



SENATE

P.S. Res. No. 64

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Introduced by **SENATOR LEILA M. DE LIMA** RECEIVED BY: _____

RESOLUTION

DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, BOTH IN THE EXERCISE OF SENATE'S BROAD OVERSIGHT FUNCTIONS AND IN AID OF LEGISLATION, INTO THE SUPPOSED FISHING AGREEMENT ALLEGEDLY ENTERED INTO WITH CHINA BY PRESIDENT RODRIGO ROA DUTERTE, WITH THE END IN VIEW OF DETERMINING ITS LEGAL FORCE AND EFFECT, IF ANY, IN RELATION TO ART. VII, SEC. 21 AND ART. XII, SEC. 2 OF THE 1987 CONSTITUTION, AS WELL AS THE LEGAL ACTIONS AVAILABLE TO THE SENATE AS A BODY INsofar AS ITS TREATY-CONCURRING POWER IS CONCERNED

1 WHEREAS, Article XII, Section 2, 2nd paragraph of the Constitution provides
2 that “[t]he State shall protect the nation’s marine wealth in its archipelagic waters,
3 territorial sea, and exclusive economic zone, and reserve its use and enjoyment
4 exclusively to Filipino citizens”;

5 WHEREAS, Article VII, Section 21 of the Constitution provides that “[n]o
6 treaty or international agreement shall be valid and effective unless concurred in by
7 at least two-thirds of all the Members of the Senate”;

8 WHEREAS, the power to bind the Philippines by treaty or international
9 agreement is vested by the Constitution jointly in the President and the Senate;

10 WHEREAS, in the aftermath of the incident at Recto Bank last June 9, 2019,
11 where a Chinese vessel rammed the Filipino fishing boat Gem-Ver 1 and abandoned
12 the 22 Filipino crew, President Rodrigo Roa Duterte revealed that he entered into a
13 verbal fishing agreement with Chinese President Xi Jinping during his visit to China

1 in October 2016, which allowed Chinese access to the Philippines' EEZ in the West
2 Philippine Sea in exchange for Filipinos' access to Scarborough Shoal¹;

3 WHEREAS, during his fourth State of the Nations Address (SONA) last July 22,
4 2019, President Duterte justified the fishing agreement, arguing it is a way to avert war
5 over the West Philippine Sea²;

6 WHEREAS, Presidential Spokesperson Salvador Panelo defended President
7 Duterte by arguing that the Philippine laws have "long recognized that such
8 quintessential power may be exercised by the President even without the concurrence
9 of Congress because executive agreements are usually less formal and deal with a
10 narrower range of subject matters than treaties." Panelo further stated that the verbal
11 agreement made is legally binding³;

12 WHEREAS, there is a need to verify in official proceedings the existence of the
13 alleged fishing agreement, verbal or otherwise, and demand for full transparency as to
14 its exact nature, its terms and parameters in order to assess its compliance (or non-
15 compliance) with legal or constitutional requirements;

16 WHEREAS, as repeatedly asserted by Senate Minority Leader Senator Franklin
17 M. Drilon in the course of his 29 July 2019 interpellation of Senator Francis Tolentino
18 on the latter's privilege speech "Protect Our Seas, Protect the Filipino Fishermen," we
19 must first know what the agreement is all about and the nature thereof, whether an
20 executive agreement or international agreement, so as to determine the need for
21 Senate ratification or concurrence conformably with the Constitution;

22 WHEREAS, there is an issue of whether the fishing agreement is an executive
23 agreement or international treaty, and corollarily, on whether or not there is a need
24 for Senate concurrence before it becomes valid and effective;

25 WHEREAS, it behooves the Senate to ensure that all treaties and international
26 agreements entered into in behalf of our country are in accordance with our
27 Constitution and will redound to the benefit of our people;

¹ Gotinga, JC. *SONA 2019; Duterte insists into fishing deal, threat of war with China*. Rappler. (22 July 2019). Retrieved from <https://www.rappler.com/nation/236054-duterte-insists-fishing-deal-threat-war-china-sona-2019>

² *Ibid*

³ Corrales, Nestor. *Panelo: No need for Congress in Duterte deal to unleash China on PH fishing areas*. Inquirer.net. (25 July 2019). Retrieved from <https://globalnation.inquirer.net/178314/panelo-no-need-for-congress-in-duterte-deal-to-unleash-china-on-ph-fishing-areas>

1 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE, as it is hereby
2 resolved, directing the appropriate Senate Committee to conduct an inquiry, both in
3 the exercise of Senate's broad oversight functions and in aid of legislation, into the
4 supposed fishing agreement allegedly entered into with China by President Rodrigo
5 Roa Duterte, with the end in view of determining its legal force and effect, if any, in
6 relation to Art. VII, Sec. 21 and Art XII, Sec. 2 of the 1987 Constitution, as well as the
7 legal actions available to the Senate as a body insofar as its treaty-concurring power
8 is concerned.

Adopted,


LEILA M. DE LIMA