VIET NAM’S CLAIMS AND POSITIONS RELATING TO THE SOUTH CHINA SEA DURING THE LAST 10 YEARS

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OUTLINE

1. Claims and Positions developed in Legislation
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Viet Nam’s Claims and Positions developed in Legislation
Government Statements of 1977 and 1982

**Statement 1977**
- Delineated TS (12nm) EEZ and CS (200nm)
- Affirmed sovereignty over the Paracel and Spratly Archipelagoes
- The Paracel and Spratly Archipelagoes had TS, EEZ and CS
- Difference concerning maritime zones to be settled through **negotiation** under international law and practices.

**Statement 1982**
- Publicized the straight baseline for continental territory

Source: Roach (2013)
Declaration upon the Ratification of UNCLOS and Law of the Sea of Viet Nam

**Declaration 1994**
- Cooperate to establish an equitable legal order and promote maritime cooperation and development

**Law of the Sea 2012**
- Delineates maritime zones in conformity with UNCLOS.
- Reaffirms the 1982 straight baseline; publicize baseline in other areas.
- Reaffirms sovereignty over the Paracel and Spratly archipelagoes
- Maritime international cooperation under international law
- Disputes to be settled by **peaceful means** in compliance with international law, including UNCLOS.
- Maritime entitlement of islands to be established under Art. 121 of UNCLOS

**Review all national legislation and make necessary amendments**
Viet Nam’s Claims and Positions in Diplomatic Documents
In Relation to China’s “Nine-Dashed Line”

**China**

**Note CML/17/2009**
- Officially publicized the “Nine-Dashed Line” map
- Sovereignty: all islands and adjacent waters
- Sovereign rights and jurisdiction: waters, seabed and subsoil

**Note CML/8/2011**
- Reaffirmed claims in Note CML/17/2009
- Full maritime entitlement (TS, EEZ and CS) around Spratly Archipelago

**Viet Nam**
- Notes 86/HC-2009 and 77/HC/2011
- Protested China’s claims
- Reaffirmed sovereignty over the Paracel and the Spratly

The Nine-Dashed Line Map (Source: Award 2016)
In Relation to China’s Actions to Enforce the Nine-Dash Line

CNOOC offered for international biddings on 9 blocks in Viet Nam’s CS (Source: Award 2016)

The inclusion of the “nine-dashed line” map in China’s type E-passports

The announcement by China’s Hainan Province authorities

China’s putative maritime jurisdiction in the area within the line

Note of the MOFA addressed to China’s Embassy in Hanoi

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Statement of the Spokesperson of the MOFA

9 blocks CNOOC offered for international biddings (Source: Award 2016)
In relation to China’s deployment of an oil rig within Viet Nam’s EEZ and CS

China’s deployment of Haiyang Shiyou 981 in 2014

- 20 meetings of demarche with Chinese authorities
- 6 Letters to the UN Sec-Gen

The oil rig was operating within the EEZ and CS determined from the coast of Viet Nam

Paracel Islands under sovereignty of Viet Nam

China’s straight baseline in the Paracel Islands not compatible with UNCLOS

Officially called on China to withdraw the oil rig & start negotiations with Viet Nam

Hint at possibility to use legal actions
Statement by the Foreign Ministry to the Arbitral Tribunal in the South China Sea Case

None of features mentioned in the Philippines Memorial has EEZ and CS

Supported dispute settlement under UNCLOS

Protested and rejected any claim … based on the ‘nine-dash line

Reserved Vietnam’s right to protect its legal rights and intervene the case

Affirmed the jurisdiction of the Tribunal

The decision could clarify the legal positions of the and interested the 3rd parties

Statement on 5 December 2014

Source: the PCA
Statement on 12 July 2016

Welcomed the fact the Tribunal delivered the Award

Would make a statement on the content of this Award

Supported the settlement of disputes in the South China Sea by **peaceful means** under international law, including UNCLOS

Reaffirmed sovereignty over the Paracel and Spratly Archipelagoes; legal rights and interests relating to their features.
Comments of the Vietnamese officials on the implications of the Award

- No disputed waters created by the nine-dashed line
- The disputed waters in the Spratly are limited to the TS of the high tide features
- Reasonings on entitlement of features in Spratly can be useful
- Decision on traditional fishing in the territorial sea of the high tide features in the Scarborough Shoal can apply to the Paracel and Spratly
In relation to recent military activities in the South China Sea

- China’s deployment of military equipment on the newly-built artificial islands
  - Note Verbale to China and the UN
    - Protested these actions
    - Requested to settle disputes relating to the Paracel and Spratly by negotiation, consultation or other means under international law
  - Respected freedoms of navigation in and flight over the South China Sea under UNCLOS
  - Called upon states to positively contribute to the maintenance of peace and stability, implement their obligations under the UNCLOS

- Real-fire military exercises and the US Navy’s FONOP
  - Statement of the MFA
  - Supported AMM to emphasize the importance of non-militarization and self-restraint in the conduct of all activities by the claimants and all other states
Positions relating to the CBMs in the South China Sea
In relation to the implementation of current instruments

- Supported the adoption of the 6 Point Principles on the South China Sea
  - Full implementation of the DOC and its Guidelines
  - Early Conclusion of the COC
  - Full respect of international law, including UNCLOS
  - Exercise of self-restraint and non-use of force
  - Peaceful resolution of disputes under international law including UNCLOS

- Supported the discussion and adoption
  - the guidelines for a hotline to respond to urgent incidents at sea
  - the ASEAN-China Statement on the Implementation of the Code for Unplanned Encounters at Sea
In relation to the negotiation of the COC

- A tool to discourage the escalation of disputes and promote trust and confidence between the parties
- Comprehensive, effective and legally binding
- Retains all objectives and principles stated in the DOC
- Contains clear sets of rules on dos and don’ts
- Effective mechanism and procedures allowing states to express their consents and enforce the COC

Supports the adoption of the COC Framework

Appreciates and joins efforts to work on a Single Negotiating Text
Conclusion

Viet Nam's positions

Clarity

Cooperation

Conformity with international law

Transparency
THANK YOU