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PRESS RELEASE

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

The Hague, 17 December 2014

The Arbitral Tribunal Requests Further Written Argument from the Philippines

The Arbitral Tribunal in the case brought 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 third Procedural Order, taking note of China's decision not to submit a Counter-Memorial by the fixed date of 15 December 2014 and requesting further written argument from the Philippines on specific issues.

In accordance with the Arbitral Tribunal's Procedural Order No. 1, dated 27 August 2013, the Philippines filed its Memorial on 30 March 2014, addressing matters relating to the jurisdiction of the Arbitral Tribunal, the admissibility of the Philippines' claim, and the merits of the dispute. In Procedural Order No. 2, the Arbitral Tribunal fixed 15 December 2014 as the date for China to submit its Counter-Memorial in response to the Philippines' Memorial. In Procedural Order No. 3, the Arbitral Tribunal noted that as at 16 December 2014, China had not filed a Counter-Memorial and that the Chinese Government has reiterated that "it will neither accept nor participate in the arbitration unilaterally initiated by the Philippines." The Arbitral Tribunal further noted that although its members had been furnished with copies of the 7 December 2014 "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," the Chinese Government had via communications to the Registry, made it "clear that the forwarding of the aforementioned Position Paper shall not be regarded as China's acceptance of or its participation in the arbitration."

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 25(2) of the Rules of Procedure adopted by the Arbitral Tribunal further provides that –

In the event that a Party does not appear before the Arbitral Tribunal or fails to defend its case, the Arbitral Tribunal shall invite written arguments from the appearing Party on, or pose questions regarding, specific issues which the Arbitral Tribunal considers have not been canvassed, or have been inadequately canvassed, in the pleadings submitted by the appearing Party. The appearing Party shall make a supplemental written submission in relation to the matters identified by the Arbitral Tribunal within three months of the Arbitral Tribunal's invitation. The supplemental submission of the appearing Party shall be communicated to the non-appearing Party for its comments which shall be submitted within three months of the communication of the supplemental submission. The Arbitral Tribunal may take whatever other steps it may consider necessary, within the scope of its powers under the Convention, its Annex VII, and these Rules, to afford to each of the Parties a full opportunity to present its case.

Pursuant to this provision, the Arbitral Tribunal issued with its Procedural Order No. 3 a "Request for Further Written Argument by the Philippines Pursuant to Article 25(2) of the Rules of Procedure" addressing specific issues relating to both the jurisdiction of the Arbitral Tribunal and to the merits of the Parties'

dispute. The Philippines has until 15 March 2015 to file a supplemental written submission addressing the Arbitral Tribunal's Request, and China will have until 16 June 2015 to provide any comments in response to the supplemental written submission of the Philippines. The Philippines has been invited to address, as it considers appropriate, any public statements made by the Chinese government in relation to the dispute.

The Arbitral Tribunal will determine the further course of the proceedings, including the need for, scope, and scheduling of any other written submissions and hearings, at an appropriate later stage, after seeking the views of the Parties. The Arbitral Tribunal is presently consulting with the Parties on a "Statement of the Ministry of Foreign Affairs of Viet Nam for the attention of the Tribunal in the Proceedings between the Republic of the Philippines and the People's Republic of China," received by the Registry for the attention of the Arbitral Tribunal on 5 December 2014.

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 ("PCA") 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 PCA at http://www.pca-cpa.org/showpage.asp?pag_id=1529.

Background to the Permanent Court of Arbitration: The PCA 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 PCA 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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