FORUM: Fourth Committee of the General Assembly

QUESTION OF: Determining sovereign rights over the dispute of the South China Sea

SUBMITTED BY: The Republic of Viet Nam

CO-SUBMITTED BY: Honduras, United States of America, United Arab Emirates, Australia, Indonesia, Somalia, Italy, Sweden, Human Rights Watch, OPEC, Colombia, Haiti, Thailand, Lebanon, South Sudan, Argentina, France.

THE GENERAL ASSEMBLY,

*Observing* that the waters and islands of the South China Sea have for several decades been contested between the states surrounding it;

*Noting With Dismay* the recent increase in regional tension after several provocative and illicit actions were taken in the South China Sea, largely by the People’s Republic of China, including fishing and prospecting for oil in the waters of other states and the construction of artificial islands in disputed areas;

*Recognising* the increasing likelihood of conflict in the South China Sea as further natural resources are discovered and more states are drawn into the conflict;

*Remembering* that all claimants in the South China Sea have both signed and ratified the relevant piece of international law, the UN Convention on the Law Of the Sea (UNCLOS);

*Acknowledging* however that although the UNCLOS is the basis of any solution, the UNCLOS alone has not been effective in and will not be sufficient in providing long-term stability and agreement in the South China Sea;

1. Encourages all states first and foremost to embrace communication and cooperation over conflict and competition in the South China Sea,

1. This includes continuing and promoting all collaborative commercial and scientific endeavors;
2. Also maintaining and increasing forums for communicating regional concerns and avoiding conflict;

2. Emphasizes that all nations with claims in the South China Sea have both signed and ratified the UNCLOS and must thus abide by it until such time as a new agreement is come to:

1. Requests that all involved states lay aside any claims of sovereignty beyond those granted by the UNCLOS until the conclusion of talks as detailed in clause 4;
2. Encourages all involved states to respect the rights of a state within its Exclusive Economic Zone (EEZ), and the rights of other states, within an EEZ, as detailed in Section V of UNCLOS;

i. These rights include but are not limited to the exclusive right to manage and conserve all living and nonliving natural resources, to establish and use artificial islands and structures, and to perform marine scientific research;

1. Reminds all involved nations that under the UNCLOS the high seas (defined as those seas not within the EEZ of any state) cannot be claimed by any state, and furthermore are reserved for peaceful purposes;
2. Further reminds all states that under Article 60 of the UNCLOS artificial islands or installations have no territorial waters or EEZ, nor do they extend the territorial waters or EEZ of the state constructing them;
3. Recognises the importance of freedom of navigation:

i.Reminds all parties that the ships and aircraft of all states have the right of innocent passage through territorial seas and airspace under Article 17 of the UNCLOS

ii.Requests therefore that free and unhindered passage be granted by all parties to trading, cargo, and other commercial ships and aircraft; search and rescue ships and aircraft; ships and aircraft conducting scientific research; ships and aircraft involved in anti-piracy or anti-trafficking efforts; any other ships or aircraft whose passage is defined as innocent under Article 19 of the UNCLOS;

iii.Requests also that the military craft of all nations be allowed to traverse the South China Sea and its airspace in compliance with Articles 29 to 32 of the UNCLOS;

1. Finally states that under Article 73 of the UNCLOS, states have the right to board, inspect, and arrest any ship violating its sovereign rights within its EEZ;

3. Calls For talks between all involved states to provide a stable and long-term solution to the dispute, both over areas where EEZs overlap and over the disputed Parcel and Spratly Islands, as well as any other disputed islands and regions;

1. All states are encouraged to submit clearly defined and delineated claims;
2. Overlapping EEZs shall be dealt with by the International Court of Justice, as described under Article 74 of the UNCLOS;
3. A first set of talks will take place between The Association of Southeast Asian Nations (ASEAN), and the People’s Republic of China;

I. In these UN-administered talks, the negotiators will review information from third-party experts on the issue, historical sources, and geographical analysis to determine which disputed regions and islands belong to an ASEAN state, and which to the People’s Republic of China, with the understanding that the high seas cannot be claimed by either party and that a country’s EEZ but not territorial waters cannot be changed in negotiations;

ii. Trade and trade deals may be used as bargaining tools in such negotiations, including the One Belt, One Road initiative;

iii. Any use of military force or other violation of the UNCLOS while negotiations are ongoing will clearly damage the standing and thus the case of the negotiating party responsible;

1. Once these talks are concluded, a secondary round of talks will take place within ASEAN to determine which ASEAN state has sovereignty over which regions and islands; it is also possible that two states or more states may decide to cooperate in a certain region, mutually enjoying the rights and taking on the responsibilities granted by the UNCLOS;

i. Such mutual t will be an option of last resort, when there is no consensus or definite proof as to the correct sovereignty of a certain island or region;

ii. As in the previous negotiations, neither the neutrality of the high seas nor the possession of territorial waters shall be disputed, only the possession of islands and the extent and borders of EEZs;

iii. Also as in the previous negotiations, any violation of the UNCLOS by a participating state while negotiations are ongoing will considerably weaken the position of that state in negotiations; however, ASEAN being among other things a trading bloc, trade will not be used as a bargaining tool;

1. If any state refuses to recognise these talks, then no claim beyond their EEZ shall be recognised and the talks will proceed without that state;
2. The Parcel and Spratly Islands need not necessarily be treated as single units, but may if necessary be negotiated over island by island;

4. Perceiving that there may continue to be violations of sovereignty in the South China Sea even after these negotiations,

1. Strongly urges all parties to abide by the terms of the agreement they themselves have negotiated;
2. After these talks would be established a fixed, long-term forum for discussing and resolving any new conflicts which may arise between the states bordering the South China Sea
3. Requests that the Security Council authorise a naval peacekeeping mission preventing violations of sovereignty as defined by the UNCLOS in the South China Sea until either such time as the region is judged stable or seven years after the new agreement is instituted;
4. Among the responsibilities of this mission would be:

i. Monitoring for such violations of UNCLOS or the new agreement,

ii. Repelling ships violating the new agreement from the relevant EEZ,

iii. Demolishing any artificial islands which were illicitly constructed before, during, or after the agreement in accordance with the agreement of the state possessing these installations under the new agreement;