

PCA Case N° 2013-19

IN THE MATTER OF AN ARBITRATION

- before -

**AN ARBITRAL TRIBUNAL CONSTITUTED UNDER ANNEX VII TO THE
1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA**

- between -

THE REPUBLIC OF THE PHILIPPINES

(Applicant)

- and -

THE PEOPLE'S REPUBLIC OF CHINA

(Respondent)

PROCEDURAL ORDER N° 1

ARBITRAL TRIBUNAL:

**Judge Thomas Mensah (Presiding Arbitrator)
Judge Jean-Pierre Cot
Judge Stanislaw Pawlak
Professor Alfred Soons
Judge Rüdiger Wolfrum**

REGISTRY:

Permanent Court of Arbitration

27 August 2013

WHEREAS the Republic of the Philippines has invoked Article 287 of the United Nations Convention on the Law of the Sea (“**the Convention**”) and Annex VII to the Convention “with respect to the dispute with China over the maritime jurisdiction of the Philippines in the West Philippine Sea”, as set out in the Philippines’ Notification and Statement of Claim dated 22 January 2013;

WHEREAS in a Note Verbale that China presented to the Department of Foreign Affairs of the Philippines on 19 February 2013, China rejected and returned the Notification and Statement of Claim to the Philippines;

WHEREAS in accordance with Article 3 of Annex VII to the Convention, by 21 June 2013 the Arbitral Tribunal composed of Judge Jean-Pierre Cot, Judge Stanislaw Pawlak, Professor Alfred Soons, Judge Dr. Rüdiger Wolfrum, and Judge Thomas Mensah (Presiding Arbitrator) was constituted;

WHEREAS following the constitution of the Arbitral Tribunal, the Arbitral Tribunal held a meeting in The Hague on 11 July 2013 and issued its Administrative Directive N° 1 on 12 July 2013;

WHEREAS on 12 July 2013, the Permanent Court of Arbitration (“**PCA**”), acting on behalf of the Arbitral Tribunal, sent to the Parties Draft Rules of Procedure and invited written comments from both Parties;

WHEREAS on 31 July 2013, the Philippines sent to the PCA its written comments on the Draft Rules of Procedure, including proposals for a timetable for the proceedings;

WHEREAS by a Note Verbale dated 1 August 2013, China reiterated “its position that it does not accept the arbitration initiated by the Philippines” and returned the PCA’s letter of 12 July 2013 and accompanying documents;

WHEREAS on 1 August 2013, the PCA communicated to the Tribunal the responses received from the Parties, and transmitted the comments of the Philippines to China and China’s Note Verbale to the Philippines;

WHEREAS China has, to date, not participated in these proceedings;

MINDFUL of the provisions of Part XV of the Convention and of its Annex VII regarding the non-appearance of a Party; and,

HAVING CONSIDERED the written comments of the Philippines received on 31 July 2013;

THE ARBITRAL TRIBUNAL HEREBY ISSUES THE FOLLOWING PROCEDURAL ORDER:

1. Rules of Procedure

- 1.1 The rules of procedure appended to this Order (“**the Rules**”) shall apply in these proceedings, subject to the Convention (including its Annex VII), the Arbitral Tribunal’s Administrative Directive N° 1 of 12 July 2013, and subsequent procedural orders of the Arbitral Tribunal.
- 1.2 To the extent that any question of procedure is not expressly governed by the Convention (including its Annex VII), the Rules, existing procedural orders issued by the Arbitral Tribunal, or Administrative Directive N° 1, the question shall be determined by the Arbitral Tribunal after seeking the views of the Parties.

2. Procedural Timetable

2.1 The provisional procedural timetable shall be as follows:

2.1.1 The Philippines shall submit a Memorial by **30 March 2014**. In its Memorial, the Philippines shall fully address all issues including matters relating to jurisdiction, admissibility, and the merits of the dispute.

2.1.2 Further proceedings shall be determined by the Arbitral Tribunal thereafter.

2.2 The Arbitral Tribunal will determine the need for, and scheduling of, any further written submissions and hearings at an appropriate later stage, after seeking the views of the Parties.


3. Leave to Apply

3.1 Any Party has leave to apply to the Arbitral Tribunal for a variation of this Order, giving particulars of the variation sought and the reason for it.

3.2 Any Party may, at any point in these proceedings, request that the Arbitral Tribunal convene a conference with the Parties to address any procedural aspect of these proceedings. The Arbitral Tribunal will arrange to confer with the Parties in person or by teleconference, according to the circumstances.

Dated: 27 August 2013

ON BEHALF OF THE ARBITRAL TRIBUNAL



**Judge Thomas Mensah
President**