

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

8 MAY -7 P5 07

SENATE

RECEIVED BY: 

COMMITTEE REPORT NO. 52

Submitted by the Committees on Foreign Relations; Finance; and National Defense and Security on MAY - 7 2008.

Re : Joint Resolution No. 12, prepared by the Committees.

Recommending its approval in substitution of Joint Resolution No. 9.

Sponsor : Senator Defensor Santiago.

MR. PRESIDENT:

The Committees on Foreign Relations; Finance; and National Defense and Security to which were referred Joint Resolution No. 9, entitled:

**“JOINT RESOLUTION
CREATING A CONGRESSIONAL COMMISSION
ON NATIONAL TERRITORY”**

have considered the same and have the honor to report it back to the Senate with the recommendation that the attached Joint Resolution No. 12, prepared by the Committees entitled:

**“JOINT RESOLUTION
CREATING THE CONGRESSIONAL COMMISSION
ON NATIONAL TERRITORY”**

be approved in substitution of Joint Resolution No. 9, with Senator Defensor Santiago, as author.

Respectfully submitted:



RODOLFO G. BIAZON
Chair, Committee on National
Defense and Security
Member, Committee on Foreign
Relations
Member, Committee on Finance



MIRIAM DEFENSOR SANTIAGO
Chair, Committee on Foreign Relations
Vice-Chair, Committee on Finance
Member, Committee on National
Defense and Security



JUAN PONCE ENRILE

Chair, Committee on Finance
Member, Committee on Foreign Relations
Member, Committee on National Defense and Security

EDGARDO J. ANGARA

Vice-Chair, Committee on Finance
Member, Committee on Foreign Relations
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JOKER P. ARROYO

Vice-Chair, Committee on Finance
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RICHARD "DICK" J. GORDON

Member, Committee on Foreign Relations
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GREGORIO B. HONASAN II

Member, Committee on Foreign Relations
Member, Committee on Finance
Member, Committee on National Defense and Security



MANUEL "LITO" M. LAPID

Member, Committee on Foreign Relations
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RAMON "BONG" REVILLA JR.

Member, Committee on Foreign Relations
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JUAN MIGUEL F. ZUBIRI

Member, Committee on Foreign Relations
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M.A. MADRIGAL


Member, Committee on Foreign Relations
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MAR ROXAS

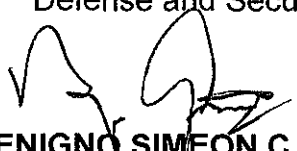
Member, Committee on Foreign Relations
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ANTONIO "SONNY" F. TRILLANES IV
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Member, Committee on Finance
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PIA "Compañera" S. CAYETANO
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FRANCIS "Chiz" G. ESCUDERO
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Member, Committee on National
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PANFILO "Ping" M. LACSON
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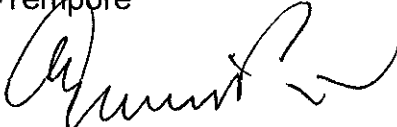

BENIGNO SIMEON C. AQUINO III
Member, Committee on National
Defense and Security

ALAN PETER "Compañero" CAYETANO
Member, Committee on National
Defense and Security

Ex-Officio Members:


FRANCIS N. PANGILINAN
Majority Floor Leader


JINGGOY EJERCITO ESTRADA
President Pro-Tempore


AQUILINO Q. PIMENTEL JR.
Minority Floor Leader

MANNY VILLAR
Senate President
Senate of the Philippines
Pasay City


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

OFFICE OF THE SECRETARY

8 MAY -7 P5:57

SENATE
Jt. Res. No. 12

RECEIVED BY



Introduced by Senator Miriam Defensor Santiago

**JOINT RESOLUTION CREATING THE
CONGRESSIONAL COMMISSION ON NATIONAL TERRITORY**

WHEREAS, a number of bills drawing Philippine archipelagic baselines have been filed in both chambers of Congress, in order to meet the United Nations deadline of 13 May 2009 for submitting claims to an Extended Continental Shelf (ECS);

WHEREAS, not only is the deadline one year away, but also there are already existing Philippine laws on the subject, mainly the 1961 R.A. No. 3046, Defining the Baselines of the Territorial Sea; the 1968 R.A. No. 5446, Amending the Baselines Law Section 1; and the 1978 P.D. No. 1596, Declaring the Kalayaan Island Group as Subject to Philippine Sovereignty, and creating the municipality of Kalayaan in Palawan province;

WHEREAS, it is imperative to create a Congressional Commission on National Territory that shall be tasked to submit a scholarly background paper from experts in international law, geology, hydrography, and geophysics, among others, as an authoritative reference for use in public hearings and plenary debates on the existing bills;

WHEREAS, it is imperative for such a Commission to resolve at least two paramount issues: the limits of the Philippine territorial sea; and the declaration of

Philippine sovereignty over the Kalayaan Island Group, also known as the Spratly islands, which is challenged by several neighboring countries;

WHEREAS, on the first issue, if the Philippines draws archipelagic baselines as provided for by the UN Convention on the Law of the Sea (UNCLOS), the Philippine territorial sea will shrink considerably to only 12 miles from the baselines, compared to the vast maritime area described in R.A. No. 3046 as “all the waters beyond the outermost islands of the archipelago but within the limits of the boundaries set forth in” the 1898 Treaty of Paris and others, known as the International Treaty Limits; which are specifically adopted in the 1935, 1973, and by implication in the 1987 Constitution;

WHEREAS, on the second issue, under the 2002 China-ASEAN Declaration on the Conduct of Parties in the South China Sea: “The Parties concerned undertake to resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force, through friendly consultations and negotiations by sovereign states directly concerned,” thus in effect paving the way for coordinated submission among claimants on the Extended Continental Shelf (ECS) where there are overlapping claims among the Philippines, Vietnam, Malaysia, Brunei, and China; because a coordinated submission is without prejudice to future delimitation among the concerned states;

WHEREAS, at the public hearing on this resolution held on 25 April 2008, the Secretary of Justice submitted an opinion stating that the justice department has no objection to the proposal to create a Joint Congressional Commission, the need is urgent, and there would be no duplication of the powers and functions of the existing Commission on Maritime and Ocean Affairs under the Office of the President;

WHEREFORE, BE IT RESOLVED to create the Congressional Commission on National Territory to be composed of ten members, with the chair

of the Senate foreign relations committee as Commission chair, the chair of the House foreign relations committee as Commission vice-chair, and 8 additional members from each chamber, 4 each to be designated by the Senate President and the Speaker of the House of Representatives, respectively.

The Commission shall, in aid of legislation, submit no later than 31 December 2008, a printed Report on National Territory, that shall include the following topics:

1. Analysis of the full impact of the UNCLOS, beginning with constitutional issues;
2. Areas of possible conflict or incompatibility between the Treaty of Paris and related treaties, and the UNCLOS;
3. Identification of the boundaries of the Philippine state;
4. Effectiveness of Resolution No. 121 of the Batasang Pambansa concurring in the UNCLOS;
5. Implementation of the UNCLOS;
6. Prospect for an Extended Continental Shelf; and
7. Assessment of Philippine claims to the Kalayaan Island Group, and the Scarborough Shoal, *vis-à-vis* competing claims.

RESOLVED, FURTHER, that the Commission shall have the following functions and powers:

- (a) Prescribe and adopt the guidelines that will govern the national review and assessment;
- (b) Approve the work plan for the conduct of the comprehensive review and assessment of the national territory;
- (c) Approve the budget for the programs of the Commission and all disbursements therefrom, including compensation of all personnel;

(d) Hold hearings, receive testimonies, reports and consultations with experts;

(e) Pass upon the recommendations of the technical secretariat which it shall organize, to be headed by an executive director, to provide the necessary technical, management and staff services;

(f) Secure from any department, bureau, office, or instrumentality of the government such assistance as may be needed, including technical information, preparation and production of reports and the submission of recommendations or plans as it may require;

(g) Hire and appoint employees and personnel whether temporary, contractual, or on consultancy, subject to applicable rules;


(h) Summon by subpoena any public official or private citizen to testify before it, or require by subpoena *duces tecum* to produce before it such records, reports, or other documents as may be necessary in the performance of its functions;

(i) Report on its findings and make recommendations on actions to be taken by Congress and the pertinent departments concerned with the national territory; and

(j) Generally, to exercise all the powers necessary to attain the purposes for which it is created.

RESOLVED, FINALLY, that to carry out the objectives of this Resolution, the budget/funds of the Commission on National Territory may be charged equally against the available savings of the Senate and the House of Representatives.

Adopted,


MIRIAM DEFENSOR SANTIAGO

Please
SIGN

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

6 MAR 10 1974

SENATE
Jt. Res. No. 9

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

**JOINT RESOLUTION
CREATING A CONGRESSIONAL COMMISSION ON
NATIONAL TERRITORY**

WHEREAS, the Constitution of 1935 has ordained that the National Territory is comprised of the essential features of the territory set forth in Article III of the Treaty of Paris concluded between the United States and Spain on 10 December 1898, together with all the islands embodied in the treaty concluded between the United States and Spain on 7 November 1900 and the treaty concluded between the United States and Great Britain on 2 January 1930;

WHEREAS, the Constitution of 1973 as well as the present Constitution have assumed continuity in defining the National Territory based on the said treaties in particular in providing that 'the limits of which are set forth in Article III of [the said Treaty of Paris],'' thus implying that the said Treaty of Paris has formed the Constitutional basis of the boundaries of the Republic of the Philippines;

WHEREAS, the Republic of the Philippines has become a party to the United Nations Convention on the Law of the Sea (UNCLOS), giving rise to discrepancies in the definition of National Territory as established by constitutional mandate and resulting in confusion as to the identification of the boundaries of the Philippine State;

WHEREAS, there is a serious lack of assessment of the impact of the UNCLOS on the National Territory, particularly in regard to national security and environmental risks;

WHEREAS, in signing and ratifying the UNCLOS, the Philippine delegation submitted a formal Declaration which has the effect of affirming the supremacy of the Philippine Constitution over the UNCLOS and that the Convention shall not be construed as amending any pertinent national laws, which Declaration encountered opposition from a number of parties to the UNCLOS;

WHEREAS, the legal force of the UNCLOS may appear to be a doubt in regard to the Republic of the Philippines in the light of a seemingly conditional character of the concurrence Resolution No. 121 of the Batasang Pambansa taking into account the said Declaration which was considered by a number of UNCLOS parties as violative of Article 309 of the UNCLOS which prohibits reservations;

WHEREAS, the Republic of the Philippines has continue to maintain claims to territorial sovereignty which have remained unresolved, without significant action or plan for settlement;

WHEREAS, altogether these considerations continue to generate uncertainties affecting fundamental State interests;

WHEREAS, it is imperative that decisive measures be taken towards achieving final resolution to all questions relating to National Territory:

Now, Therefore, be it

Resolved by the Senate and House of Representatives of the Philippines assembled, That a Congressional Commission on National Territory be created jointly by the Senate and the House of Representatives to be composed of five (5) Members of House of Representative and five (5) Members of the Senate to be designated respectively by the Speaker of the House and the President of the Senate, who shall endeavor to have the various regions of the country represented. The Commission shall undertake a national review and assessment of National Territory and identify the fundamental problems, in preparing a program of action for resolving them. Towards these objectives, the Commission shall deal with the following problems, among others: (1) analysis of the full impact of the UNCLOS, beginning with constitutional issues; (2) areas of possible conflict or incompatibility between the said Treaty of Paris and related treaties and the UNCLOS; (3) identification of the boundaries of the Philippine State; (4) effectiveness of Resolution No. 121 of the Batasang Pambansa concurring in the UNCLOS; (5) implementation of the UCNLOS; (6) prospect for an extended continental shelf; (7) assessment of the Philippine claims to Kalayaan Island Group, the Scarborough Shoal, and Sabah in North Borneo vis-à-vis competing claims.

Resolved, further, That to carry out its purposes and objectives, the Commission shall have the following functions and powers:

(a) Prescribe and adopt the guidelines that will govern the national review and assessment;

(b) Approve the work plan for the conduct of the comprehensive review and assessment of the National Territory;

(c) Approve the budget for the programs of the Commission and all disbursements therefrom, including compensation of all personnel;

(d) Hold hearings, receive testimonies, reports and consultations with experts;

(e) Pass upon the recommendations of the technical secretariat which it shall organize, to be headed by an executive director, to provide the necessary technical, management and staff services;

(f) Report on its findings and make recommendations on actions to be taken by Congress and the pertinent departments concerned with the National Territory;

(g) Secure from any department, bureau, office, or instrumentality of the Government such assistance as may be needed, including technical information, preparation and production of reports and the submission of recommendations or plans as it may require;

(h) Hire and appoint such employees and personnel whether temporary, contractual, or on consultancy, subject to applicable rules;

(i) Summon by *subpoena* any public official or private citizen to testify before it, or require by *subpoena duces tecum* to produce before it such records, reports or other documents as may be necessary in the performance of its functions; and

(j) Generally, to exercise all the powers necessary to attain the purposes for which it is created.

Resolved, further, That the head of the Senate Committee on Foreign Relations shall become its Chairperson while the head of the House of Representatives Committee on Foreign Relations shall be the Vice-chairperson. The Chairperson may establish standing committees from among the members. The Commission may use resource persons from the public and private sectors as may be needed. The members of the Commission shall receive no compensation but traveling and other necessary expenses shall be allowed.

Resolved, finally, That the Commission shall accomplish its mandate within twelve (12) months from its organization and that in order to carry out the objectives of this Resolution, the initial sum of PhP 25,000,000.00 shall be charged against the current appropriations of the Senate of the Philippines. Thereafter, such amount as may be necessary for its continued operation shall be included in the annual General Appropriations Act.

Adopted, _____


MIRIAM DEFENSOR SANTIAGO