



SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

'17 MAR 20 P2:22

SENATE

RECEIVED BY: _____

P. S. RES. NO. 334

Introduced by **SENATOR LEILA M. DE LIMA**

RESOLUTION

DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE SUSPICIOUS MARITIME ACTIVITIES OF PEOPLE'S REPUBLIC OF CHINA IN BENHAM RISE, AND THE FAILURE OF THE PRESIDENT TO DISCLOSE TO THE SECRETARY OF THE DEPARTMENT OF NATIONAL DEFENSE COMMUNICATIONS WITH SAID FOREIGN GOVERNMENT AFFECTING NATIONAL SECURITY

WHEREAS, the Constitution, Article 1 defines our territory as comprising "the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction, consisting of its terrestrial, fluvial and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas. The waters around, between, and connecting the islands of the archipelago, regardless of their breadth and dimensions, form part of the internal waters of the Philippines";

WHEREAS, Benham Rise is a 13-million-hectare undersea region that lies east of Luzon and off the provinces of Isabela and Aurora. Also known as Benham Plateau, it is a massive formation of basalt, a common volcanic rock, and is described in a study as a thickened portion of the Philippine sea plate's oceanic crust¹;

WHEREAS, the formation lies completely within the continental shelf of the Philippines as defined by the 1982 UN Convention on the Law of the Sea (UNCLOS), under which a coastal state's exclusive economic zone extends 370 kilometers (200 nautical miles) from its continental shelf, while its extended continental shelf extends for another 278 km (150 nautical miles);

¹ Commission on the Limits of the Continental Shelf (CLCS) Outer limits of the continental shelf beyond 200 nautical miles from the baselines: Submissions to the Commission by the Republic of the Philippines. Retrieved from: http://www.un.org/depts/los/clcs_new/submissions_files/submission_phl_22_2009.htm (last accessed on 15 March 2017).

WHEREAS, on 8 April 2009, the Republic of the Philippines submitted to the Commission on the Limits of the Continental Shelf, in accordance with Article 76, paragraph 8, of the UNCLOS, information on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured in the Benham Rise region.² It was submitted as part of a petition expanding the archipelago's baselines and exclusive economic zone through a law that also included other claims involving disputed territories of the Kalayaan Islands and Scarborough Shoal³;

WHEREAS, the Philippines's claim was embodied in Republic Act No. 9522 also known as the Archipelagic Baselines Law. The United Nations, through UNCLOS, finally recognized and officially approved the Philippine claim on the territory on April 12, 2012. Thus, the awarding of Benham Rise to the Philippines brought to 43 million hectares the total land area of the country – from 30 million hectares⁴;

WHEREAS, Department of National Defense (DND) Secretary Delfin Lorenzana said in a media interview held 11 March 2017, Chinese ships were monitored in recent months at locations near the Philippines (Benham Rise), with a warship spotted 70 miles off its western coast in the South China Sea and survey ships seen to the north and south of its eastern seaboard. He said that the DND is in possession of satellite imagery tracking the activities of Chinese vessels for three months last year in Benham Rise⁵;

WHEREAS, Prof. Jay Batongbacal, director of the University of the Philippines Institute for Maritime Affairs and Law of the Sea, states that under our Constitution, all activities in the Benham rise must be "under the full control of the State, even mere explorations"⁶;

WHEREAS, the Chinese Foreign Ministry said that the Philippines cannot claim the region as its own territory despite the UN ruling⁷; further, saying that the incident that transpired was solely based on the international principle of freedom of navigation⁸;

² *Ibid.*

³ RP in last minute scramble to beat UN deadline on territorial claim. *GMA News Online* (21 March 2008) Retrieved from: <http://www.gmanetwork.com/news/story/86021/news/specialreports/rp-in-last-minute-scramble-to-beat-un-deadline-on-territorial-claim> (last accessed on 15 March 2017).

⁴ Benham Rise: Philippines's 'new territory' *Philippine Star* (18 May 2016) Retrieved from: <http://www.philstar.com/headlines/2016/05/18/1584439/benham-rise-philippines-new-territory> (last accessed on 15 March 2017).

⁵ China dismisses Philippine concerns over its ships' activities. *CNN.com* (10 March 2017) Retrieved from: <http://www.reuters.com/article/us-china-philippines-southchinasea-idUSKBN16H17D> (last accessed on 15 March 2017).

⁶ Chinese ships in Benham may spark Duterte impeachment: lawyer. *ABS-CBN News* (15 March 2017) Retrieved from: <http://news.abs-cbn.com/news/03/15/17/chinese-ships-in-benham-may-spark-duterte-impeachment-lawyer> (last accessed on 15 March 2017).

⁷ China: Philippines can't claim Benham Rise. *Philippine Star* (13 March 2017) Retrieved from: <http://www.philstar.com/headlines/2017/03/13/1680673/china-philippines-cant-claim-benham-rise> (last accessed on 15 March 2017).

⁸ *Ibid.*

WHEREAS, for the People's Republic of China ("China") to correctly claim that its ships were merely exercising navigational rights and freedoms, its vessels must have moved from one place to another in a regular and efficient pace, following the usual navigational routes through the Benham Rise Region like any other foreign vessel.⁹ However, the satellite images gathered by the DND clearly shows that China was not merely exercising its right to innocent passage;

WHEREAS, Secretary Lorenzana revealed that he has ordered the Navy to drive away Chinese ships in the area which may be "looking for a place to put submarines"¹⁰;

WHEREAS, Philippine Star reported that President Rodrigo Duterte does not see the reported presence of Chinese ships in the region as an "incursion" in the country's territorial waters¹¹;

WHEREAS, President Duterte was quoted as saying, "We previously agreed. It was a research ship. We were advised of it way ahead"¹²;


WHEREAS, there is need to investigate the national security lapse committed by the President in not informing the Secretary of Defense of prior communications by China with regard to their activities in Benham Rise;

WHEREAS, there is need to ascertain the exact nature of Chinese activities in Benham Rise, especially with the threat of China expanding its military presence in the region;

WHEREAS, the evident lack of communication between the President and the DND Secretary is a major concern for our national security, leading to the President's seemingly cavalier attitude towards the ever expanding Chinese presence in the Pacific Region;

NOW, THEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED, for the proper Senate Committee to conduct an inquiry, in aid of legislation, into the suspicious maritime activities of the People's Republic of China in Benham Rise, and the failure of the President to disclose to the Secretary of the Department of National Defense communications with said foreign government affecting national security.

Adopted,


LEILA M. DE LIMA

⁹ Lorenzana doubts China's claim of 'innocent passage' in Benham Rise. *Inquirer.net* (13 March 2017). Retrieved from: <http://globalnation.inquirer.net/153265/lorenzana-doubts-chinas-claim-innocent-passage-benham-rise> (last accessed on 15 March 2017).

¹⁰ Duterte: China allowed to survey Benham Rise. *Philippine Star* (14 March 2017) Retrieved from: <http://www.philstar.com/headlines/2017/03/14/1681016/duterte-china-allowed-survey-benham-rise> (last accessed on 15 March 2017).

¹¹ *Ibid.*

¹² Chinese ships allowed to survey Philippine territory: Duterte. *Associated Foreign Press* (13 March 2017) Retrieved from: <https://www.yahoo.com/news/chinese-ships-allowed-survey-philippine-territory-duterte-133056085.html> (last accessed on 15 March 2017).