

**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)**

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**PROCEDURAL ORDER N° 2**

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**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**

**2 June 2014**

**WHEREAS** in accordance with Article 2.1.1 of Procedural Order No. 1, the Republic of the Philippines filed its Memorial with accompanying Annexes on 30 March 2014;

**WHEREAS** according to the letter dated 30 March 2014 from the Agent of the Republic of the Philippines to the Permanent Court of Arbitration (“PCA”), the Republic of the Philippines, in compliance with Article 18(2)(a) of the Rules of Procedure, transmitted its Memorial and Annexes via e-mail to the Registry, the Arbitral Tribunal and to the Embassy of the People’s Republic of China to the Kingdom of the Netherlands; and also transmitted its Memorial and Annexes via e-mail to the Embassy of the People’s Republic of China to the Republic of the Philippines;

**WHEREAS** according to the letter dated 30 March 2014 from the Agent of the Republic of the Philippines to the PCA, in compliance with Articles 18(2)(b) and 18(2)(c) of the Rules of Procedure, the Republic of the Philippines delivered, via courier, four hard copies and four USB flash drives of its Memorial and Annexes to the PCA, a hard copy and USB flash drive to each member of the Arbitral Tribunal and two hard copies and two USB flash drives to the Embassy of the People’s Republic of China to the Kingdom of the Netherlands, to arrive during business hours on 31 March 2014;

**WHEREAS** by letter dated 31 March 2014 addressed to both Parties, the PCA acknowledged receipt of the Memorial and Annexes, and included a copy of the 30 March 2014 letter from the Agent of the Republic of the Philippines;

**WHEREAS** Paragraph 2.1.2 of Procedural Order No. 1 provides that following the filing of the Memorial, “[f]urther proceedings shall be determined by the Arbitral Tribunal”; and Paragraph 2.2 of Procedural Order No. 1 provides that 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”;

**WHEREAS** to date the People’s Republic of China has, via Notes Verbales to the PCA, “reiterated its position that it does not accept the arbitration initiated by the Philippines”;

**WHEREAS** it nonetheless remains open to the People’s Republic of China to participate in these proceedings at any stage;

**WHEREAS** by letter dated 15 May 2014 the PCA on behalf of the Arbitral Tribunal invited comments from both Parties on a draft of this Procedural Order and the tentative schedule for the next phase of the proceedings;

**WHEREAS** by Note Verbale to the PCA dated 19 May 2014, the Embassy of the People’s Republic of China to the Kingdom of the Netherlands reiterated “its position that it does not accept the arbitration initiated by the Philippines” and returned the correspondence from the PCA, stating that the Note Verbale “shall not be regarded as China’s acceptance of or participation in the arbitration procedure.”

**WHEREAS** by letter dated 29 May 2014 the Agent for the Republic of the Philippines made comments on the proposed timetable and expressed its satisfaction with the terms of Procedural Order No. 2;

**MINDFUL** of the provisions of Annex VII to the United Nations Convention on the Law of the Sea, including in particular Article 5, which provides that unless the parties to the dispute otherwise agree, the Arbitral Tribunal “shall determine its own procedure, assuring to each party a full opportunity to be heard and to present its case,” and Article 9, which provides for the continuation of proceedings if “one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case”;

**THE ARBITRAL TRIBUNAL, after having sought the views of the Parties, hereby issues the following Procedural Order:**

**1. Procedural Timetable**

- 1.1 The People's Republic of China shall submit a Counter-Memorial responding to the Memorial of the Republic of the Philippines by **15 December 2014**.
- 1.2 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.

**2. Leave to Apply**

- 2.1 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.
- 2.2 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: 2 June 2014

**ON BEHALF OF THE ARBITRAL TRIBUNAL**



**Judge Thomas Mensah  
President**