

## **Remarks at the 2016 Pilipinas Conference**

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Good morning, ladies and gentlemen.

First of all, my special thanks go to the ADRI and Secretary Del Rosario for having me in this very timely and important conference.

Before moving to this think tank in Japan, Japan Institute of International Affairs, I was in Japan's Foreign Service for a little more than 30 years. Now I feel independent like the Philippines before-- totally emancipated from the shackles of my former employer. But today I notice I am being watched very closely by some Japanese embassy officials who are here. I feel like Michael Corleone of the movie Godfather. "Just as I thought I was out, they pulled me back in." Well, I am sorry to note that today I did not prepare any PowerPoint materials because I did not want to leave any trails that might get me caught by them. Besides, next week I am planning to go to Beijing and I'm still waiting for my visa.

Bear with me for 15 minutes. I just want to throw out some food for thought in the form of five topics. First, the significance of the arbitration award, then China and the US; ASEAN; and finally the way forward and what Japan can do.

### Arbitration

First, the significance of the arbitration ruling. Throughout my 30 some years in the foreign service, I have been a student of international law. You can call me a half-baked international lawyer. But from my

viewpoint, it was the most remarkable decision in my lifetime. Especially the judgment was clearly handed down to both parties, carrying us the effect that China's claims to the historical rights or other sovereign rights or jurisdiction with respect to the maritime areas encompassed by the nine-dash line was judged to be contrary to the UNCLOS. This is a significant decision.

In this regard, I pay good respect to the tremendous job done by the Philippine legal team. In fact, about a little more than a year ago, I came to Manila to discuss the issue with the legal experts of the Philippine Government. Then I was introduced to one of the highly respected brains behind this legal team, a Supreme Court Justice. I went to visit his office and surprisingly to many square Japanese government officials, playing in his office was rock music. We just wondered to ourselves, 'What is really going on?' But as soon as we heard his remarks on some of the salient legal arguments to be made, we were so impressed. So, they did a hell of a job. Incidentally, we are inviting the legal counsel from the United States, Mr. Reichler, to JIIA next year so I am sure he will share his legal insight with the Japanese legal community.

Second point I would like to make here in the context of the arbitration ruling is the measured response from this country. I was told by one of my Filipino colleagues that on the first day, it was like the Philippines hit the lottery right--they went ecstatic. But from second day on, they were so measured and there was no euphoria. This was in stark contrast to the response of the other party to the dispute, whose senior official called the arbitration a complete political farce, the arbitration award a waste of paper. Well, this shows how difficult it is not only to be a good loser but also to be a good student of international law.

You all might wonder what effect this arbitration ruling will have in the near or perhaps distant future. I will say tremendous difference will be made. This is a historic decision and it will have a sustained power. Whenever legal scholars or international experts review this case or similar case, this arbitration award will stay there. So you may view this with no tangible, immediate effect, but certainly, this is final and this is legally binding to both parties.

Back in Japanese history, whenever we have in-fighting amongst samurais or war-lords, the yardstick was which side has the Emperor's flag. So when it comes to this, it is the Philippine Government that has the Emperor's flag.

### China

The second topic I wanted to mention is China: Do they care? My short answer is, of course they do care. There will be a tremendous reputation cost for them and, as I think you know, the Chinese government has been getting more and more cautious in terms of conducting possible further reclamation or further militarization of sea features in the South China Sea. An interesting development I have been able to notice is that when I attended a maritime security seminar in Canberra last time, one of the Chinese participants (he was a legal expert) called the decision of the Chinese government not to appear in the arbitration proceeding as "disastrous." He later on said that if China had done something in the proceedings, China would have lost but not by 0 versus 5 but by 2 versus 3. I am not going to show whether the estimation is right or not but I think it is healthy to see this kind of development or this kind of opinion getting expressed even within China.

Second point is, should we make use of this arbitration ruling? Yes, the Philippine Government as well as the international community should make full use of this important legal decision not only in

bilateral context but also in regional as well as multilateral context. It takes time. Certainly it takes quite some time to realize the real meaning of it, but this ruling is going to be the litmus test of the rule of law in East Asia.

My final point on the China issue is this: some Western media are so quick to point out that under President Duterte, the Philippines is getting drawn closer to China, and separating itself from countries like the U.S. and Japan. Whenever I read such news, I call this kind of observation 'too simplistic' and 'off the mark'. I hasten to point out the facts: Before President Duterte went to Beijing, he went to Hanoi, and after his trip to Beijing, he came to Tokyo. You may have seen the text of the Philippine-Japan Joint Statement issued by Prime Minister Abe and President Duterte. It is perfect. Perfect from the Japanese viewpoint as well. It is natural to try to maintain a close trade and investment relationship with this emerging power in East Asia; Japan has been doing that for some years. What is important for us to do is to speak up on issues of political and security significance as we keep close trade and investment ties with China.

## US

On this comment of separation from the US, this is a ticklish point to be made as I am now rolling down the slippery slope of life in my mid-50s. If you live long enough, you may have seen a lot of situations like these. Such words of separation are often uttered even in very close couples. So I am not very concerned about this particular remark.

Also, coming from Japan, a former colonial and imperial power, I know that there are some countries which have to carry the baggage of history, including Japan and US. Somebody here in this conference mentioned about Mr. Taft. We are taught in the classroom of Japan about this Katsura-Taft Agreement: Americans

get the Philippines and Japanese get the Korean Peninsula. We lived that kind of period. Those days are long gone but still we need to be very sensitive to the feelings of the Philippines and others.

What is important here is, however, not to create any power vacuum, because whenever you create a power vacuum in terms of your alliance with the United States, there are certain forces that are so eager to take advantage of such power vacuum. Look at what happened to the Paracel Islands, look at what happened to the Mischief Reef. History is full of those proofs. Just on general terms, it is really crucial to put emotions under control for a clear-headed and wise accomplishment of national interests. Otherwise, you might end up playing into the hands of you potential adversary who are eager to drive a wedge in your alliance with the United States.

### ASEAN

My fourth point is ASEAN. Yes, the unity of ASEAN has been tested and challenged. Whenever I talk with some people of ASEAN member states, I just get curious as to whether their framing of issues is right or not. When I went to Jakarta the other day, I was told by one prominent Indonesian think tanker that the militarization of the South China Sea is only for two superpowers. By that he meant the US and China, and he also said that it has got nothing to do with ASEAN and Japan. My reaction was, "No, you are framing it wrong." It is not only for those two nations. This is an issue about what kind of regional order and international order you would like to establish in this part of the world.

You all do not have to be reminded of the newspaper advertisement posted in the Philippine Star, August of last year. That is a kind of regional order contemplated by the other party to the dispute. How should we protect and further maintain liberal, rules-

based international order? That is a question being posed to us. Yes, we do not want to see bullying, we do not want see a world where only might prevails.

In this regard, I just want to throw some food for thought, which is: Does ASEAN have the right kind of configuration to seriously tackle this issue? When I was in France the other day, some Europeans are calling Hungary as the Cambodia of EU. So this issue on the South China Sea: Is it conducive to be left to consensus-based decisions of regional institutions such as the ASEAN and the EU? That is a question you might want to ponder. After all, the starting point of this territorial sovereignty issue in the South China Sea was the San Francisco Peace Treaty. Isn't it the time to conduct a San Francisco Peace Conference Mark 2? A kind of minilateral conference to tackle these issues among the countries seriously concerned.

#### Way forward and What Japan can do

Finally, the way forward. I have just three points.

First, the diplomatic approach. As I said, this arbitration ruling is going to stay for good, forever and it is really up to the Philippines how to make full use of it. You might feel lonely standing in the frontline, but you are not alone. Japan has been standing in the frontline to face up to the challenge posed by our continental neighbor. Japan will be here and there to help the Philippines in any way possible.

Second point is capacity-building. The need is very high for the Philippine coast guard as well as for the Philippine navy to develop their capabilities and capacity. There is no question about that. In that spirit, the Japanese Government has decided to provide ten patrol boats, and on top of these ten there are two bigger vessels coming to the Philippine along with 5 training airplanes for lease. This is a significant step forward in conjunction with any contribution to

be extended by like-minded countries such as the United States and Australia.

Finally, I would like to emphasize the importance of letting deterrence work. In that regard, certainly, military presence is important. Aside from freedom of navigation operations conducted by Americans, Japan has been doing joint drills with the Philippine navy and coast guard, and we are making sure the Japanese maritime self-defense forces' vessels stop by Subic Bay, including in April this year. In so doing, we would like to show to the regional community as well as the international community that deterrence has been working and will work in this region.

Thank you for listening, that's all.