Note Verbale No. 0929-2020

The Permanent Mission of the Republic of the Philippines to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to Note No. HA 30/20 dated 27 August 2020 of the Permanent Mission of Malaysia to the United Nations, has the honor to state the position of the Government of the Republic of the Philippines as follows:

With respect to the Government of Malaysia’s assertion that the Republic of the Philippines has excessive maritime claims arising from the Kalayaan Island Group, the Republic of the Philippines asserts no maritime entitlements beyond those defined under the 1982 United Nations Convention on the Law of the Sea (hereinafter referred to as “the Convention”) as interpreted by the Award rendered on 12 July 2016 in the South China Sea Arbitration.

In reference to the Government of Malaysia’s statement on the prematurity of the Philippines’ assertion that the area overlaps with its future submission, the Philippines made the assertion to advise the Government of Malaysia of its intent to make a future submission, and welcomes the opportunity to consult with Malaysia on the delimitation of their respective maritime entitlements, moving forward.

The Government of the Republic of the Philippines reiterates that the Malaysian submission is projected from a portion of North Borneo over which the Republic of the Philippines has never relinquished its sovereignty. As regards the statement of Malaysia concerning the title of the Republic of the Philippines’ claim to a portion of North Borneo, the Philippines recalls the agreement of the parties to the Manila Accord dated 31 July 1963, and reiterates its commitment under the Accord to assert its North Borneo claim in accordance with international law and the principle of the pacific settlement of disputes.

The separate opinion cited by Malaysia in the judgment dated 23 October 2001 rendered in relation to the Philippine application for permission to intervene in the Case Concerning Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia v. Malaysia) did not constitute a formal ruling on the issue of Philippine sovereignty over a portion of North Borneo.

Under the relevant articles of the Convention, including its Annex II, and the Rules of Procedure of the Commission, in particular Annex I thereto, the Commission does not have the mandate to take decisions prejudicial to sovereignty claims by states, or such land or maritime disputes between states.
In view of the foregoing circumstances, the Permanent Mission of the Republic of the Philippines requests the Commission to refrain from considering the submission by Malaysia, unless and until the parties shall have satisfactorily resolved their disputes.

The Permanent Mission further has the honor to request the Secretary-General of the United Nations to circulate this Note to all members of the Commission, all States Parties to the Convention and all Member States of the United Nations.

The Permanent Mission of the Republic of the Philippines to the United Nations avails itself of the opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 09 October 2020

H.E. Mr. Antonio S. Guterres
Secretary General
United Nations