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Oceans and the law of the sea

Letter dated 8 December 2014 from the Permanent Representative of China to the United Nations addressed to the Secretary-General

Upon instruction from my Government, I have the honour to transmit herewith China's position paper regarding the two letters and their annexes ([A/68/980](#) and [A/68/981](#)) dated 22 August 2014 from the Permanent Representative of Vietnam to the United Nations, addressed to the Secretary-General (see annex).

I should be grateful if you would circulate the present letter and its annex as a document of the sixty-ninth session of the General Assembly, under agenda item 74 (a).

(Signed) **Liu Jieyi**
Ambassador
Permanent Representative
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Annex to the letter dated 8 December 2014 from the Permanent Representative of China to the United Nations addressed to the Secretary-General

Position paper

On 22 August 2014, Permanent Representative of the Socialist Republic of Vietnam to the United Nations Le Hoai Trung, through his letters ([A/68/980](#) and [A/68/981](#)) addressed to United Nations Secretary-General Ban Ki-moon, submitted Vietnam's position papers on the operation of the *Haiyang Shiyou 981* drilling platform, belonging to a Chinese company, and the Xisha Islands.

The position and the related arguments expressed by the Vietnamese side in those two documents are without the slightest factual or legal foundation. The Chinese side firmly rejects them, and reiterates its position on this matter as stated in the position papers annexed to the letters addressed to United Nations Secretary-General Ban Ki-moon on 9 June and 24 July 2014 ([A/68/907](#) and [A/68/956](#)) respectively from Acting Permanent Representative Wang Min and Permanent Representative Liu Jieyi of the People's Republic of China to the United Nations. In view of the repeated fabrication and spread of untruthful allegations by the Vietnamese side, the Chinese side has no choice but to respond as follows:

1. The Vietnamese side's allegation that the operation of the Chinese company's *Haiyang Shiyou 981* drilling platform infringed upon Vietnam's sovereign rights and jurisdiction

The Xisha Islands are an integral part of China's territory, over which there is not the slightest dispute. There are overlapping claims to the waters between China's Xisha Islands and the coast of the Vietnamese mainland, and the two sides have not yet conducted delimitation of the Exclusive Economic Zone (EEZ) and continental shelf in these waters. However, the maritime area (17 nautical miles off the baseline of the territorial sea adjacent to China's Xisha Islands) where China's *Haiyang Shiyou 981* drilling platform operated from 2 May to 15 July 2014 will never fall within the scope of Vietnam's EEZ and continental shelf, no matter which principle is applied in the delimitation. Vietnam's illegal and forcible disruption of the Chinese company's operations seriously infringed upon the legitimate and lawful rights of the Chinese side, and violated international law and basic norms governing international relations.

2. The Vietnamese side's allegation that the baseline of the territorial sea adjacent to China's Xisha Islands violates international law

In accordance with the 1982 United Nations Convention on the Law of the Sea (UNCLOS) and the Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone promulgated on 25 February 1992 (hereafter the "1992 Territorial Sea Law"), the breadth of China's territorial sea is 12 nautical miles, measured from the baselines of the territorial sea which are composed of all the straight lines joining the adjacent base points. On 15 May 1996, in accordance with the 1992 Territorial Sea Law, the Chinese Government issued the Declaration of the Government of the People's Republic of China on the Baselines of the Territorial Sea of the People's Republic of China, announcing the baselines of part of its territorial sea adjacent to the Chinese mainland and those of the territorial sea adjacent to its Xisha Islands, and deposited the related materials and chart with the

Secretary-General of the United Nations in the same year. All actions taken by the Chinese side have been in complete compliance with international law, China's domestic law and relevant international practice.

3. The Vietnamese side's allegation that Vietnam established "sovereignty" over the Xisha Islands in the 17th century

China established jurisdiction over the Xisha islands and sent naval forces to patrol the waters there no later than the Northern Song Dynasty (960-1127 AD). In the 16th year of the Zhiyuan reign-era of the Yuan Dynasty (1279 AD), China sent officials to conduct an astronomical survey in the Xisha Islands. During the Ming and Qing Dynasties, the officially-compiled General Annals of Guangdong (*Guangdong tongzhi*), Annals of Qiongzhou Prefecture (*Qiongzhou Fu zhi*) and Annals of Wanzhou (*Wanzhou zhi*) all recorded the Xisha Islands as under the jurisdiction of Wanzhou, Qiongzhou Prefecture, Guangdong Province (currently Wanning City and Lingshui County of Hainan Province). From the 49th to the 51st years of the reign of the Kangxi Emperor of the Qing Dynasty (1710-1712 AD), Vice-admiral Wu Sheng of the Guangdong naval force led a fleet to patrol the Xisha Islands maritime area. There are ample facts in support of China's sovereignty and exercise of jurisdiction over the Xisha Islands, fully demonstrating that China was the first to discover, develop, exploit and exercise uninterrupted jurisdiction over the Xisha Islands. It is all too clear, moreover, that the relevant position of the Vietnamese side is simply a distortion of basic facts.

4. The Vietnamese side's allegation that the French colonial authorities exercised sovereignty over China's Xisha Islands in the name of Vietnam

For some time following its establishment of colonial rule in Vietnam in the late 19th century, France explicitly recognized China's sovereignty over the Xisha Islands. The Vietnamese government's attempt to prove the legitimacy of its territorial claims to China's Xisha Islands by invoking the materials related to the illegal occupation of China's Xisha Islands, through the use of force, by the French colonial authorities and the Saigon authorities of South Vietnam after 1933 is fundamentally untenable.

5. The relevant international treaties during World War II and the Peace Treaty of San Francisco referred to by the Vietnamese side

In accordance with the Cairo Declaration, the Potsdam Proclamation and other international treaties as well as the relevant principles of international law, China resumed its exercise of sovereignty over the Xisha Islands after World War II. Senior officials designated by the Chinese Government went to the Xisha Islands on military vessels in November 1946 to conduct the ceremonial takeover of the islands; a commemorative stone tablet was erected and troops were stationed there afterwards. The Xisha Islands, which had once been under illegal foreign occupation, were thus returned to the jurisdiction of the Chinese government.

With regard to the Peace Treaty of San Francisco, the then Premier of the Government Administration Council of the Central People's Government and Foreign Minister Zhou Enlai solemnly declared on behalf of the Chinese Government in 1951 that "because the People's Republic of China has not participated in the preparation, drafting and signing of the Peace Treaty of San Francisco with Japan, the Central People's Government considers it null and void, and thus absolutely cannot recognize it".

6. The Vietnamese side's allegation that Vietnam's "sovereignty" over China's Xisha and Nansha Islands were confirmed by the 1954 Geneva Accords and the 1973 Paris Accords, and the validity of the Note by Premier Pham Van Dong of the Government of the Democratic Republic of Vietnam in 1958

The Xisha and Nansha Islands were not mentioned in any way in the agenda and related accords of the Geneva Conference held in April 1954 or in the Paris Accords signed by four parties in January 1973.

On 4 September 1958, the Chinese Government issued a declaration stating that the breadth of the territorial waters of the People's Republic of China shall be 12 nautical miles, and making it clear that "this provision applies to all territories of the People's Republic of China including the Chinese mainland and its coastal islands, as well as Taiwan and its surrounding islands, the Penghu Islands, the Dongsha Islands, the Xisha Islands, the Zhongsha Islands, the Nansha Islands and all other islands belonging to China which are separated from the mainland and its coastal islands by the high seas". On 14 September of the same year, Premier Pham Van Dong of the Vietnamese Government sent a Note to Premier Zhou Enlai of China's State Council, solemnly stating that "the Government of the Democratic Republic of Vietnam recognizes and supports the declaration of the Government of the People's Republic of China on its decision concerning China's territorial sea made on September 4, 1958" and "the Government of the Democratic Republic of Vietnam respects this decision". Judging from the content of this Note, its recognition of the declaration of the Government of the People's Republic of China on its decision concerning China's territorial sea made on September 4, 1958 naturally applies to the section of the Declaration referring to "...all territories of the People's Republic of China, including ... the Xisha Islands ... and all other islands belonging to China".

No matter how Vietnam seeks to explain and defend itself, it cannot deny the fact that this Note already recognized China's ownership of the Xisha Islands. Furthermore, the Vietnamese Government has stated that the Xisha Islands belong to China on numerous other occasions. By putting forward territorial claims to China's Xisha Islands, the Vietnamese Government has broken its own promises and seriously violated the principles of international law, including the principle of estoppel, and the basic norms governing international relations.

7. The Vietnamese side's allegations that China "occupied" the Xisha Islands through the use of force in 1974 and that the Chinese leadership recognized the existence of a "dispute" over the Xisha Islands in 1975

The Xisha Islands are an integral part of China's territory. In January 1974, the Chinese military and people drove the invading army of the Saigon authorities of South Vietnam from the Shanhu Island and Ganquan Island of the Xisha Islands, which was a legitimate act to defend China's territorial sovereignty.

During a visit to China by Vietnamese leader Le Duan in September 1975, Chinese leader Deng Xiaoping pointed out to him that China had abundant evidence to prove that the Xisha and Nansha Islands had been part of China's territory since ancient times, although related issues "could be discussed later" in the spirit of resolving differences through friendly consultation. It is not difficult to see that the Chinese leader was simply reiterating that the Xisha Islands were an integral part of China's territory, and never said that a "dispute" over the Xisha Islands existed

between China and Vietnam. The relevant views expressed by the Vietnamese side, which interpret the statement out of context, are nothing but distortions of facts.

8. The Vietnamese side's frequent attempts to bolster its claim over the "Hoang Sa Archipelago" by invoking the words and actions of the Saigon authorities of South Vietnam

In the 1970s, in order to occupy Chinese territory, the Saigon authorities of South Vietnam fabricated so-called "historical evidence" of sovereignty over China's Xisha Islands by intentionally distorting historical facts. Through textual research, it has been discovered that the so-called "Hoang Sa Archipelago" was not China's Xisha Islands at all, but only certain islands and shoals off the Vietnamese coast. However, after the unification of Vietnam, the Vietnamese side went back on its word and denied the public statement it made in the 1950s, which recognized the Xisha and Nansha Islands as part of the Chinese territory. Instead, it copied and passed on the so-called "evidence" fabricated by the Saigon authorities of South Vietnam, claiming that China's Xisha Islands were Vietnam's so-called "Hoang Sa Archipelago", and made sovereign claims based on this allegation, in clear violation of international law and basic norms governing international relations.

It must be emphasized that after the founding of the Democratic Republic of Vietnam on 2 September 1945, the Government of the People's Republic of China established diplomatic relations with the Government of the Democratic Republic of Vietnam in January 1950. In accordance with universally recognized norms of international law, the Government of the Democratic Republic of Vietnam and its successor, the Government of the Socialist Republic of Vietnam, is the sole legitimate government representing Vietnam. This is a position shared by China and most of the world's countries that stand for justice. Vietnam's repeated attempts to strengthen its claim over the "Hoang Sa Archipelago" based on the words and actions of the Saigon authorities of South Vietnam and its denial of the promises made in the 1958 Note are thus completely illegal and unacceptable.
