



# DEBATES OF THE SENATE

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## PEOPLE'S REPUBLIC OF CHINA

Inquiry—Debate Adjourned

Speech by:

The Honourable Thanh Hai Ngo

Tuesday, March 8, 2016

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### PEOPLE'S REPUBLIC OF CHINA

#### INQUIRY—DEBATE ADJOURNED

**Hon. Thanh Hai Ngo** rose pursuant to notice of February 24, 2016:

That he will call the attention of the Senate to the hostile behavior of the People's Republic of China in the escalating territorial claim dispute in the South China Sea.

He said: Honourable senators, I rise today to call your attention to an issue of grave importance to the peace and security of Canada, and of the Asia-Pacific region: the South China Sea and the East China Sea.

Several states have claimed the islands and waters of both seas, including Brunei, China, Malaysia, South Korea, the Philippines, Japan, Taiwan and Vietnam. The overlapping maritime and territorial claims in the South China Sea are mainly focused on two archipelagos: the Paracel Islands and the Spratly Islands. Control of the Spratly Islands to the southeast is contested by every coastal state, and every state apart from Brunei has established a military presence there.

The South China Sea is an area of vital concern for Canada and for the world. The region plays an important role in the global economy, as approximately US\$5.3 trillion in trade passes through the region each year. Canada has a growing interest in this region and our eyes should look to Asia-Pacific closely, especially as we prepare to ratify the Trans-Pacific Partnership.

Indeed, the South China Sea also contains significant energy resources. In 2012, the U.S. Energy Information Administration estimated that the sea bed holds 11 billion barrels of oil and over 300 billion cubic metres of natural gas.

[*Translation*]

Each of the states concerned bases its claims on historical information. Fishermen from China, Vietnam and the Philippines in particular have had a presence in the Paracel and Spratly Islands for centuries. Nonetheless, these islands are largely uninhabitable and it wasn't until World War II that a permanent presence was established.

When Japan relinquished control of the islands in the South China Sea in 1951, the coastal countries began exerting their sovereignty over the islands through military occupation. The militarization of the conflict exacerbated tensions and fighting broke out among several countries over the years. However, China was the most forceful in making its claim.

In 1974, in violation of the Paris Peace Accords, to which it was a signatory, China seized control of the Paracel Islands after attacking the Republic of Vietnam naval forces that were stationed there.

Tensions mounted in 1987 when China's armed forces took control of the Fiery Cross Reef in the Spratly Islands region. The dispute escalated into a naval confrontation between China and Vietnam in 1988, in which over 70 members of the Vietnamese navy lost their lives. Many minor conflicts have occurred since then.

[*English*]

Over the last years, China's land reclamation efforts have intensified. The artificial islands that China occupies and builds have grown significantly for a single purpose: to expand its military purpose and to assert its contested claims. The speed and scale of China's building spree in the South China Sea last year alarmed other countries with interest in the region. Since announcing in June that the process of building seven new islands by moving sediment from the sea floor to reefs was almost done, China has focused its effort on building ports, three airstrips, radar facilities and other military buildings on the islands.

Honourable senators, China is not alone in militarizing the South China Sea; nearly every state has done so to some extent. But the scale of China's assertive actions in the region far outpaces everyone else, and island reclamation is just one example of this.

According to a report by the U.S. Congress released in September, as of June 2015, China has reclaimed over 2,900 acres of land at its outpost in the Spratly Islands alone since the reclamation began in December 2013. To put that in perspective, China has reclaimed 17 times more land in a year and a half than Vietnam, Malaysia, Taiwan, Korea, Japan, Brunei and the Philippines have over the past 40 years combined. Chinese land reclamation activities represent 95 per cent of all land reclamation performed in the South China Sea.

The Chinese government claims that its intentions are peaceful and that it remains committed to resolving the dispute diplomatically.

Here are just some examples of the assertive actions that Chinese forces have carried out in the past year alone: Last June, the Chinese oil rig *Haiyang Shiyou 981* was deployed off the Vietnamese coast in an area claimed by Vietnam. The same oil rig was deployed in the same area in 2014, and that incident led to the worst breakdown in relations between Vietnam and China since their war in 1979.

On January 2 this year, a civilian aircraft landed on the airstrip at Fiery Cross Reef in the Spratly Islands. Two passenger airliners followed on January 7, 2016. This airstrip is the longest in the region and the only one capable of supporting long-range bombers.

As of February 12, satellite imagery has shown that the Chinese military has constructed radar stations at Johnson South Reef, Gaven Reef, Hughes Reef and Cuarteron Reef, while several helipads and a high-frequency radar station have been built on Duncan Island, which places Chinese helicopters well within range of Vietnam's waters.

On February 17, it was confirmed that surface-to-air missiles with a range of 200 kilometres had been placed on Woody Island. This sends an ominous signal that gives falsehood to Chinese claims that its infrastructure development in the region is primarily for civilian purposes.

It is difficult to square China's peaceful intentions with the fact that it is aggressively changing the facts on the ground in defiance of international law and the international community. By doing so, China is undermining the claims of other states.

The Chinese government has continually and emphatically stated its desire to resolve the maritime disputes peacefully, but it has also consistently undermined attempts to reach a diplomatic solution. Unfortunately, a diplomatic solution seems further away than ever before.

In 2002, China and the 10 members of the Association of South East Asian Nations signed a non-binding Declaration on the Conduct of Parties in the South China Sea, affirming their shared commitment to the principles of international law, the freedom of navigation and to resolve disputes peacefully. Negotiations on a more stringent code of conduct for the South China Sea were unsuccessful after China published its claims to the islands and asserted its "indisputable" sovereignty over the South China Sea.

In 2009, the Chinese government published the infamous nine-dash line map outlining its claim to the South China Sea, which includes all the islands and roughly 90 per cent of the sea. The nine-dash line is invalid as a maritime boundary according to the United Nations Convention on the Law of the Sea, but China continues to overstep the bounds of the convention by exercising its sovereignty in contested waters, even if it ratified United Nations convention in 1996.

The International Court of Justice issued a ruling on sovereignty, but the consent of all parties would be required before it could examine the case. China, however, rejects international legal arbitration as a means to resolve its territorial, border or maritime boundary disputes. In Beijing's view, the disputes can only be resolved bilaterally, between China and each of the claimants a one-on-one basis. However, even if the tribunal rules that the nine-dash line is incompatible with the United Nations Convention on the Law of the Sea, Beijing will likely ignore the ruling, leaving the problem unsolved.

In January 2013, having exhausted all diplomatic channels, the Philippines launched an international arbitration process against Chinese conduct in the South China Sea to invalidate China's nine-dash line and to uphold the rights of the Philippines under the United Nations convention. It also wanted to clarify the status under international law of the islands and reefs claimed by both China and the Philippines. Rather than participate, China rejected the Philippines' argument and reasserted China's "indisputable" sovereignty over the islands and claimed that the islands controlled by the Philippines were illegal occupations of Chinese territory. While the Philippine government reportedly submitted 4,000 pages of legal evidence and analysis to support its position, the Chinese government boycotted the arbitration process.

On October 29 of last year, the Permanent Court of Arbitration in The Hague ruled that it has jurisdiction over the case. The

court will issue a legally binding verdict sometime this year. The ruling is widely expected to support the Philippines' position.

**An Hon. Senator:** Hear, hear.

**Senator Ngo:** China has already announced that they will not recognize the ruling.

Honourable senators, rather than commit to a diplomatic solution based upon international law and focused upon reaching a peaceful solution, China has instead begun to change the facts on the ground through its extensive land reclamation and militarization policies, undermining the claims of other states to the disputed islands and ultimately creating instability in the Asian Pacific.

China's commitment to existing international legal regimes is indeed questionable. In China's new order of priority, history comes before the law.

According to the Chinese government, the greatest threat to peace in the region is the United States. Honourable senators, I have brought this inquiry forward as I feel this ongoing territorial and maritime dispute is escalating to a level that Canada cannot continue to ignore. A serious diplomatic and military crisis caused by an accidental clash at sea is a distinct possibility, especially in the absence of clear agreements.

Canada can drive diplomatic talks to be more oriented towards outcomes rather than oriented towards process, as is presently the case. I believe our territorial claim dispute in the Arctic could stand as a model to help those involved in Asia-Pacific issues. Stakeholders in the South China Sea have much to learn from how Arctic states are managing their disputes and working to resolve them.

As a driving force behind the 1982 United Nations Convention on the Law of the Sea, Canada can play an important diplomatic role, upholding the same convention we rely on to claim our northern territory. If the South China Sea dispute is to be resolved, Beijing must bring its claims in line with international law.

Finally, as a dialogue partner of the Association of Southeast Asian Nations, I believe Canada can use this summit as a crucial springboard to promote talks on the South China Sea issue.

Honourable colleagues, I hope that this will be an opportunity for us to explore this complex and escalating issue that deserves our attention and your input.

[*Translation*]

I hope that I have drawn your attention to an issue of great importance to peace and security in Canada and the Asia-Pacific region, namely the situation in the South China Sea and the East China Sea.

(On motion of Senator Enverga, debate adjourned.)

(The Senate adjourned Wednesday, March 9, 2016, at 2 p.m.)