

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

