

MEMORANDUM BY CAMBODIA ON HER TERRITORIES IN SOUTH VIET-NAM (KAMPUCHEA KROM OR COCHINCHINA)

Cambodia is interested in Geneva Conference for two reasons, In the first place she has been involved in the war against Viet-Minh, who, having spread insecurity in her territory, have recently invaded one of her provinces in the North. Like every other nation she hopes for the return of peace to Indo-China. Secondly, she is anxious to ensure that this peace settlement which is being established under the auspices of the Great Powers, does not result in the lost of the territories which she possesses in the South Viet-Nam (Kampuchea Krom or Cochinchina). This second question forms the subject of the present memorandum which, after a brief historical study, sets forth Cambodia's titles to territories in South Viet-Nam and outlines the problems of these lands and certain possible solutions.

I. A Brief historical account of how Cambodian territories in Cochinchina came to be in the hands of the Vietnamese.

Before the end of Second World War, French Indo-China comprised five separate countries : Tonkin, Annam, Cochinchina, Laos and Cambodia. The first three are inhabited by a people popularly known as "Annamite" now (Vietnamese) whose culture derives from China, while Cambodia, with a civilization which is Indian in origin, is clearly distinguished from the three countries

The Annamites are descendants of the Viets, one of the autochthonous races of South China, who have emigrated southward in large numbers and spread the selves like “a flood-ware or a patch of oil from the Red River to the lower Mekong, and from the Chinese Frontier and the Gulf of Tonkin to Camau Point and the Gulf of Siam”. (Histoire des Pays de l’Union Indochinoise by NGUYEN MANH QUE - Page 24). They destroyed the kingdom of Champa (a country inhabited by the Malays) and in February, 1859 (the date of capture of Saigon), they occupied a part of Cambodian territory at the moment of the establishment of the French in Indo-China. This occupation led to irregular cession of land by Cambodian rebel princes and also to acts of generosity on the part of Cambodian sovereigns.... For example, the Srok of Preah Trapeang (Travinh) offered asylum to the Emperor GIALONG who had been expelled from his country by the revolt of the TAY SON. The Emperor GIALONG organized his Army there and obtained military help from the Cambodia King ANG ENG (who reigned from 1779 to 1796). After the revolt of the TAY SON had been repressed and the Emperor had returned to the throne of Annam, he recalled the kindly hospitality of the province of Travinh and asked ANG ENG to exclude this Srok from all taxes and the inhabitants from all corvées. ANG ENG agreed out of friendship for Emperor. Later GIALONG arbitrarily made this Srok an Annamite colony, (cf. A letter from ANG DUONG to the Emperor NAPOLEON III quoted in the History of Thailand).

In the same way, the region Saigon. Bienhoa and Baria opened to Annamite immigration by the authority of King CHEY CHETTHA II, granted in 1663. The Annamite Prince NGUYEN SAI VUONG asked that, in return for the payment of taxes, the immigrants should have the right to cultivate these lands and trade there. King CHEY CHETTHA, who had married an Annamite Princess, daughter of NGUYEN SAI VUONG agreed since,

according to the custom of the Khmer Empire, the Queen, the Dowager Queen and the Viceroy possessed certain *personal prerogatives for life* over certain provinces of the Empire. These provinces were always the property of the crown but the person enjoying the apanage was entitled to certain administrative rights (in matters of taxation, police, etc.) over the territory under his authority. It was this concession which allowed the Annamites to get their feed on Cambodia territory for the first time.

In 1853, faced with Annamite expansion on Cambodia territory and fearing an alliance between Siam and Annam for the partition of Cambodia, King ANG DUONG secretly sent a letter together with various gifts to the French Consul in Singapore. The letter was addressed to the Emperor NAPOLEON III and asked for the protection of France for Cambodia (Histoire des Pays de l'Union Indochinoise by NGUYEN MANH QUE - page 280 and Histoire sommaire du Royaume du Cambodge by HENRI RUSSIER - page 83). No reply to this letter was received and ANG DUONG declined to send a further letter to France with new gifts, proposing to France the conclusion of an alliance with Cambodia and begging the French Emperor not to accept certain territories specified in the letter, if Annam were to cede them to France, because these territories belonged to Cambodia, (Cf. A letter from ANG DUONG quoted in the History of Thailand.)

Stirred by the different impulses which led to expansion in the 19th century and in particular impressed by the King of Cambodia's tokens of confidence and friendliness, France intervened in Cochinchina. In the attack on Saigon in 1859, Cambodia troops supported the French by advancing at the same time into the provinces of Meath Chruk (Chaudoc). Kramuon Sar (Rachgia). Srok de Treang (Soctrang). Preah Trapreang (Travinh).

By the Treaty of Peace and Friendship, signed at Saigon on the 5th June, 1862, Annam accepted *(with certain clauses relating to the free exercise of Catholic religion on her territory and an engagement not to cede any part her territory whatsoever to anyone without consulting France, the opening of Franco-Spanish trade in certain parts and the payment of a war indemnity)* a clause which particularly concerned Cambodia since it was by virtue of this clause that Annam ceded to France three provinces occupied by the Annamites ; Bienhoa, Giadinh and Mytho. This clause is therefore not valid since Annam was ceding to a third party possessions which did not belong to her.

Subsequently in 1867, the representative of France Admiral LAGRADIÈRE, under the pretext of Annam's violation of the Treaty of Saigon, took Vinhlong, Chaudoc and Hatien, which are three other Cambodian provinces, and occupied the whole of Western Cochinchina. Finally, France's conquest of the Isle of Phuquoc, likewise Cambodian territory, made the whole of Cochinchina now South Viet-Nam, a French Colony formally established by the Franco-Annam Treaty of 1874. (Histoire des Pays de l'Union Indochinoise by NGUYEN MANH QUE - pages 164 to 167).

II. The proofs demonstrating that Cochinchina used to belong to Cambodia.

The former French colony of Cochinchina was established in territory belonging to Cambodia. There is plentiful evidence to show that these lands were Cambodian.

Archeologically, the towers, the bronze and the stone statues, the inscriptions, the religion buildings, the brick sanctuaries, and the steles are evidence of the presence of Cambodian ancestors in this region.

Besides archeological proof, the ancient maps of Indo-China (a map of the seventh and eight centuries, a map drawn in 1593, a map drawn in 1638, a map by Rhodes in 1650, a map of Indo-China by ROBERT drawn 1717, a map Indo-China published by Durville in 1775, etc.) and various written texts in Cambodia, Annamite, and French confirm the sovereignty of Cambodia over the territory of Cochinchina.

Juridically, it is not possible to maintain that Cambodia has ceased to be the owner of these lands :

International law recognizes 6 ways of acquiring territory :

First, in the case of ORIGINAL acquisitions,

- a. By the occupation of territory which is free from all other control. according to the established conditions,
- b. By subjugation,
- c. By adjudication,
- d. By prescription ; and secondly, for secondary acquisitions,
- e. By cession or
- f. By consolidation of a military occupation.

The Annamite occupation is illegal because these lands were not free and the occupation did not take place in accordance with the conditions laid down by the Act of Berlin of 1885 which specified that occupation should be permanent and that it should be notified to third parties.

Nor has there been any question of acquisition by *subjugation* because the national power whose territory has been occupied has never been completely overthrown. The Government of Cambodia has always continued to exist.

The Annamites have not acquired their territories in Cochinchina by *adjudication* since no collection of states (a congress, The League of Nations, The United Nations) nor any international juridical body has ever assigned these territories to Annam.

Nor can prescription be invoked. It is not possible to use this argument even basing it on the apparent passivity of the Cambodian sovereigns during the periods of internal troubles and during the French Protectorate. At all times the Cambodian Kings have indeed shown, either by stating their claims or by armed intervention, their determination not to abandon the territories occupied by the Annamites. In 1738, King ANG SO attacked the Annamites to try and drive them out of Hatien. In 1776, King ANG NUON took Vinhlong and Mytho, taking advantage of a Cambodian rising in Lower Cochinchina at the time of the TAY SON revolt. In 1859, King ANG DUONG marched on Chaudoc ; and when the French arrived the struggle was still continuing.

Moreover, the Cambodian Kings have frequently renewed their claims. In 1645, King ANG TO put forward territorial claims which were taken up

again by ANG CHAN in 1653. Besides King ANG DUONG who sought the intervention of the France principally to recover his Cochinchina provinces, King NORODOM, at the time of his visit to Saigon in October 1864, (one year after the signature of the Treaty establishing the French Protectorate over Cambodia) made a strong démarche, demanding that the French authorities should hand back to him the provinces of Cochinchina.

On the 25th June 1945, during the Japanese occupation, in view of Viet-Nam's intention to achieve its unity by incorporating Cochinchina within its territory, His Majesty King Norodom Sihanouk expressly reserved Cambodia's title to the territory of Cochinchina and suggested the formation of a mixed commission to define the Khmero-Vietnamese frontier. The Government NAM BO (i.e. the Government of HO-CHI-MINH) accepted in 1945 the principle of modifying the frontier in favour of Cambodia.

After the HO-CHI-MINH Government split, and France was faced with the question of giving in the demands of His Majesty BAO DAI's Government for the union of the **three Kys** (i.e. the incorporation of Tonkin, Annam and Cochinchina into a single state of Viet-Nam), His Majesty King Norodom Sihanouk, in a letter of the 20th January, 1948, asked the High Commissioner of France in Indo-China to keep him informed of the negotiations which France was undertaking with Viet-Nam. Ignoring Cambodian preoccupations, France signed with His Majesty BAO DAI the Agreements of the Baie d'Along on the 8th March, 1949, recognizing the principle of the union of the **three Ky's**. His Majesty King Norodom Sihanouk protested against these agreements and in 1949 he sent a Cambodian Delegation to follow the debates of the French Parliament on the Bill concerning the change of the Statute of Cochinchina and its integration in Viet-Nam and to protest against the

inclusion of this Cambodian territory of Cochinchina within the state of Viet-Nam.

Despite strong Cambodian protests, the Cochinchina territory which had been illegally acquired by the French as a possession obtained from a party who was not their owner, was ceded to Viet-Nam by France as a result of a unilateral decision and a French legislative act.

Finally, at the moment of the conclusion of the Franco-Khmer Treaty of the 8th November, 1949, His Majesty the King of Cambodia expressly declared that the Treaty is in no way constituted on the part of Cambodia a renunciation of her rights and interests in Cochinchina.

Furthermore the Cambodian territories in Cochinchina have never been the subject of a regular act of *cession*. No treaty or convention has ever stipulated such a cession. Cochinchina (south viet-nam) cannot therefore be compared with Louisiana, ceded by France to the United States in 1803, nor with Alaska ceded by Russia to United States in 1867, nor with the Carolinas ceded by Spain to Germany in 1899.

Nor is there any question of the *consolidation of a military occupation*. Annam did not wage a war of conquest against Cambodia. All the Armed attacks were carried out at the request of a Cambodian Prince, either against another Prince with pretensions to the throne, or against the Siamese, or else at the request of rebels.

Finally, contrary to certain allegations, no delimitation of frontiers has ever taken place to divide definitively the Cambodian territories occupied by

Annam. The decision of the 9th July, 1870, and the Arrangement of the 17th July, 1873, delimiting the frontiers between Cochinchina and Cambodia constituted unilateral acts on the part of FRANCE who at that time directly administered Cochinchina as a colony and Cambodia as Protectorate. These were administrative acts carried out by one and the same power whose understandable desire was to increase her colonial domain. Cambodia, who had asked for the protection of France and had confided to her the control of her external sovereignty, was not able to raise any protestation against this delimitation of the frontier.

III. The Problems.

One part of Cambodian territory irregularly occupied by the Annamites was thus ceded to France and then restored by her to Viet-Nam by a French act of 1949. These territories represent ancient Cambodian interests quite apart from her historical and archeological interest. On the one hand, from the demographic point of view these territories in Cochinchina contain more than half a million Cambodian who are very patriotic and who are very sincere Buddhists, living in the neighborhood of about 100 pagodas whose bonzes practice Buddhist principles of the lesser vehicle as in Cambodia and faithfully conserve the traditions, habits and customs of the Cambodian people.

On the other hand, from the economic point of view the territory of South Viet-Nam, covering an area of about 49,000 square kilometers, that is to say an area greater than the whole of Switzerland, constitutes as vast fertile plain rich in natural fertilizers which the Mekong has brought down to

them in the course of the centuries in its alluvium. This territory situated on both sides of the mouth of the Mekong, closes Cambodia's outlet to the sea. It constitutes an obstruction for the maritime commerce of Cambodia.

There are thus three types of problem :

- a. the problem of the division of territory ;
- b. the problem of protecting an ethnic minority ;
- c. the problem of access to the sea.

These are not problems which concern exclusively Cambodia and Viet-Nam, but also France as the liquidator of the former Indo-Chinese regime and other peaceful states who desire to achieve and maintain the peace and prosperity of the international community. They are the type of problem to which the great powers, the League of Nations and the United Nations have already been giving their attention ever since the end of the First World War.

In dealing with problems concerning the division of territory, the powers have been obliged to find solutions in the cases of the Sarre and Alsace-Lorraine (claimed by France and Germany), Vilno (claimed by Lithuania and Poland), White Russia (claimed by Poland and Russia). Bessarabia (claimed by Roumania and Russia), Upper Silesia (claimed by Poland and Germany), Teschen (claimed by Poland and Czechoslovakia), South Tyrol or Upper Adige (claimed by Austria and Italy), Fiume (claimed by Italy and Yugoslavia).

Regarding the protection of minorities, the victorious allies of the first War imposed special obligation on a certain number of states including

Poland, Czechoslovakia, Austria, Hungary, the Baltic States and the Balkan States, who accepted them by signing the treaties. The minority populations thus obtained a special form of international protection against an abuse of power by the State within whose territory they lived ; for example, the Germans living in Silesia, who had become Poles were safe-guarded.

As to the problem of access to the sea, international solutions were found in the case of the Polish corridor and port of Dantzig on the one hand and the territories of Memel and the port Memel on the other.

Just as the Polish Corridor and the Memel territory were essential to the economic life of Poland and Lithuania, so are the Cochinchina territories a necessary outlet for Cambodia.

Even if it is not possible to consider reverting entirely to the earlier solutions which, as experience, showed created certain difficulties, it is nonetheless undesirable to demand that one single state should forget its rich lands and deprive itself of its only normal access to the sea and abandon to their fate more than half a million of its subjects. That would be a sacrifice too heavy to be borne by any country even if it were animated by the purest spirit of altruism and friendship.

Among the ways of achieving peace which might be considered at the Geneva Conference is one which consists in recognizing the sovereignty of the Vietminh over a part of the national territory of Viet-nam. This solution implies a division of the territory of Viet-Nam and a New delimitation of her frontiers which would be confirmed and recognized by the states attending the conference and perhaps later by the United Nations itself. This would mean

definitely giving Viet-nam a portion of Cambodia territory which was irregularly severed from Cambodia and it is against this possible amputation of these provinces that Cambodia protests, begging the nations who are members of the conference to take into account the historical rights and the economic and political interests of Cambodia.

IV. Solutions.

There are two possibilities :

Either the Geneva Conference does not recognize its competence to give a ruling on this question which concerns Cambodia, France and Viet-nam, and considers that the matter could more properly be dealt with by the United Nations. In this case, and if the conference should take a decision on the peace of Indo-China, Cambodia would ask the Conference to take note of her reservations for the maintenance of her rights in the territory of Cochinchina, and would ask that the dispute should be sent to the United Nations.

Alternatively, the members of the Conference might consider it useful to deal once and for all with the problem of Indo-China and to settle all questions which might endanger peace once established. In this case, Cambodia would propose to the Conference that it should grant it patronage to a special commission composed of the representatives of France, Viet-nam and Cambodia, who would have the task of trying to reach an amicable solution to the problem of Cochinchina (Kampuchea Krom).

In the case of a difference of opinion between the three states, the Conference could, as was done by the treaty of Versailles for the Free State

of Dantzig and by the Treaty between the Allies and Italy signed on the 12th February, 1947, for the town of Trieste, consider internationalizing Cochinchina and placing it under a United Nations guarantee.

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The Cambodian Government regrets that it has to raise a question which is of such a nature as to complicate the settlement of the already complex problem of establishing peace in Indo-China. But in doing so it is convinced that it is not merely its own interests but contributing toward the efforts being made for the establishment of a real and lasting peace in the world. The United Nations Organization, like all the nations meeting here in Geneva, serves the ideal of the well-being of humanity and is seeking not only the immediate establishment of peace but also the removal of every cause of conflict in the future and the building of the prosperity and well-being of the world on solid foundations. It is for that reason that Cambodia associates herself with others in trying to find the solution to this problem which may appear to be a private quarrel but which in fact is of a typically international character. One would not regard Dantzig as a solely Polish and German problem, or Trieste solely as a Yugo slav and Italian problem. These are problems which every nation is concerned to resolve in the spirit of confidence and mutual understanding. The Cambodian Government thus hopes that the nations participating in Geneva Conference will help to bring about a durable peace and ensure justice in South-East Asia and the world.

