



Senate

Office of the Secretary

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

'18 MAY -8 P2 :41

SENATE

P. S. RES No. 723

RECEIVED

Introduced by Senator Paolo Benigno "Bam" A. Aquino IV

RESOLUTION

DIRECTING THE APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO CHINA'S INSTALLATION OF MISSILES ON MISCHIEF (PANGANIBAN) REEF, SUBI (ZAMORA) REEF, AND FIERY CROSS (KAGITINGAN) REEF, AND THE DIRECTION OF OUR FOREIGN POLICY, WITH THE END VIEW OF PROTECTING OUR SOVEREIGN RIGHTS AND PRESERVING OUR NATIONAL SECURITY AND INTERESTS

1 **WHEREAS**, in accordance with Article XII, Section 2 of the 1987 Philippine
2 Constitution, "The State shall protect the nation's marine wealth in its archipelagic
3 waters, territorial sea, and exclusive economic zone, and reserve its use and
4 enjoyment exclusively to Filipino citizens;"

5
6 **WHEREAS**, in accordance with Article XVIII, Section 25 of the 1987
7 Constitution, "foreign military bases, troops, or facilities shall not be allowed in the
8 Philippines except under a treaty duly concurred in by the Senate and, when the
9 Congress so requires, ratified by a majority of the votes cast by the people in a
10 national referendum held for that purpose, and recognized as a treaty by the other
11 contracting State;"

12 **WHEREAS**, on the 10th of December 1982, the Philippines became a
13 signatory to the United Nations Convention on the Law of the Sea (UNCLOS). The
14 Philippines became one of the first States to submit its instruments of ratification on
15 May 8, 1984. China also signed and ratified the UNCLOS along with 167 other
16 countries;

1 **WHEREAS**, in January 2013, the Philippine government elevated its maritime
2 dispute with China to the International Tribunal for the Law of the Seas (ITLOS)
3 after exhausting political and diplomatic means to peacefully resolve it;

4 **WHEREAS**, in July 2016, the Permanent Court of Arbitration at The Hague
5 issued a landmark decision in favor of the Philippines, invalidating China’s “nine-
6 dashed line” and clarified our nation’s maritime entitlements to the territorial sea,
7 exclusive economic zone (EEZ), and the continental shelf of the Philippines in the
8 West Philippine Sea;

9 **WHEREAS**, as part of its ruling, the Arbitral Tribunal declared that Mischief
10 (Panganiban) Reef and Subi (Zamora) Reef are both Low Tide Elevations (LTEs)
11 situated within the Philippines’ Exclusive Economic Zone (EEZ) and Extended
12 Continental Shelf (ECS) respectively, and thus form part of the country’s continental
13 shelf. Articles 60 and 80 of the UNCLOS provides that only the Philippines has the
14 exclusive right to construct and to authorize and regulate the construction, operation
15 and use of artificial islands, installations and structures in Mischief Reef and Subi
16 Reef. Moreover, only the Philippines has exclusive jurisdiction over such artificial
17 islands, installations and structures, including jurisdiction with regard to customs,
18 fiscal, health, safety and immigration laws and regulations;

19 **WHEREAS**, the Arbitral Tribunal also ruled that the Fiery Cross (Kagitingan)
20 Reef is a High Tide Elevation (HTE) that cannot sustain human habitation or
21 economic life of its own and accordingly has no exclusive economic zone or
22 continental shelf. The claim to sovereign rights over the Fiery Cross Reef and its
23 territorial waters remain disputed;

24 **WHEREAS**, the Arbitral Ruling further declared that the land reclamation and
25 construction of artificial islands, installations, and structures activities undertaken by
26 China in these Reefs were in violation of China’s obligations under UNCLOS and
27 international law;

1 **WHEREAS**, the Philippine Constitution requires the national government to
2 protect the Philippine Exclusive Economic Zone in the West Philippine Sea as
3 affirmed by the ruling of the Arbitral Tribunal. In his recent publication on this
4 matter, Senior Associate Justice Antonio Carpio asserts that the President of the
5 Philippines, "as Commander-in-Chief of the Armed Forces and Chief Architect of the
6 foreign policy of the Philippines, is duty-bound to carry out this mandate of the
7 Constitution;"

8 **WHEREAS**, as signatories to the UNCLOS, China and the Philippines have the
9 obligation to comply in good faith with the ruling of the UN Arbitral Tribunal
10 regarding the West Philippine Sea;

11 **WHEREAS**, on 2 May 2018, the American Television Network CNBC reported
12 that based on recent US Intelligence Reports, China had installed anti-ship and
13 surface-to-air missiles on Fiery Cross Reef, Subi Reef and Mischief Reef;

14 **WHEREAS**, a spokesperson for the Chinese Foreign Ministry confirmed the
15 installation of missiles by saying that, "The relevant deployment targets no one.
16 Anyone with no invasive intention will find no reason to worry about this;"

17 **WHEREAS**, the installation of missiles by China within the Philippine
18 continental shelf was done in complete and blatant disregard to the ruling of the
19 Arbitral Tribunal and the rule of international law;

20 **WHEREAS**, the news about the missile deployment followed alarming reports
21 released over the past months of China's increasing militarization in the West
22 Philippine Sea. Based on satellite photos obtained by the Philippine Daily Inquirer in
23 February 2018, China appeared to be in the final stages of constructing air and naval
24 bases in seven reefs in the Spratlys Region, including Mischief, Subi, and Fiery Cross
25 Reefs;

1 **WHEREAS**, China's installation of facilities on our Reefs is in direct violation
2 of Philippine sovereignty. China's continued military build up in the West Philippine
3 Sea not only threatens our national security but also to the exclusive rights of the
4 Filipino people to explore, use, conserve and manage the natural resources within
5 our jurisdiction;

6 **WHEREAS**, according to Professor Jay Batongbacal, Director of the
7 University of the Philippines Institute of Maritime Affairs and Law of the Sea, China's
8 missile systems and their location and potential use could deny the Philippines
9 access to the maritime trading routes connected to the Straits of the Malacca and
10 the southern region of the South China Sea, which are integral to the country's
11 economy;

12 **WHEREAS**, there is a need to ensure that the country's sovereign rights and
13 the Filipino people's long term security and economic interests in the West Philippine
14 Sea are not compromised in the President's pursuit of a stronger alliance with China;

15 **WHEREAS**, the presence of Chinese air and naval bases, armed with anti-
16 ship and anti-aircraft missiles is prohibited under the Philippine Constitution. The
17 silence or inaction of government leaders regarding this matter is contrary to the
18 Constitutional mandate of the President to preserve and defend its Constitution, and
19 to execute its laws;

20 **WHEREAS**, Senior Associate Justice Antonio Carpio and other foreign affairs
21 and maritime experts have repeatedly warned that the Philippine government's
22 deafening silence and absence of protest over China's continued incursion in our
23 waters may be interpreted and recognized as acquiescence and an abandonment of
24 our maritime claims. We must act decisively before it is too late;

25 **NOW, THEREFORE, BE IT RESOLVED**, as it is hereby resolved to direct
26 the appropriate Senate Committees to conduct an inquiry, in aid of legislation, into
27 China's installation of missiles in Mischief (Panganiban) Reef, Subi (Zamora) Reef,

- 1 and Fiery Cross (Kagitingan) Reef, and the direction of our foreign policy, with the
- 2 end view of protecting our sovereign rights and preserving our national security and
- 3 interests.

Adopted,

Bam Aquino