

AIDE MEMOIRE

South China Sea: Statement on legal position under UNCLOS

Germany lodged a diplomatic note with the respective Ministries of Foreign Affairs of all coastal states of the South China Sea and of ASEAN member states on 12 April 2019 in order to reaffirm its legal position as regards increasing assertions of legal claims with respect to maritime areas in the South China Sea.

In the verbal note, Germany as a state party to the 1982 United Nations Convention on the Law of the Sea (UNCLOS)

- recalled the universal and unified character of UNCLOS as continuously reaffirmed by the resolutions on “Oceans and Law of the Sea” of the General Assembly of the United Nations;
- emphasized its commitment to provisions laid down by UNCLOS on the freedom of the high seas, rights of innocent passage, obligations on bilateral, regional and international co-operation, including for the conservation and management of living resources and for the protection and preservation of the marine environment, and on the peaceful settlement of disputes;
- with respect to claims to maritime zones in the South China Sea, also recalled the specific conditions set forth in UNCLOS for the application of straight and archipelagic baselines as well as for the application of the régime of islands and rocks to naturally formed land features;
- considered that any claim to historic rights to living and non-living resources and/or to historic titles to waters of the South China Sea is incompatible with UNCLOS to the extent that it exceeds the limits of the maritime zones as exclusively and comprehensively provided for by UNCLOS, as confirmed in the award rendered by the Arbitral Tribunal under Annex VII to UNCLOS on 12 July 2016 ;

Furthermore, Germany reminded that in the past it had already expressed this legal position persistently, bilaterally and together with other parties of UNCLOS, without prejudice to and taking any position as regards competing territorial sovereignty claims to disputed features in the South China Sea.

Germany will continue to uphold and assert its freedoms and rights as a state party to UNCLOS including in the South China Sea, and to contribute to promoting co-operation in the region as set out in the Convention.