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## THE SENATE

MOTION TO URGE THE GOVERNMENT TO TAKE THE STEPS  
NECESSARY TO DE-ESCALATE TENSIONS AND RESTORE  
PEACE AND STABILITY IN THE SOUTH CHINA SEA—  
DEBATE ADJOURNED

Speech by:

The Honourable Thanh Hai Ngo

Tuesday, May 17, 2016

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[*Translation*]

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#### MOTION TO URGE THE GOVERNMENT TO TAKE THE STEPS NECESSARY TO DE-ESCALATE TENSIONS AND RESTORE PEACE AND STABILITY IN THE SOUTH CHINA SEA—DEBATE ADJOURNED

**Hon. Thanh Hai Ngo**, pursuant to notice of May 12, 2016, moved:

That the Senate note with concern the escalating and hostile behaviour exhibited by the People's Republic of China in the South China Sea and consequently urge the Government of Canada to encourage all parties involved, and in particular the People's Republic of China, to:

- (a) recognize and uphold the rights of freedom of navigation and overflight as enshrined in customary international law and in the United Nations Convention on the Law of the Sea;
- (b) cease all activities that would complicate or escalate the disputes, such as the construction of artificial islands, land reclamation, and further militarization of the region;
- (c) abide by all previous multilateral efforts to resolve the disputes and commit to the successful implementation of a binding Code of Conduct in the South China Sea;
- (d) commit to finding a peaceful and diplomatic solution to the disputes in line with the provisions of the UN Convention on the Law of the Sea and respect the settlements reached through international arbitration; and
- (e) strengthen efforts to significantly reduce the environmental impacts of the disputes upon the fragile ecosystem of the South China Sea;

That the Senate also urge the Government of Canada to support its regional partners and allies and to take additional steps necessary to de-escalate tensions and restore the peace and stability of the region; and

That a Message be sent to the House of Commons to acquaint it with the foregoing.

He said: Honourable senators, I rise today to call the attention of the Senate to China's aggressive behaviour in the South China Sea.

I introduced an inquiry on this subject in the Senate chamber two months ago to illustrate the fact that the South China Sea is strategically very important to the Southeast Asian island countries that border it, but especially to China, which has for some time been exhibiting hostile behaviour to assert its particular vision of territorial ownership.

I want to begin by thanking all those senators who expressed an interest in this issue, and I encourage all senators to take part in future debates. As part of the inquiry, we discussed the situation in the South China Sea, where six separate nations are claiming territorial ownership.

We also saw that those claims have led to increased tensions and the military occupation of several islands. We also discussed the United Nations Convention on the Law of the Sea and how it applies to the situation in the South China Sea.

We also looked at a number of aggressive actions taken by China. Over the past two weeks, tensions have increased even further, to the point where a stronger response is now required. It is therefore appropriate to submit this motion, which has two main objectives. The first objective is to draw the attention of the Senate to this matter. The second is to call on the government to take more action on this file.

In January, China began landing aircraft on the airstrip at Fiery Cross Reef, which is what prompted me to raise this issue. This reef, which is claimed by China, Taiwan and the Philippines, was built as an artificial island. The landing strip on the island is the longest in the region and the only one capable of supporting long-range bombers. In February, Chinese authorities placed surface-to-air missiles on Woody Island, a first in the region. Since that time, Chinese militarization in the South China Sea has intensified considerably.

On March 21, it was reported that anti-ship cruise missiles were also deployed on Woody Island. Fighter jets were stationed there on April 6. On April 26, it was reported that Chinese forces were preparing the site for an airfield and a permanent garrison on Scarborough Shoal.

Scarborough Shoal is just slightly more than 200 kilometres from the Philippines' largest island. Filipino fishermen depend on access to this shoal for their livelihood. The Chinese forces seized the shoal in 2012 after a naval standoff and have barred access to fishermen since then.

On April 12, the Chinese army conducted a test of its newest intercontinental ballistic missile. This missile can strike anywhere in the United States. This test coincided with the visit of a high-ranking Chinese general to Chinese outposts in the South China Sea.

[*English*]

All of these aggressive events are underscored by the constant presence of the China Coast Guard. With over 200 vessels, the China Coast Guard includes the largest coast guard ships in the world. By patrolling China's extensive maritime claims and harassing other ships in the area, China is asserting its control over the region and providing cover for Chinese fishing vessels to intrude into the waters of other nations.

Faced with this rampant aggression, other nations in the region have reciprocated and strengthened their militaries in turn. In March, the Philippines and the United States signed a defence agreement that allows the United States to use several Philippine

military bases within range of the disputed region. Both countries announced plans for joint patrols of the South China Sea in April.

Even nations that have traditionally stayed neutral in the South China Sea disputes have been forced to take action. Singapore's military budget, already the largest in Southeast Asia by share of GDP, is expected to increase further due to what Singapore's defence minister has called "rising nationalism" in the region.

After facing incursions in its waters by up to 100 Chinese fishing and coast guard vessels in March, the Malaysian defence minister has called for a "pushback" against China, and the foreign minister has claimed that Malaysia can no longer remain neutral on the issue.

Honourable senators, these are a few of the events that outline a worrying trend. I plan to release a detailed position paper to describe the maritime dispute, summarize the overlapping claims, list all the developing hostile activities, and describe the impacts this conflict has on Canada and the international community. That is why this motion aims to make it clear that the People's Republic of China's escalatory behaviour is jeopardizing the peace and stability of the region and undermining international maritime law.

Canada must add its voice to those calling for China and the other states involved to take the following actions set out in the motion:

[*Translation*]

(a) recognize and uphold the rights of freedom of navigation and overflight as enshrined in customary international law and in the United Nations Convention on the Law of the Sea.

The free movement of vessels and aircraft is vital for the global economy. Freedom of navigation is one of the fundamental principles of maritime law and Canada needs to uphold it internationally. China is violating the principles of freedom of navigation in two ways. First, it requires that foreign warships that wish to travel through its territorial waters under the right of innocent passage must ask for prior permission, which is contrary to the United Nations Convention on the Law of the Sea. Second, China is deliberately vague about the legal status of its expansionist maritime claims. The ensuing confusion undermines the protection of freedom of navigation in the region.

(b) Cease all activities that would complicate or escalate the disputes, such as the construction of artificial islands, land reclamation, and further militarization of the region.

China is not the only country to have contributed to the militarization of the region. Most of the claimants have occupied islands and reefs in the South China Sea and have built artificial islands to strengthen their positions. However, China's actions have gone well beyond those of all the other claimants. China's activities in the past two and a half years alone account for 95 per cent of all reclaimed land in the Spratly Islands over the past 40 years.

Moreover, China is the only country to have deployed military assets to the region that have no civilian use. There is a big difference between building lighthouses and ports for military and civilian purposes and deploying anti-aircraft and anti-ship missiles in the region. Other countries are contributing to the

militarization in the South China Sea simply in response to China's behaviour.

(c) Abide by all previous multilateral efforts to resolve the disputes and commit to the successful implementation of a binding Code of Conduct in the South China Sea.

In 2002, China and members of the Association of Southeast Asian Nations signed the Declaration on the Conduct of Parties in the South China Sea. The signatories agreed to respect the UN Convention, respect the freedom of navigation and overflight, and to exercise self-restraint in the conduct of activities that would complicate or escalate disputes. Although China has blatantly and systematically disregarded these provisions, the 2002 Declaration remains the most comprehensive multilateral initiative for resolving disputes. Voluntary compliance with its provisions is an essential prerequisite to a lasting diplomatic solution.

The 2002 Convention committed its signatories to working on implementing a legally binding code of conduct. Since 2002, the Association of Southeast Asian Nations and the international community have repeatedly called for this code of conduct to be negotiated, including at the G7 meeting last month. Each time, China expressed a rhetorical interest in establishing a code of conduct, but it refused to participate seriously in the process and used its weight within the Association to undermine the negotiations.

[*English*]

(d) Commit to a peaceful solution in line with the UNCLOS and respect settlements reached through international arbitration.

In his statement at the inquiry, Senator Enverga described in detail the arbitration process that the Philippines is currently pursuing against China. In essence, the Philippines maintains that China's South China Sea claims do not comply with the international law or the UN convention.

In response, China accused the Philippines of sabotaging attempts to reach a negotiated solution. This accusation ignores the fact that the Philippines started arbitration as the final resort only after several attempts at reaching a multilateral solution were blocked by Chinese obstructionism.

China has refused to recognize the proceedings and has announced that it is exempt from the legally binding court decision that is expected sometime this year. In doing so, China has declared that it is not willing to abide by the UN convention, which it has itself ratified, and is not willing to respect international law when it does not agree. This is an irresponsible attitude and a complete disregard for international law and must be condemned by Canada and the international community.

(e) Strengthen efforts to significantly reduce the environmental impact of the disputes.

Not only is island construction undermining peace and stability in the region, but it is also jeopardizing the region's biodiversity. A study published by the University of Hawaii in March found that constructing an artificial island by dredging the reef does irreparable harm to the coral. The dredging process buries reefs and blankets the surrounding sea with a cloud of sediment that

kills nearby aquatic life. This includes the fish that the coastal population surrounding the South China Sea depends upon. It is quite ironic that these nations are destroying the region in an attempt to control it.

The construction of artificial islands will have profound long-term consequences. The coral reefs that act as the foundation for these islands are being destroyed during the construction process. As a result, more dredging and environmental destruction will be needed just to keep the existing island above sea level. Lastly:

(f) That the Senate urge the government to support its regional partners and allies and to take additional steps necessary to de-escalate tensions.

Honourable senators, it is in Canada's interests to ensure that our state abides by international law, including the United Nations Convention on the Law of the Sea.

With new global powers in the Asia-Pacific region, Canada's national interests are at risk. China's refusal to set maritime boundaries in line with UN convention sets a dangerous precedent, particularly as the eyes of the world turn north toward the Arctic, another area of overlapping claims.

China's hostile behaviour is all the more disturbing as China looks to increase its presence in the Arctic. China's authorities have portrayed the country as a near-Arctic state since at least 2012. China has also expressed interest in playing a greater role in Arctic governance, securing its status as an observer on the Arctic Council in 2013.

China is also interested in increasing the amount of merchant shipping travelling through the Arctic, including Canada's Northwest Passage, as evidenced by a report released last month by China's Maritime Safety Administration.

If China succeeds in consolidating its position in the South China Sea through intimidation and by disregarding international law, what tells us this couldn't happen in the Arctic? It is in Canada's interest to ensure that all states abide by the UN Convention of the Law of the Sea, and it is my belief that a motion is needed to urge our government to take greater action there in the South China Sea and to protect our claim here in the Arctic.

Honourable senators, the South China Sea may seem half a world away from our shores, but ultimately the disputes there affect us and Canada must play a larger role.

Honourable senators, it is worth noting that it was Canadian Alan Beesley who helped cement the Law of the Sea in international law. A committed diplomat and civil servant, he was the chairman of that conference drafting committee from 1967 to 1983. His work, for which he was made an Officer of the Order of Canada, was instrumental in the ground breaking convention and enshrining the Canadian values of freedom, fairness and collaboration in the law that governs our collective maritime heritage. We must now urge the government to ensure that neither China nor other states undermine this legacy.

Thank you.

**Hon. Senators:** Hear, hear!

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