which, Paracel is defined as "Paracel seu Yellow Sand". Subsequently, the Dutch geographer Willem Blau officially named this island in European language to be "Pracel". Later, due to erosion of time and inaccuracy of French mariners' word-of-mouth, the name "Pracel" was pronounced wrongly to be "Le Paracel" (Хем: *Вьетнамцы никогда не смиряются*, газета.ru, 1/6/2014, http://www.gazeta.ru/science/2014/06/01_a_6054413.shtml).

(*) Viking: a term for the talented explorers adventuring on the sea.

establish diplomatic relations with 30 littoral states, implement Silk Road-on-sea in India, Africa and Middle East. In fact, Trịnh Hòa's voyages did not stop on East Sea. The only stop of this expedition in this region was Đồ Bàn (Chaban) which was the capital of Champa at that time. After the death of Minh Thành Tổ, Minh Dynasty criticized this voyage to be nothing but showing off and weakening the national economy (Refer to: Mạnh Kim, 2014; Từ Đăng Minh Thu, 2007).

In fact, after Treaty of Berlin in 1885, principles of "discovery rights" and "historic rights" were no longer relevant and have been replaced by principles of "actual possession" and "effect". Nowadays, principle of island possession is regulated more strictly: true, uninterrupted, peaceful and transparent (Refer to: Vũ Quang Việt, 2010). Assuming international law still bases on historical sovereignty theory or discovery of island to determine sovereignty, it will mean the rights to possession and ownership of most continents nowadays belong to Vikings, explorers or Western European pirates.

Vietnam's sovereignty over Paracel and Spratly islands was exercised very early by Vietnamese feudal dynasties. There is document saying it was since 15th century but it is most obviously from early 17th century until 1932, when France officially inherited and continued sovereignty over these two archipelagos, Vietnamese feudal dynasties had

possessed and exercised actual sovereignty over Paracel and Spratly islands. This process took place on an ongoing basis with peaceful socioeconomic activities and there was no dispute at that time. Legally, Paracel is not an unclaimed territory (*terra nullius*) at least since 17th century^(*).

(*) The earliest map showed Paracels, Spratlys was "Hồng Đức bản đồ" which was drawn in 21st year of Hồng Đức (Canh tuất, 1490) under Emperor Lê Thánh Tông's reign and maps in "Thiên Nam Tứ Chí Lộ Đồ Thư" or "Toản Tập An Nam Lộ" prepared by Đỗ Bá Công Đạo in 7th year of Chính Hoà (1686), in which Paracels and Spratlys were shown under the same name of "Golden sand". This means, Paracels and Spratlys were shown in Vietnam atlas for about 500 - 600 years. (Refer to: Võ Long Tê, 1974, p.33-43 and Appendix). Before Minh Mạng's dynasty, Paracels and Spratlys were considered one archipelago known as Paracels or Vạn Lý Trường Sa. However, after the exploration in Emperor Minh Mạng's dynasty and exploration of Kergariou-Lochmaria in 1787 - 1788, the location of Paracels were identified exactly as now. Since then, Paracels were differentiated from Spratlys in the South. "Đại Nam nhất thống toàn đồ" was drawn after that which clearly stated two different names for two archipelagoes (Refer to: Từ Đăng Minh Thu, 2007).

Many documents have described this process carefully. Recently, Dr. Trần Công Trục has once again described in details the possession history and affirmed that Vietnamese feudal state in 3 different dynasties - Nguyễn Lords, Tây Sơn Dynasty and Nguyễn Dynasties, had completed sacred mission as Đại Việt State in occupying and exercising Vietnam's sovereignty over Paracel and Spratly islands (Refer to: Trần Công Trục, 2014).

In this regard, Vietnam's White Paper published in 1988 "*The Archipelagos of Paracel, Spratly and International Law*" also cited valuable resources such as *Đại Nam thực lục tiền biên* (1600-1775), *Toản tập Thiên Nam tứ chí lộ đồ thư* (1630-1653), *Phủ biên tạp lục* (1776), *Đại Nam thực lục chính biên* (1848), *Đại Nam Nhất Thống Chí (bộ sách địa lý lịch sử chung của Đại Nam 1865-1882)*,

In 1698, Paracel became famous in maritime annals for the wreck of Amphitrite under King Louis XIV when traveling to China from France (Refer to: François Froger, http://www.persee.fr/web/revues/home/prescript/article/jds_0021-8103_1929_num_6_1_2305).

During the reign of Nguyễn Lords, from mid 16th century to victory of Tây Sơn in 1777, people were sent on duty to Paracel Islands annually to exercise sovereignty and harvest products of island as well as products of sunken ships which drifted on the island. In the “chỉ Ngũ dư địa chí” volume of “Lịch triều Hiến chương loại chí”, on page 11a and 12a, Phan Huy Chú wrote: “Previous dynasties (Nguyễn Lords) formed the Hoang Sa Company, made up of 70 men from the village of An Vĩnh. Annually, in March, under directive, they would bring 6 months of salary and embark within 3 days and 3 nights using 5 small ships. When coming here, they would fish to feed themselves, collect many valuables from ships as well as seafood. In August, they returned to city of Phú Xuân via Cửa Eo (Thuận An)” (Cited from: Võ Long Tê, 1974, p.76)^(*).

Lịch triều hiến chương loại chí (1821), *Hoàng Việt địa dư chí* (1833), *Việt sử cương giám khảo lược* (1876), official documents of the Nguyễn Dynasty on petitions and imperial decrees, and many maps and documents made by other countries.

^(*) Original: “Tiền vương lịch triều tri *Hoàng Sa* đội thất thập suất, dĩ An Vĩnh nhân luân phiên thái thủ. Tuế dĩ tam nguyệt thụ thị hành sai, tộ lục nguyệt lương, giá tiểu thuyền ngũ chích, xuất

In 1753, an event related to sovereignty of Paracel islands happened to Bắc Hải company which was recorded thoroughly by Lê Quý Đôn in “Miscellaneous Chronicles of the Pacified Frontier”: “Paracel is near Hải Nam, Liêm district. Boaters usually see people from Bắc country (China) fishing who say they are from Văn Xương district, Quỳnh Châu when being asked. Official who searches dispatches there says in July of 18th year of Càn Long’s reign (1753), 10 soldiers of Cát Liêm Company, An Bình village, Chương Nghĩa district (Quảng Ngãi nowadays) came to Vạn Lý Trường Sa 萬里長沙 to collect objects. 8 came on shore while 2 stayed on boats to guard. Unexpectedly a storm arrived and the boats drifted to Thanh Lan port 青瀾港 (Hải Nam, China). Official there reviewed the situation then directed to escort them home. Nguyễn Phúc Chu directed Thúc Lượng Hầu who was Governor of Thuận Hóa to send reply” (Cited from: Võ Long Tê, 1974, p.56)^(*). This event is

dương tam nhật tam dạ thì chí thử đảo cư tứ tình thái thủ, bổ ngư vi thực, sở đắc tào vật khí bửu thậm chúng, dữ thái thủ hải (vật) phá đa, dĩ bát nguyệt hồi nhập yêu môn tựu Phú – xuân thành. (pp.11a. 12a).

^(*) Original: Lê Quý Đôn, *Phủ biên tạp lục*, second volume, page 82b-85a: “Hoàng sa chủ chính cận Hải nam Liêm Châu phủ. Thuyền nhân thời ngộ Bắc quốc ngư châu, dương trung tương vãn, thường kiến Quỳnh châu Văn xương huyện. Chính đường quan, tra thuận hóa công vãn nội xung, Càn long thập bát niên, An nam Quảng nghĩa phủ Chương nghĩa huyện Cát liên đội An bình xã quan nhân thập danh, ư thất nguyệt vãng Vạn Lý Trường sa thái thập các vật. Bát danh đăng ngân, tầm mịch các vật, chỉ tồn nhị danh thủ thuyền.

also a sign that Chinese did not consider Paracel theirs.

In 1816, King Gia Long formally took possession of the islands, ordered for flagging and taking geographical measurements. French envoy in Indochina Jules Brevie ordered the establishment of administrative office to manage Paracel island and build a shrine on the island engraved “Republic of France – Kingdom of An Nam - Paracel island, 1816” (Refer to: Võ Long Tê, 1974, p.168; *Вьетнамцы никогда не смиряются*. газета.ru, http://www.gazeta.ru/science/2014/06/01_a_6054413.shtml).

In 1835, King Minh Mạng ordered building of shrine, placing of a stone tablet, staking the island, and planting trees. Paracel team and Bắc Hải team were given more responsibilities: exploitation, patrolling, collecting taxes from people on the island, and guarding and defending the two archipelagos. These two teams continued until their activities until France arrived to Indochina. Since then until 1847-1848, the administrative management of these islands was maintained by Nguyễn dynasty to give assistance to voyages and also to collect taxes from fishermen in the region (Refer to: Lưu Văn Lợi, 1995).

Cường phong đoàn xúc phiêu nhập Thanh lan cảng, y quan tra thực áp tổng hồi tịch. Nguyễn phúc Chu lĩnh Thuận hóa cai bạ thức lượng hầu vi thư dĩ phục”.

According to Vietnamese researcher Vũ Quang Việt, historical data related to possession of Paracels shows that “Vietnam had clear statement and exercised its sovereignty over Paracels during at least 70 years, from before 1770 until when Emperor Gia Long officially claimed sovereignty in 1816. The sovereignty continued until Minh Mạng dynasty. This was clearly recorded in Vietnamese chronicle until 1837... Hence, the presence of Vietnam on Paracels lasted continuously for at least 74 years, from 1774 until at least (since Lê Quý Đôn mentioned about trip to Paracels until when Emperor Minh Mạng ordered mapping). This duration was recorded in chronicle. The will and action to claim sovereignty of Emperor Gia Long and Emperor Minh Mạng was expressed in written document. Even though trips to island only lasted six months at most, they were continuous year after year. And that was enough” (Vũ Quang Việt, 2010).

II. France recognized sovereignty of Vietnamese feudal dynasties over Paracel, Spratly and were responsible for legacy

In 1884, Patenotre Treaty of Huế imposed colonial regime, France had responsibility to protect and preserve the territorial integrity of An Nam. On 9/6/1885, Treaty of France – Thanh at Thiên Tân ended the conflict between France and Thanh Dynasty; Vietnam was no longer a vassal state. On 26/6/1887, Treaty of France – Thanh set

the border between Vietnam and China. It means, from that time, any statement or conduct from France regarding to Paracel, Spratly would be understood, and in fact, to be on behalf of Vietnam and by Vietnam.

The two ships La Bellona and Imej Maru sunk near Paracel in 1895 and in 1896 respectively. Fishermen from Hainan (Vietnamese name: Hải Nam) collected bronze from these two sunken ships. The insurance companies of these two ships protested to China. Chinese government replied that they were not responsible, because Paracel was not Chinese territory, and was also not Vietnam's (Refer to: *L'Éveil Économique de l'Indochine*, No.741).

In 1899, Indochinese governor Paul Doumer requested that France build a lighthouse but was not carried out due to lack of fund.

In 1909, Viceroy of Liangguang ordered Admiral Lý Chuẩn to land on Paracel islands. The landings took place in less than 24 hours. They flagged and shoot to express China's sovereignty. This event did not cause any reactions from countries including France who was the representative of An Nam, saying that it was just a naval ceremony for reconnaissance visit to the outlying islands (Duy Chiến, <http://vietnamnet.vn/vn/tuanvietnam/180461/chu-quyen-hoang-sa-thoi-phap-thuoc.html>; Nguyễn Nhã, 2009). This even also reveals contradictions in China's arguments. If Paracel islands

were occupied by China for very long time, why would Lý Chuẩn not have known about this and behaved as it was his first time discovering this archipelago.

In 1920, a Japanese company named Mitsui Busan Kaisha asked France for permission to exploit Hoàng Sa, France denied the request. In the same year, France controlled the islands and collected taxes there.

On 30/3/1921, Viceroy of Liangguang declared the incorporation of Paracels and Hải Nam which was rejected by France. Shortly thereafter, French researchers and social activists in Hanoi criticized Indochinese governor for this attitude. On 8/3/1925, Martial Henri Merlin - Governor General of Indochina solemnly declared Paracels and Spratlys to be French territory. Sponsored government took their responsibility for sovereignty over Paracels and Spratlys and promoted activities of patrolling, controlling and scientific research.

Also starting in 1925, Institute of Oceanography in Nha Trang conducted scientific explorations on Paracels led by Dr. Krempt.

In 1927, ship De Lanessan docked on Spratlys.

At the beginning of 1930, three French ships - La Malicieuse, L'Alerte and L'Astrobale surveyed to prepare for possession of Spratlys. On 14/3/1930, on an island of Spratlys, Navy Lieutenant De Lattre flew flag and fired 21 cannon

chain-shots on behalf of France to claim sovereignty over Spratlys and adjacent waters. The report clearly stated, Spratlys located at Latitude 8⁰39 North and Longitude 111⁰55 East. On 23/9/1930, France sent diplomatic notification to concerned countries regarding to France's sovereignty over Spratlys.

In 1931, China ordered exploitation of bird fertilizer on Paracel islands with the right being given to Anglo-Chinese Development Company. France protested.

In 1932, France formally declared An Nam had long history of sovereignty over Paracels, incorporated Paracels into Thừa Thiên province. This means France recognized and was responsible for inheriting existing Vietnam's sovereignty, continued to exercising sovereignty over these two archipelagos. This was particularly an important step and significant event in the continuous possession and exercise of sovereignty over national territory.

In 1933, Spratly islands was incorporated into Bà Rịa province. On 26/7/1933, France officially announced tenure over the Spratly islands on French newspapers. France also proposed to China to take the matter to international court, but China refused.

Persuading French authorities in Indochina to concern became more practical to sovereignty of Vietnam over Paracel and Spratly archipelagos in the beginning of 20th century. This was a

complicated process. It was different from today, at that time, possession of islands was costly, complicated and brought more dangers than benefits. The obvious sovereignty in long history of An Nam's dynasties was the main reason to make French officials in Hanoi more eager and feel the heavy responsibility over Paracels, Spratlys. The biggest contributor in this was the weekly newspapers *L'Éveil Économique de l'Indochine*.

Weekly newspapers *L'Éveil Économique de l'Indochine* published the first issue on Saturday dated 16/6/1917 and the last issue in 1934. The founder, editor and also author of many articles in this newspapers was Henri Cucherousset (1879-1934, he passed away in Hanoi and had a special love for Paracel, he had tirelessly fought for Vietnam's sovereignty over Paracel, Spratly islands). In 835 issues of the newspapers, French and An Nam's government had thoroughly resolved Paracel dispute with Guangdong government (at that time, Guangdong was seceded from China and was not acknowledged by either China or other countries). Henri Cucherousset brought the matter to French Senate and House of Representatives for reason of Indochinese governor in Hanoi did not pay enough effort and attention to this matter. The following events were reflected on this newspaper:

- *Proposals for government protection:* To place lighthouse,

meteorological station, microwave station, lighting buoys and markers, to draw 1:200,000 and 1:25,000 maps of Paracel islands; To construct fishing ports and arrange shelters for fishermen, to develop fish industry and fishing boats which can fish 2 to 300km offshore; To establish administrative system on two archipelagos and have permanent military to protect and patrol the area (*L'Éveil Économique de l'Indochine*, No.394, 398, 491, 602, 627, 644...).

- *Responsibilities of France and French authorities in Indochina*: The author blamed some Indochinese officials irresponsible for sovereignty over Paracel such as Mr. Monguillot (Governor of Tonkin, he was once appointed as Indochinese governor), Lieutenant Colonel Rémy - French naval commander in Saigon and especially Governor Pière Pasquier. Thus, it caught attention of politicians such as Senator Albert Sarraut, Congressman Ernest Outrey, Senator Bergeon etc. on Paracel islands issue and a conference on this archipelago was suggested in Luxembourg (French Senate) and Bourbon castle (French House of Representatives).

- Phosphate reservoir had an area of 4 million m² with average thickness of 2m which means 8 million m³ and 2 tons/m³ i.e. 16 million tons of phosphate obtainable in Paracel. However, due to negligence of authority, Japan and China

had mined illegally and did not bring any benefit to An Nam.

- On 13/4/1930, France use Malicieuse ship to put An Nam's sovereignty over Spratly islands under French protection (*L'Éveil Économique de l'Indochine*, 4/5/1930, No.672, p.18).

- French and An Nam's government placed shrine claiming sovereignty over Paracel islands on Pattle island (Paracel islands) saying: République française - Royaume d'Annam - Archipel des Paracels 1816 - île Pattle - 1938 (Republic of France - An Nam Kingdom - Paracels islands 1816 - Pattle island 1938). French government respectively set up two meteorological stations on Boisée Island (Phú Lâm) and Pattle Island (Paracel). Earlier, in 1933, Spratly islands were incorporated into Bà Rịa province.

III. Vietnam “confirmed longstanding sovereignty over Spratly and Paracel islands” before the international community at San Francisco in 1951

In 1937, despite of France's objection, Japan occupied islands located off the coast of Indochina and renamed to Shinnan Gunto (Tân Nam islands) and placed under jurisdiction of Kaoshiung (Taiwan). During 2nd World War, Japan declared occupation of these islands.

In 1938, France set up an ownership stele, built a lighthouse, meteorological station, and sent Vietnamese forces to protect Pattle Island (Paracel Island) of Paracel islands.

On 4/4/1939, French government sent diplomatic note protesting Japan's decisions and reserved the sovereignty of France over Paracel and Spratly archipelagoes. On 5/5/1939, Indochinese governor J. Brevie signed Decree number 3282 on separating Paracel administrative unit into 2 units: "Croissant and dependent islands", "Amphitrite and dependent islands".

When 2nd World War drew to a close, 3 powers United Kingdom – America – China (Trưởng Giới Thạch represented China at that time) met in Cairo, Egypt on 27/11/1943 to discuss postwar decisions and issued Cairo Declaration. Regarding to islands in the Pacific Ocean, the Declaration stated clearly: "Japan must be removed from all the islands in the Pacific which Japan has claimed or occupied since the beginning of 1st World War in 1914 and all the territories that Japan had seized from China as Manchuria, Taiwan and Penghu will be returned to the Republic of China". There was nothing related to Paracel and Spratly archipelagoes here. This means, Cairo Declaration confirmed territories that Japan had seized from China were only "Manchuria, Taiwan and Penghu". And on 26/7/1945, in Potsdam of defeated Germany, the national leaders including Harry Truman, Winston Churchill and Trưởng Giới Thạch affirmed implementation of Terms of Cairo Declaration. Potsdam Declaration on "the conditions for the surrender of Japan" was similar to an ultimatum to

Japan. In fact, at that time, China was satisfied with the confirmation of Paracels and Spratlys not being included in postwar reward.

On 15/8/1945, Japan was defeated and withdrew from Indochina. France returned to Paracel in June 1946. France returned to Amphitrite Island (Vietnamese name: An Vĩnh) but withdrew later due to intense support for war in the North of Vietnam.

Throughout the history until 1945, apart from Guangdong government's effort to intimidate in 1909, China did not have any actual occupation or administrative management on islands in East Sea.

At the end of 1946, China sent troops to occupy Itu Aba Island (Vietnamese name: Ba Bình) (Spratly islands) after France set up its ownership stele there. On January 1947, China (Trưởng Giới Thạch's troops at that time) landed on Woody Island (Phú Lâm) of Paracel islands. France immediately objected China's illegal occupation and sent a detachment to Paracel islands to build forts and meteorological stations. These meteorological stations were being operated for 26 years by Vietnamese diligent staff until mainland China seized by military in 1974. Today, hydrometeorological information broadcasted from Paracel is still known as from a meteorological station on Vietnam's tropical island. Two parties negotiated in Paris. Also in 1947, France proposed bringing the dispute to

International arbitration but China refused.

On October 1949, People's Republic of China was established; government of Republic of China retreated to Taiwan. On May 1950, Nationalist Party's troops had to withdraw from Phú Lâm island (Paracel islands) and Itu Aba Island (Spratly islands). French outposts were still maintained on Paracel. On 14/10/1950, French government officially transferred management authority over this archipelago to Bảo Đại government. Phan Văn Giáo – Governor of Central Vietnam (Thủ Hiến trung thần) at that time chaired the transfer of management authority over Paracel islands. A significant conference took place during this time in San Francisco, California (US) between Allies and Japan. One year later, a significant conference for the world and Paracels-Spratlys took place in San Francisco, California (US) between Allies and Japan.

San Francisco conference took place from 5/9 to 8/9/1951. There were 51 delegations of participating countries to discuss the issue of ending the war in Asia – Pacific region and developing postwar relationship with Japan. In this conference, Mainland China and Republic of China were not invited due to disagreement between America and Soviet Union regarding to official representative for China's interest.

On 5/9/1951, Soviet Foreign Minister Gromyko proposed amendments to 13

clauses. In which, there was amendment related to Japan's recognition of Mainland China's sovereignty over Paracel islands. The conference rejected with 3 votes for and 48 votes against (According to: White paper of Ministry of Foreign Affairs, Republic of Vietnam, 1975)^(*). China's nominal sovereignty over East Sea's archipelagos was clearly rejected by international community in the framework of an international conference.

On 7/9/1951, in the same conference, Prime Minister and Foreign Minister Trần Văn Hữu of Bảo Đại's government solemnly declared Vietnam's sovereignty over Paracel and Spratly islands: "to take full advantage of every chance to prevent any seed of dispute in the future, we affirm our longstanding sovereignty over Spratly and Paracel islands"^(**). End of the conference was the signing of Peace Treaty with Japan dated 8/9/1951. In Paragraph 7, Article 2 of this treaty, it was stated clearly that: "Japan disclaims all sovereignty and requirements of all territories they occupy by force during 2nd World War, including Spratly and Paracel islands". 50 delegations listened quietly to declaration of Vietnam's delegation, no country rejected

^(*) Phạm Ngọc Bảo Liêm, 2010: This document records 48 votes against, 3 votes for.

^(**) *Les États Associés à la conférence de San Francisco. les 6 et 7 Septembre 1951: Viet-nam Declaration du Président Trần Văn Hữu, France-Asie – Saigon, 1951, 6^e année, tome VII, 66-67 (Déc. 1951), pp.502-505.*

(According to: White paper of Ministry of Foreign Affairs, Republic of Vietnam, 1975; Phạm Ngọc Bảo Liêm, 2010). Mainland China then reacted by Foreign Minister Chu Ân Lai's declaration on their reserve for claim over archipelagos dated 15/8/1951. However, Tưởng Giới Thạch's government did not react. At that time, most countries still recognized Tưởng Giới Thạch's government of Republic of China as official representative for China.

After San Francisco conference, Paracel and Spratly islands were still managed by Bảo Đại's government. Until 1954, these 2 archipelagos had been under management of Republic of Vietnam's government.

In April 1956, French Expeditionary Corps withdrew from Indochina; French patrols on Paracel island were replaced by patrols of Republic of Vietnam's government. Meanwhile, troops of Mainland China's government secretly landed and occupied the east of Paracel islands (Cụm An Vĩnh, English: Amphitrite Group, Mandarin: 宣德群, Tuyên Đức islands). While in the west, Lưỡi Liềm group also as known as Nguyệt thiềm (English: Crescent Group, Mandarin: 永乐群岛, Vĩnh Lạc islands) was still managed by Vietnamese military on Pattle island. On 1/6/1956, Foreign Minister of Republic of Vietnam Vũ Văn Mẫu reaffirmed Vietnam's sovereignty over these two archipelagos. On 22/8/1956, a naval unit of Republic of Vietnam flagged on

Spratly islands and placed stele. On 13/7/1961, President of Republic of Vietnam, Ngô Đình Diệm, signed Decree number 174-NV on placing Paracels under province of Quảng Nam and established a village named Định Hải in Hoà Vang district on this archipelago (See also: Nguyễn Tuấn Cường, 2014)^(*).

IV. How China used force blatantly to take over Paracel completely and some islands in Spratly violated Declaration of UN General Assembly in 1970

On 4/9/1958, China claimed territorial waters within 12 nautical miles which applied to both Paracel and Spratly islands. On 14/9/1958, Prime Minister of Democratic Republic of Vietnam, Phạm Văn Đồng sent an official letter to Prime Minister of the State Council of China Chu Ân Lai informing "agreement" and "respect" towards China's decision on the territorial sea of 12 nautical miles away from China. The official letter said nothing about Paracels and Spratlys.

In 1961, Paracel islands were under management of Quảng Nam province. In 1973, they were under Phước Tuy province.

In January 1974, China used force to occupy islands stationed by Republic of Vietnam's military, 75 officers and

^(*) This Decree was printed in the *Official Gazette of Republic of Vietnam*, dated 29/7/1961, p.2695, column 1, taken from microfilm denoted "Film S 3419 1961: no.25-58 (June-Dec.) reel 13", barcode: HX7G6V, Lamont Library, Harvard University.

solders from Sài Gòn sacrificed, China occupied Paracel islands completely. It means, since 1974, Vietnam was deprived of material factors (Corpus) in sovereignty over Paracel, however, Vietnam's sovereignty was not disrupted due to mental factor security (Animus). In December 1982, Paracel district directly under Quảng Nam – Đà Nẵng province was established. However, more importantly, according to international law, since the beginning of 20th century, the use of force to conquer a territory has been deemed and not accepted. Resolution of UN General Assembly dated 24/10/1970 states clearly: "The territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. The territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force. No territorial acquisition resulting from the threat or use of force shall be recognized as legal"^(*). Therefore, China's use of force in contravention of international law could not deliver its legal status for Paracel islands.

For Spratly islands, according to Jan Rowiński, until January 1974 "China does not have the ability to influence Spratly islands area, let alone the ability

to control them" (Cited from: Nguyễn Thái Linh, 2014)^(*).

On 14/2/1975, Government of the Republic of Vietnam issued White paper on sovereignty of Vietnam over Paracels and Spratlys^(**).

In 1975, Vietnam was reunified; Vietnam People's Army replaced Republic of Vietnam's army on Spratly islands. In 1977, Vietnam declared territorial waters including the territorial waters of the islands. During this time, many other countries also occupied some parts of Spratly islands.

In March 1988, China sent force to Spratly islands for the first time to invade Collins (Vietnamese name: Cô Lin), Lansdowne (Vietnamese name: Len Dao) and Johnson (Vietnamese name: Gạc Ma) reefs. These reefs did not have troops stationed, hence Vietnamese Navy had to send troops to protect. On 11/3/1988, Ship HQ 604 (Brigade 125) captained by Vũ Phi Trù came from Cam Ranh with 70 infantry soldiers of Regiment 83 and 22 soldiers of Brigade 146 to build Johnson Island

^(*) Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of The United Nations, United Nations General Assembly Resolution 2625 (XXV), 24th October 1970.

^(*) Rowiński Jan (1990), *East Sea - Potential Dispute in Asia*, Warszawa. (Cited from: Nguyễn Thái Linh (2014); *Paracel, Spratly dispute and international law*, <http://tiasang.com.vn/Default.aspx?tabid=62&CategoryID=42&News=4605>.

^(**) République du Vietnam, Ministère des affaires Étrangères, Saigon, 1975.

Livre blanc sur Hoang SA (Paracel) et des îles de Truong SA (Spratly)

http://saigonfilms.com/official_documents_rvn/Livre%20blanc%20sur%20Hoang%20SA.htm.

<http://www.spratlys.org/collection/claims/vietnam/vietnam2a.htm>

Cluster. When delivering materials on shore, three Chinese warships pressed, snatched flags and fired guns invading Johnson island illegally. Then, Chinese ship continued to attack Ship HQ 605 which was protecting and building Lansdowne reef and Ship HQ 505 which was guarding Collins reef. Two of Vietnam's ships were sunken during the battle, one was broken, 64 officers and soldiers sacrificed and 9 were captured by China. China even prevented Red Cross from rescuing. China's warships were damaged and there were 24 casualties. Since then, China occupied Johnson reef.

In April 1988, China established its 33rd province including Haian Island, Paracel and Spratly islands.

In May 1989, China occupied another small island in Spratly islands.

In 1990, China proposed joint exploitation of Spratly islands.

In 1992, China occupied few more small islands.

In 1994, there was clash between Vietnam and Chinese research vessel from Crestone.

In February 1995, China occupied Mischief Reef (Vietnamese name: Vành Khăn) – a small reef in Spratly islands under management of Philippines.

Currently, China is controlling completely Paracel islands. Spratly islands are occupied by 6 countries and territories which are Vietnam, China,

Taiwan, Philippines, Malaysia and Brunei.

The above cited facts show intentions and movements of Chinese government have been alarming for international peace and law for many centuries. Moreover, on 26/5/2011 and 30/11/2012, Chinese ships entered Vietnam's continental shelf region and exclusive economic zone cutting seismic and receiver cables of Binh Minh 02 ship of Petro Vietnam Corporation. In May 2014, China has brought a giant oil rig Haiyang Shiyu 981 along with dozens of warplanes, hundreds of paramilitary and military vessels into Vietnam's continental shelf and exclusive economic zone. On 26/5/2014, Chinese vessel number 11209 rammed the DNa 90152 of Đà Nẵng's fishermen in the traditional fishing ground of Vietnam located 17 nautical miles away from this drilling rig. In June 2014, China have continued to place more drilling rig in the East Sea including Nam Hải 09 rig right at the mouth of Gulf of Tonkin which was awaiting demarcation between Vietnam and China. This is indeed an invasion with "classical" and unprecedented signs. They are classical because it has crossed the border with weapons and unilateral actions to seize territory and annex for long-term. However, it is unprecedented for using "mobile territory", without or may be without

shooting. But there is still possibility of turning other national territory into disputed area before seizing. Chinese dream in fact has gradually lifted off its “shameless covering grape leaves”^(*).

“What China is doing is far different from what China has said”, stated by Prime Minister Nguyễn Tấn Dũng at a press conference on 22/5/2014 in Manila during his working visit to Philippines. At this press conference, head of Vietnam’s government has made it clear: “Territorial sovereignty, including sovereign maritime areas and islands, is sacred. Vietnam is hungry for peace and friendship, but it must be based on ensuring independence, self-reliance, sovereignty and territorial integrity. Vietnam never barter these sacred things for an unrealistic and dependent peace and friendship”^(*).

What the Prime Minister said is the wish of Vietnamese people.

(*) 同主题阅读: [ZGPT]未来 50 年中国的六场战争: 将彻底打破世界格局, http://www.mitbbs.com/article_t/MiscNews/31207047.html (Chinanew website talked about 6 wars which China will undertake to implement Chinese Dream in the next 50 years: 1/ Taiwan 2020-2025; 2/ East Sea 2025-2030; 3/ Tibet 2035-2040; 4/ Diaoyu-Ryukyu (Vietnamese name: Điều Ngư - Lư Cầu) 2040-2045; 5/ Outer Mongolia 2045-2050; Russia 2055-2060. From 2011 until now, June 2014, this article has been receiving stiff opposition from all over the world. However, China still refuses to remove the article).

(*) Prime Minister: Never barter sovereignty for unrealistic friendship, <http://vnexpress.net/tin-tuc/the-gioi/thu-tuong-khong-danh-doi-chu-quyen-lay-huu-nghi-vien-vong-2994075.html>

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