

PERMANENT COURT OF ARBITRATION

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PRESS RELEASE

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

The Hague, 29 June 2016

The Tribunal Sets Date for Issuance of Final Award.

The Permanent Court of Arbitration has today informed the Parties that the Tribunal will issue its Award in the arbitration initiated 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](#) (the "Convention").

The Tribunal will issue its Award on **Tuesday, 12 July 2016** at approximately **11 A.M.** CEST, The Hague.

The Award will first be issued via e-mail to the Parties, along with an accompanying Press Release containing a summary of the Award. The Press Release will be in English and French, with an unofficial Mandarin Chinese translation provided.

The observer States will then receive copies of the Award and Press Release via e-mail, following which the Award and Press Release will be sent via e-mail to a distribution list which includes PCA Member States, PCA Members of Court, and members of the public and media who have registered their interest with the PCA. A copy of the Press Release and Award will also be uploaded to the PCA's website. Those who wish to receive the documents directly may send a request to be added to the PCA's distribution list via e-mail to bureau@pca-cpa.org.

In accordance with Article 16 of the Rules of Procedure, the Tribunal has also directed the PCA to upload to its website copies of the Tribunal's Procedural Orders, the reports of Tribunal-appointed experts, and the Philippines' written submissions and accompanying annexes following the issuance of the Award.

The Parties will receive originally signed versions of the Award. Hard copies of the Award will also be sent to the Embassies of States that were granted observer status for the hearings. There will be no in-person meeting or ceremony for the rendering of the Award.

Media are free to use the high resolution photographs available at www.pcacases.com/web/view/7.

Background to the *Philippines v. China* Arbitration

The *Philippines v. China* arbitration commenced on 22 January 2013 when the Philippines served China with a Notification and Statement of Claim pursuant to the [provisions of the Convention concerning the resolution of disputes](#) and the arbitration procedure set out in [Annex VII](#) to the Convention.

On 19 February 2013, China rejected and returned the Philippines' Notification; since that date, China has continued to reiterate its position of non-acceptance of and non-participation in the arbitration. Annex VII to the Convention, however, provides for the formation of a tribunal notwithstanding the non-participation of a party and provides that the "[a]bsence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings."

The Tribunal was constituted on 21 June 2013 pursuant to the procedure set out in Annex VII of the Convention to decide the dispute presented by the Philippines. The Tribunal is composed of Judge Thomas A. Mensah of Ghana, Judge Jean-Pierre Cot of France, Judge Stanislaw Pawlak of Poland, Professor Alfred H.A. Soons of the Netherlands, and Judge Rüdiger Wolfrum of Germany. Judge Thomas A. Mensah serves as President of the Tribunal. The Permanent Court of Arbitration acts as the Registry in the proceedings.

The Philippines submitted a detailed Memorial on 30 March 2014 and, in response to a request from the Tribunal for further written argument on certain issues, made a Supplemental Written Submission on 16 March 2015. Although China has not participated formally in the proceedings, on 7 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,” setting out China’s position that the Tribunal lacked jurisdiction to consider the Philippines’ claims because those claims concerned issues of sovereignty and boundary delimitation and because the Philippines and China had agreed to settle their disputes only through negotiation.

The Tribunal considered China’s Position Paper to constitute, in effect, a plea that the Philippines’ fifteen Submissions fall outside the scope of the Tribunal’s jurisdiction. Article 288 of the Convention provides that “In the event of a dispute as to whether a court or tribunal has jurisdiction, the matter shall be settled by decision of that court or tribunal.” Annex VII to the Convention also provides that, in the event that a party does not participate in the proceedings, a 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.” Accordingly, the Tribunal decided to conduct a preliminary hearing on the scope of its jurisdiction and the admissibility of the Philippines’ claims.

After convening a hearing on jurisdiction and admissibility between 7 and 13 July 2015, the Tribunal rendered its [Award on Jurisdiction and Admissibility](#) on 29 October 2015, a summary of which is contained in the PCA’s [Press Release](#) of the same date. In its Award on Jurisdiction and Admissibility, the Tribunal addressed each of the objections set out in China’s Position Paper, holding (a) that the disputes presented by the Philippines did not concern sovereignty over land territory; (b) that the disputes presented by the Philippines did not concern the delimitation of a boundary; and (c) that the 2002 China–ASEAN Declaration on Conduct of the Parties in the South China Sea did not constitute a legal agreement that precludes recourse to arbitration. The Tribunal ruled that it had jurisdiction to consider seven of the Philippines’ Submissions, but that its jurisdiction with respect to seven other Submissions could not be determined on a preliminary basis and would need to be considered in conjunction with the merits. The Tribunal requested the Philippines to clarify and narrow one of its Submissions. The Tribunal also emphasized that, in keeping with its findings on the nature of the Parties’ disputes, that it would not rule on any question of sovereignty over land territory and would not delimit any maritime boundary between the Parties.

In order to conduct the proceedings efficiently, the Tribunal had provisionally, after seeking the views of the Parties, fixed dates for a hearing on the merits of the Philippines’ claims, to be held in the event that it found that it had jurisdiction. After issuing its Award on Jurisdiction and Admissibility and further seeking the views of the Parties, the Tribunal confirmed that the hearing on the merits would take place as previously scheduled and convened the hearing from 24 to 30 November 2015. [Transcripts](#) of the hearing are available on the PCA’s website, and the Philippines’ arguments and claims are summarized in the PCA’s [Press Release](#) of 30 November 2015.

In its Final Award, the Tribunal will address those issues of jurisdiction reserved for further consideration in its Award on Jurisdiction and Admissibility and will address the merits of those of the Philippines’ claims that fall within its jurisdiction.

Further information about the case, including the Award on Jurisdiction and Admissibility, the Rules of Procedure, earlier Press Releases, and transcripts and photographs of the hearings, may be found at <http://www.pcacases.com/web/view/7>.

Background to the Permanent Court of Arbitration

The [Permanent Court of Arbitration](http://www.pca-cpa.org) (PCA) is an intergovernmental organization established by the 1899 Hague Convention on the Pacific Settlement of International Disputes. The PCA has 121 Member States. Headquartered at the Peace Palace in The Hague, the Netherlands, the PCA facilitates arbitration, conciliation, fact-finding and other dispute resolution proceedings among various combinations of States, State entities, intergovernmental organizations, and private parties. The PCA's International Bureau is currently administering 8 interstate disputes, 72 investor-State arbitrations, and 34 cases arising under contracts involving a State or other public entity. More information about the PCA can be found at www.pca-cpa.org.

In July 2013, the Tribunal in the *Philippines v. China* arbitration appointed the PCA to serve as Registry for the proceedings. The Tribunal's [Rules of Procedure](#) provide that the PCA shall "maintain an archive of the arbitral proceedings and provide appropriate registry services as directed by the Arbitral Tribunal." Such services include assisting with the identification and appointment of experts; publishing information about the arbitration and issuing press releases; organizing the hearings at the Peace Palace in The Hague; and the financial management of the case, which involves holding a deposit for expenses in the arbitration, such as to pay arbitrator fees, experts, technical support, court reporters etc. The Registry also serves as the channel of communications amongst the Parties and the Tribunal and observer States.

The PCA has administered 12 cases initiated by States under Annex VII to the UN Convention on the Law of the Sea, more information about which can be found at: <https://pca-cpa.org/en/services/arbitration-services/unclos/>.

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