



PEOPLE'S REPUBLIC OF CHINA
MISSION TO THE UNITED NATIONS

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(translation)

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On Agenda Item 84

The rule of law at the national and international levels

New York, 6 October 2016

Mr. Chairman,

The Chinese delegation welcomes the discussion, under the agenda item entitled “The Rule of Law at the National and International Levels”, of the sub-items of "sharing national practices of States in the implementation of multilateral treaties" and "practical measures to facilitate access to justice for all, including for the poorest and most vulnerable".

This year marks the 45th anniversary of the restoration of the legitimate seat of the People’s Republic of China in the United Nations. As a Permanent Member of the UN Security Council, China has been steadfast in defending the international order and system with the purposes and principles of the UN Charter at the core. We have always paid great attention to and strictly abided by international law and have remained a staunch guardian and active builder of the rule of law at the international level. In recent years, Chinese President Xi Jinping set forth the important concepts of, inter alia, “building a new type of international relations featuring win-win cooperation”, “fostering a community of shared future for mankind” and “setting forth the right approach to upholding justice and seeking interests” — concepts that represent continuation and development of the spirit of the UN Charter and should become new values and objectives of international rule of law. On 25th of June this year, China and Russia signed and issued in Beijing the Declaration of the People’s Republic of China and the Russian Federation on the Promotion of International Law, which states the positions and expectations of both parties on major issues related to international law. This was an important experiment and practice carried out by China and another country in maintaining international rule of law.

Mr. Chairman,

The establishment of sub-item "sharing national practices of States in the implementation of multilateral treaties" is of great significance. In last year's discussion on the sub-item of "the role of multilateral treaty processes in promoting and advancing the rule of law", China already stated its general position on the multilateral treaty processes. As of now, China has been a state party to nearly 500 multilateral treaties and has consistently abided by the fundamental principle of "*pacta sunt servanda*" by fully and faithfully implementing and complying with its treaty obligations. All multilateral treaties binding upon China have been effectively implemented at the legislative, executive and judicial branches. In practice, China implements multilateral treaties mainly through the following three approaches:

First, prior to being a party to a multilateral treaty, china would formulate and amend its relevant laws and regulations to create conditions for the implementation of the treaty. For example, before China joined the World Trade Organization in 2001, it amended and cleared away the laws and regulations that were not in keeping with WTO rules, followed with the enactment of new laws in order to be better able to implement the relevant WTO agreements after China's admission.

Second, some multilateral treaties may be directly applied in China after entry into force for China. Such practices are generally concentrated in the civil and commercial areas. For instance, General Principles of the Civil Law of the People's Republic of China provides that if any international treaty concluded or acceded to by China contains provisions differing from those in the domestic civil law, the provisions of the international treaty shall apply. In hearing civil and commercial cases involving foreign parties, Chinese courts also actively apply international treaties.

Third, domestic laws are amended or improved to meet the requirements contained in multilateral treaties. For instance, since China's ratification of the Convention on the Elimination of All Forms of Discrimination against Women(CEDAW) in 1980, China has over the years formulated laws to protect the fundamental rights of women, such as the Law on the Protection of Women's Rights and Interests and Anti-domestic Violence Law. In addition, China has amended its Criminal Law, Criminal Procedure Law, Marriage Law and Law on the Contracting of Rural Land, thus incorporating the relevant provisions of CEDAW in its domestic legal regime.

Mr. Chairman,

The Chinese government believes that to effectively leverage the role of multilateral treaties in promoting and advancing the rule of law at the international level, it is imperative to pay attention to not only the negotiation and conclusion of multilateral treaties, but also their implementation. More importantly, countries should implement them in a spirit of good faith and avoid misinterpretation and abuse in violation of the basic principles of international law and in departure from the original legislative intention of the treaties. Such practice can achieve nothing but to undermine the seriousness and authority of treaties, and ultimately harm the rule of law at the international level.

Mr. Chairman,

The second sub-item under this agenda item is "practical measures to facilitate access to justice for all, including for the poorest and most vulnerable". Protecting the right of citizens to resort to the law and ensuring their equal access to legal protection regardless of their economic conditions

and social standing is part and parcel of the principle of “everyone being equal before the law”. To safeguard access to justice for citizens, in particular vulnerable groups, China has mainly adopted the following measures:

First, we have steadily improved the regime of laws, regulations and policies to protect the litigation rights of parties through legislation. China’s criminal, civil and criminal procedure laws have all clearly established the legal system for the protection of the right to litigation. Promulgated for implementation in 2003, the “Regulations on Legal Aid” clearly sets forth the basic framework and major elements of the legal aid system. “Measures on the Payment of Litigation Costs”, which were promulgated in 2006, contain detailed provisions on the postponement and reduction of, and exemption from the payment of litigation costs by parties with economic hardship or by vulnerable groups such as persons with disabilities.

Second, we have continuously improved the mechanism of judicial protection of human rights to realize judicial procedural justice. As of May 1, 2015, the people’s courts replaced the case-filing review system with a case-filing registration system to ensure the exercise of litigation rights by the parties according to law and “without impediment”. Chinese judicial organs provide financial relief to victims of criminal crimes who are unable to obtain effective compensation, meticulously perform their duty of notifying such victims of their right to apply for judicial relief, and ensure the timely provision of relief.

Third, we have reinforced legal assistance to enhance the legal protection of human rights. China has basically put in place a legal aid structure with the government as the organizer, lawyers and grass-root legal aid professionals as the service providers, and volunteers as the supplement. As of 2015, 24 provinces (including autonomous regions and municipalities

directly under the jurisdiction of the central government) had established province-level specialized funds for legal aid, 3,500 legal aid windows have been opened throughout the country to provide services to the public, and more than 70,000 legal aid stations have been built.

Fourth, we have enhanced protection of special groups to safeguard the legitimate rights and interests of the vulnerable. Over a dozen laws, including the Law on the Protection of the Rights and Interests of the Elderly, Law on the Protection of Women's Rights and Interests, Law on the Protection of Minors and Law on the Protection of Persons with Disabilities, set out clear provisions on protecting the litigation rights of the vulnerable groups. China's courts at all levels have reduced or exempted the litigation fees for persons with disabilities who meet the requirements and have worked hard at building accessibility facilities for persons with disabilities to facilitate their litigation. China has built up an initial form of a legal aid network for women which comprises of multiple legal aid stations dedicated to helping women, and launched the China Legal Aid Action Project for Women. As for cases involving minors as offenders and/or victims, the legal aid agencies or courts also provide legal or judicial assistance to them according to law.

Mr. Chairman,

The rule of law is a common pursuit of mankind. Domestically, the Chinese government steadfastly and comprehensively implements a policy of governance according to law; externally, it continues its unswerving endeavor to maintain and promote the rule of law at the international level. The Chinese government is ready to join all other countries in a concerted and untiring effort to achieve the goal of rule of law and ensure its safeguard and improvement.

Mr. Chairman,

With regard to the so-called arbitration unilaterally initiated by a certain country and the award rendered by the arbitral tribunal, China has clearly stated its positions in the statements and White Paper of its Government and Foreign Ministry. The arbitration and its award are null and void and have no binding force. China neither accepts nor recognizes them. The Chinese Government will continue to work with states directly concerned to resolve the relevant disputes in the South China Sea through negotiations and consultations on the basis of respecting historical facts and in accordance with international law.

Currently, thanks to concerted efforts of China and ASEAN countries, the situation in the South China Sea is progressing in a positive direction. Countries in the region are working to bring the South China Sea issue back on the right track of dialogue and consultation in a forward-looking spirit.

On 7th September, China-ASEAN leaders' meeting adopted a joint statement, reaffirming all parties' commitment to fully and effectively implementing the Declaration on the Conduct of Parties in the South China Sea(DOC). The meeting also adopted two other important instruments for the implementation of the DOC. These achievements fully reflect the determination and confidence of China and ASEAN countries to manage and control disputes within the framework of regional rules, deepen practical maritime cooperation, and cool down the South China Sea situation. China stands ready to work with ASEAN countries under regional regimes represented by the DOC, properly handle disputes, enhance mutual trust and jointly maintain peace and stability in the South China Sea.

Thank you Mr. Chairman.