

PERMANENT MISSION OF THE  
SOCIALIST REPUBLIC OF VIET NAM  
to the United Nations Office,  
the World Trade Organization  
and Other International Organizations at Geneva



MISSION PERMANENTE DE LA  
REPUBLIQUE SOCIALISTE DU VIET NAM  
auprès de l'Office des Nations Unies,  
de l'Organisation Mondiale du Commerce  
et des autres Organisations Internationales à Genève

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The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations Office, the World Trade Organization and Other International Organizations in Geneva presents its compliments to the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights and with reference to the communication Ref. UA VNM 2/2018 dated 21 February 2018 from the Special Procedures, has the honour to hereby transmit the reply of Viet Nam (01 attachment).

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations Office, the World Trade Organization and Other International Organizations in Geneva avails itself of this opportunity to renew to the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 23 April 2018



**Special Procedures Branch**  
**Office of the United Nations High Commissioner for Human Rights**  
**GENEVA**

## **REPLY OF VIET NAM TO THE COMMUNICATION**

**Ref. UA VNM 2/2018 (dated 21 February 2018)**

### **1. About the detention and trial of Hoang Duc Binh and Nguyen Nam Phong**

Before his arrest, Hoang Duc Binh had a record of law breaking. On 25 December 2015, he was fined 24 million VND for violations of regulations on stockpiling and issuing of printed copies that are not publications<sup>1</sup>, in accordance with Article 27, Government's Decree No. 159/2013/ND-CP of 12 November 2013 providing for administrative sanctions in the field of press and publishing. However, Hoang Duc Binh did not pay the fine and fled to Nghe An province.

In Nghe An province, Hoang Duc Binh regularly published and shared false information about the State policy on Facebook. Taking advantage of the marine environmental incident in the central part of the country, Hoang Duc Binh, as Vice President of the "Vietnam Labor Movement" at the time, promoted and finally established the "Association of Central Fishermen" aiming at inciting local people and fishermen to disrupt security and order.

On 14 February 2017, Hoang Duc Binh, as a leader, Nguyen Nam Phong and a group of people in violation of traffic law caused a traffic jam spanned over 5 kilometers in the area of Dien Hong, Dien Chau, Nghe An on their way from Quynh Luu, Nghe An to Ha Tinh with a stated intention of suing Hung Nghiep Formosa Ha Tinh Steel Corp (Formosa). The group led by Hoang Duc Binh also incited local people to disturb public order, causing traffic jam on the national route 1A, damaging four cars and injuring 12 on-duty police officers in Nghe An.

Later on 02 April 2017, Hoang Duc Binh and some other individuals incited local people to encircle, attack a patrol team of Loc Ha district and Thach Bang commune police in Ha Tinh, injuring one police officer. They also encircled the

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<sup>1</sup> Under the Law on Publishing, publication 'is a work and document on politics, economics, culture, society, education and training, science, technology, literature, art in different languages, images, sounds' in certain forms which are published through a publisher, an agency or an organization which has license to do so.

residence of the police chief of Thach Bang Commune, destroying the property therein and disturbing local security and order.

Hoang Duc Binh and Nguyen Dinh Thuc, a local priest repeatedly committed acts of disturbing public order. On 15 May 2017, the Police Investigation Security Agency under the Department of Public Security of Nghe An implemented the Decision to detain Hoang Duc Binh for 03 months for the purpose of investigating his acts against officials on duty and abusing human rights and fundamental freedoms to infringe upon national security and legitimate right and interests of organizations and individuals. On 16 May 2017, a group of people, led by priest Nguyen Dinh Thuc, gathered and used logs, bricks and stones to block national route No. 1A, causing severe traffic congestion longer than 1 km within 6 hours. After that, they took hostages of several local government officials on-duty and committed further acts of disturbance at the police station of Dien Chau district. These acts have been caught and reported by the press. The links of online newspapers reporting the incidents are listed below:

<https://tuoitre.vn/cong-an-nghe-an-bat-tam-giam-hoang-duc-binh-1314846.htm>

<https://vtc.vn/ke-phan-dong-hoang-duc-binh-da-bi-bat-giu-bao-gio-den-nguyen-dinh-thuc-d323412.html>

<http://www.antv.gov.vn/tin-tuc/phap-luat/linh-muc-nguyen-dinh-thuc-lai-kich-dong-giao-dan-chan-ql1a-209232.html>

<https://vtc.vn/ten-phan-dong-hoang-duc-binh-bi-bat-linh-muc-nguyen-dinh-thuc-kich-dong-nhung-ke-qua-khich-chan-quoc-lo-1a-d323170.html>

The acts of Hoang Duc Binh and Nguyen Nam Phong reflect their disregard of law, health and lives of police officers on-duty, causing disturbances to local people, adversely affecting the situation of local security and order, committing the offence of “Resisting a person on public duty” under Article 257 of the Criminal Code. Hoang Duc Binh himself committed another offence of "Abusing the rights to freedom and democracy to infringe upon State's interests, rights and interests of organizations and other individuals" under Article 258 of the Criminal Code.

The detention and trials of Hoang Duc Binh and Nguyen Nam Phong were carried out in compliance with national legislation and international obligations of Viet Nam. Such acts of Hoang Duc Binh and Nguyen Nam Phong, including seriously disturbing public order, attacking and injuring persons on duty, causing damages to others' property must be prohibited and punished in any legal systems. In any case, in the light of Article 19 of the ICCPR, a person is allowed to exercise his right to freedom of speech and expression so long as it does not associate with violent acts or the fabrication and dissemination of false information in violation of the rights of other individuals or organizations, or incitement to public order disturbance, public building destruction.

With the above-mentioned information, the Government refutes the allegations in the communication. Hoang Duc Binh and Nguyen Nam Phong were not arrested and convicted for their exercise of the right to speech, the right to peaceful assembly or other rights and fundamental freedoms, but for their offences under Vietnamese criminal law.

## **2. On the measures to protect the marine environment in Central Vietnam**

Right after the occurrence of the marine environmental incident in Central Vietnam, the Government instructed relevant ministries, agencies and local authorities to work together in order to identify causes and measures to address the incident. Investigations led to the conclusion that Formosa had discharged toxic chemical wastes into the sea, causing the disastrous incident. The company admitted its liability for the incident, publicly apologizing to the Government and the Vietnamese people, paying a compensation amount of 500 million USD, providing guarantee of non-repetition and undertaking to assume full responsibility and liability under Vietnamese legislation if violations reoccur.

Vietnamese authorities have adopted a wide range of measures to address the violations of Formosa, having the company to alter their technologies, to improve or install environmental protection facilities as recommended by the Environmental Impact Assessment report approved by the Government, so that the company's activities are in line with national and international environmental protection standards. The Government regularly inspects and closely monitors the

manufacturing activities as well as the treatment of wastes by the company, at the same time implementing other measures to ensure non-recurrence of any other environmental incident.

On 06 January 2017, the 'scheme for determination of damages, compensation and assistance in business recovery and social security for residents in the provinces of Ha Tinh, Quang Binh, Quang Tri and Thua Thien Hue affected by the environmental incident' was approved by the Prime Minister. Following are the main concrete actions taken by the Government:

(1) Determining damages for the purposes of compensation and provision of assistance to the affected residents;

(2) Establishing marine environment monitoring systems, restoring marine life, including fisheries resources, coral reef and sea grass at the above-mentioned provinces;

(3) Establishing pilot Funds for the restoring of aquatic resources at the four affected provinces;

(4) Taking measures to restore and promote business in the region, including: providing emergency assistance to affected residents to help stabilize their life, investing in infrastructure for concentrated aquaculture areas, sea ports, storm shelters for fishing ships, offering loan assistance, debt settlement, interest rates reduction, tax reduction;

(5) Assisting in career changes;

(6) Taking measures to ensure food safety and health, focusing on monitoring of and testing for toxic agents, treating and giving guidance on treating toxic agents with a view to ensuring food safety; assessing and controlling drinking water quality, coastal water quality, especially beaches and adjacent waters; assessing impacts on health and enhancing healthcare services in affected areas.

Compensation for damages to residents in affected areas is nearly completed, meeting their satisfaction and receiving positive public opinion. As of 04 October 2017, a compensation amount of 6,193 billion VND was disbursed, accounting for 97.4% of damages and 94.1% of compensation funds temporarily provided by the

Government. The compensation process was carried out in a transparent, fair and objective way, in accordance with relevant laws and regulations.

One year after the incident, the Government had the monitoring of marine environment conducted at the 04 affected central provinces, the results of which were transmitted to the local authorities and the media. The life and production activities of people in affected areas have stabilized and showed signs of positive development. New installations at Formosa Plant in Ha Tinh are now allowed but under the strict supervision of Governmental authorities.

The then-leaders of concerned governmental agencies were disciplined. In particular, the Prime Minister on 16 August 2017 signed following decisions:

- Decision No. 1199/QD-TTg gives warnings to Mr. Nguyen Minh Quang, former Minister of Natural Resources and Environment (MONRE) in the 2011-2016 tenure;

- Decision 1201/QD-TTg and Decision 1202/QD-TTg respectively strips Mr. Nguyen Thai Lai's and Mr. Bui Cach Tuyen's titles as former MONRE Deputy Ministers in the 2011-2015 tenure;

- Decision 1200/QD-TTg strips Mr. Vo Kim Cu's title as former Vice Chairman of the People's Committee of Ha Tinh province in the 2005-2010 tenure and former Chairman of the Ha Tinh People's Committee in the 2010-2015 tenure.

The Government hopes that the Special Procedures will take due note of the above information given by Viet Nam, evaluate the case in an objective, balanced and comprehensive manner./.