


ANNEX II. LIST OF POST-ARBITRATION NOTES VERBALES (2016-2021)

UNITED STATE OF AMERICA, 28 DECEMBER 2016


799 UNITED NATIONS PLAZA
NEW YORK, NY 10017

Ambassador Kelly Craft
THE REPRESENTATIVE
OF THE
UNITED STATES OF AMERICA
TO THE
UNITED NATIONS

June 1, 2020

His Excellency António Guterres
Secretary-General
United Nations
New York, New York, 10017

Excellency:

I have the honor to convey a letter to you regarding Note Verbale No. CML/14/2019 sent by the Permanent Mission of the People’s Republic of China to you on December 12, 2019 in response to the submission by Malaysia to the Commission on the Limits of the Continental Shelf (CLCS) dated December 12, 2019. The United States rejects these maritime claims as inconsistent with international law as reflected in the 1982 Law of the Sea Convention. I request that you circulate the enclosed letter to all UN Member States as a document of the General Assembly under Agenda Item 74(a) and of the Security Council, and that you post it on the web page of the Office of Legal Affairs, Division for Ocean Affairs and the Law of the Sea.

Please accept, Excellency, the renewed assurances of my highest consideration.

Sincerely,

Kelly Craft
Ambassador
United States Representative to the United Nations

Enclosure:

As stated.

His Excellency
António Guterres
Secretary-General of the United Nations,
New York

June 1, 2020

His Excellency António Guterres
Secretary-General
United Nations
New York, New York, 10017

Excellency:

I have honor to refer to the Note Verbale No. CML/14/2019 sent by the Permanent Mission of the People's Republic of China to you on December 12, 2019 in response to the submission by Malaysia to the Commission on the Limits of the Continental Shelf (CLCS) dated December 12, 2019. The present communication concerns only the views expressed by China regarding its maritime claims in the South China Sea and does not comment on Malaysia's submission to the CLCS. As China's note asserts excessive maritime claims that are inconsistent with the international law of the sea as reflected in the 1982 Law of the Sea Convention (hereinafter "the Convention"), and as those claims purport to unlawfully interfere with the rights and freedoms enjoyed by the United States and all other States, the United States considers it essential to reiterate its formal protests of these unlawful assertions and describe the relevant international law of the sea as reflected in the Convention.

In its note, China makes the following assertions:

- China has sovereignty over Nanhai Zhudao, consisting of Dongsha Qundao, Xisha Qundao, Zhongsha Qundao and Nansha Qundao;
- China has internal waters, territorial sea and contiguous zone, based on Nanhai Zhudao;
- China has exclusive economic zone and continental shelf, based on Nanhai Zhudao;
- China has historic rights in the South China Sea.

China made similar assertions immediately following the July 12, 2016 award in *The South China Sea Arbitration (The Republic of the Philippines v. The People's Republic of China)* issued by an arbitral tribunal constituted under Part XV of the Convention (hereinafter "the Tribunal"). The United States objected to those assertions in a demarche and note verbale on December 28, 2016 (enclosed).¹

The United States reiterates its prior objections to China's maritime claims.

¹ The note was subsequently published in the *Digest of United States Practice in International Law (2016)*, at 520-22, available at <https://www.state.gov/wp-content/uploads/2019/05/2016-Digest-United-States.pdf>.

Specifically, the United States objects to China's claim to "historic rights" in the South China Sea to the extent that claim exceeds the maritime entitlements that China could assert consistent with international law as reflected in the Convention.² The United States notes in this regard that the Tribunal unanimously concluded in its ruling—which is final and binding on China and the Philippines under Article 296 of the Convention—that China's claim to historic rights is incompatible with the Convention to the extent it exceeds the limits of China's possible maritime zones as specifically provided for in the Convention.

Additionally, the United States reiterates its prior objections to any claim of internal waters between the dispersed islands China claims in the South China Sea, and to any claim of maritime zones derived from treating island groups in the South China Sea as a collective. The Convention clearly and comprehensively regulates the circumstances under which coastal States can deviate from the normal baseline. Article 5 of the Convention provides, in express and unambiguous terms, that the normal baseline applies "[e]xcept where otherwise provided in this Convention." No provision of the Convention establishes an applicable exception to the normal baseline that would allow China to enclose within a system of straight or archipelagic baselines the dispersed islands and other features over which China asserts sovereignty in the South China Sea. Moreover, the United States objects to any claimed maritime entitlements based on features that are not islands within the meaning of Article 121(1) of the Convention³ and thus do not generate maritime zones of their own under international law. China may not assert sovereignty over, or claim maritime zones derived from, entirely submerged features like Macclesfield Bank or James Shoal, or features like Mischief Reef and Second Thomas Shoal, which in their natural state are low-tide elevations⁴ that lie beyond a lawfully generated territorial sea entitlement. Such features do not form part of the land territory of a State in a legal sense, meaning that they are not subject to appropriation and cannot generate a territorial sea or other maritime zones under international law.⁵ These positions are consistent with the decision of the Tribunal in *The South China Sea Arbitration*.

In asserting such vast maritime claims in the South China Sea, China purports to restrict the rights and freedoms, including the navigational rights and freedoms, enjoyed by all States. The United States objects to these claims to the extent they exceed the entitlements China could claim under international law as reflected in the Convention. The United States notes that the

² A detailed assessment of China's South China Sea maritime claims was published in 2014 in the U.S. Department of State publication *Limits in the Seas No. 143—China: Maritime Claims in the South China Sea*, available at <https://www.state.gov/wp-content/uploads/2019/10/LIS-143.pdf>. That publication continues to reflect the views of the United States regarding the unlawfulness of China's claim of "historic rights" in the South China Sea.

³ An island is defined in Article 121(1) of the Convention as "a naturally formed area of land, surrounded by water, which is above water at high tide."

⁴ As reflected in Convention Article 13(1), "[a] low-tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide."

⁵ Thus, with respect to the assertion that "China has sovereignty over Nanhai Zhudao, consisting of Dongsha Qundao, Xisha Qundao, Zhongsha Qundao and Nansha Qundao" the United States observes that while China and other South China Sea claimants assert competing territorial claims to islands situated within the South China Sea, no State could lawfully assert a territorial or sovereignty claim to features that are not islands (within the meaning of Article 121(1) of the Convention) or to maritime areas beyond the territorial sea generated from the normal baseline (or other applicable baseline as reflected in the rules of the Convention) of such individual islands.

governments of the Philippines,⁶ Vietnam,⁷ and Indonesia⁸ have separately conveyed their legal objections to the maritime claims set out in China's Note Verbale No. CML/14/2019. The United States again urges China to conform its maritime claims to international law as reflected in the Convention; to comply with the Tribunal's July 12, 2016 decision; and to cease its provocative activities in the South China Sea.

I request that you circulate the enclosed letter to all UN Member States as a document of the General Assembly under Agenda Item 74(a) and of the Security Council, and that you post it on the web page of the Office of Legal Affairs, Division for Ocean Affairs and the Law of the Sea.

Please accept, Excellency, the renewed assurances of my highest consideration.

Sincerely,

Kelly Craft
Ambassador
United States Representative to the United Nations

⁶ The Philippines Note No. 000191-2020 (March 6, 2020), available at https://www.un.org/Depts/los/clcs_new/submissions_files/mys_12_12_2019/2020_03_06_PHL_NV_UN_001.pdf.

⁷ Vietnam Note No. 22/HC-2020 (March 30, 2020), available at https://www.un.org/Depts/los/clcs_new/submissions_files/mys_12_12_2019/VN20200330_ENG.pdf.

⁸ Indonesia Note No. 126/POL-703/V/20 (May 26, 2020), available at https://www.un.org/Depts/los/clcs_new/submissions_files/mys_12_12_2019/2020_05_26_IDN_NV_UN_001_English.pdf.

**United States Note Verbale to People's Republic of China
December 28, 2016**

The United States has the honor to refer to the following three documents circulated by China on July 12-13, 2016: the "Statement of the Government of the People's Republic of China on China's Territorial Sovereignty and Maritime Rights and Interests in the South China Sea" (hereinafter the "PRC Government Statement"); the "Statement of the Ministry of Foreign Affairs of the People's Republic of China on the Award of 12 July 2016 of the Arbitral Tribunal in the South China Sea Arbitration Established at the Request of the Republic of the Philippines"; and the paper entitled "China Adheres to the Position of Settling Through Negotiation the Relevant Disputes Between China and the Philippines in the South China Sea" (hereinafter the "PRC White Paper").

The United States welcomes efforts by China to adjust or clarify its maritime claims in accordance with international law as reflected in the 1982 Law of the Sea Convention, but has a number of concerns with China's articulation in these three documents of its South China Sea maritime claims. In this regard, the United States takes particular note of paragraph III of the PRC Government Statement, which reads:

"Based on the practice of the Chinese people and the Chinese government in the long course of history and the position consistently upheld by successive Chinese governments, and in accordance with national law and international law, including the United Nations Convention on the Law of the Sea, China has territorial sovereignty and maritime rights and interests in the South China Sea, including, inter alia:

- i. China has sovereignty over Nanhai Zhudao, consisting of Dongsha Qundao, Xisha Qundao, Zhongsha Qundao and Nansha Qundao;
- ii. China has internal waters, territorial sea and contiguous zone, based on Nanhai Zhudao;
- iii. China has exclusive economic zone and continental shelf, based on Nanhai Zhudao;
- iv. China has historic rights in the South China Sea.

The above positions are consistent with relevant international law and practice."

The United States further notes paragraph 70 of the PRC White Paper, which appears under the heading "[t]he development of the international law of the sea gave rise to the dispute between China and the Philippines over maritime delimitation," and which reads:

"Based on the practice of the Chinese people and the Chinese government in the long course of history and the position consistently upheld by successive Chinese governments, and pursuant to China's national law and under international law, including the 1958 *Declaration of the Government of the People's Republic of China on China's Territorial Sea*, the 1992 *Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone*, the 1996 *Decision of the Standing Committee of the National People's Congress of the People's Republic of China on the Ratification of the United Nations Convention on the Law of the Sea*, the 1998 *Law of the People's Republic of China on the Exclusive Economic Zone and the Continental Shelf*, and the

1982 *United Nations Convention on the Law of the Sea*, China has, based on Nanhai Zhudao, internal waters, territorial sea, contiguous zone, exclusive economic zone and continental shelf. In addition, China has historic rights in the South China Sea.”

These statements appear to assert expressly, for the first time, a Chinese maritime claim in the South China Sea that would include “historic rights.”¹ For a number of reasons, including those set forth in the Department of State publication *Limits in the Seas #143—China: Maritime Claims in the South China Sea* (which is appended to this note), the United States objects to such a claim as unlawful, insofar as it would be inconsistent with international law as reflected in the Law of the Sea Convention.

Furthermore, to the extent China’s claim to “internal waters” contemplates waters within straight baselines around any South China Sea islands, the United States objects for reasons including but not limited to those set forth in the Department of State publication *Limits in the Seas #117—Straight Baseline Claim: China* (which is also appended to this note). Consistent with international law as reflected in the Law of the Sea Convention, including Articles 5, 7, 46, and 47, China cannot claim straight or archipelagic baselines in the Paracel Islands, Pratas Island, Macclesfield Bank, Scarborough Reef, or the Spratly Islands. Similarly, China’s claims related to what it calls “Nanhai Zhudao (the South China Sea Islands),” and to “Dongsha Qundao (the Dongsha Islands), Xisha Qundao (the Xisha Islands), Zhongsha Qundao (the Zhongsha Islands) and Nansha Qundao (the Nansha Islands)” would be unlawful to the extent they are intended to include any maritime claim based on grouping multiple islands together as a single unit for purposes of establishing internal waters, territorial sea, contiguous zone, exclusive economic zone and continental shelf or any other maritime claim. Moreover, Macclesfield Bank is an entirely submerged feature; it and other features in the South China Sea that are not “islands” under international law as reflected in Article 121(1) of the Law of the Sea Convention are not subject to appropriation and do not generate any entitlement to a territorial sea, contiguous zone, exclusive economic zone or continental shelf under the international law of the sea.

These objections are without prejudice to the views of the United States concerning other aspects of the three above-referenced documents or concerning other Chinese maritime claims and activities. The United States reiterates that it takes no position on competing sovereignty claims to naturally formed land features in the South China Sea, or on maritime boundary delimitation in the South China Sea. The United States respectfully reiterates its longstanding request, however, that the People’s Republic of China adjust or clarify its maritime claims in the South China Sea to be consistent with the international law of the sea as reflected in the Law of the Sea Convention, in particular its provisions pertaining to baselines and maritime zones. The United States is ready to discuss this and other related issues with China in order to maintain consistent dialogue on law of the sea issues.

¹ As discussed in *Limits in the Seas #143—China: Maritime Claims in the South China Sea*, pages 17-19, previous Chinese assertions, such as those in the *1998 Exclusive Economic Zone and Continental Shelf Act*, have not claimed “historic rights” in the South China Sea.

MALAYSIA, NOVEMBER 2017



MALAYSIA PARTIAL SUBMISSION

to the Commission on the Limits of the Continental Shelf
pursuant to Article 76, paragraph 8 of the United Nations Convention on
the Law of the Sea 1982 in the South China Sea

PART I : EXECUTIVE SUMMARY



Malaysia

November 2017

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Part I

EXECUTIVE SUMMARY

1. INTRODUCTION

1.1 This Partial Submission to the Commission on the Limits of the Continental Shelf (the Commission) is prepared collectively by relevant agencies of the Government of Malaysia pursuant to Article 76 of the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982), in accordance with the Scientific and Technical Guidelines of the Commission on the Limits of the Continental Shelf (CLCS/11/Add.1) (the Guidelines) and the Rules of Procedure of the Commission (CLCS/40/Rev.1) (the Commission's Rules of Procedure) for the delineation of the outer limits of the continental shelf in the South China Sea.

1.2 On 6 May 2009, in accordance with Article 76 of UNCLOS 1982, Malaysia and the Socialist Republic of Vietnam submitted a Joint Submission of the limits of the continental shelf beyond 200 nautical miles (M) from their baselines from which the breadth of their territorial seas are measured in the southern part of the South China Sea.

1.3 Malaysia signed UNCLOS 1982 on 10 December 1982 and ratified the same on 14 October 1996.

1.4 In accordance with Paragraph 3 of Annex I to the Commission's Rules of Procedure, this Partial Submission is a submission for the remaining portion of the continental shelf of Malaysia beyond 200 nautical miles (M) from its baselines from which the breadth of its territorial sea are measured in the South China Sea as shown in **Figure 1.1** and described in paragraph 5.

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2. PROVISIONS OF ARTICLE 76 OF UNCLOS 1982 INVOKED

The outer limits of the continental shelf in the extended continental shelf area is based on the provisions of Article 76 (4) and (5) of UNCLOS 1982.

3. COMMISSION MEMBER WHO PROVIDED ADVICE DURING THE PREPARATION OF THIS PARTIAL SUBMISSION

The Government of Malaysia is assisted in the preparation of this Partial Submission by Dr. Mazlan Madon, member of the Commission on the Limits of the Continental Shelf.

4. ABSENCE OF DISPUTES

4.1 The Government of Malaysia wishes to inform the Commission that the area of continental shelf beyond 200 M that is the subject of this Partial Submission as described in paragraph 5 below is not located in an area which has any land or maritime dispute between Malaysia and any other coastal State.

4.2 Notwithstanding that, the Government of Malaysia acknowledges that there are areas of potential overlapping entitlements in respect of the continental shelf beyond 200 M of the area that is the subject of this Partial Submission. In this connection, the Government of Malaysia wishes to assure the Commission, to the extent possible, that this Partial Submission will not prejudice matters relating to the delimitation of continental shelf beyond 200 M between States with opposite or adjacent coasts.

5. DESCRIPTION OF THE OUTER LIMITS OF THE CONTINENTAL SHELF BEYOND 200 M

The outer limits of the continental shelf beyond 200 M are defined by ninety-six (96) fixed points determined by 60 M from the foot of the continental slope (FOS), in accordance with Article 76, Paragraph 4 (a) (ii) of UNCLOS 1982. The fixed points are connected by straight lines not exceeding 60 M in length, in accordance with

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Article 76, Paragraph 7 of UNCLOS 1982. In accordance with Article 76, paragraphs 5 and 6 of UNCLOS 1982, all fixed points comprising the line of the outer limits of the continental shelf are not more than 350 M from the baselines from which the breadth of the territorial sea is measured, or do not exceed 100 M from the 2,500 metres isobath constraint line.

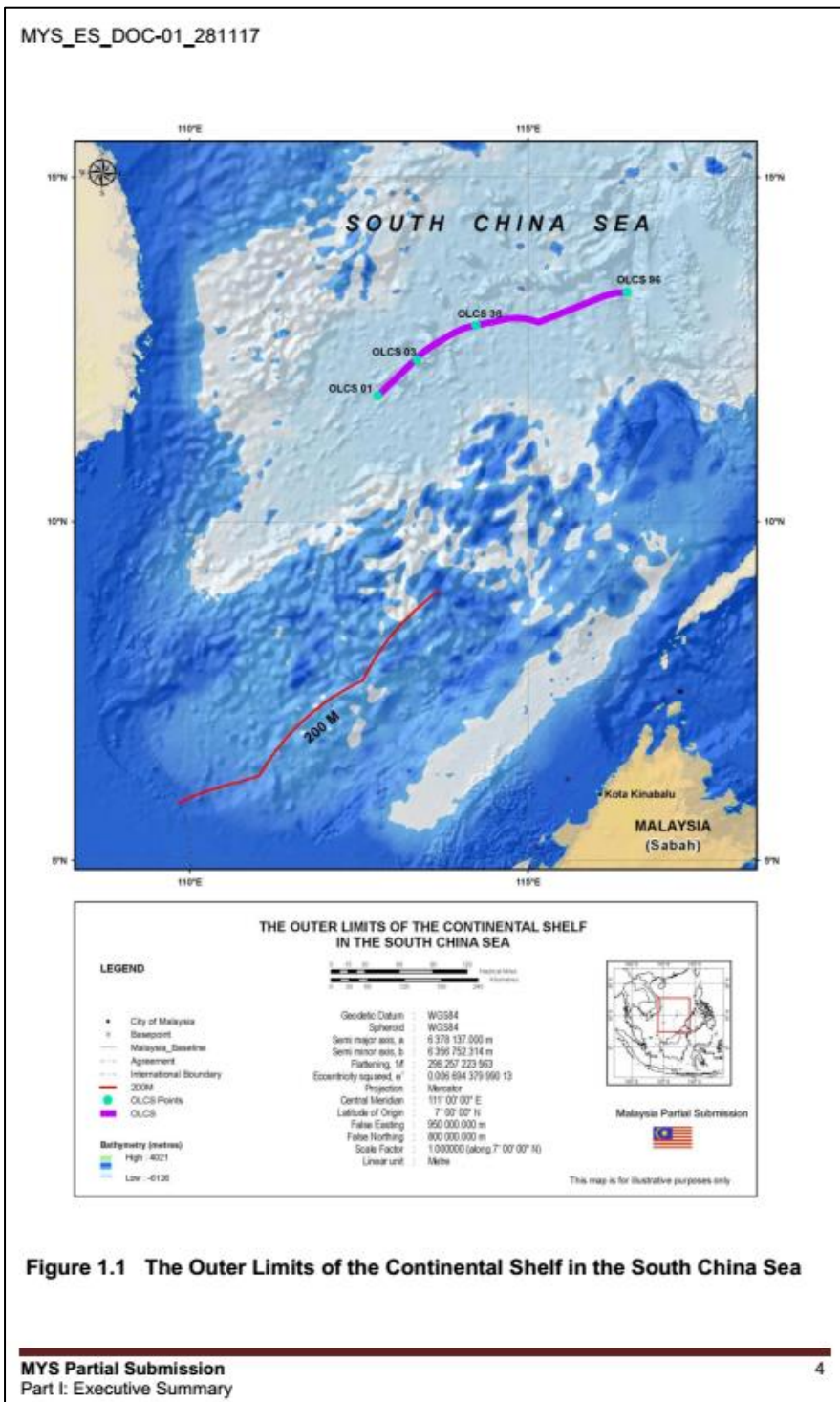
6. THE GOVERNMENT AGENCIES RESPONSIBLE FOR THE PREPARATION OF THIS PARTIAL SUBMISSION

This Partial Submission together with all maps, figures, enclosures, appendices and databases was prepared by the agencies of the Government of Malaysia as follows:

- (a) National Security Council of the Prime Minister's Department;
- (b) Ministry of Foreign Affairs;
- (c) Attorney General's Chambers;
- (d) Department of Survey and Mapping;
- (e) Department of Mineral and Geoscience;
- (f) National Hydrographic Centre of the Royal Malaysian Navy; and
- (g) Petroliam Nasional Berhad (PETRONAS).

7. MAP AND COORDINATES

Figure 1.1 illustrates the outer limits of the continental shelf established for this Partial Submission. The geographical coordinates in World Geodetic System (WGS84) of the outer limits of the continental shelf are listed in **Table 1.1**.



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Table 1.1

List of Geographical Coordinates of the Outer Limits of the Continental Shelf in the South China Sea (OLCS) (All Coordinates are in WGS84)

OLCS Point ID	Latitude (N)			Longitude (E)			Methods	From Point	To Point	Distance	
	°	'	''	°	'	''				KM	M
01	11	50	16.2	112	47	16.8	Fixed points of 60 M envelope of arcs generated from FOS01			0.000	0.00
02	12	25	26.5	113	24	12.8	Fixed points of 60 M envelope of arcs generated from FOS07	1	2	93.244	50.35
03	12	26	8.1	113	24	57.2	Fixed points of 60 M envelope of arcs generated from FOS07	2	3	1.852	1.00
04	12	26	48.9	113	25	42.3	Fixed points of 60 M envelope of arcs generated from FOS07	3	4	1.852	1.00
05	12	27	29.0	113	26	28.1	Fixed points of 60 M envelope of arcs generated from FOS07	4	5	1.852	1.00
06	12	28	8.3	113	27	14.6	Fixed points of 60 M envelope of arcs generated from FOS07	5	6	1.852	1.00
07	12	28	46.8	113	28	1.7	Fixed points of 60 M envelope of arcs generated from FOS07	6	7	1.852	1.00
08	12	29	24.6	113	28	49.5	Fixed points of 60 M envelope of arcs generated from FOS07	7	8	1.852	1.00
09	12	30	1.5	113	29	38.0	Fixed points of 60 M envelope of arcs generated from FOS07	8	9	1.852	1.00
10	12	30	37.7	113	30	27.0	Fixed points of 60 M envelope of arcs generated from FOS07	9	10	1.852	1.00
11	12	31	13.1	113	31	16.7	Fixed points of 60 M envelope of arcs generated from FOS07	10	11	1.852	1.00
12	12	31	47.6	113	32	7.0	Fixed points of 60 M envelope of arcs generated from FOS07	11	12	1.852	1.00
13	12	32	21.3	113	32	57.8	Fixed points of 60 M envelope of arcs generated from FOS07	12	13	1.852	1.00
14	12	32	54.2	113	33	49.2	Fixed points of 60 M envelope of arcs generated from FOS07	13	14	1.852	1.00
15	12	33	26.2	113	34	41.2	Fixed points of 60 M envelope of arcs generated from FOS07	14	15	1.852	1.00
16	12	43	52.5	113	52	17.9	Fixed points of 60 M envelope of arcs generated from FOS08	15	16	37.246	20.11

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OLCS Point ID	Latitude (N)			Longitude (E)			Methods	From Point	To Point	Distance	
	°	'	"	°	'	"				KM	M
17	12	44	22.8	113	53	11.0	Fixed points of 60 M envelope of arcs generated from FOS08	16	17	1.852	1.00
18	12	44	52.2	113	54	4.6	Fixed points of 60 M envelope of arcs generated from FOS08	17	18	1.852	1.00
19	12	45	20.8	113	54	58.6	Fixed points of 60 M envelope of arcs generated from FOS08	18	19	1.852	1.00
20	12	45	48.4	113	55	53.2	Fixed points of 60 M envelope of arcs generated from FOS08	19	20	1.852	1.00
21	12	46	15.2	113	56	48.2	Fixed points of 60 M envelope of arcs generated from FOS08	20	21	1.852	1.00
22	12	46	41.0	113	57	43.7	Fixed points of 60 M envelope of arcs generated from FOS08	21	22	1.852	1.00
23	12	47	5.9	113	58	39.6	Fixed points of 60 M envelope of arcs generated from FOS08	22	23	1.852	1.00
24	12	47	29.9	113	59	35.9	Fixed points of 60 M envelope of arcs generated from FOS08	23	24	1.852	1.00
25	12	47	53.0	114	0	32.6	Fixed points of 60 M envelope of arcs generated from FOS08	24	25	1.852	1.00
26	12	48	15.2	114	1	29.7	Fixed points of 60 M envelope of arcs generated from FOS08	25	26	1.852	1.00
27	12	48	36.4	114	2	27.2	Fixed points of 60 M envelope of arcs generated from FOS08	26	27	1.852	1.00
28	12	48	56.6	114	3	25.0	Fixed points of 60 M envelope of arcs generated from FOS08	27	28	1.852	1.00
29	12	49	15.9	114	4	23.2	Fixed points of 60 M envelope of arcs generated from FOS08	28	29	1.852	1.00
30	12	49	34.3	114	5	21.7	Fixed points of 60 M envelope of arcs generated from FOS08	29	30	1.852	1.00
31	12	49	51.6	114	6	20.5	Fixed points of 60 M envelope of arcs generated from FOS08	30	31	1.852	1.00
32	12	50	8.1	114	7	19.6	Fixed points of 60 M envelope of arcs generated from FOS08	31	32	1.852	1.00
33	12	50	23.5	114	8	19.0	Fixed points of 60 M envelope of arcs generated from FOS08	32	33	1.852	1.00
34	12	50	38.0	114	9	18.6	Fixed points of 60 M envelope of arcs generated from FOS08	33	34	1.852	1.00

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OLCS Point ID	Latitude (N)			Longitude (E)			Methods	From Point	To Point	Distance	
	°	'	''	°	'	''				KM	M
35	12	50	51.5	114	10	18.4	Fixed points of 60 M envelope of arcs generated from FOS08	34	35	1.852	1.00
36	12	56	18.4	114	36	16.5	Fixed points of 60 M envelope of arcs generated from FOS09	35	36	48.033	25.94
37	12	56	30.9	114	37	16.6	Fixed points of 60 M envelope of arcs generated from FOS09	36	37	1.852	1.00
38	12	56	42.4	114	38	16.9	Fixed points of 60 M envelope of arcs generated from FOS09	37	38	1.852	1.00
39	12	56	53.0	114	39	17.4	Fixed points of 60 M envelope of arcs generated from FOS09	38	39	1.852	1.00
40	12	57	2.5	114	40	18.0	Fixed points of 60 M envelope of arcs generated from FOS09	39	40	1.852	1.00
41	12	57	11.0	114	41	18.9	Fixed points of 60 M envelope of arcs generated from FOS09	40	41	1.852	1.00
42	12	57	18.6	114	42	19.8	Fixed points of 60 M envelope of arcs generated from FOS09	41	42	1.852	1.00
43	12	57	25.1	114	43	20.9	Fixed points of 60 M envelope of arcs generated from FOS09	42	43	1.852	1.00
44	12	57	30.6	114	44	22.1	Fixed points of 60 M envelope of arcs generated from FOS09	43	44	1.852	1.00
45	12	57	35.1	114	45	23.3	Fixed points of 60 M envelope of arcs generated from FOS09	44	45	1.852	1.00
46	12	57	38.7	114	46	24.7	Fixed points of 60 M envelope of arcs generated from FOS09	45	46	1.852	1.00
47	12	57	41.2	114	47	26.1	Fixed points of 60 M envelope of arcs generated from FOS09	46	47	1.852	1.00
48	12	57	42.7	114	48	27.5	Fixed points of 60 M envelope of arcs generated from FOS09	47	48	1.852	1.00
49	12	57	43.2	114	49	28.4	Fixed points of 60 M envelope of arcs generated from FOS09	48	49	1.835	0.99
50	12	57	42.7	114	50	29.8	Fixed points of 60 M envelope of arcs generated from FOS09	49	50	1.852	1.00
51	12	57	41.2	114	51	31.3	Fixed points of 60 M envelope of arcs generated from FOS09	50	51	1.852	1.00
52	12	57	38.6	114	52	32.7	Fixed points of 60 M envelope of arcs generated from FOS09	51	52	1.852	1.00

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OLCS Point ID	Latitude (N)			Longitude (E)			Methods	From Point	To Point	Distance	
	°	'	"	°	'	"				KM	M
53	12	57	35.1	114	53	34.0	Fixed points of 60 M envelope of arcs generated from FOS09	52	53	1.852	1.00
54	12	57	30.6	114	54	35.3	Fixed points of 60 M envelope of arcs generated from FOS09	53	54	1.852	1.00
55	12	57	25.0	114	55	36.4	Fixed points of 60 M envelope of arcs generated from FOS09	54	55	1.852	1.00
56	12	57	18.5	114	56	37.5	Fixed points of 60 M envelope of arcs generated from FOS09	55	56	1.852	1.00
57	12	57	11.0	114	57	38.5	Fixed points of 60 M envelope of arcs generated from FOS09	56	57	1.852	1.00
58	12	57	2.4	114	58	39.3	Fixed points of 60 M envelope of arcs generated from FOS09	57	58	1.852	1.00
59	12	56	52.9	114	59	40.0	Fixed points of 60 M envelope of arcs generated from FOS09	58	59	1.852	1.00
60	12	56	42.3	115	0	40.5	Fixed points of 60 M envelope of arcs generated from FOS09	59	60	1.852	1.00
61	12	56	30.8	115	1	40.8	Fixed points of 60 M envelope of arcs generated from FOS09	60	61	1.852	1.00
62	12	56	18.3	115	2	40.9	Fixed points of 60 M envelope of arcs generated from FOS09	61	62	1.852	1.00
63	12	56	4.8	115	3	40.8	Fixed points of 60 M envelope of arcs generated from FOS09	62	63	1.852	1.00
64	12	55	50.3	115	4	40.4	Fixed points of 60 M envelope of arcs generated from FOS09	63	64	1.852	1.00
65	12	55	34.9	115	5	39.8	Fixed points of 60 M envelope of arcs generated from FOS09	64	65	1.852	1.00
66	12	55	18.5	115	6	38.9	Fixed points of 60 M envelope of arcs generated from FOS09	65	66	1.852	1.00
67	12	55	1.1	115	7	37.7	Fixed points of 60 M envelope of arcs generated from FOS09	66	67	1.852	1.00
68	12	54	42.7	115	8	36.2	Fixed points of 60 M envelope of arcs generated from FOS09	67	68	1.852	1.00
69	12	54	23.4	115	9	34.4	Fixed points of 60 M envelope of arcs generated from FOS11	68	69	1.852	1.00
70	13	16	16.4	116	6	1.3	Fixed points of 60 M envelope of arcs generated from FOS11	69	70	109.72	59.24

MYS Partial Submission 8
Part I: Executive Summary

MYS_ES_DOC-01_281117

OLCS Point ID	Latitude (N)			Longitude (E)			Methods	From Point	To Point	Distance	
	°	'	''	°	'	''				KM	M
71	13	16	37.6	116	6	58.9	Fixed points of 60 M envelope of arcs generated from FOS11	70	71	1.852	1.00
72	13	16	57.9	116	7	56.9	Fixed points of 60 M envelope of arcs generated from FOS11	71	72	1.852	1.00
73	13	17	17.2	116	8	55.2	Fixed points of 60 M envelope of arcs generated from FOS11	72	73	1.852	1.00
74	13	17	35.5	116	9	53.8	Fixed points of 60 M envelope of arcs generated from FOS11	73	74	1.852	1.00
75	13	17	52.9	116	10	52.7	Fixed points of 60 M envelope of arcs generated from FOS11	74	75	1.852	1.00
76	13	18	9.3	116	11	51.9	Fixed points of 60 M envelope of arcs generated from FOS11	75	76	1.852	1.00
77	13	18	24.8	116	12	51.3	Fixed points of 60 M envelope of arcs generated from FOS11	76	77	1.852	1.00
78	13	18	39.2	116	13	51.1	Fixed points of 60 M envelope of arcs generated from FOS11	77	78	1.852	1.00
79	13	18	52.7	116	14	51.0	Fixed points of 60 M envelope of arcs generated from FOS11	78	79	1.852	1.00
80	13	19	5.2	116	15	51.2	Fixed points of 60 M envelope of arcs generated from FOS11	79	80	1.852	1.00
81	13	19	16.7	116	16	51.6	Fixed points of 60 M envelope of arcs generated from FOS11	80	81	1.852	1.00
82	13	19	27.3	116	17	52.2	Fixed points of 60 M envelope of arcs generated from FOS11	81	82	1.852	1.00
83	13	19	36.8	116	18	53.0	Fixed points of 60 M envelope of arcs generated from FOS11	82	83	1.852	1.00
84	13	19	45.3	116	19	53.9	Fixed points of 60 M envelope of arcs generated from FOS11	83	84	1.852	1.00
85	13	19	52.9	116	20	55.0	Fixed points of 60 M envelope of arcs generated from FOS11	84	85	1.852	1.00
86	13	19	59.4	116	21	56.1	Fixed points of 60 M envelope of arcs generated from FOS11	85	86	1.852	1.00
87	13	20	4.9	116	22	57.4	Fixed points of 60 M envelope of arcs generated from FOS11	86	87	1.852	1.00
88	13	20	9.4	116	23	58.8	Fixed points of 60 M envelope of arcs generated from FOS11	87	88	1.663	1.00

MYS_ES_DOC-01_281117

OLCS Point ID	Latitude (N)			Longitude (E)			Methods	From Point	To Point	Distance	
	°	'	''	°	'	''				KM	M
89	13	20	13.0	116	25	0.2	Fixed points of 60 M envelope of arcs generated from FOS11	88	89	0.189	1.00
90	13	20	15.5	116	26	1.7	Fixed points of 60 M envelope of arcs generated from FOS11	89	90	0.232	1.00
91	13	20	17.0	116	27	3.2	Fixed points of 60 M envelope of arcs generated from FOS11	90	91	0.129	1.00
92	13	20	17.5	116	28	4.2	Fixed points of 60 M envelope of arcs generated from FOS11	91	92	1.835	1.00
93	13	20	17.0	116	29	5.7	Fixed points of 60 M envelope of arcs generated from FOS11	92	93	1.852	1.00
94	13	20	15.5	116	30	7.3	Fixed points of 60 M envelope of arcs generated from FOS11	93	94	0.027	1.00
95	13	20	12.9	116	31	8.7	Fixed points of 60 M envelope of arcs generated from FOS11	94	95	1.825	1.00
96	13	20	12.3	116	31	20.3	Fixed points on 350 M	95	96	0.347	0.19

MALAYSIA, 12 DECEMBER 2019



HA 59/19

The Permanent Mission of Malaysia to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to inform the latter that the Government of Malaysia intends to deposit a partial submission to the Commission on the Limits of the Continental Shelf (CLCS), as provided for under Article 76 of the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982), in order to establish the limits of Malaysia's continental shelf beyond 200 nautical miles in the South China Sea from the baseline from which its territorial sea is measured.

This is a partial submission for the remaining portion of the continental shelf of Malaysia beyond 200 nautical miles in the northern part of the South China Sea. Malaysia and the Socialist Republic of Vietnam had on 6 May 2009 made a joint submission for a portion of the two States' continental shelf, in the southern part of the South China Sea.

This partial submission is made without prejudice to the question of delimitation of the continental shelf between States with opposite or adjacent coasts in consonance with Article 76 (10) of UNCLOS 1982, Article 9 of Annex II of UNCLOS 1982, Rule 46 to the Commission's Rules of Procedure, and Paragraphs 1, 2 and 5 of Annex I to the Commission's Rules of Procedure. This partial submission is also made without prejudice to the position of States which are parties to a land or maritime dispute in consonance with Paragraph 5 (b) of Annex I to the Commission's Rules of Procedure.

Therefore, the partial submission which Malaysia intends to make pursuant to Article 76 of UNCLOS 1982 shall not be interpreted in any manner whatsoever to prejudice or affect matters relating to the delimitation of maritime boundaries in the South China Sea between States with opposite or adjacent coasts and their position concerning land and maritime disputes.

The Permanent Mission of Malaysia has further the honour to request that this note be circulated to all members of the CLCS, all States Parties to the UNCLOS 1982 as well as all Members of the United Nations.

The Permanent Mission of Malaysia to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 12 December 2019

Secretary-General of the United Nations



CHINA, 12 DECEMBER 2019

(Translation)

CML/14/2019

New York, 12 December 2019

The Permanent Mission of the People's Republic of China to the United Nations presents its compliments to the Secretary-General of the United Nations. Recalling its Note Verbale No. CML/17/2009, dated 7 May 2009, to the then Secretary-General of the United Nations Mr. Ban Ki-moon, the Mission, with regard to the Submission by Malaysia dated 12 December 2019 to the Commission on the Limits of the Continental Shelf (hereinafter referred to as "the Commission") concerning the outer limits of the continental shelf beyond 200 nautical miles in the South China Sea, has the honor to state the position as follows:

China has sovereignty over Nanhai Zhudao, consisting of Dongsha Qundao, Xisha Qundao, Zhongsha Qundao and Nansha Qundao; China has internal waters, territorial sea and contiguous zone, based on Nanhai Zhudao; China has exclusive economic zone and continental shelf, based on Nanhai Zhudao; China has historic rights in the South China Sea. The above positions of China comply with relevant international law and practice. They are clear and consistent, and are known to the international community including the Government of Malaysia.

The aforementioned Submission by Malaysia has seriously infringed China's sovereignty, sovereign rights and jurisdiction in the South China Sea. In accordance with Article 5(a) of Annex I to the Rules of Procedure of the Commission on the Limits of the Continental Shelf, the Chinese Government seriously requests the Commission not to consider the Submission by Malaysia.

The Permanent Mission of the People's Republic of China to the United Nations requests that this Note Verbale be circulated by the Secretary-General of the United Nations to all members of the Commission, all States Parties to the United Nations Convention on the Law of the Sea as well as all Members of the United Nations.

The Permanent Mission of the People's Republic of China to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

H.E. Mr. António Guterres
Secretary-General
United Nations
New York

PHILIPPINES, 6 MARCH 2020

MISYON NG PILIPINAS SA MGA
NAGKAKAISANG BANSA



PHILIPPINE MISSION TO THE
UNITED NATIONS

588 FIFTH AVENUE
NEW YORK, N.Y. 10022
TEL. NO. (212) 761-1300

No. DGUESI - 2020

The Permanent Mission of the Republic of the Philippines to the United Nations presents its compliments to the Secretary-General of the United Nations, and with reference to the People's Republic of China's Note Verbale CML/14/2019 dated 12 December 2019 addressed to the Secretary-General of the United Nations in response to the submission by Malaysia HA 59/19 dated 12 December 2019 to the Commission on the Limits of the Continental Shelf, has the honor to state the position of the Government of the Republic of the Philippines, as follows:

The Government of the Republic of the Philippines considers China's positions as inconsistent with international law, including the United Nations Convention on the Law of the Sea (UNCLOS), which comprehensively allocates maritime rights to States.

On the features in the South China Sea, the Republic of the Philippines has sovereignty and jurisdiction over the Kalayaan Island Group and Bajo de Masinloc.

On the maritime entitlements generated from the features, in the unanimous Award of 12 July 2016 issued by the Tribunal constituted under Annex VII to the UNCLOS in the arbitration case instituted by the Republic of the Philippines against the People's Republic of China (*The South China Sea Arbitration*) it was ruled, *inter alia*, that "none of the high-tide features in the Spratly Islands, in their natural condition, are capable of sustaining human habitation or economic life of their own within the meaning of Article 121 (3) of the Convention;" and "that none of the high tide features in the Spratly Islands generate entitlements to an exclusive economic zone or continental shelf." In its decision, the Tribunal also did not agree with an "assertion that the Spratly Islands should be enclosed within a system of archipelagic or straight baselines, surrounding the high tide features of the group, and accorded an entitlement to maritime zones as a single unit."

The Tribunal conclusively settled the issue of historic rights and maritime entitlements in the South China Sea. The Tribunal ruled that claims to historic rights, or other sovereign rights or jurisdiction that exceed the geographic and substantive limits of maritime entitlements under UNCLOS, are without lawful effect. It further ruled that UNCLOS "superseded any historic rights, or other sovereign rights or jurisdiction, in excess of the limits imposed therein."

The Permanent Mission of the Republic of the Philippines to the United Nations avails itself of this opportunity to renew to Secretary-General of the United Nations the assurances of its highest consideration.

New York, 06 March 2020

H.E. Mr. Antonio S. Guterres
Secretary-General
United Nations



MISYON NG PILIPINAS SA MGA
NAGKAKAISANG BANSÀ



PHILIPPINE MISSION TO THE
UNITED NATIONS

556 FIFTH AVENUE
NEW YORK, N.Y. 10022
TEL NO. (212) 784 1309

No. 000192 -2020

The Permanent Mission of the Republic of the Philippines to the United Nations presents its compliments to the Secretary-General of the United Nations, and with reference to the submission by the Government of Malaysia HA 59/19 dated 12 December 2019 to the Commission on the Limits of the Continental Shelf (hereinafter referred to as "the Commission"), has the honor to state the position of the Government of the Republic of the Philippines, as follows:

Recalling the Philippine Mission's Note Verbale No. 000819 dated 04 August 2009 (copy attached) with regard to the Joint Submission by Malaysia and the Socialist Republic of Viet Nam concerning the outer limits of the continental shelf beyond 200 nautical miles in the South China Sea, the area of the Malaysian submission dated 12 December 2019 covers features within the Kalayaan Island Group over which the Republic of the Philippines has sovereignty. The area also overlaps with the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea of the Republic of the Philippines is measured, and over which the Government of the Republic of the Philippines intends to make a submission at a future time. Moreover, the Malaysian submission is projected from portions of North Borneo over which the Republic of the Philippines has never relinquished its sovereignty.

The Permanent Mission of the Republic of the Philippines requests the Commission to consider this Note with reference to the relevant provisions of Annex I (Submissions in case of a dispute between States with opposite or adjacent coasts or in other cases of unresolved land or maritime disputes) of the Rules of Procedure of the Commission.

The Permanent Mission of the Republic of the Philippines to the United Nations avails itself of this opportunity to renew to Secretary-General of the United Nations the assurances of its highest consideration.

New York, 06 March 2020

H.E. Mr. Antonio S. Guterres
Secretary-General
United Nations



MISYON NG PILIPINAS SA MGA
NAGKAKAISANG BANSA



555 FIFTH AVENUE
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PHILIPPINE MISSION TO THE
UNITED NATIONS



No. 000815

The Permanent Mission of the Republic of the Philippines to the United Nations presents its compliments to the Secretary-General of the United Nations, and with reference to the Joint Submission by Malaysia and the Socialist Republic of Vietnam dated 06 May 2009 to the Commission on the Limits of the Continental Shelf (hereinafter referred to as "the Commission") concerning the outer limits of the continental shelf beyond 200 nautical miles in the South China Sea, has the honor to state the position of the Government of the Republic of the Philippines as follows:

The Joint Submission for the Extended Continental Shelf by Malaysia and Vietnam lays claim on areas that are disputed not only because they overlap with that of the Philippines, but also because of the controversy arising from the territorial claims on some of the islands in the area including North Borneo.

The Government of the Republic of the Philippines notes the relevant Articles of the Convention including its Annex II and the Rules of Procedure of the Commission, in particular Annex I thereto which provides as follows:

"1. The Commission recognizes that the competence with respect to matters regarding disputes which may arise in connection with the establishment of the outer limits of the continental shelf rests with States."

"5. (a) In cases where a land or maritime dispute exists, the Commission shall not consider and qualify a submission made by any of the States concerned in the dispute."

In view of the foregoing circumstances, the Government of the Republic of the Philippines is constrained to request the Commission to refrain from considering the aforementioned joint Submission by Malaysia and the Socialist Republic of Vietnam, unless and until after the parties have discussed and resolved their disputes.

The Permanent Mission of the Republic of the Philippines to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 4 August 2009



CHINA, 23 MARCH 2020

(Translation)

CML/11/2020

The Permanent Mission of the People's Republic of China to the United Nations presents its compliments to the Secretary-General of the United Nations. Recalling its Note Verbale No. CML/8/2011 to the then Secretary-General of the United Nations Mr. Ban Ki-moon and its Note Verbale No. CML/14/2019, the Mission, with regard to the Notes Verbales No. 000191-2020 and No. 000192-2020 dated 6 March 2020 addressed to the Secretary-General of the United Nations by the Permanent Mission of the Republic of the Philippines to the United Nations, has the honor to state China's position as follows:

China has sovereignty over Nansha Qundao and its adjacent waters, and over Huangyan Dao and its adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof. China has historic rights in the South China Sea. China's sovereignty and related rights and jurisdiction in the South China Sea are supported by abundant historical and legal evidence. The contents of the Philippines' Notes Verbales No. 000191-2020 and No. 000192-2020 are totally unacceptable to the Chinese Government.

The so-called "Kalayaan Island Group" claimed by the Philippines is in fact part of China's Nansha Qundao and has never been part of the territory of the Philippines. Since the 1970s, the Philippines has illegally occupied a number of maritime features of China's Nansha Qundao. The Philippines can in no way invoke such illegal occupation to support its territorial claims.

Being part of China's Zhongsha Qundao, Huangyan Dao is China's inherent territory. China continuously and effectively exercises sovereignty and jurisdiction over Huangyan Dao. The Philippines' illegal territorial claim over China's Huangyan Dao is completely baseless under international law.

With regard to the South China Sea arbitration and the awards referred to by the Philippines, China's position is clear and consistent.

The Arbitral Tribunal in the South China Sea arbitration disregards the fact that the essence of the subject-matters of the arbitration initiated by the Philippines is territorial sovereignty and maritime delimitation, exercises jurisdiction *ultra vires*, obviously errs in ascertaining facts and applying the law, and subsequently violates the United Nations Convention on the Law of the Sea and relevant international law. The Arbitral Tribunal's conduct and its awards are unjust and unlawful. The Chinese Government has solemnly declared that China neither accepts nor participates in the South China Sea arbitration, neither accepts nor recognizes the awards, and will never accept any claim or action based on the awards. China and the Philippines have reached consensus on properly addressing issues on the South China Sea arbitration, and have returned to the right track of settling maritime issues through bilateral friendly negotiation and consultation.

Article 5(a) of Annex I to the Rules of Procedure of the Commission on the Limits of the Continental Shelf explicitly stipulates that in case where a land or maritime dispute exists, the Commission shall not consider and qualify the submission made by any of the States concerned in the dispute. The Chinese Government once again requests the Commission on the Limits of the Continental Shelf not to consider the Submission made by Malaysia in December 2019 concerning the outer limits of the continental shelf beyond 200 nautical miles in the South China Sea.

The Permanent Mission of the People's Republic of China to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 23 March 2020

H.E. Mr. António Guterres
Secretary-General
United Nations
New York

VIETNAM, 30 MARCH 2020

Unofficial translation

No. 22/HC-2020

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to Note Verbale No. CML/14/2019 dated 12 December 2019 concerning Malaysia's submission dated 12 December 2019 to the Commission on the Limits of the Continental Shelf and Note Verbale No. CML/11/2020 dated 23 March 2020 addressed to the Secretary-General of the United Nations by the Permanent Mission of the People's Republic of China to the United Nations, has the honour to state the consistent position of the Government of the Socialist Republic of Viet Nam as follows:

Viet Nam protests China's claims as contained in the aforementioned Notes Verbales. These claims seriously violate Viet Nam's sovereignty, sovereign rights and jurisdiction in the East Sea (South China Sea).

Viet Nam has ample historical evidence and legal basis to assert its sovereignty over the Hoang Sa (Paracel) Islands and the Truong Sa (Spratly) Islands in accordance with international law.

Viet Nam affirms that as between Viet Nam and China, the 1982 United Nations Convention on the Law of the Sea (UNCLOS) provides the sole legal basis for and defines in a comprehensive and exhaustive manner the scope of their respective maritime entitlements in the East Sea. Accordingly, the maritime entitlement of each high-tide feature in the Hoang Sa Islands and the Truong Sa Islands shall be determined in accordance with Article 121(3) of UNCLOS; the baselines of the groups of islands in the East Sea, including the Hoang Sa Islands and the Truong Sa Islands, cannot be drawn by joining the outermost points of their respective outermost features; low-tide elevations or submerged features are not capable of appropriation and do not, in and of themselves, generate entitlements to any maritime zones. Viet Nam opposes any maritime claims in the East Sea that exceed the limits provided in UNCLOS, including claims to historic rights; these claims are without lawful effect.

This is the consistent position of Viet Nam which has been enunciated in various documents circulated at the United Nations and submitted to relevant international bodies.

The Permanent Mission has further the honour to request that this Note Verbale be circulated to all States Parties to UNCLOS as well as all Members of the United Nations.

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations avails itself this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 30 March 2020

His Excellency Mr. António Guterres
Secretary-General of the United Nations
New York

VIETNAM, 10 APRIL 2020

Unofficial translation

No. 24 / HC-2020

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to Note Verbale No. HA 59/12 dated 12 December 2019 addressed to the Secretary-General of the United Nations by the Permanent Mission of Malaysia to the United Nations concerning the Partial Submission made by Malaysia to the Commission on the Limits of the Continental Shelf, has the honour to state the following position of the Government of the Socialist Republic of Viet Nam.

Viet Nam notes that according to Article 76(10) and Annex II of the 1982 United Nations Convention on the Law of the Sea to which both Viet Nam and Malaysia are States Parties, the actions of the Commission on the Limits of the Continental Shelf shall not prejudice matters relating to the delimitation of boundaries between States with opposite or adjacent coasts.

Viet Nam recalls the Joint Submission by Viet Nam and Malaysia of 06 May 2009 concerning the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured in the southern part of the East Sea (South China Sea) and its Partial Submission of 07 May 2009 concerning the limits of the continental shelf beyond 200 nautical miles from its baseline from which the breadth of its territorial sea is measured in the northern part of the East Sea. Viet Nam reserves its rights to submit information on the limits of its continental shelf beyond 200 nautical miles from its baselines from which the breadth of its territorial sea is measured in other areas in the East Sea.

On this occasion, Viet Nam reiterates its consistent position that Viet Nam has ample historical evidence and legal basis to affirm its sovereignty over the Hoang Sa (Paracel) Islands and the Truong Sa (Spratly) Islands in accordance with international law. Viet Nam also has sovereignty, sovereign rights and jurisdiction over its maritime zones established in accordance with the 1982 United Nations Convention on the Law of the Sea. This position of Viet Nam has been enunciated in various documents circulated at the United Nations and submitted to relevant international bodies.

The Permanent Mission has further the honour to request that this Note Verbale be circulated to all States Parties to the 1982 United Nations Convention on the Law of the Sea as well as all Members of the United Nations.

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 10 April 2020

His Excellency Mr. António Guterres
Secretary-General of the United Nations
New York

VIETNAM, 17 APRIL 2020

(Translation)

CML/42/2020

The Permanent Mission of the People's Republic of China to the United Nations presents its compliments to the Secretary-General of the United Nations. Recalling its Notes Verbales No. CML/17/2009 and No. CML/18/2009 addressed to His Excellency Ban Ki-moon, the then Secretary-General of the United Nations, by the Permanent Mission of the People's Republic of China to the United Nations in 2009, the Chinese Mission, with regard to the Note Verbale No. 22/HC-2020 dated 30 March 2020 and the Notes Verbales No. 24/HC-2020 and No. 25/HC-2020 dated 10 April 2020 addressed to the Secretary-General of the United Nations by the Permanent Mission of the Socialist Republic of Viet Nam to the United Nations, has the honor to state China's position as follows:

China has sovereignty over Xisha Qundao, Nansha Qundao and their adjacent waters. China has sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof. China has historic rights in the South China Sea. China's sovereignty over Nanhai Zhudao and its maritime rights and interests in the South China Sea are established in the long course of historical practice. They have been upheld by successive Chinese Governments and are consistent with international law, including the Charter of the United Nations and the United Nations Convention on the Law of the Sea. The Chinese Government expresses its firm opposition to the contents of Viet Nam's Notes Verbales No. 22/HC-2020, No. 24/HC-2020 and No. 25/HC-2020.

China's sovereignty over Xisha Qundao and Nansha Qundao is widely recognized by the international community. The Government of Viet Nam had also explicitly recognized it. On 4 September 1958, the Chinese Government promulgated the *Declaration of the Government of the People's Republic of China on China's Territorial Sea*, proclaiming a twelve-nautical-mile territorial sea breadth, and stipulating that, "This provision applies to all territories of the People's Republic of China,

including [...] Dongsha Qundao, Xisha Qundao, Zhongsha Qundao, Nansha Qundao and all other islands belonging to China.” On 14 September 1958, Prime Minister Pham Van Dong of Viet Nam sent a diplomat note to Zhou Enlai, Premier of the State Council of China, solemnly stating that “the Government of the Democratic Republic of Viet Nam 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 4 September 1958” and that “the Government of the Democratic Republic of Viet Nam respects this decision”. Prior to the early 1970s, Viet Nam had officially recognized that Xisha Qundao and Nansha Qundao have always been inherent parts of China’s territory since ancient times. This position was reflected in its government statements and notes, as well as its official maps, textbooks and newspapers.

After 1975, Viet Nam violated *estoppel* and made illegal territorial claims to China’s Xisha Qundao and Nansha Qundao. In violation of the purposes and principles of the Charter of the United Nations, Viet Nam sent troops to invade and illegally occupy some islands and reefs of China’s Nansha Qundao by force, attempting to provoke disputes. China always opposes the invasion and illegal occupation by Viet Nam of some islands and reefs of China’s Nansha Qundao, and the activities infringing upon China’s rights and interests in the waters under China’s jurisdiction. China resolutely demands that Viet Nam withdraw all the crews and facilities from the islands and reefs it has invaded and illegally occupied.

The joint submission by Viet Nam and Malaysia dated 6 May 2009 and the submission by Viet Nam dated 7 May 2009 to the Commission on the Limits of the Continental Shelf concerning the outer limits of the continental shelf beyond 200 nautical miles in some areas of the South China Sea have seriously infringed upon China’s sovereignty, sovereign rights and jurisdiction in the South China Sea. China is firmly opposed to this. China’s position on this issue has been stated in the Notes Verbales No. CML/17/2009 and No. CML/18/2009 addressed to His Excellency Ban Ki-moon, the then Secretary-General of the United Nations, by the Permanent Mission of the People’s Republic of China to the United Nations in 2009.

China's position concerning the South China Sea issue is clear and consistent, and has been repeatedly elaborated in the statements issued by the Chinese Government and the relevant Notes Verbales submitted to the United Nations.

The Permanent Mission of the People's Republic of China to the United Nations requests the Secretary-General of the United Nations to circulate this Note Verbale to all States Parties to the United Nations Convention on the Law of the Sea and all Members of the United Nations.

The Permanent Mission of the People's Republic of China to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 17 April 2020

H.E. Mr. António Guterres
Secretary-General
United Nations
New York

INDONESIA, 26 MAY 2020

(Unofficial translation)

No. 126/POL-703/V/20

The Permanent Mission of the Republic of Indonesia to the United Nations presents its compliments to the Secretary General of the United Nations and has the honor to refer to the circular notes of the Permanent Mission of the People's Republic of China No. CML/14/2019 dated 12 December 2019 concerning the protest of the Government of the People's Republic of China toward the Continental Shelf beyond 200 nautical miles submission of Malaysia, the circular note of the Permanent Mission of the People's Republic of China No. CML/11/2020 dated 23 March 2020 concerning the protest toward the statement of the Government of the Philippines and the circular note of the Permanent Mission of the People's Republic of China No. CML/42/2020 dated 17 April 2020 concerning China's position with respect to the joint submission of the Continental Shelf beyond 200 nautical miles by Malaysia and Viet Nam.

In regard to that matter, Indonesia wishes to reiterate its position as reflected in the circular note of the Permanent Mission of the Republic of Indonesia to the United Nations No. 480/POL-703/VII/10 dated 8 July 2010, as follow:

1. Indonesia reiterates once again that Indonesia is not a party to the territorial dispute in the South China Sea;
2. Furthermore, Indonesia notes that its view concerning the maritime entitlements of the maritime features as reflected in the 2010 circular note has been confirmed by the Award of 12 July 2016 by the Tribunal instituted under Annex VII to the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982) between the Republic of the Philippines against the People's Republic of China (The South China Sea Arbitration) in which no maritime features in the Spratly Islands is entitled to an Exclusive Economic Zone or a Continental Shelf of its own;
3. Indonesia reiterates that the Nine-Dash Line map implying historic rights claim clearly lacks international legal basis and is tantamount to upset UNCLOS 1982. This view has also been confirmed by the Award of 12 July 2016 by the Tribunal that any historic rights that the People's Republic of China may have had to the living and non-living resources were superseded by the limits of the maritime zones provided for by UNCLOS 1982.

As a State Party to UNCLOS 1982, Indonesia has consistently called for the full compliance toward international law, including UNCLOS 1982. Indonesia hereby declares that it is not bound by any claims made in contravention to international law, including UNCLOS 1982.

The Permanent Mission of the Republic of Indonesia to the United Nations has further the honor to request that this note be circulated to all members of the Commission on the Limits of the Continental Shelf (CLCS), all State Parties to the United Nations Convention on the Law of the Sea and all Member States of the United Nations.

The Permanent Mission of the Republic of Indonesia to the United Nations avails itself of this opportunity to renew to the Secretary General of the United Nations the assurances of its highest consideration.





New York, 26 May 2020



H.E. Mr. António Guterres
Secretary General
United Nations

CC:
Division on Ocean Affairs and Law of the Sea
(DOALOS)
Office of Legal Affairs – United Nations
New York

UNITED STATES OF AMERICA, 2 JUNE 2020

United Nations		A/74/874-S/2020/483
	General Assembly Security Council	Distr.: General 2 June 2020 Original: English
	General Assembly Seventy-fourth session Agenda item 74 (a) Oceans and the law of the sea: oceans and the law of the sea	Security Council Seventy-fifth year
Letter dated 1 June 2020 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General		
<p>I have the honour to refer to the note verbale sent by the Permanent Mission of the People's Republic of China to you on 12 December 2019 in response to the submission by Malaysia to the Commission on the Limits of the Continental Shelf dated 12 December 2019. The present communication concerns only the views expressed by China regarding its maritime claims in the South China Sea and does not comment on Malaysia's submission to the Commission. As China's note asserts excessive maritime claims that are inconsistent with the international law of the sea as reflected in the 1982 Convention on the Law of the Sea, and as those claims purport to unlawfully interfere with the rights and freedoms enjoyed by the United States and all other States, the United States considers it essential to reiterate its formal protests of these unlawful assertions and describe the relevant international law of the sea as reflected in the Convention.</p> <p>In its note, China makes the following assertions:</p> <ul style="list-style-type: none">• China has sovereignty over Nanhai Zhudao, consisting of Dongsha Qundao, Xisha Qundao, Zhongsha Qundao and Nansha Qundao• China has internal waters, territorial sea and contiguous zone, based on Nanhai Zhudao• China has exclusive economic zone and continental shelf, based on Nanhai Zhudao• China has historic rights in the South China Sea <p>China made similar assertions immediately following the 12 July 2016 award in <i>The South China Sea Arbitration (The Republic of the Philippines v. The People's Republic of China)</i> issued by an arbitral tribunal constituted under Part XV of the Convention (hereinafter "the Tribunal"). The United States objected to those assertions in a demarche and note verbale on 28 December 2016.¹</p>		
<p>¹ The note was subsequently published in the <i>Digest of United States Practice in International Law, 2016</i>, at 520–522, available at https://www.state.gov/wp-content/uploads/2019/05/2016-Digest-United-States.pdf.</p>		
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A/74/874
S/2020/483

The United States reiterates its prior objections to China's maritime claims.

Specifically, the United States objects to China's claim to "historic rights" in the South China Sea to the extent that the claim exceeds the maritime entitlements that China could assert consistent with international law as reflected in the Convention.² The United States notes in this regard that the Tribunal unanimously concluded in its ruling – which is final and binding on China and the Philippines under article 296 of the Convention – that China's claim to historic rights is incompatible with the Convention to the extent it exceeds the limits of China's possible maritime zones as specifically provided for in the Convention.

Additionally, the United States reiterates its prior objections to any claim of internal waters between the dispersed islands China claims in the South China Sea, and to any claim of maritime zones derived from treating island groups in the South China Sea as a collective. The Convention clearly and comprehensively regulates the circumstances under which coastal States can deviate from the normal baseline. Article 5 of the Convention provides, in express and unambiguous terms, that the normal baseline applies "[e]xcept where otherwise provided in this Convention." No provision of the Convention establishes an applicable exception to the normal baseline that would allow China to enclose within a system of straight or archipelagic baselines the dispersed islands and other features over which China asserts sovereignty in the South China Sea. Moreover, the United States objects to any claimed maritime entitlements based on features that are not islands within the meaning of article 121(1) of the Convention³ and thus do not generate maritime zones of their own under international law. China may not assert sovereignty over, or claim maritime zones derived from, entirely submerged features like Macclesfield Bank or James Shoal, or features like Mischief Reef and Second Thomas Shoal, which in their natural state are low-tide elevations⁴ that lie beyond a lawfully generated territorial sea entitlement. Such features do not form part of the land territory of a State in a legal sense, meaning that they are not subject to appropriation and cannot generate a territorial sea or other maritime zones under international law.⁵ These positions are consistent with the decision of the Tribunal in *The South China Sea Arbitration*.

In asserting such vast maritime claims in the South China Sea, China purports to restrict the rights and freedoms, including the navigational rights and freedoms, enjoyed by all States. The United States objects to these claims to the extent they exceed the entitlements China could claim under international law as reflected in the Convention. The United States notes that the Governments of the Philippines,⁶

² A detailed assessment of China's South China Sea maritime claims was published in 2014 in the United States Department of State publication *Limits in the Seas No. 143 – China: Maritime Claims in the South China Sea*, available at <https://www.state.gov/wp-content/uploads/2019/10/LIS-143.pdf>. That publication continues to reflect the views of the United States regarding the unlawfulness of China's claim of "historic rights" in the South China Sea.

³ An island is defined in article 121(1) of the Convention as "a naturally formed area of land, surrounded by water, which is above water at high tide".

⁴ As reflected in article 13(1) of the Convention, "[a] low-tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide".

⁵ Thus, with respect to the assertion that "China has sovereignty over Nanhai Zhudao, consisting of Dongsha Qundao, Xisha Qundao, Zhongsha Qundao and Nansha Qundao" the United States observes that while China and other South China Sea claimants assert competing territorial claims to islands situated within the South China Sea, no State could lawfully assert a territorial or sovereignty claim to features that are not islands (within the meaning of article 121(1) of the Convention) or to maritime areas beyond the territorial sea generated from the normal baseline (or other applicable baseline as reflected in the rules of the Convention) of such individual islands.

⁶ The Philippines note No. 000191-2020 (March 6, 2020), available at https://www.un.org/Depts/los/clcs_new/submissions_files/mys_12_12_2019/2020_03_06_PHL_NV_UN_001.pdf.

Viet Nam,⁷ and Indonesia⁸ have separately conveyed their legal objections to the maritime claims set out in China's note verbale No. CML/14/2019.⁹ The United States again urges China to conform its maritime claims to international law as reflected in the Convention; to comply with the Tribunal's 12 July 2016 decision; and to cease its provocative activities in the South China Sea.

I request that the present letter be circulated to all States Members of the United Nations as a document of the General Assembly, under agenda item 74 (a), and of the Security Council, and that it be posted on the web page of the Office of Legal Affairs, Division for Ocean Affairs and the Law of the Sea.

(Signed) Kelly Craft
Ambassador
United States Representative to the United Nations

⁷ Viet Nam note No. 22/HC-2020 (March 30, 2020), available at https://www.un.org/Depts/los/clcs_new/submissions_files/mys_12_12_2019/VN20200330_ENG.pdf.

⁸ Indonesia note No. 126/POL-703/V/20 (May 26, 2020), available at https://www.un.org/Depts/los/clcs_new/submissions_files/mys_12_12_2019/2020_05_26_IDN_NV_UN_001_English.pdf.

⁹ Available at https://www.un.org/Depts/los/clcs_new/submissions_files/mys85_2019/CML_14_2019_E.pdf.

CHINA, 2 JUNE 2020

(Translation)

CML/46/2020

The Permanent Mission of the People's Republic of China to the United Nations presents its compliments to the Secretary-General of the United Nations and, with regard to the Note Verbale No. 126/POL-703/V/20 dated 26 May 2020 addressed to the Secretary-General of the United Nations by the Permanent Mission of the Republic of Indonesia to the United Nations, has the honor to state China's position as follows:

1. China has sovereignty over Nanhai Zhudao (including Nansha Qundao) and their adjacent waters. Based on Nanhai Zhudao, China has internal waters, territorial sea, contiguous zone, exclusive economic zone and continental shelf. China has historic rights in the South China Sea. China's sovereignty over Nanhai Zhudao and its maritime rights and interests in the South China Sea are established in the long course of historical practice and consistent with international law, including the Charter of the United Nations and the United Nations Convention on the Law of the Sea (UNCLOS). The Chinese Government expresses its firm opposition to the Note Verbale No. 126/POL-703/V/20 of Indonesia.

2. There is no territorial dispute between China and Indonesia in the South China Sea. However, China and Indonesia have overlapping claims on maritime rights and interests in some parts of the South China Sea. China is willing to settle the overlapping claims through negotiation and consultation with Indonesia, and work together with Indonesia to maintain peace and stability in the South China Sea.

3. With regard to the so-called South China Sea arbitration and the awards, China's position is clear and consistent. The Arbitral Tribunal

exercises jurisdiction *ultra vires*, clearly errs in ascertaining facts and applying the law. The conduct of the Arbitral Tribunal and its awards seriously contravene the general practice of international arbitration, completely deviate from the objective and purpose of UNCLOS to promote the peaceful settlement of disputes, substantially impair the integrity and authority of UNCLOS, gravely infringe China's legitimate rights as a sovereign State and a State Party to UNCLOS, and thus are unjust and unlawful. The Chinese Government has solemnly declared that China neither accepts nor participates in the South China Sea arbitration, and neither accepts nor recognizes the awards. This position is consistent with international law.





The Permanent Mission of the People's Republic of China to the United Nations requests that the Secretary-General of the United Nations circulate this Note Verbale to all members of the Commission on the Limits of the Continental Shelf, all States Parties to UNCLOS and all Members of the United Nations.

The Permanent Mission of the People's Republic of China to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 2 June 2020

H.F. Mr. António Guterres
Secretary-General
United Nations
New York

CHINA, 9 JUNE 2020

United Nations	A/74/886	
	General Assembly	Distr.: General 10 June 2020 English Original: Chinese
<hr/> Seventy-fourth session Agenda item 74 (a) Oceans and the law of the sea: oceans and the law of the sea		
Letter dated 9 June 2020 from the Permanent Representative of China to the United Nations addressed to the Secretary-General		
<p>I have the honour to address you and refer to the letter addressed to you dated 1 June 2020 from Ambassador Kelly Craft, Permanent Representative of the United States of America to the United Nations, regarding note verbale No. CML/14/2019 from the Permanent Mission of the People's Republic of China to the United Nations. China firmly opposes the completely wrong accusations made by the United States in the letter regarding China's sovereignty and maritime rights and interests in the South China Sea. China's position is detailed in the enclosed letter (see annex).</p>		
<p>I would request that the present letter and its annex be circulated as a document of the General Assembly, under agenda item 74 (a), and that they be posted on the website of the Division for Ocean Affairs and the Law of the Sea.</p>		
<p style="text-align: right;"><i>(Signed)</i> Zhang Jun Ambassador Extraordinary and Plenipotentiary Permanent Representative of the People's Republic of China to the United Nations</p>		
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AJ/74/886

Annex to the letter dated 9 June 2020 from the Permanent Representative of China to the United Nations addressed to the Secretary-General

[Original: Chinese]

I have the honour to refer to the letter addressed to you dated 1 June 2020 from Ambassador Kelly Craft, Permanent Representative of the United States of America to the United Nations, regarding note verbale No. CML/14/2019 from the Permanent Mission of the People's Republic of China to the United Nations, and have the further honour to state China's position, as follows:

I. China's territorial sovereignty and its maritime rights and interests in the South China Sea are established in the long course of historical practice. They have been upheld by successive Chinese Governments and made public through the statements and diplomatic notes by the Chinese Government. China's territorial sovereignty and its maritime rights and interests in the South China Sea are consistent with international law, including the Charter of the United Nations and the United Nations Convention on the Law of the Sea (UNCLOS). This will not change because of the baseless accusations made by certain countries.

II. At present, China is working to properly resolve the relevant disputes in the South China Sea through friendly consultations with the countries directly concerned, and in close communication and cooperation with Association of Southeast Asian Nations (ASEAN) countries on the South China Sea issues. The overall stability in the South China Sea is maintained and the freedom of navigation and overflight enjoyed by all countries under international law in the South China Sea is effectively safeguarded. The United States is not a State party to UNCLOS, nor a referee supervising the implementation of UNCLOS. The United States shall not deny China's territorial sovereignty and maritime rights and interests in the South China Sea through misinterpreting UNCLOS. China urges the United States to fulfil its commitment not to take a position on sovereignty issues on the South China Sea. China also urges the United States not to cause troubles in the South China Sea, not to conduct military provocation and not to sow discord between China and ASEAN countries, but to fully respect China's territorial sovereignty and maritime rights and interests in the South China Sea, and to respect the joint efforts made by China and ASEAN countries to maintain peace and stability in the South China Sea.

(Signed) **Zhang Jun**
Ambassador Extraordinary and Plenipotentiary
Permanent Representative
of the People's Republic of China to the United Nations

INDONESIA, 12 JUNE 2020

(unofficial translation)

No. 148/POL-703/VI/20

The Permanent Mission of the Republic of Indonesia to the United Nations presents its compliments to the Secretary General of the United Nations and has the honor to refer to the circular note of the Permanent Mission of the People's Republic of China No. CML/46/2020 dated 2 June 2020 concerning the response of the Government of the People's Republic of China toward Indonesia's note verbale of 26 May 2020.

The Government of the Republic of Indonesia wishes to take this opportunity to reiterate Indonesia's view with respect to the South China Sea as governed by the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982) and subsequently confirmed by the arbitral tribunal award of 12 July 2016, as follows:

1. No feature in the Spratly Islands is entitled to an Exclusive Economic Zone or Continental Shelf of its own, hence no feature therefrom will generate overlapping maritime entitlement with Indonesia's Exclusive Economic Zone or Continental Shelf.
2. No historic rights exist in Indonesia's Exclusive Economic Zone and Continental Shelf vis-à-vis the People's Republic of China. Should there be any historic rights existing prior to the entry into force of UNCLOS 1982, those rights were superseded by the provisions of UNCLOS 1982.

Consequently, the Government of the Republic of Indonesia sees no legal reasoning under international law, particularly UNCLOS 1982, to conduct negotiation on maritime boundaries delimitation with the People's Republic of China or on any other matters pertaining to maritime rights or interests' claims made in contravention to international law.

The Permanent Mission of the Republic of Indonesia to the United Nations has further the honor to request that this note be circulated to all members of the Commission on the Limits of the Continental Shelf (CLCS), all State Parties to the United Nations Convention on the Law of the Sea and all member States of the United Nations.

The Permanent Mission of the Republic of Indonesia to the United Nations avails itself of this opportunity to renew to the Secretary General of the United Nations the assurances of its highest consideration.

New York, 12 June 2020



H.E. Mr. António Guterres
Secretary General
United Nations

CC:
Division on Ocean Affairs and Law of the Sea
(DOALOS)
Office of Legal Affairs – United Nations
New York

CHINA, 18 JUNE 2020

(Translation)

CML/48/2020

The Permanent Mission of the People's Republic of China to the United Nations presents its compliments to the Secretary-General of the United Nations. Recalling its Note Verbale No. CML/46/2020 dated 2 June 2020 to the Secretary-General of the United Nations, the Chinese Mission, with regard to the Note Verbale No. 148/POL-703/VI/20 dated 12 June 2020 from the Permanent Mission of the Republic of Indonesia to the United Nations to the Secretary-General of the United Nations, has the honor to state China's position as follows:

China's territorial sovereignty and its maritime rights and interests in the South China Sea are established in the long course of historical practice. They are clear and consistent with international law, including the Charter of the United Nations and the United Nations Convention on the Law of the Sea. The Chinese Government expresses its firm opposition to the contents of Indonesian Note Verbale No. 148/POL-703/VI/20.

The Permanent Mission of the People's Republic of China to the United Nations requests that the Secretary-General of the United Nations circulate this Note Verbale to all members of the Commission on the Limits of the Continental Shelf, all States Parties to the United Nations Convention on the Law of the Sea and all Members of the United Nations.

The Permanent Mission of the People's Republic of China to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 18 June 2020

H. E. Mr. António Guterres
Secretary-General
United Nations
New York

AUSTRALIA, 23 JULY 2020



N° 20/026

The Permanent Mission of the Commonwealth of Australia to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to Note Verbales: No. CML/14/2019 dated 12 December 2019, No. CML/11/2020 dated 23 March 2020, No. CML/42/2020 dated 17 April 2020, No. CML/46/2020 dated 2 June 2020, and No. CML/48/2020 dated 18 June 2020, and the Annex to the letter dated 9 June 2020 from the Permanent Representative of China to the United Nations addressed to the Secretary-General, concerning Malaysia's submission HA 59/19 dated 12 December 2019 to the Commission on the Limits of the Continental Shelf, has the honour to state the position of the Commonwealth of Australia.

The Australian Government rejects any claims by China that are inconsistent with the 1982 United Nations Convention on the Law of the Sea (UNCLOS), in particular, maritime claims that do not adhere to its rules on baselines, maritime zones and classification of features.

Australia rejects China's claim to 'historic rights' or 'maritime rights and interests' as established in the 'long course of historical practice' in the South China Sea. The Tribunal in the 2016 South China Sea Arbitral Award found these claims to be inconsistent with UNCLOS and, to the extent of that inconsistency, invalid.

There is no legal basis for China to draw straight baselines connecting the outermost points of maritime features or 'island groups' in the South China Sea, including around the 'Four Sha' or 'continental' or 'outlying' archipelagos. Australia rejects any claims to internal waters, territorial sea, exclusive economic zone and continental shelf based on such straight baselines. The Australian Government notes that States may draw straight baselines only in certain circumstances. Principally, Article 7(1) of UNCLOS provides that straight baselines may be employed '[i]n localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity'. Furthermore, Article 47(1) of UNCLOS limits the use of archipelagic straight baselines to archipelagic States, as defined in Article 46. In the absence of meeting these requirements, States must draw normal baselines in accordance with Article 5, including in relation to islands.

Australia also rejects China's claims to maritime zones generated by submerged features, or low tide elevations in a manner inconsistent with UNCLOS. Land building activities or other forms of artificial transformation cannot change the classification of a feature under UNCLOS. There is no legal basis for a maritime feature to generate

maritime entitlements beyond those generated under UNCLOS by that feature in its natural state. In this respect, the Australian Government does not accept that artificially transformed features can ever acquire the status of an island under Article 121(1) of UNCLOS. Moreover, Article 60(8) of UNCLOS provides that artificial islands 'do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf'.

The Australian Government does not accept China's assertion in its note of 17 April 2020 that its sovereignty claims over the Paracel Islands and the Spratly Islands are 'widely recognized by the international community' (noting the protests by Vietnam [No. 22/HC-2020, No. 24/HC-2020 and No. 25/HC-2020] and the Philippines [No. 000192-2020] in this respect). The Australian Government also wishes to express its strong concern in relation to China's claims of 'continuously and effectively' exercising sovereignty over low-tide elevations given that they do not form part of the land territory of a State.

The Australian Government also disputes China's claim that it is not bound by the Arbitral Award. The rationale put forward by China as an explanation of why the Arbitral Award is not binding on China is not supported by international law. Pursuant to Article 296 and Article 11 of Annex VII of UNCLOS the Tribunal's decision is final and binding on both parties to the dispute.

The Australian Government encourages all claimants in the South China Sea, including China, to clarify their maritime claims and resolve their differences peacefully, in accordance with international law, particularly UNCLOS.

The Australian Government reserves its position with respect to other aspects of the claims made by China in the three notes identified above.

The Permanent Mission of the Commonwealth of Australia to the United Nations has the honour to request the Secretary-General of the United Nations circulate this note to the State Parties to the United Nations Convention on the Law of the Sea and member States of the United Nations.

The Permanent Mission of the Commonwealth of Australia to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.



NEW YORK
23 July 2020

CHINA, 29 JULY 2020

(Translation)

CML/54/2020

The Permanent Mission of the People's Republic of China to the United Nations presents its compliments to the Secretary-General of the United Nations and, with regard to the Note Verbal No. 20/026 dated 23 July 2020 addressed to the Secretary-General of the United Nations by the Permanent Mission of the Commonwealth of Australia to the United Nations, has the honor to state China's position as follows:

1. China has sovereignty over Nanhai Zhudao, consisting of Dongsha Qundao, Xisha Qundao, Zhongsha Qundao and Nansha Qundao. China has internal waters, territorial sea and contiguous zone, based on Nanhai Zhudao. China has exclusive economic zone and continental shelf, based on Nanhai Zhudao. China has historic rights in the South China Sea. China's sovereignty over Nanhai Zhudao and relevant rights and interests in the South China Sea are established in the long course of history and consistent with international law, including the Charter of the United Nations and the United Nations Convention on the Law of the Sea.

2. The drawing of territorial sea baselines by China in the South China Sea conforms to the United Nations Convention on the Law of the Sea and general international law. It is China's inherent right as a sovereign country to carry out construction activities on relevant islands and reefs in the South China Sea.

3. With regard to the South China Sea arbitration and the so-called awards, China's position is clear and consistent. The Arbitral Tribunal violates the principle of state consent, exercises jurisdiction *ultra vires*, errs in applying the law in its awards and violates international law. Its awards are illegal, and null and void. China neither accepts nor

participates in the South China Sea arbitration, and neither accepts nor recognizes the awards.

4. Australia's wrongful acts of ignoring the basic facts on the South China Sea issue and denying China's land territorial sovereignty and maritime rights and interests in the South China Sea have violated international law and basic principles of international relations, including the Charter of the United Nations. China does not accept the contents of the aforementioned Note Verbale of Australia.

The Permanent Mission of the People's Republic of China to the United Nations has the honor to request the Secretary-General of the United Nations to circulate this Note Verbale to States Parties to the United Nations Convention on the Law of the Sea and Members of the United Nations.

The Permanent Mission of the People's Republic of China to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 29 July 2020

H.E. Mr. António Guterres
Secretary-General
United Nations
New York

MALAYSIA, 29 JULY 2020



HA 26/20

The Permanent Mission of Malaysia to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to the Note Verbale CML/14/2019 dated 12 December 2019 by the Permanent Mission of the People's Republic of China to the United Nations to the Secretary-General, has the honour to state the position of the Government of Malaysia as follows:

The Malaysia Partial Submission to the Commission on the Limits of the Continental Shelf ("the Commission") for the remaining portion of the continental shelf of Malaysia beyond 200 nautical miles, in the northern part of the South China Sea, from its baselines from which the breadth of its territorial sea is measured ("the Submission") constitutes legitimate undertakings in implementation of the obligations of States Parties to the United Nations Convention on the Law of the Sea 1982 ("UNCLOS 1982") which conforms to the pertinent provisions of UNCLOS 1982 as well as the Rules of Procedure of the Commission.

The Government of Malaysia wishes to state that the Submission is consistent with Malaysia's rights and obligations for the delineation of the outer limits of its continental shelf where that shelf extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured in accordance with Article 76 (7) of UNCLOS 1982.

With regard to the People's Republic of China's assertion in the second and third paragraphs of its Note Verbale, the Government of Malaysia rejects China's claims to historic rights, or other sovereign rights or jurisdiction, with respect to the maritime areas of the South China Sea encompassed by the relevant part of the 'nine-dash line' as they are contrary to the Convention and without lawful effect to the extent that they exceed the geographic and substantive limits of China's maritime entitlements under the Convention.

In this respect, the Government of Malaysia considers that the People's Republic of China's claim to the maritime features in the South China Sea has no basis under international law. Therefore, the Government of Malaysia rejects in its entirety the content of the Note Verbale of the People's Republic of China.

In view of the foregoing, the Government of Malaysia respectfully requests the Commission to consider the Submission.

The Permanent Mission of Malaysia has further the honour to request that this Note Verbale be circulated to all members of the Commission, all States Parties to UNCLOS 1982 as well as all Members of the United Nations.

The Permanent Mission of Malaysia to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.



H.E. Mr. António Guterres
Secretary-General
United Nations

CHINA, 7 AUGUST 2020

(Translation)

CML/56/2020

The Permanent Mission of the People's Republic of China to the United Nations presents its compliments to the Secretary-General of the United Nations. Recalling its Note Verbale No. CML/14/2019 dated 12 December 2019, the Chinese Mission, with regard to the Note Verbale No. HA 26/20 submitted to the Secretary-General of the United Nations by the Permanent Mission of Malaysia to the United Nations on 29 July 2020, has the honor to state China's position as follows:

China has sovereignty over Nanhai Zhudao, including Nansha Qundao. China has internal waters, territorial sea, contiguous zone, exclusive economic zone and continental shelf, based on Nanhai Zhudao. China has historic rights in the South China Sea. China's sovereignty over Nanhai Zhudao and its maritime rights and interests in the South China Sea are established in the long course of practice in history and consistent with international law, including the Charter of the United Nations and the United Nations Convention on the Law of the Sea (UNCLOS). The Chinese Government firmly rejects the content of the aforementioned Note Verbale of Malaysia.

The Submission made unilaterally by Malaysia concerning the outer limits of the continental shelf beyond 200 nautical miles in the South China Sea has seriously infringed China's sovereignty, sovereign rights and jurisdiction in the South China Sea. Article 5 (a) of Annex I to the Rules of the Procedure of the Commission on the Limits of the Continental Shelf explicitly stipulates that in case where a land or maritime dispute exists, the Commission shall not consider and qualify a submission made by any of the

States concerned in the dispute. The Chinese Government once again requests the the Commission on the Limits of the Continental Shelf not to consider the Submission made by Malaysia in December 2019 concerning the outer limits of the continental shelf beyond 200 nautical miles in the South China Sea.

The Permanent Mission of the People's Republic of China to the United Nations has the honor to request that this Note Verbale be circulated by the Secretary-General of the United Nations to all members of the Commission on the Limits of the Continental Shelf, all States Parties to UNCLOS and all Members of the United Nations.

The Permanent Mission of the People's Republic of China to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 7 August 2020

H.E. Mr. António Guterres
Secretary-General
United Nations
New York

MALAYSIA, 27 AUGUST 2020



HA 30/20

The Permanent Mission of Malaysia to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to the Note Verbale No. 000192-2020 dated 6 March 2020 addressed to the Secretary-General of the United Nations by the Permanent Mission of the Republic of the Philippines to the United Nations, has the honour to state the position of the Government of Malaysia as follows:

The Malaysia Partial Submission ("the Submission") to the Commission on the Limits of the Continental Shelf ("the Commission") for the remaining portion of the continental shelf of Malaysia beyond 200 nautical miles, in the northern part of the South China Sea, from its baseline from which its territorial sea is measured constitutes legitimate undertakings in implementation of the obligations of States Parties to the United Nations Convention on the Law of the Sea 1982 ("UNCLOS 1982").

The Government of Malaysia wishes to state that the Submission is consistent with Malaysia's rights and obligations for the delineation of the outer limits of its continental shelf where that shelf extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured in accordance with Article 76 (7) of UNCLOS 1982.

The Government of Malaysia categorically rejects the excessive maritime claims arising from the Kalayaan Island Group as asserted by the Republic of the Philippines as they have not conformed to Part IV of UNCLOS 1982 and have no basis under international law.

As regards the Philippines' assertion that the area overlaps with its future submission, the Government of Malaysia considers it as being premature in nature and emphasizes that the Submission is without prejudice to the position of States which are parties to a land or maritime dispute in accordance with the pertinent provisions of UNCLOS 1982 as well as the Rules of Procedure of the Commission.

With respect to the assertion of the Philippines that the "Malaysian submission is projected from portions of North Borneo over which the Republic of the Philippines has never relinquished its sovereignty", the Permanent Mission of Malaysia wishes also to inform the Secretary-General that Malaysia has never recognized the Republic of the Philippines' claim to the Malaysian state of Sabah, formerly known as North Borneo.

In this respect, the Permanent Mission of Malaysia wishes to reiterate and draw the attention of the Secretary-General to the Judgement of the International Court of Justice dated 23 October 2001 in the *Case Concerning Sovereignty over Pulau Ligitan and Pulau Sipadan and the Application by the Philippines for Permission to Intervene*. On the issue of the Philippines' claim to North Borneo, Judge Ad-hoc Thomas Franck, in a Separate Opinion stated that –

"in light of the clear exercise by the people of North Borneo of their right to self-determination, it cannot matter whether this Court, in any interpretation it might give to any historic instrument or efficacy, sustains or not the Philippines claim to historic title. Modern international law does not recognise the survival of a right of sovereignty based solely on historic title: not in any event, after an exercise of self-determination conducted in accordance with the requisites of international law, the bona fides of which has received international recognition by the political organs of the United Nations. Against this, historic claims and feudal pre-colonial titles are mere relics of another international legal era, one that ended with the setting of the sun on the age of colonial imperium".

In light of the above, the Republic of the Philippines' claim to North Borneo clearly has no basis under international law.

In view of the foregoing, the Government of Malaysia respectfully requests the Commission to consider the Submission.

The Permanent Mission of Malaysia has further the honour to request that this Note Verbale be circulated to all members of the Commission, all States Parties to UNCLOS 1982 as well as all Members of the United Nations.

The Permanent Mission of Malaysia to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.



H.E. Mr. António Guterres
Secretary-General
United Nations

UNITED KINGDOM, 16 SEPTEMBER 2020



Note Verbale

UK NV No. 162/20

New York, 16 September 2020

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations presents its compliments to the Secretariat of the United Nations and has the honour to refer to views expressed by the People's Republic of China regarding its maritime claims in the South China Sea in its Notes Verbales No. CML/14/2019 dated 12 December 2019, No. CML/11/2020 dated 23 March 2020, No. CML/42/2020 dated 17 April 2020, No. CML/46/2020 dated 2 June 2020, No. CML/48/2020 dated 18 June 2020, No. CML/54/2020 dated 29 July 2020, and No. CML/56/2020 dated 7 August 2020, as well as the annex to the letter dated 9 June 2020 from the Permanent Representative of China to the United Nations addressed to the Secretary-General, concerning the submission by Malaysia HA 59/19 dated 12 December 2019 to the Commission on the Limits of the Continental Shelf.

1. France, Germany and the United Kingdom, as States Parties to the 1982 United Nations Convention on the Law of the Sea (UNCLOS), wish to reaffirm their legal position as follows:

- France, Germany and the United Kingdom recall the universal and unified character of UNCLOS that sets out the legal framework within which all activities in the oceans and seas must be carried out, and underscore that the integrity of the Convention needs to be maintained, as reaffirmed by the United Nations General Assembly in its annual resolution on oceans and the law of the sea.
- France, Germany and the United Kingdom underline the importance of unhampered exercise of the freedom of the high seas, in particular the freedom of navigation and overflight, and of the right of innocent passage enshrined in UNCLOS, including in the South China Sea.
- France, Germany and the United Kingdom emphasise the specific and exhaustive conditions set forth in the Convention for the application of straight and archipelagic baselines which are defined in Part II and Part IV of UNCLOS. Therefore there is no legal ground for continental States to treat archipelagos or marine features as a whole entity without respecting the relevant provisions in Part II of UNCLOS or by using those in Part IV applicable only to archipelagic States.
- France, Germany and the United Kingdom also emphasise the specific and exhaustive conditions set forth in the Convention for the application of the regime of islands to

naturally formed land features. Land building activities or other forms of artificial transformation cannot change the classification of a feature under UNCLOS.

- France, Germany and the United Kingdom also highlight that claims with regard to the exercise of “historic rights” over the South China Sea waters do not comply with international law and UNCLOS provisions and recall that the arbitral award in the *Philippines v. China* case dating to 12 July 2016 clearly confirms this point.
- France, Germany and the United Kingdom hold that all maritime claims in the South China Sea should be made and peacefully resolved in accordance with the principles and rules of UNCLOS and the means and procedures for the settlement of disputes provided for in the Convention.

2. This position is reaffirmed without prejudice to competing claims of coastal states over disputed territorial sovereignty to naturally formed land features and to areas of the continental shelf in the South China Sea on which France, Germany and the United Kingdom take no position.

3. This joint Note Verbale reflects our long-standing legal positions and is complementary and without prejudice to any further positions that France, Germany and the United Kingdom have stated in the past, both bilaterally and together with other States Parties to UNCLOS.

4. As States Parties to UNCLOS, France, Germany and the United Kingdom will continue to uphold and assert their rights and freedoms as enshrined in UNCLOS and to contribute to promoting co-operation in the region as set out under the Convention.

The Permanent Mission of the United Kingdom to the United Nations has the honour to request that this Note Verbale be circulated to all States Parties to UNCLOS and all Member States of the United Nations by publication on the DOALOS website.

The Permanent Mission of the United Kingdom to the United Nations avails itself of this opportunity to renew to the Secretariat of the United Nations the assurances of its highest consideration.

16 September 2020



FRANCE, 16 SEPTEMBER 2020

Traduction de courtoisie :

The Permanent Mission of France to the United Nations presents its compliments to the Secretariat of the United Nations and has the honour to refer to views expressed by the People's Republic of China regarding its maritime claims in the South China Sea in its Notes Verbales No. CML/14/2019 dated 12 December 2019, No. CML/11/2020 dated 23 March 2020, No. CML/42/2020 dated 17 April 2020, No. CML/46/2020 dated 2 June 2020, No. CML/48/2020 dated 18 June 2020, No. CML/54/2020 dated 29 July 2020, and No. CML/56/2020 dated 7 August 2020, as well as the annex to the letter dated 9 June 2020 from the Permanent Representative of China to the United Nations addressed to the Secretary-General, concerning the submission by Malaysia HA 59/19 dated 12 December 2019 to the Commission on the Limits of the Continental Shelf.

1. France, Germany and the United Kingdom, as States Parties to the 1982 United Nations Convention on the Law of the Sea (UNCLOS), wish to reaffirm their legal position as follows:

- France, Germany and the United Kingdom recall the universal and unified character of UNCLOS that sets out the legal framework within which all activities in the oceans and seas must be carried out, and underscore that the integrity of the Convention needs to be maintained, as reaffirmed by the United Nations General Assembly in its annual resolution on oceans and the law of the sea.*
- France, Germany and the United Kingdom underline the importance of unhampered exercise of the freedom of the high seas, in particular the freedom of navigation and overflight, and of the right of innocent passage enshrined in UNCLOS, including in the South China Sea.*
- France, Germany and the United Kingdom emphasize the specific and exhaustive conditions set forth in the Convention for the application of straight and archipelagic baselines which are defined in Part II and Part IV of UNCLOS. Therefore there is no legal ground for continental States to treat archipelagos or marine features as a whole entity without respecting the relevant provisions in Part II of UNCLOS or by using those in Part IV applicable only to archipelagic States.*
- France, Germany and the United Kingdom also emphasize the specific and exhaustive conditions set forth in the Convention for the application of the regime*

of islands to naturally formed land features. Land building activities or other forms of artificial transformation cannot change the classification of a feature under UNCLOS.

- *France, Germany and the United Kingdom also highlight that claims with regard to the exercise of "historic rights" over the South China Sea waters do not comply with international law and UNCLOS provisions and recall that the arbitral award in the Philippines v. China case dating to 12 July 2016 clearly confirms this point.*
- *France, Germany and the United Kingdom hold that all maritime claims in the South China Sea should be made and peacefully resolved in accordance with the principles and rules of UNCLOS and the means and procedures for the settlement of disputes provided for in the Convention.*

2. This position is reaffirmed without prejudice to competing claims of coastal states over disputed territorial sovereignty to naturally formed land features and to areas of the continental shelf in the South China Sea on which France, Germany and the United Kingdom take no position.

3. This joint Note Verbale reflects our long-standing legal positions and is complementary and without prejudice to any further positions that France, Germany and the United Kingdom have stated in the past, both bilaterally and together with other States Parties to UNCLOS.

4. As States Parties to UNCLOS, France, Germany and the United Kingdom will continue to uphold and assert their rights and freedoms as enshrined in UNCLOS and to contribute to promoting co-operation in the region as set out under the Convention.

The Permanent Mission of France to the United Nations has the honour to request that this Note Verbale be circulated to all States Parties to UNCLOS and all Member States of the United Nations by publication on the website of the Division for Ocean Affairs and the Law of the Sea (DOALOS).

The Permanent Mission of France to the United Nations avails itself of this opportunity to renew to the Secretariat General of the United Nations the assurances of its highest consideration.

GERMANY, 16 SEPTEMBER 2020

Note Verbale

No. 324/2020

New York, 16 September 2020

The Permanent Mission of the Federal Republic of Germany to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to refer to views expressed by the People's Republic of China regarding its maritime claims in the South China Sea in its Notes Verbales No. CML/14/2019 dated 12 December 2019, No. CML/11/2020 dated 23 March 2020, No. CML/42/2020 dated 17 April 2020, No. CML/46/2020 dated 2 June 2020, No. CML/48/2020 dated 18 June 2020, No. CML/54/2020 dated 29 July 2020, and No. CML/56/2020 dated 7 August 2020, as well as the annex to the letter dated 9 June 2020 from the Permanent Representative of China to the United Nations addressed to the Secretary-General, concerning the submission by Malaysia HA 59/19 dated 12 December 2019 to the Commission on the Limits of the Continental Shelf.

1. France, Germany and the United Kingdom, as States Parties to the 1982 United Nations Convention on the Law of the Sea (UNCLOS), wish to reaffirm their legal position as follows:

- France, Germany and the United Kingdom recall the universal and unified character of UNCLOS that sets out the legal framework within which all activities in the oceans and seas must be carried out, and underscore that the integrity of the Convention needs to be maintained, as reaffirmed by the United Nations General Assembly in its annual resolution on oceans and the law of the sea.
- France, Germany and the United Kingdom underline the importance of unhampered exercise of the freedom of the high seas, in particular the freedom of navigation and overflight, and of the right of innocent passage enshrined in UNCLOS, including in the South China Sea.
- France, Germany and the United Kingdom emphasize the specific and exhaustive conditions set forth in the Convention for the application of straight and archipelagic baselines which are defined in Part II and Part IV of UNCLOS. Therefore there is no legal ground for continental States to treat archipelagos or marine features as a whole entity without respecting the relevant provisions in Part II of UNCLOS or by using those in Part IV applicable only to archipelagic States.
- France, Germany and the United Kingdom also emphasize the specific and exhaustive conditions set forth in the Convention for the application of the regime of islands to naturally formed land features. Land building activities or other forms of artificial transformation cannot change the classification of a feature under UNCLOS.

- France, Germany and the United Kingdom also highlight that claims with regard to the exercise of “historic rights” over the South China Sea waters do not comply with international law and UNCLOS provisions and recall that the arbitral award in the *Philippines v. China* case dating to 12 July 2016 clearly confirms this point.
- France, Germany and the United Kingdom hold that all maritime claims in the South China Sea should be made and peacefully resolved in accordance with the principles and rules of UNCLOS and the means and procedures for the settlement of disputes provided for in the Convention.

2. This position is reaffirmed without prejudice to competing claims of coastal states over disputed territorial sovereignty to naturally formed land features and to areas of the continental shelf in the South China Sea on which France, Germany and the United Kingdom take no position.

3. This joint Note Verbale reflects our long-standing legal positions and is complementary and without prejudice to any further positions that France, Germany and the United Kingdom have stated in the past, both bilaterally and together with other States Parties to UNCLOS.

4. As States Parties to UNCLOS, France, Germany and the United Kingdom will continue to uphold and assert their rights and freedoms as enshrined in UNCLOS and to contribute to promoting co-operation in the region as set out under the Convention.

The Permanent Mission of the Federal Republic of Germany to the United Nations has the honor to request that this Note Verbale be circulated by the Secretary-General of the United Nations to all States Parties to UNCLOS and all Member States of the United Nations.

The Permanent Mission of the Federal Republic of Germany to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

H. E. Mr. António Guterres

Secretary-General

United Nations

New York



CHINA, 18 SEPTEMBER 2020

(Translation)

CML/63/2020

The Permanent Mission of the People's Republic of China to the United Nations presents its compliments to the Secretary-General of the United Nations and, with regard to the Note Verbales BF No.2020-0343647, No.324/2020 and UK NV No.162/20 dated 16 September 2020 addressed to the Secretary-General of the United Nations by the Permanent Missions of France, the Federal Republic of Germany and the United Kingdom of Great Britain and Northern Ireland to the United Nations respectively, has the honor to state China's position as follows:

1. Being a State Party to the United Nations Convention on the Law of the Sea (UNCLOS), China treats UNCLOS with a rigorous and responsible attitude and opposes using UNCLOS as a political tool to attack other countries. UNCLOS does not cover everything about the maritime order. Paragraph 8 of the preamble of UNCLOS emphasizes that "matters not regulated by this Convention continue to be governed by the rules and principles of general international law". All parties should faithfully, comprehensively and correctly interpret and apply the rules of international law of the sea, including UNCLOS, in an objective and just manner. Any partial interpretation and application of UNCLOS is unjust, illegal, and has an ulterior motive. Since its adoption in 1982, UNCLOS has continuously developed and improved. The ongoing negotiation for an international instrument on the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction is an important effort for the development and improvement of UNCLOS. China is a firm supporter of UNCLOS and an active participant in the process of developing and improving UNCLOS.

2. China's territorial sovereignty and maritime rights and interests in the South China Sea are established in the long course of history and have been consistently upheld by successive Chinese Governments. They are consistent with international law including the Charter of the United Nations and UNCLOS, and shall not be prejudiced under any circumstance by the illegal awards of the South China Sea arbitration.

3. China attaches great importance to the provisions and applicable conditions set force in UNCLOS for the drawing of territorial sea baselines.

At the same time, China believes that the long established practice in international law related to continental States' outlying archipelagos shall be respected. The drawing of territorial sea baselines by China on relevant islands and reefs in the South China Sea conforms to UNCLOS and general international law.

4. At present, China is working to properly resolve disputes in the South China Sea through friendly consultations with the countries directly concerned. China and ASEAN countries are committed to the full and effective implementation of the Declaration on the Conduct of Parties in the South China Sea, and actively promoting consultations on the Code of Conduct in the South China Sea. These efforts have safeguarded peace and stability in the South China Sea, and effectively guaranteed the freedom of navigation and overflight enjoyed by all countries in the South China Sea in accordance with international law.

China urges relevant countries to earnestly respect China's territorial sovereignty and maritime rights and interests in the South China Sea and the joint efforts of China and ASEAN countries to maintain peace and stability in the South China Sea.

The Permanent Mission of the People's Republic of China to the United Nations has the honor to request the Secretary-General of the United Nations to circulate this Note Verbale to States Parties to the United Nations Convention on the Law of the Sea and Members of the United Nations.

The Permanent Mission of the People's Republic of China to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 18 September 2020

H.E. Mr. António Guterres
Secretary-General
United Nations
New York

PHILIPPINES, 9 OCTOBER 2020

MISYON NG PILIPINAS SA MGA
NAGKAKAISANG BANSA



556 FIFTH AVENUE
NEW YORK, N.Y. 10022
TEL. NO. (212) 764-1300

PHILIPPINE MISSION TO THE
UNITED NATIONS

Note Verbale No. 0929-2020

The Permanent Mission of the Republic of the Philippines to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to Note No. HA 30/20 dated 27 August 2020 of the Permanent Mission of Malaysia to the United Nations, has the honor to state the position of the Government of the Republic of the Philippines as follows:

With respect to the Government of Malaysia's assertion that the Republic of the Philippines has excessive maritime claims arising from the Kalayaan Island Group, the Republic of the Philippines asserts no maritime entitlements beyond those defined under the 1982 United Nations Convention on the Law of the Sea (hereinafter referred to as "the Convention") as interpreted by the Award rendered on 12 July 2016 in the South China Sea Arbitration.

In reference to the Government of Malaysia's statement on the prematurity of the Philippines' assertion that the area overlaps with its future submission, the Philippines made the assertion to advise the Government of Malaysia of its intent to make a future submission, and welcomes the opportunity to consult with Malaysia on the delimitation of their respective maritime entitlements, moving forward.

The Government of the Republic of the Philippines reiterates that the Malaysian submission is projected from a portion of North Borneo over which the Republic of the Philippines has never relinquished its sovereignty. As regards the statement of Malaysia concerning the title of the Republic of the Philippines' claim to a portion of North Borneo, the Philippines recalls the agreement of the parties to the Manila Accord dated 31 July 1963, and reiterates its commitment under the Accord to assert its North Borneo claim in accordance with international law and the principle of the pacific settlement of disputes.

The separate opinion cited by Malaysia in the judgment dated 23 October 2001 rendered in relation to the Philippine application for permission to intervene in the Case Concerning Sovereignty over Pulau Ligitan and Pulau Sipadan (*Indonesia v. Malaysia*) did not constitute a formal ruling on the issue of Philippine sovereignty over a portion of North Borneo.

Under the relevant articles of the Convention, including its Annex II, and the Rules of Procedure of the Commission, in particular Annex I thereto, the Commission does not have the mandate to take decisions prejudicial to sovereignty claims by states, or such land or maritime disputes between states.

In view of the foregoing circumstances, the Permanent Mission of the Republic of the Philippines requests the Commission to refrain from considering the submission by Malaysia, unless and until the parties shall have satisfactorily resolved their disputes.

The Permanent Mission further has the honor to request the Secretary-General of the United Nations to circulate this Note to all members of the Commission, all States Parties to the Convention and all Member States of the United Nations.

The Permanent Mission of the Republic of the Philippines to the United Nations avails itself of the opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 09 October 2020

H.E. Mr. Antonio S. Guterres
Secretary General
United Nations



JAPAN, 19 JANUARY 2021

PERMANENT MISSION OF JAPAN
TO THE UNITED NATIONS
NEW YORK

SC/21/002

The Permanent Mission of Japan to the United Nations presents its compliments to the Secretary-General of the United Nations and, with regard to the Note Verbale No. CML63/2020, has the honour to state Japan's position as follows.

Japan, as a State Party to the United Nations Convention on the Law of the Sea (UNCLOS), rejects China's position that the "drawing of territorial sea baselines by China on relevant islands and reefs in the South China Sea conforms to UNCLOS and general international law". UNCLOS sets forth the conditions for the application of baselines in a specific and exhaustive manner, whereas China has failed to invoke the relevant provisions of UNCLOS in asserting the lawfulness of the baselines in question. There is no room for a State Party to justify the application of baselines that do not satisfy the conditions stipulated under UNCLOS.

China mentioned the freedom of navigation and overflight in the South China Sea in the Note Verbale No. CML63/2020. The freedom of navigation and overflight must be guaranteed in sea and airspace surrounding and above maritime features found to be low-tide elevations that do not have territorial sea and territorial airspace of their own, as stated in the award of the South China Sea Arbitration dated 12 July 2016, which is final and binding on the parties to the dispute. However, China has not accepted this award, and has asserted that it has "sovereignty" in sea and airspace surrounding and above those maritime features found to be low-tide elevations. As a matter of fact, China protested the overflight of Japanese aircraft in the airspace surrounding Mischief Reef and attempted to restrict the freedom of overflight in the South China Sea.

The Permanent Mission of Japan to the United Nations has the honour to request that this Note Verbale be circulated by the Secretary-General of the United Nations to all States Parties to UNCLOS and all Member States of the United Nations.

The Permanent Mission of Japan to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

19 January 2021

H.E. Mr. António Guterres
Secretary-General
United Nations
New York



CHINA, 18 JANUARY 2021

(Translation)

CML/1/2021

The Permanent Mission of the People's Republic of China to the United Nations presents its compliments to the Secretary-General of the United Nations and, with regard to the Note Verbale SC/21/002 dated 19 January 2021 addressed to the Secretary-General of the United Nations by the Permanent Mission of Japan to the United Nations, has the honor to state China's position as follows:

I. Being a State Party to the United Nations Convention on the Law of the Sea (UNCLOS), China treats UNCLOS with a rigorous and responsible attitude. The drawing of territorial sea baselines by China on relevant islands and reefs in the South China Sea conforms to UNCLOS and general international law.

II. China has sovereignty over Nansha Qundao, including Meiji Jiao, and their adjacent waters and airspace. China's territorial sovereignty and maritime rights and interests in the South China Sea are established in the long course of history and have been upheld by successive Chinese Governments and are consistent with international law, including the Charter of the United Nations and UNCLOS. The awards in the South China Sea arbitration are illegal, and null and void. China neither accepts nor recognizes the awards. This position is firm and clear.

III. China always respects the freedom of navigation and overflight enjoyed by all countries in the South China Sea in accordance with international law, but is firmly opposed to any country infringing on China's sovereignty and undermining China's security in the name of "freedom of navigation".

IV. China firmly opposes the contents of the aforementioned Note of Japan and urges the Japanese side to fully respect China's territorial sovereignty and maritime rights

and interests in the South China Sea, and to respect the joint efforts made by China and ASEAN countries to maintain peace and stability in the South China Sea.

The Permanent Mission of the People's Republic of China to the United Nations has the honor to request the Secretary-General of the United Nations to circulate this Note Verbale to all States Parties to UNCLOS and all Members of the United Nations.

The Permanent Mission of the People's Republic of China to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 28 January 2021

H. E. Mr. António Guterres
Secretary-General
United Nations
New York

NEW ZEALAND, 3 AUGUST 2021



NOTE NUMBER: 08/21/02

The Permanent Mission of New Zealand to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to refer to the submission by Malaysia HA 59/19 dated 12 December 2019 to the Commission on the Limits of the Continental Shelf and the views expressed in the Notes Verbale No. CML/14/2019 dated 12 December 2019, No. CML/11/2020 dated 23 March 2020, No. CML/42/2020 dated 17 April 2020, No. CML/46/2020 dated 2 June 2020, No. CML/48/2020 dated 18 June 2020, No. CML/54/2020 dated 29 July 2020, No. CML/56/2020 dated 7 August 2020, No. CML/63/2020 dated 18 September 2020, No. CML/1/2021 dated 28 January 2021 and the Annex to the letter dated 9 June 2020 addressed to the Secretary-General.

New Zealand reiterates that it does not take a position on competing claims of territorial sovereignty in the South China Sea.

This Note does not comment on the substance of the submission by Malaysia, but rather affirms New Zealand's position in respect of certain aspects of the United Nations Convention on the Law of the Sea (UNCLOS):

- New Zealand underscores the universal and unified character of UNCLOS, which sets out the definitive legal framework within which all activities in the oceans and seas must be carried out.
- The establishment of maritime zones must therefore be made in accordance with UNCLOS. UNCLOS was intended to "settle...all issues relating to the law of the sea".¹ While matters not regulated by UNCLOS continue to be governed by the rules and principles of international law², this is not relevant to the establishment of maritime zones or to the rights and responsibilities of states within those zones, which are comprehensively regulated by UNCLOS.
- While New Zealand is party to a number of multilateral agreements relating to the maritime sphere negotiated subsequent to the entry into force of UNCLOS, these agreements broadly implement and are consistent with UNCLOS, and do not derogate from the overarching rules it provides. With respect to the current negotiation of an international legally binding instrument under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, the United Nations General Assembly has explicitly reaffirmed

¹ UNCLOS, Preamble, paragraph 1.

² UNCLOS, Preamble, paragraph 8.

that the work and results of the conference should be fully consistent with the provisions of UNCLOS.³

- UNCLOS explicitly preserves the freedom of the high seas, including freedom of navigation and overflight, as well as the right of innocent passage within the territorial sea. These freedoms apply to all states and to all regions of the world.
- There is no legal basis for states to claim "historic rights" with respect to maritime areas in the South China Sea, as confirmed in the 2016 South China Sea Arbitral Award (the Arbitral Award).⁴
- Furthermore, there is no legal basis for continental states to claim archipelagic status. UNCLOS provides that archipelagic states must consist *wholly* of one or more archipelagos.⁵ There is therefore no legal basis on which to draw straight archipelagic baselines⁶ in the South China Sea, nor any legal basis to draw straight baselines around island groups in the South China Sea.⁷
- With respect to the regime of islands, UNCLOS provides that rocks that cannot sustain "human habitation or economic life of their own" do not generate an exclusive economic zone or continental shelf.⁸ Whether a maritime feature is a rock or an island or a low-tide elevation will depend on the classification of that feature as naturally formed.⁹ This classification cannot be changed through land building activities or other means of artificial modification. UNCLOS further provides that "[a]rtificial islands, installations and structures do not possess the status of islands" and do not generate a territorial sea of their own, nor do they affect the delimitation of the territorial sea, exclusive economic zone or continental shelf.¹⁰
- UNCLOS provides that low-tide elevations situated beyond a coastal state's territorial sea do not generate maritime zones. Entirely submerged features similarly do not give rise to any maritime entitlements. Such features cannot be the subject of sovereignty claims or appropriation.

³ Resolution 72/249, 24 December 2017.

⁴ South China Sea Arbitration Award (Merits), 12 July 2016, PCA Case No 2013-19 at [261] and [272].

⁵ UNCLOS, Article 46(a).

⁶ UNCLOS, Article 47(1).

⁷ UNCLOS, Article 7.

⁸ UNCLOS, Article 121(3).

⁹ UNCLOS, Articles 13(1) and 121(1).

¹⁰ UNCLOS, Article 60(8).

- The Arbitral Award is final and binding on both parties.¹¹ UNCLOS further provides that non-participation by one party to a dispute does not constitute a bar to proceedings.¹²

The Permanent Mission of New Zealand to the United Nations has the honour to request that this Note Verbale be circulated to all States Parties to UNCLOS and all United Nations Member States by publication on the website of the Division for Ocean Affairs and the Law of the Sea.

The Permanent Mission of New Zealand to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.



New Zealand Permanent Mission to the United Nations
NEW YORK

3 August 2021

¹¹ UNCLOS, Article 296(1) and Annex VII, Article 11.

¹² UNCLOS, Annex VII, Article 9.

CHINA, 16 AUGUST 2021

(Translation)

CML/32/2021

The Permanent Mission of the People's Republic of China to the United Nations presents its compliments to the Secretary-General of the United Nations and, with regard to the Note Verbale No. 08/21/02 dated 3 August 2021 addressed to the Secretary-General of the United Nations by the Permanent Mission of New Zealand to the United Nations, has the honor to reiterate China's positions as follows:

I. China's territorial sovereignty and maritime rights and interests in the South China Sea are established in the long course of history. They have been upheld consistently by successive Chinese Governments and are consistent with international law, including the Charter of the United Nations and the United Nations Convention on the Law of the Sea (UNCLOS). The essence of the South China Sea arbitration is territorial sovereignty and maritime delimitation. The Arbitral Tribunal in the South China Sea arbitration violates the principle of State consent, exercises jurisdiction *ultra vires*, and obviously errs in ascertaining facts and applying the law. Its awards are illegal, and null and void. China neither accepts nor recognizes the awards. This position is clear and consistent. China's territorial sovereignty and maritime rights and interests in the South China Sea shall not be prejudiced under any circumstances by the aforementioned awards.

II. Being a State Party to UNCLOS, China complies with and applies UNCLOS with a rigorous and responsible attitude. It must be pointed out that UNCLOS is not the whole of the maritime order. The States Parties to UNCLOS affirm that "matters not regulated by this Convention continue to be governed by the rules and principles of general international law". At present, an international instrument is under negotiation on marine biological diversity of areas beyond

national jurisdiction. This also proves that UNCLOS cannot solve all maritime issues.

III. In accordance with international law, all States enjoy the freedoms of navigation and overflight on the high seas and in the exclusive economic zone of other States, and can exercise the right of innocent passage in the territorial sea of other States. However, UNCLOS clearly stipulates that in exercising their rights in the exclusive economic zone, States “shall have due regard to the rights and duties of the coastal State”, and in exercising the right of innocent passage, the passage shall be “not prejudicial to the peace, good order or security of the coastal State”. Foreign warships entering the territorial sea of a coastal State shall respect the relevant laws of the coastal State. It is consistent with international law, including UNCLOS, and international practice. China firmly opposes any country infringing on the sovereignty or undermining the security of a coastal State under the pretext of “freedom of navigation” or “innocent passage”.

IV. UNCLOS does not exclude a coastal State’s historic rights that have been established in the long-term practice. Relevant international judicial cases have recognized the historic rights. The complete denial of the historic rights by the South China Sea arbitration awards seriously distorts international law including UNCLOS. This is extremely wrong.

V. The regime of continental States’ outlying archipelagos is not regulated by UNCLOS, and the rules of general international law should continue to be applied in this field. There is sufficient international practice serving as a basis of this regime. China has internal waters, territorial sea, contiguous zone, exclusive economic zone and continental shelf, based on Nanhai Zhudao. It is consistent with international law, including UNCLOS, and international practice.

In view of the above, China does not accept the positions of New Zealand in its Note Verbale as mentioned above.

The Permanent Mission of the People's Republic of China to the United Nations has the honor to request the Secretary-General of the United Nations to circulate this Note Verbale to all States Parties to UNCLOS and all Members of the United Nations.

The Permanent Mission of the People's Republic of China to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 16 August 2021

H. E. Mr. António Guterres
Secretary-General
United Nations
New York