

# 中华人民共和国常驻联合国代表团

## PERMANENT MISSION OF THE PEOPLE'S REPUBLIC OF CHINA TO THE UNITED NATIONS

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(Unofficial Translation)

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The Permanent Mission of the People's Republic of China to the United Nations presents its compliments to the Permanent Missions of Member States to the United Nations and has the honor, with reference to the Note Verbale No. 000840-2015 of the Permanent Mission of the Republic of the Philippines to the United Nations dated on 2 December 2015, to state the position as follows:

I. China is strongly dissatisfied with the statement made by Mr. F. del Rosario, Secretary for Foreign Affairs of the Philippines, on 30 November 2015 at the oral hearing on the merits and remaining issues of jurisdiction and admissibility of the South China Sea arbitration by the Arbitral Tribunal established at the unilateral request of the Philippines (hereinafter referred to as the Arbitral Tribunal). The unreasonable and groundless accusations against China he made in the statement ignored basic facts and confused right and wrong. History brooks no denial and facts no fabrication, and international rule of law shall not be misinterpreted and used in a distorted way by certain countries and individuals at their own will.

It is precisely the Philippines' adoption of an expansionist policy in the South China Sea and its blatant violation of China's sovereignty and rights and interests in breach of the *Charter of the United Nations* that have given rise to the relevant disputes between China and Philippines in the South China Sea. The Philippines' unilateral initiation and obstinate pushing forward of the arbitration, in violation of the consensus reached with China and repeatedly reaffirmed by itself as well as its own commitment under the *Declaration on the Conduct of Parties in the South China Sea* (hereinafter referred to as the DOC), is a political provocation under the cloak of law. The Philippines' move, in essence, is not an effort to resolve disputes but an attempt to cover up its illegal occupation of some islands and reefs of China's Nansha Islands, and negate China's territorial sovereignty and maritime rights and interests in

Permanent Missions of Member States  
to the United Nations  
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the South China Sea. In order to whitewash and further expand its unlawful interests through the Arbitral Tribunal, the Philippines has intentionally disguised its disputes with China over territorial sovereignty of islands and reefs and overlapping claims of maritime rights and interests as matters related to the so-called interpretation and application of the *United Nations Convention on the Law of the Sea* (hereinafter referred to as the UNCLOS). China strongly rejects and will never accept such moves by the Philippines.

**II.** The South China Sea Islands are part of China's territory since ancient times. Ample historical and legal evidences show that China is the first country to discover, name and develop the South China Sea Islands, and also the first to exercise continuous sovereign jurisdiction over them. During its war of aggression against China, Japan occupied China's Nansha Islands and Xisha Islands for a period of time. The *Cairo Declaration*, *Potsdam Proclamation* and other international instruments defining the post-war international order obliged Japan to return the Chinese territory it had previously stolen from China. The Chinese government thus recovered the South China Sea Islands after the end of World War II.

The *Treaty of Peace Between the United States of America and the Kingdom of Spain* (Treaty of Paris, 1898), *Treaty Between the Kingdom of Spain and the United States of America for Cession of Outlying Islands of the Philippines* (Treaty of Washington, 1900) and *Convention Between the United States of America and Great Britain Delimiting the Boundary Between the Philippine Archipelago and the State of North Borneo* (1930 Convention), signed for the purpose of defining the scope of the Philippine territory, all explicitly excluded China's Nansha Islands and Huangyan Dao from the Philippine territory. For a long period of time afterwards, the Philippines' internal laws, including its constitution, had repeatedly confirmed the above-mentioned scope of territory.

After World War II and especially since the beginning of the Cold War, the Philippines started to covet China's Nansha Islands. Since the 1970s, the Philippines has seized by force Mahuan Dao, Feixin Dao, Zhongye Dao, Beizi Dao, Nanyao Dao, Xiyue Dao, Shuanghuang Shazhou and Siling Jiao of China's Nansha Islands. This is the root cause of the relevant disputes between China and the Philippines in the South China Sea. The Philippines has long been conducting massive construction, deploying armed facilities and renovating and upgrading airports, piers, barracks, stilted houses, schools and other facilities on these illegally-occupied islands and reefs. China has always strongly opposed the illegal occupation by the Philippines, and repeatedly urged the Philippines to withdraw all its personnel and facilities from the Chinese islands and reefs.

Furthermore, the Philippines also attempted to snatch China's Ren'ai Jiao and Huangyan Dao. In May 1999, the Philippines illegally grounded its No.57 tank landing ship on Ren'ai Jiao under the excuse of "mechanic dysfunction". China in response has continuously lodged representations and protests against the Philippines. The Philippines explicitly agreed to tow away the ship, and promised it would not be the first country to violate the DOC. But afterwards it went back on its own words and refused to tow away the "grounded" ship. Moreover, it has attempted to seize the reef by building fixed



facilities on it. In March 2014, the Philippine Department of Foreign Affairs issued a statement, flagrantly declaring its occupation of Ren'ai Jiao with the vessel that it falsely claimed as "grounded" in 1999. The Philippines' breach of its own promise stripped itself of all the credibility before China and the whole world.

In April 2012, the Philippines, in a further attempt to seize Chinese territory, dispatched a military vessel to harass Chinese fishing vessels and fishermen operating in Huangyan Dao waters, and gave seriously inhuman treatment to the Chinese fishermen, and this is known as the "Huangyan Dao Incident".

**III.** Meanwhile, the Philippines made ungrounded accusations against China's dotted line in the South China Sea, in an attempt to negate China's sovereignty and relevant rights in the South China Sea and cover up its illegal occupation of some islands and reefs of China's Nansha Islands. The Chinese people have started using and developing the South China Sea as early as the 2<sup>nd</sup> century B.C. during the reign of Emperor Wu of the Han Dynasty. China's sovereignty and relevant rights in the South China Sea are formed in the long course of history, and consistently upheld by successive Chinese governments. In 1948, the Chinese government officially published the South China Sea dotted line in a bid to reaffirm China's sovereignty and relevant rights in the South China Sea.

**IV.** China's construction activities on relevant islands and reefs of the Nansha Islands fall within China's sovereignty, and are lawful, justified and reasonable. They are not targeted at any country, do not affect the freedom of navigation and overflight in the South China Sea enjoyed by all countries in accordance with international law, and will not cause damage to the marine ecological environment in the South China Sea. In fact, China firmly supports and upholds the freedom of navigation and overflight in the South China Sea enjoyed by all countries in accordance with international law, and unswervingly pushes forward the implementation of policies, laws, regulations and measures for the protection and preservation of the marine environment.

**V.** For quite a long time, China persists in settling territorial and maritime jurisdictional disputes with its neighboring states through negotiations and consultations. China has completely resolved the land boundary issues with 12 out of its 14 neighbors through negotiations, and has accomplished maritime delimitation with Viet Nam in the Beibu Gulf. Prior to the final resolution of disputes, China has been committed to working with sovereign states directly concerned to manage differences properly and promote practical cooperation, so as to uphold regional peace and stability. Since the 1990s, China and the Philippines have reaffirmed in bilateral documents the consensus repeatedly reached by the two sides that relevant dispute shall be resolved through negotiations and consultations. The DOC explicitly states that the sovereign states directly concerned undertake to resolve their territorial and jurisdictional disputes by peaceful means through friendly consultations and negotiations. All these documents demonstrate that China and the Philippines have chosen, long time ago, to settle their disputes in the South China Sea through negotiations and consultations. The Philippines' unilateral initiation of the arbitration in violation of its consensus with China is yet another breach of its own



promises.

As stated, the essence of the disputes between China and the Philippines in the South China Sea, which are caused by the Philippines' illegal occupation of some islands and reefs of China's Nansha Islands, is about disputes between the two states concerning the territory of islands and reefs and maritime delimitation. Disputes over the territory of islands and reefs are not subject to the UNCLOS. In terms of maritime delimitation, China made a declaration in accordance with Article 298 of the UNCLOS in 2006, excluding such disputes from arbitral proceedings. In the *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*, which was released by the Chinese Ministry of Foreign Affairs on 7 December 2014 upon authorization, the Chinese government pointed out that the Arbitral Tribunal manifestly has no jurisdiction over the arbitration initiated by the Philippines, and elaborated on the legal grounds for China's non-acceptance of and non-participation in the arbitration. This position is clear and explicit. And with regard to the award rendered on 29 October 2015 by the Arbitral Tribunal on jurisdiction and admissibility of the South China Sea arbitration, China promptly stated its position that the award is null and void and has no binding effect on China, and that China will by no means accept the inclusion of the matters of the territorial status of relevant islands and reefs and circumstances relating to maritime delimitation into the jurisdiction of the Arbitral Tribunal.

China reiterates that, as a sovereign state and a State Party to the UNCLOS, China has the freedom and right to choose means and procedures of dispute settlement independently. Such freedom and right are protected by international law and should be respected. China underlines that, with regard to the issues of territorial sovereignty and maritime rights and interests, China will not accept any solution imposed on it or any unilateral resort to a third-party dispute settlement.

**VI.** China is a strong defender and active builder of international rule of law, and is always committed to upholding international law and the universally recognized norms governing international relations. The *Charter of the United Nations* expressly forbids any State from encroaching upon other States' territorial integrity, and the important principles established by it, such as respect for state sovereignty and territorial integrity and peaceful settlement of international disputes, serve as the bedrock of contemporary international law and relations. The UNCLOS also prescribes in its preamble that "The States Parties to this Convention recognize the desirability of establishing through this Convention, with due regard for the sovereignty of all States, a legal order for the seas and oceans". Therefore, the UNCLOS should, under no circumstance, be used by the Philippines as an excuse to infringe upon or undermine China's territorial sovereignty.

Disregarding that the essence of this arbitration case is territorial sovereignty and maritime delimitation and related matters, maliciously evading the declaration on optional exceptions made by China in 2006 under Article 298 of the UNCLOS, and negating the consensus between China and the Philippines on resolving relevant disputes through negotiations and consultations, the Philippines and the Arbitral Tribunal have abused relevant procedures and obstinately forced ahead with the arbitration,



and as a result, have severely violated the legitimate rights that China enjoys as a State Party to the UNCLOS, completely deviated from the purposes and objectives of the UNCLOS, and eroded the integrity and authority of the UNCLOS. As a State Party to the UNCLOS, China firmly opposes the acts of abusing the compulsory procedures for dispute settlement under it.

**VII.** China and the Philippines, as neighbors, have long lived in harmony, conducting friendly exchanges and communications and bringing benefits to each other. Since the 1990s, the two countries have issued many joint declarations and other documents, confirming their readiness to resolve relevant disputes through negotiations and consultations. In 2004, the two countries also reached consensus on joint exploration of oil and gas resources in disputed waters and started to engage in relevant cooperation. Experience shows that as long-standing good friends and neighbors, China and the Philippines have every reason to properly solve the South China Sea issue through friendly negotiations.

Committed to pursuing the path of peaceful development, fostering friendship and partnership with neighboring countries, and upholding a defense policy that is defensive in nature, China remains a staunch force for regional peace and stability. While firmly safeguarding territorial sovereignty and maritime rights and interests and bearing in mind the overall interests of regional peace and stability, China is devoted to resolving relevant disputes with countries directly concerned, including the Philippines, through negotiations and consultations on the basis of respecting historical facts and in accordance with international law, and is committed to upholding the freedom of navigation and overflight as well as peace and stability in the South China Sea.

China urges the Philippine government to bear in mind the overall interests of the bilateral relations and regional peace and stability, follow the trend of the times toward peace, development and cooperation as well as the common aspiration and expectation of the two peoples, return to the right track of resolving disputes through negotiations and consultations, and work with China to safeguard the traditional friendship between the two countries and regional peace and stability.

The Permanent Mission of the People's Republic of China to the United Nations avails itself of this opportunity to renew to the Permanent Missions of Member States to the United Nations the assurances of its highest consideration.

Permanent Mission of the People's Republic of China to the United Nations  
(sealed)

New York, 11 December 2015