

# STATEMENT OF THE PHILIPPINES

## *Item 84 – The Rule of Law at the National and International Levels*

Sixth Committee, 71<sup>st</sup> session of the United Nations General Assembly

Wednesday, 05-06 October 2016

Thank you, Mr Chairman.

[The Philippines subscribes to the statements of the Non-Aligned Movement (NAM) delivered by the Bolivarian Republic of Venezuela **OR the Islamic Republic of Iran** and of the Association of Southeast Asian Nations (ASEAN) delivered by Cambodia **OR Lao PDR.**]

We thank the Secretary-General for his report on strengthening and coordinating United Nations rule of law activities.

As the Philippines already shared with you two years ago during the 69<sup>th</sup> session our comprehensive legal framework on access to justice for all including for the poorest and most vulnerable, I will focus today on the other sub-topic of “Sharing of best national practices in the implementation of multilateral treaties”. We thank Singapore and Romania for organizing last June 30 a side event devoted to this topic.

Four years ago, we adopted our landmark Declaration on the Rule of Law at the National and International Levels. Part II of that Declaration recognizes the role of the multilateral treaty process in promoting and advancing the rule of law, citing the contributions of the principal organs of the UN, the International Law Commission, and even of international courts and tribunals like the International Court of Justice and the International Tribunal for the Law of the Sea.

Under the Philippines’ Constitution, “The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.” (Article II, section 2).

Also under the Constitution, “No treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the Members of the Senate.” (Article VII, section 21)

The Philippines follows the civil law system, but is also influenced by the common law tradition as well as Muslim personal law.

While under international law there is no difference in the binding character between a treaty or international agreement and an executive agreement, in the Philippines’ practice a treaty or international agreement involves political issues or changes of national policy that acquire permanent character. On the other hand, an executive agreement signifies no such change. It embodies adjustments of detail,

carrying out well established national policies and traditions and those involving arrangements of a more or less temporary nature.

In the Philippines' practice, only a treaty or international agreement requires the concurrence of the Senate in its ratification by the President. The Office of the President would require the certificate of concurrence of each executive agency involved in the interagency process, depending on the subject matter. Only when all relevant agencies are on board with the proposal, will the President in turn ratify the treaty or international agreement, and certify the same to the Senate for its concurrence in the ratification.

In many cases, a separate enabling domestic legislation would be necessary to implement the treaty or international agreement. In the event of a legal controversy on the character of the agreement or its very substance, the Supreme Court may assume concurrent original jurisdiction.

In line with this procedure, the general rule is that multilateral treaties to which the Philippines is proposed to be a party involves the participation of our legislative branch, thus requiring the concurrence of the Senate. Many agencies can be involved in the ratification of a multilateral treaty, but there is an identified implementing agency or agencies.

Like many Member States, the Philippines is a party to major multilateral treaties in key areas of international law, including the law on treaties, the law on diplomatic and consular relations, the law of international organizations, international trade law, human rights law, international humanitarian law, international criminal law particularly the Rome Statute, the protection of the environment, the law of the sea, and the peaceful settlement of disputes.

Mr Chairman, when we enter into multilateral treaties, we renew our faith in the rule of law to govern our proper conduct with respect to each other.

The Philippines' participation in these multilateral treaties attests to our long-held belief in and commitment to the proposition that it is right that makes might, rather than the other way around; that the rule of law, in all its majesty, can prevent war and attain peace and security, ensure human dignity, contribute to a better life for all in larger freedom, and create justice. This has become more urgent in the context of our 2030 Agenda for Sustainable Development.

Of the many multilateral treaties to which the Philippines is a party, the UN Convention on the Law of the Sea, our constitution for the oceans, stands out as a distinct achievement. UNCLOS has become the key to ensuring global and regional peace in our just and sustainable use of the world's oceans and its resources. It represents a delicate and careful balance of the rights and obligations of all States Parties, be they big or small, rich or poor, coastal or landlocked.

The Philippines is totally committed to the peaceful and rules-based approach to the resolution of disputes under UNCLOS.

Mr Chairman, colleagues, you are well aware of the 12 July 2016 award rendered by the arbitral tribunal under Annex VII dispute settlement procedures of UNCLOS. Entitled "South China Sea arbitration", the award has clarified the maritime entitlements of the relevant parties. This award is now a significant part of the corpus of jurisprudence in international law.

I shall not now go into the details of this award, except to say that on the fundamental issue of the so-called nine-dash line claim, on the question of rocks or islands, on the problem of fishing rights, or on the protection of the marine environment, the definitions have shifted; now, the terms are the tribunal's terms, as enunciated in its award of 12 July 2016.

As a law-abiding country, the Philippines fully respects the award as valid, final and binding. We appreciate Member States for their support for the peaceful settlement of this dispute, and the respect they have expressed for this award, which is a leading example of a legal outcome resulting from the multilateral treaty process.

In this regard, as the President of the Philippines has said, we are ready to engage and negotiate with the relevant party in order to move forward on the resolution of the dispute.

Mr Chairman, the rule of law, including through the multilateral treaty process, underpins the predictability and stability of national and international development and progress. It anchors relations between and among States, on the basis of respect and sovereign equality. It allows for an environment of genuine peace and security to flourish.

Thank you, Mr Chairman.