

## Man-made marine disaster in Vietnam

# Can the World Community do more than look?

*Thục-Quyên (Save Vietnam's Nature)*



Dead fishes at the coast of four provinces in Central Vietnam (Source of picture: Internet)

*"All human beings depend on the environment in which we live. A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation. Without a healthy environment, we are unable to fulfill our aspirations or even live at a level commensurate with minimum standards of human dignity."*

With this introduction, the United Nations Human Rights Council established in March 2015 the mandate for the very first Special Rapporteur on Human Rights and the Environment of the history, to link Human Rights aspect to the works of other Special Rapporteurs, Independent Experts and Working Groups (part of what is known as the Special Procedures of the Human Rights Council), namely:

- The Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes;
- The Special Rapporteur on the right to food;
- The Special Rapporteur on the right to health;
- The Special Rapporteur on the human right to safe drinking water and sanitation;
- The Working Group on human rights and transnational corporations and other business enterprises.

The strong concern of the United Nations about Human Rights and Environment gives hope for an on-time intervention and help to the People of Vietnam, victims of a man-made marine disaster caused by a steel plant of the Taiwanese corporation "Formosa Plastics" (Taiwanese investment but mostly under the management of the Chinese company MCC "China Metallurgical Group Corporation".<sup>1</sup>

## Man-made marine disaster in Vietnam: the crime

In early April 2016, tones of dead fish began washing up along the coast of Ha Tinh province and neighboring Quang Binh, Quang Tri and Thua Thien-Hue provinces: miles and miles of fishes, countless clams, some occasional whales, seabirds, etc. followed by the death of diver Le Van Ngay after suffering chest pains and breathing difficulties<sup>2</sup>, unusual health conditions of his colleagues (tired, chest pain and dizzy after every swim, skin tone changed), illness of hundreds of people from eating seafood, etc. A month later, over 100 tones of dead fishes had been collected.<sup>3</sup>



100 tones of dead fishes had been collected (Source of picture: Internet)

It was the tip of an iceberg of pollution and environmental damage crimes:

Soon after the fish death happened, suspicions for what caused such an environmental catastrophe instantly fell on Formosa Ha Tinh Steel FHS - a subsidiary of the conglomerate Taiwanese Formosa Plastics Group - when fisherman Nguyen Xuan Thanh in Ky Anh Town (Ha Tinh Province) informed of a colossal wastepipe from FHS running under the sea that directly discharged "yellowish and foul-smelling water".<sup>4</sup>

The company's initial response that, before acquiring the land they already advised local fishermen to change their jobs, and that, in life people had to make a choice, "*either Fish or Steel not both*", soon was followed by a total denial and adamant refusal to accept any responsibility.<sup>5</sup>



High ranking officials in Ha Tinh Province went swimming to demonstrate that there is no danger in the sea on Apr 30, 2016 (Source of picture: Internet)

For nearly a whole month, the Vietnamese government hasn't showed sign to start any investigation, but instead, on April 23, Deputy chairman of the People's Committee of Ha Tinh Province Dang Ngoc Son made an irresponsible statement, "*We can eat seafood such as squid, shrimp, crab which are still alive, and we can also be reassured to swim in these waters*"<sup>6</sup> and deputy environment minister Vo Tuan Nhan said "*there is no proof yet to conclude a link between Formosa and the facility to the mass fish deaths.*"<sup>7</sup>

As the worries to get access to information and the ability to distribute it were no less than the worries about food security and the environment, people took to the streets in protest for the lack of accountability and information for this disaster.<sup>8</sup>

The official order finally came on April 25, 2016 from Prime Minister Nguyen Xuan Phuc to the investigations offices to clarify the cause, but FHS forbade state-assigned inspectors from entering the Formosa's land, based on concerns about confidentiality.<sup>9</sup>

Public festering outrage boiled into peaceful mass protests in major Vietnamese cities over the course of several weeks in April and May, and was brutally repressed by the authorities who accused the demonstrators to be "reactionary forces", attempting to overthrow the government.<sup>10</sup>

Social-media platforms including Facebook and Instagram were interrupted during the protests. Some of the protesters suspected the government of looking the other way on the environmental crisis to ensure investment kept coming in, after FHS announced the company was considering to raise its investment from \$10.5 billion to \$28.5 billion.<sup>11</sup>

Nearly three months after the first dead fish washed ashore, on June 30, 2016 the Vietnamese government announced its conclusion, the same one local resident reached from the outset: pollution from FHS discharged industrial waste into the ocean, containing harmful chemicals such as phenol, cyanide and iron hydroxides, is responsible for killing the fish.<sup>12</sup> FHS accepted full responsibility, agreed to pay US \$500 million in compensation, pledged not to repeat such actions but called the very grave disaster with huge environmental, social, economic and political impacts an "incident".<sup>13</sup>

### ... and the crime went on ...



Photo by VnExpress/Duc Hung

While the discussion on damage assessment and how to prevent such incidents from recurring went on, in early July FHS was found burying more than 200 tons of wastes at a private farm in Ky Trinh Ward, Ky Anh Town, Ha Tinh Province. Formosa cited a contract with the "Ky Anh Urban Environment Company" saying the firm was responsible for transporting Formosa's muddy waste to a



Sit-ins in small towns and big cities against fish dying and pollution (Source of pictures: Internet)

dump site approved by the Ha Tinh's Department of Natural Resources and Environment. The company had sole responsibility for the dumping process after taking waste out of FHS. But according to Vo Ta Dinh, head of the Department, the Ky Anh Urban Environment Company has no function of treating industrial wastes, including industrial sludge.<sup>14</sup>



About 6000 Vietnamese victims of the pollution disaster demonstrated in front of Formosa Ha Tinh Steel Company on Oct 2, 2016 (Source of picture: Internet)

FHS had to dig up and remove the tones of waste, regardless of being conventional or hazardous industrial waste. As the waste treatment plant in Ha Tinh Province was still under construction and trial operation, and has not been licensed to operate officially, the 267 tons of waste sludge were carried to Phu Tho Province for treatment.<sup>15</sup>

In a meeting in Hanoi focused on socio-economic development in the first six months of 2016, Environment Minister Tran Hong Ha was reporting to the National Assembly the results of the investigation into Formosa Ha Tinh Steel, saying that the Ministry of Natural Resources and Environment had detected 53 procedural violations committed by Formosa. Among those, an illegal change to waste-treatment technology was deemed the worst violation. “The most serious violation is that FHS has changed the environmentally-friendly dry ore processing technology to wet processing – a method that dispenses more waste, especially gas.”<sup>16</sup>

On September 15, Ha Tinh Province authorities detected 160 tones of red mud, imported by FHS being transported in a vessel departing from China’s Dalian Port to Son Duong Port in Vung Ang Economic Zone, where the headquarters of FHS are located.<sup>17</sup>

Red mud being a toxic byproduct of the industrial process that refines bauxite, raw aluminum ore, into aluminum, the Ministry of Industry and Trade has established a team to work with other relevant agencies to test the imported substance. According to a representative of FHS, although the name of the material written in the import documents is “mud”, it was actually a kind of “powder” used in construction and FHS would cooperate with responsible authorities to collect samples of the product to determine its type and nature to know if it was toxic or not.

## Formosa Plastics record on environmental issues

In 2009, the Formosa Plastics Group (FPG)"won" the negative “Black Planet Award” issued by the German foundation Ethecon to individuals and companies engaging in environmental destruction.<sup>18</sup>

Even in Taiwan, though making a great contribution to the industrialization and economic development of the country, FPG has also come many times under fire for environmental damage.<sup>19</sup>



About 600 Vietnamese victims filed law suits at the People's Court of Ky Anh Commune on Sep 27, 2016 (Source of picture: Internet)

In the United States, in Texas and Louisiana, Formosa factories were found to have dumped toxins into the land and groundwater, not forgetting the Mississippi River. In 2009, Formosa Plastics Corp. USA was fined almost \$3 million by the US Environmental Protection Agency EPA, for air, water and hazardous waste violations at its plants in Point Comfort and Baton Rouge. Beginning 2013 FPC again has been fined almost \$1.5 million by EPA for failing to install more than 8,000 pieces of leak detection and repair equipment at its plastics and chemicals plant in Point Comfort.<sup>20</sup>

In 2010, Formosa Plastics Corp. FPC faced a fine of \$133,500 for alleged safety and health hazards at its PVC resin plant in Delaware. In September 2012 FPC was fined almost \$150,000 for other 16 violations. And just beginning September, 2016, Formosa Plastics Corp. was facing a new \$241,013 fine for its mishandling of hazardous waste by the Delaware Department of Natural Resources and Environmental Control (involving carcinogen vinyl chloride).<sup>21</sup>

In 1998, Formosa Plastic dumped 3000 tons of waste containing mercury (possibly also dioxins and furans) near Sihanoukville, Cambodia, which caused health problems, riots and an exodus in the seaside town.<sup>22</sup>

Roughly 1,000 citizens fled their homes and marched on Phnom Penh. The Cambodian government later sued Formosa for bribing the local government with \$4 million to get the permission to dump the waste; 30 local officials were forced to resign. Formosa Plastics hired Safety-Kleen (US) to repack the waste into over 18,000 drums for shipping to Westmoreland, near Los Angeles, California, or another U.S. site in Idaho, but opposition from American environmentalists caused the U.S. EPA to think twice about allowing the waste in and Formosa Plastics' application was denied.

In June, 1999, two Taiwanese men employed by Jade Fortune International Ltd., a Taiwanese company contracted by Formosa Plastics to export the waste were convicted in absentia in a Cambodian municipal court. They were fined \$480,000 and sentenced to five years of jail for violating health, safety and environmental laws.

Jade Fortune, known also as Ching Fu Enterprise, is not certified by the Taiwanese EPA to handle hazardous material, making FPG's shipment of the waste even more unlawful.<sup>23</sup>

## The protest against Formosa is not over yet

Six months after the chemical disaster, anger over the episode is still raw.

For the Vietnamese public, there has been no fair and transparent investigation. Until today, nobody knows the exact cause and the details of the marine disaster, a situation which continues to leave the sea and the people of Vietnam unprotected. There hasn't been any real humanitarian and disaster relief assistance program for nutrition, hygiene, health, education, etc.

The agreement between FHS/ MCC and the Vietnamese government seemed to be only part of the strategy to just put things behind and to go back to "business as usual". The ridiculous indemnity Formosa promised, US\$500 million, and claimed they already paid, is less than the tax exempt Formosa got from the Vietnamese government recently.

The public wants a thorough and fully transparent investigation about how the chemical dumping causing disaster happened, including serious allegations that high-level corruption was involved, with the results made public. And Ecological Expertise is necessary.

End of September, five hundred and six (506) residents of Ha Tinh Province have filed claims seeking compensation. The 506 petitioners include: 296 fishermen, 137 salt producers, 68 water producers, 3 fish farmers and 2 seafood traders. Their lawsuits were rejected by the court because "they did not provide clear evidence of their losses" according to court's judge Nguyen van Thang.<sup>24</sup> But more than 100,000 fishermen are expected to file more claims.<sup>25</sup>

Meanwhile, Nguyen Ngoc Nhu Quynh "Mother Mushroom", the most famous female blogger of Vietnam, was arrested<sup>26</sup> for "causing detriment to national security."

She was using internet to expose controversial issues such as the marine disaster devastating the four coastal provinces. Her arrest should probably serve to divert attention from the cause of the FHS victims and to send a chilling message to environmental activists and other nongovernmental groups.

### It's about the minimum standards of human dignity

This is not just about fish.

It's about the destruction of coral reefs and sea grass fields, of the marine ecosystem of huge coastal areas, of global environmental awareness. It's also about the livelihood of hundreds of thousands of persons, their physical and mental health and the health of the next generations, about the people's right to participate in public affairs and self-defense, about transparency, accountability, scientific approach, etc.

It's about the minimum standards of human dignity.



Environment activist Nguyen Ngoc Nhu Quynh  
(Source of pictures Internet)

## It's a Déjà vu!

Companies from industrialized (rich) countries usually follow the path of least resistance, using the lack of legislative and public advocacy in developing countries for their convenience, those countries desperate for money and noted for corruption and lack of environmental awareness and laws, with inadequate environmental regulations as well as scientific technology and expertise to cope with issues such as toxic waste.

The dumping of toxic waste whether in Côte d'Ivoire<sup>27</sup> Cambodia<sup>28</sup> or Viet Nam illustrate the linkage between social and economic rights and political and civil rights.

Considering the long history of wrong doings of Formosa Plastics Group even in strong countries like Taiwan and the United States, not to forget the dilemma of China's smog-choked steel cities (MCC), Vietnam's Nature and People have not a single chance unless they get the concern and support of the World Community.

Especially because there is actually a grave injustice around the world, placing the level of proof on Victims of toxic chemicals to prove the cause of their illness, and not on Profit making Companies with access to relevant information, to prove they did no harm.

The Vietnamese People set their hope on an international cooperation to address what is unquestionably a moral issue and a global problem.

And the writer has faith in the words of UN Secretary-General Ban Ki Moon:

*“All victims of human rights abuses should be able to look to the Human Rights Council as a forum and a springboard for action.” (Ban Ki-moon, UN Secretary-General, 12 March 2007, Opening of the 4th Human Rights Council Session)*

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