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PRESS RELEASE

**Arbitration between the Republic of the Philippines
and the People's Republic of China**

The Hague, 22 April 2015

The Arbitral Tribunal Sets Dates for Hearing on Jurisdiction and Admissibility

The Arbitral Tribunal in the case submitted by the Republic of the Philippines against the People's Republic of China under Annex VII to the United Nations Convention on the Law of the Sea has issued its fourth Procedural Order, deciding to conduct a hearing in July 2015 on the Arbitral Tribunal's jurisdiction. This follows the third meeting of the Arbitral Tribunal, held at the premises of the Permanent Court of Arbitration in the Peace Palace in The Hague on 20 and 21 April 2015.

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As the Arbitral Tribunal has previously noted, the Chinese Government has repeatedly stated that "it will neither accept nor participate in the arbitration unilaterally initiated by the Philippines." Article 9 of Annex VII to the United Nations Convention on the Law of the Sea provides for proceedings to continue if "one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case." Article 9 further provides that in the event of a non-participating Party, "[b]efore making its award, the arbitral tribunal must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law."

In December 2014, China published a "Position Paper of the Government of the People's Republic of China on the Matter of Jurisdiction in the South China Sea Arbitration Initiated by the Republic of the Philippines" in which it set out China's view that the Arbitral Tribunal lacks jurisdiction to consider the Philippines' submissions. China has made it clear that the "aforementioned Position Paper shall not be regarded as China's acceptance of or its participation in the arbitration."

On 16 December 2014, the Arbitral Tribunal took note of the fact that China had not submitted a Counter-Memorial and requested further written argument from the Philippines on certain issues raised in the Philippines' Memorial. In response, the Philippines made a Supplemental Written Submission to the Arbitral Tribunal on 16 March 2015. Pursuant to the procedure anticipated in the Arbitral Tribunal's Rules of Procedure and third Procedural Order, China has been requested to provide the Arbitral Tribunal with any comments it may wish to make in respect of the Philippines' Supplemental Written Submission by 16 June 2015.

After seeking the views of the Parties, the Arbitral Tribunal has decided in its fourth Procedural Order that it will treat China's communications (including the Position Paper) as constituting a plea concerning the Arbitral Tribunal's jurisdiction for purposes of Article 20 of the Rules of Procedure, which provides:

1. The Arbitral Tribunal shall have the power to rule on objections to its jurisdiction or to the admissibility of any claim made in the proceedings.
2. A plea that the Arbitral Tribunal does not have jurisdiction shall be raised no later than in the Counter-Memorial. A Party is not precluded from raising such a plea by the fact that it has appointed, or participated in the appointment of, an arbitrator. A plea that the Arbitral Tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. The Arbitral Tribunal may, in either case, admit a later plea if it considers the delay justified.
3. The Arbitral Tribunal shall rule on any plea concerning its jurisdiction as a preliminary question, unless the Arbitral Tribunal determines, after seeking the views of the Parties, that the objection to its jurisdiction does not possess an exclusively preliminary character, in which case it shall rule on such a plea in conjunction with the merits.
4. Prior to a ruling on any matters relating to jurisdiction or admissibility, a hearing shall be held if the Arbitral Tribunal determines that such a hearing is necessary or useful, after seeking the views of the Parties.

The Arbitral Tribunal will conduct a hearing in July 2015 to address the objections to jurisdiction set out in China's Position Paper. The Arbitral Tribunal will also consider other matters concerning its jurisdiction and the admissibility of the Philippines' claims. After receiving any comments that China may make by 16 June 2015 with respect to the Philippines' Supplemental Written Submission, the Arbitral Tribunal may also pose further questions to the Parties to be addressed in the course of the July hearing. If, after the July hearing, the Tribunal determines that there are jurisdictional objections that do not possess an exclusively preliminary character, then, in accordance with Article 20(3) of the Rules of Procedure, such pleas will be reserved for consideration and decision at a later stage of the proceedings.

The Permanent Court of Arbitration will publish any further information about the July 2015 hearing as directed by the Arbitral Tribunal on its website www.pca-cpa.org.

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Background to the Case: The *Philippines v. China* arbitration was commenced on 22 January 2013 when the Philippines served China with a Notification and Statement of Claim "with respect to the dispute with China over the maritime jurisdiction of the Philippines in the West Philippine Sea." On 19 February 2013, China presented the Philippines with a diplomatic note in which it described "the Position of China on the South China Sea issues," and rejected and returned the Philippines' Notification. The five-member Arbitral Tribunal is chaired by Judge Thomas A. Mensah of Ghana. The other Members are Judge Jean-Pierre Cot of France, Judge Stanislaw Pawlak of Poland, Professor Alfred Soons of the Netherlands, and Judge Rüdiger Wolfrum of Germany. The Permanent Court of Arbitration acts as the Registry in the proceedings.

Further information about the case, including the Rules of Procedure, may be found on the website of the Permanent Court of Arbitration at http://www.pca-cpa.org/showpage.asp?pag_id=1529.

Background to the Permanent Court of Arbitration: The Permanent Court of Arbitration is an intergovernmental organization established by the 1899 Hague Convention on the Pacific Settlement of International Disputes. Headquartered at the Peace Palace in The Hague, the Netherlands, the Permanent Court of Arbitration facilitates arbitration, conciliation, fact-finding and other dispute resolution proceedings among various combinations of States, State entities, intergovernmental organizations, and private parties.

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