

THE CHINA-VIETNAM BORDER DELIMITATION TREATY OF 30 DECEMBER 1999

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INTRODUCTION

On 30 December 1999, the China-Vietnam land border delimitation treaty was signed in Hanoi by the Vietnamese Minister of Foreign Affairs Nguyen Manh Cam and his Chinese counterpart Duong Gia Trien on behalf of their respective Governments. The agreement marks an encouraging start to Sino-Vietnamese relations in the new millenium.

BACKGROUND

Located on the Indochina peninsula, Vietnam has a total land border length of 4,510km, 1,306km of which is adjacent to China, 2,067km to Laos and 1,137km to Kampuchea (Cambodia).

Having just gained independence on 2 November 1957, the Central Committee of the Labour Party of Vietnam wrote to the Central Standing Committee of the Communist Party of China proposing that the two parties should respect the historical border established by the Sino-French Conventions of 1887 and 1895 and settle any outstanding disputes through negotiations.¹ The letter emphasised that: *“the border question is an important issue that requires to be resolved on the basis of legal principles, existing or redefined, as decided by the two Governments.”* In April 1958 China responded, accepting the Vietnamese proposal, thereby indicating an acceptance of international law and the principle that treaties on borders remain valid whatever the changes in administrative circumstances.² Despite China's recent history of rejecting the validity of unequal treaties concluded between the Chinese Empire and imperialist states in the Nineteenth Century, it nevertheless recognised the legality of the conventions of 1887 and 1895.

The China-Vietnam land border has a long history and has remained relatively stable since the 5th century when Vietnam emerged from Chinese control. In the *Geographer*, dated 29 October 1964, the Intelligence and Research Agency of the USA Department of State was quoted as saying that:

...in 939, after ten centuries under foreign domination, Annam broke from the Chinese yoke and created the Empire of Great Viet...The new State successfully defended its independence...A land border like the present one could have been in existence ten centuries ago.

The two Sino-French Conventions of 1887 and 1895 were a legal reaffirmation of the historical border, and during the period 1886-1897, 341 land marks were fixed, enabling the demarcation of the border except for a few points and relatively small areas which remained in dispute. Thus the Conventions established the China-Vietnam land border as Vietnam's first international boundary.

Over the subsequent century, due to changes in demarcation techniques and boundary management there have been some adjustments to the border requiring negotiations between the two countries. The Vietnam conflict (or anti-American imperialist war as it is referred to in Vietnam) interrupted this process, but after the peace established by the *Paris Agreement* of 27 January 1993, the Government of the Democratic Republic of Vietnam initiated a recovery plan for the country, one of the first concerns of which was the definition of the boundary.

The first round of bi-lateral negotiation was held in Beijing on 15 August 1974 with a second round, at the level of Deputy-Minister of Foreign Affairs, from 7 October 1977 to June 1978. The negotiations were interrupted by the border war of 1979, but on 18 April 1979 Sino-Vietnamese negotiations restarted in Hanoi. The Vietnamese presented a three-point proposition, which included the stipulation that:

The settlement of boundary and territorial issues between [the] two countries should follow the principle of respecting the status quo of the boundary created by history and delimited by the conventions of 1885 and 1897 concluded by [the] French and [the] Chinese Empire, and approved by the Vietnamese and Chinese sides.³

The fourth negotiation round...resulted in an Agreement on 30 December 1999.

After the normalisation of relations between China and Vietnam, the fourth negotiation round on boundary and territorial issues between the two countries began in October 1992. These represent the longest and most successful negotiations to date and resulted in an Agreement on 30 December 1999. This outcome has been achieved due to several factors outlined below.

The two countries needed stability for reconstruction and development of their countries. An early solution to the territorial and boundary issues between them was integral to the fundamental interests and the common aspiration of the two peoples: that they should work together to build their common land border in a spirit of peace, friendship, stability and cooperation. This aspiration was clearly expressed in the Sino-Vietnamese joint declaration issued in Beijing on 27 February 1999 during an official friendship visit by General Secretary Le Kha Phieu of the Communist Party of Vietnam Central Committee to the PRC.

It is also notable that the two countries have experience of settling border issues. China has concluded treaties on border issues with 12-15 neighbouring states while Vietnam has completed the delimitation and demarcation of its border with the People's Republic of Laos with a Treaty of 18 July 1977 and an Additional Treaty of 24 January 1986.

The settlement of China-Vietnam border issues is an active concern of the State and Party leaders of the two countries. In November 1991, in Beijing, Party General Secretary Do Muoi and his Vietnamese counterpart Jiang Zemin issued a statement that the: *“Two sides agreed to settle the territorial and border issues that exist between the two countries through peaceful negotiations.”*

Then in December 1992, in Hanoi, Vietnamese Prime Minister Vo Van Kiet and the Prime Minister of the People's Republic of China Li Peng made a joint-declaration that the:

Two sides reaffirmed the agreement achieved on the high-level meeting of the leaders of the two countries to settle the two country's territorial and border issues through peaceful negotiations.

In November 1994, in Hanoi, Party General Secretary Do Muoi, President of Vietnamese State Le Duc Anh and President of the PRC Jiang Zemin agreed *“to reaffirm the agreements on the high-level since 1991 to persist in looking for solutions for the two country's territorial and border issues through peaceful negotiations.”*

This determination was expressed in detail in July 1997, during the official visit of Party General Secretary Do Muoi to China. The leaders of the two countries agreed *“to try to conclude the treaty on land border and another on the maritime delineation in the Gulf of Tonkin before the end of 2000.”*

This determination was reaffirmed in the official visit of PM of Vietnamese Government Phan Van Khai to China in October 1998. Finally, Party General Secretaries Le Kha Phieu and Jiang Zemin instructed:

The two sides agree to place the primary issues foremost, show sympathy and compromise with each other, conduct fair, rational and friendly consultations and, taking into account international law and reality, try to satisfactorily settle the outstanding territorial and border issues between the two countries through peaceful negotiations. The two sides express their determination to accelerate the process of negotiations and raise their working efficiency for the concluding of the treaty on land border in 1999; to complete settlement of the maritime delineation of the Gulf of Tonkin in 2000; and to join efforts in making their common borderline one of peace, friendship and stability.⁴

PRINCIPLES DEFINING THE LAND BORDERLINE

The agreement on fundamental principles of 19 October 1993 stipulated that the:

Two sides agreed to compare and redefine the whole of Vietnam-China land borderline founded on the Convention on border delimitation concluded by French and Chinese Empire on June 26 1887 and the Additional Convention to the Convention on border delimitation on June 20 1895 and other enclosed documents and map of delimitation and demarcation, confirmed or defined by the above mentioned Convention and the Additional Convention, as well as founded on the clearly demarcated marks.

So, the first and main principle underlying the negotiations was the recognition of the legitimate effect of the two Conventions of 1887 and 1895. These Conventions have served as a basis for comparing and redefining the whole of the land borderline between the two countries.

During the negotiation process, the two sides exchanged maps showing the borderline defined unilaterally on the basis of interpretation of the Franco-Chinese Conventions and found that for the most part the unilaterally interpreted borderlines coincided. Areas of distinction were not large and could be divided into three types:

- differences arising from overlapping of drawn line;
- differences arising from an absence of a line; and,
- differences of positions due to different interpretations of the conventions.

The second principle underlying the negotiations was an equitable and reasonable approach to the settlement of areas of distinction. For the areas where the Sino-French Conventions have clear definitions the direction of borderline should be defined on the basis of dispositions of the Conventions. Areas traversing the borderline or areas belonging to one side but being under the management of the other side must be handed over to the owner without any conditions.

For the areas where the Sino-French Conventions haven't clearly fixed the boundary, the two sides agreed to take into account the following factors to define the borderline:

- the legal basis of the French-Chinese Conventions;
- historical management;
- topography;
- historical maps; and,
- convenience of management.

It was further agreed that, as necessary, experts of both sides should carry out surveys on site and negotiate (in a spirit of sympathy and compromise) with each other in the search for an equal and reasonable solution.

As a result, the whole China-Vietnam borderline of 1,306km in length was compared and delimited. The disputed area of 231km² was settled reasonably.

SIGNIFICANCE OF THE TREATY

The treaty is a victory for the principle of equal sovereignty between states.

The China-Vietnam land border treaty is a victory for the two nations. They now have a clearly defined and stable boundary and the treaty meets the aspirations of the two peoples, especially those peoples in border areas. The treaty also meets the need of maintaining peace and stability in South East Asia.

With the completely delimited border, a notable one third of Vietnam's land boundaries, the treaty affirms in practice the agreement concluded between the two Party General Secretaries: to build China-Vietnam relations in a spirit of neighbourliness, friendship, comprehensive cooperation and stability. The treaty is a victory for the principle of equal sovereignty between states. It creates favourable conditions for building a boundary in peace, stability and for the future development of comprehensive cooperation between Vietnam and China and in construction of each country.

The treaty marks the beginning of the determination of the two Parties, two Governments and peoples to settle all remaining territorial and border issues through peaceful negotiations. The delineation of the Gulf of Tonkin will be finalised in 2000, and the two countries continue to work together to find an acceptable solution to the issues in the Bien Dong (South China) Sea.

Like the agreement on maritime delineation between Vietnam and Thailand, 9 August 1997, this treaty shows the good will and determination of Vietnam to extend friendship to all countries, to be ready to settle any dispute relating to territorial and border issues, maritime zones and continental shelves with neighbouring countries on the basis of respecting sovereign independence, territorial integrity, in accordance with international law and practices.

The treaty is in line with the main trends of the époque and affirms general principles of international law: to settle territorial and border issues through peaceful negotiations; and, the avoidance of using force and the threat of force in settlement of international disputes. The treaty contributes to the maintenance of peace and security in the region, reaffirming the role of the two countries in maintaining peace and stability in the region as well in of the world.

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- ¹ Joyaux, F. (1991) *Geopolitique de l'Extrême-Orient*, Vol. II, Edition of Complexe: 96.
 - ² Art. 62 of the Convention of Vien of 1969 on the treaty laws.
 - ³ Dauphin, A. (1989) 'La frontière sino-vietnamienne de 1895-1896 de nos jours', *Les frontières du Vietnam. Historire des frontières de la peninsule indochinoise*, L'Harmattan: 115.
 - ⁴ *Nhan Dan Daily*, 28 February 1999.