

REPUBLIC OF THE PHILIPPINES

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SESSION NO. 37

Monday, November 22, 2004

**THIRTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 37
Monday, November 22, 2004

CALL TO ORDER

At 3:31 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

PRAYER

Sen. Alfredo S. Lim led the prayer, to wit:

God, almighty power of the universe, we, as public servants, come before You at the start of our session today.

You have said:

Ask and you shall receive
Seek and you shall find;
Knock and it shall be opened unto you.

We knock at Your door for we find that our strength, wisdom and resolve, are inadequate for the crisis, fiscal or otherwise, which confronts our nation. It is only You, who can help us save us from ourselves. It is we, who have brought about this crisis; therefore, we must also extricate ourselves from this quagmire.

We come to You seeking a solution to this crisis.

What we seek today is not manna from heaven, such as more foreign loans, imposition of onerous taxes, charter change, or conversion or diversion of public funds. What we seek today is for ourselves, as servants of the people.

We ask for ourselves the wisdom to legislate. We were elected by our people, first and foremost, to legislate, not to investigate. Give us the wisdom to know the difference.

Aside from wisdom, we ask the courage, to legislate for the good of all the people, for the good of the nation, for we were elected as senators of the Republic.

Lord, we trust in Your word.

We have come to ask. We are positive that we shall receive Your blessings and graces—not the pork barrel.

We have come to seek. We know that we shall find the inner strength to resist temptation.

We have come to knock. We are assured that You will open unto us the holy door of Salvation.

Amen.

NATIONAL ANTHEM

The Malolos South Central School Children's Choir led the singing of the national anthem and thereafter rendered the song entitled *Umawit Kang Masaya*.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate, Oscar G. Yabes, called the roll, to which the following senators responded:

Angara, E. J.	Lacson, P. M.
Arroyo, J. P.	Lapid, M. L. M.
Biazon, R. G.	Lim, A. S.
Cayetano, C. P. S.	Madrigal, M. A.
Defensor Santiago, M.	Magsaysay Jr., R. B.
Drilon, F. M.	Osmeña III, S. R.
Ejercito Estrada, J.	Pangilinan, F. N.
Ejercito Estrada, L. L. P.	Pimentel Jr., A. Q.
Enrile, J. P.	Revilla Jr., R. B.
Flavier, J. M.	Roxas, M.
Gordon, R. J.	Villar Jr., M. B.

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With 22 senators present, the Chair declared the presence of a quorum.

Senator Recto arrived after the roll call.

APPROVAL OF THE JOURNAL

Upon motion of Senator Pangilinan, there being no objection, the Body dispensed with the reading of the Journal of Session No. 36 and considered it approved.

REFERENCE OF BUSINESS

The Secretary of the Senate read the following matters and the Chair made the corresponding referrals:

MESSAGE OF THE PRESIDENT OF THE PHILIPPINES

Letter of Her Excellency, President Gloria Macapagal-Arroyo dated November 17, 2004, certifying to the necessity of the immediate enactment of Senate Bill No. 1854, entitled

AN ACT INCREASING THE EXCISE TAX RATES IMPOSED ON ALCOHOL AND TOBACCO PRODUCTS, AMENDING FOR THE PURPOSE SECTIONS 141, 142, 143, 144, 145 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED,

to address the urgent need of raising much-needed revenues for the government and address the social concerns arising from the harmful effects of alcohol and tobacco products by instituting the timely adjustment of their tax rates.

To the Committee on Rules

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

Letter from the Secretary General of the House of Representatives, informing the Senate that on November 16, 2004, the House of

Representatives passed House Bill No. 2996, entitled

AN ACT PROVIDING FOR OPTIMUM PERFORMANCE IN REVENUE COLLECTION THROUGH THE GRANT OF SPECIAL INCENTIVES AND REWARDS FOR EXEMPLARY SERVICE AND THROUGH LATERAL ATTRITION IN REVENUE-GENERATING AGENCIES OF GOVERNMENT AND FOR OTHER PURPOSES,

in which it requested the concurrence of the Senate.

To the Committee on Ways and Means

BILL ON FIRST READING

Senate Bill No. 1860, entitled

AN ACT REQUIRING MANDATORY BASIC IMMUNIZATION SERVICES AGAINST HEPATITIS B FOR INFANTS

Introduced by Senator Compañera Pia S. Cayetano

To the Committees on Health and Demography; and Finance

RESOLUTIONS

Proposed Senate Resolution No. 133, entitled

RESOLUTION URGING THE COMMITTEES ON JUSTICE AND HUMAN RIGHTS; AND PUBLIC ORDER AND ILLEGAL DRUGS TO INQUIRE, LOOK INTO AND INVESTIGATE IN AID OF LEGISLATION THE RECENT VIOLENT DISPERSAL OF THE STRIKERS AT HACIENDA LUISITA BY THE JOINT RIOT POLICE AND MILITARY OPERATIVES

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Introduced by Senator Magsaysay Jr.

To the Committees on Labor, Employment and Human Resources Development; and National Defense and Security

Proposed Senate Resolution No. 134, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEES TO LOOK INTO, IN AID OF LEGISLATION, ON THE ALLEGED AUTHORITY OF SWISSPORT PHILIPPINES, INC. TO OPERATE COMMERCIAL AIRCRAFT PASSENGER, CARGO AND GROUND HANDLING SERVICES AT THE NINOY AQUINO INTERNATIONAL AIRPORT (NAIA)

Introduced by Senator Jinggoy Ejercito Estrada

To the Committee on Rules

Given the title of Proposed Senate Resolution No. 134, the Chair said that the resolution should be referred to the Committee on Public Services, subject to confirmation by the Committee on Rules.

COMMUNICATION

Letter from Chairman Florentino A. Tuazon Jr. of the Committee on Overseas Absentee Voting, Commission on Elections, forwarding to the Senate a copy of the Committee's report on the Initial Implementation of Republic Act No. 9189, otherwise known as "The Overseas Absentee Voting Act of 2003."

To the Committee on Constitutional Amendments, Revision of Codes and Laws

**COMMITTEE REPORT NO. 5
ON SENATE BILL NO. 1854**
(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1854 (Committee Report No. 5), entitled

AN ACT INCREASING THE EXCISE TAX RATES IMPOSED ON ALCOHOL AND TOBACCO PRODUCTS, AMENDING FOR THE PURPOSE SECTIONS 141, 142, 143, 144, 145 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED.

Senator Pangilinan stated that the parliamentary status was the period of interpellations.

The Chair recognized Senator Recto, sponsor of the measure.

MANIFESTATION OF SENATOR PANGILINAN

Senator Pangilinan informed the Body that in a caucus of the Majority senators, those who made reservations to interpellate on the bill – Senators Defensor Santiago, Cayetano, Roxas, Villar, Revilla and Gordon – have withdrawn their reservations without prejudice to raising clarificatory questions during the period of amendments.

On the other hand, he said that Senators Osmeña, Lacson, Madrigal, Lim, Pimentel, Ejercito Estrada (J), Enrile and Angara would pursue their interpellations.

PARLIAMENTARY INQUIRY OF SENATOR ENRILE

Senator Enrile asked why he was made a coauthor of Senate Bill No. 1854 when he never authorized anybody to do so.

Citing Rule XXI, Section 60 of the Rules, Senator Recto explained that the practice in the Senate is that when a senator files a bill on the same subject matter, in this case, Senate Bill No. 1815, he automatically becomes an author or a coauthor of the consolidated/substitute bill. However, he said he would not object if Senator Enrile would want his name removed as one of the coauthors of Senate Bill No. 1854.

Senator Enrile pointed out that nobody can insert his name in any document without his consent. He said that he owes nobody a favor for

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deleting his name from the list of authors and coauthors of Senate Bill No. 1854. He acknowledged that it is a normal practice in the Senate to take into account the authors of bills on the same subject matter in a consolidated/substitute bill, and they are included as coauthors if they so desire. He said that he does not want to be identified with the substitute bill.

Thereupon, the Chair directed the Secretariat to remove the name of Senator Enrile as coauthor of Senate Bill No. 1854.

INTERPELLATION OF SENATOR LIM

Adverting to Senator Recto's speech, Senator Lim noted that the government would earn about P10 billion from the proposed taxes. Senator Recto replied that P5 billion would come from tobacco and roughly P5 billion from alcohol.

On the possibility that cigar manufacturers, in order to reduce their taxes, would shift from the more expensive kind to the lower kind as a result of the classification or categorization of cigarettes, Senator Recto replied that this would not be the case for existing brands in the market, but it is possible new brands or variance of cigarettes would be produced. However, he noted that under the bill, manufacturers would pay the highest classification, unless the consumers preferred new products that fall under the very low category.

Senator Lim asked why Prof. Solita Monsod, in her column in the *Philippine Daily Inquirer*, claimed that the sin tax bill of Senator Enrile is better than Senate Bill No. 1854. In reaction, Senator Recto stated that he read the column twice but he never came across such a statement although Professor Monsod did mention the House version. He surmised that Professor Monsod has not studied the issues pertinent to the bill, particularly the concerns of the different stakeholders.

Senator Lim observed that in her column, Professor Monsod asked why the provisions of the law that the classification of local brands of

wines and cigarettes based on the average net retail prices as of October 1, 1996, would be retained. He emphasized that eight years have elapsed and wine and cigarette prices have increased. He asked if it would be more favorable to the government to base the taxes on last year's prices.

Senator Recto explained that the sin tax bill has metamorphosed since it was originally crafted by Senator Enrile in 1997. He stated that Senator Enrile's bill proposed to change the *ad valorem* tax system (tax is based on value) to the specific tax system (tax is based on volume). He explained that prior to 1997, the *ad valorem* system was in place but Congress and the Executive thought it best to shift to the specific tax system so it would be easier to collect taxes. He recalled that during the interpellations on the bill, Sen. Neptali Gonzales agreed with the Sponsor to adopt an indexation so as to merge the good points of the *ad valorem* system with the sour points of the specific tax system.

Senator Recto pointed out that Senator Enrile's bill proposed three tiers based on the following considerations: 1) the ability of the consumers to pay; 2) indexing the brackets; and 3) indexing the tax rate to merge the specific and the *ad valorem* systems. He stated that as a result of the interpellations of Senators Drilon and Roco, the Senate agreed that a rate increase would be done in the year 2000.

Senator Recto stated that if the classification or brackets would be indexed on the basis of the 43% difference between the CPI then and now, many of the brands sold in the market would fall under the lower tier, hence, there would be less government revenues.

Moreover, Senator Recto recalled that in 1997, in view of the threat of liberalization, Senators Osmeña, Coseteng and Macapagal debated on adding a fourth tier – a tier on premium to protect the local manufacturers.

Senator Recto stated that the arguments of Professor Monsod failed to account for the policy considerations of Congress then and now. He said

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that even the present bill of Senator Enrile did not ask for a reclassification but only an increase of 435% in the low tier; 7% increase in the middle tier; and, 6% increase in the high tier for the first year.

Senator Lim stated that he would not dispute the events that happened in 1997, adding that the decision of Congress may have been sound at that time. However, based on Senate Bill No. 1854, he wondered if the inclusion of said provisions would be beneficial to the Filipino people and government. He said that he could not comprehend the effectiveness of the provisions since even the BIR and the Department of Finance were battling for their repeal.

Asked if it would be favorable for everyone if the provision were deleted, Senator Recto replied that the reason why Congress decided to put the provision in the law is to protect the consumers since the brackets were not indexed and there was to be only one-rate increase in the year 2000. He explained that if the tax rate is too big, the consumers would not buy the goods and there would be no revenues for the government. Furthermore, he said that the committee decided it would be best to have a higher tax increase on alcoholic beverages, the primary objective being to raise government revenues.

Stating that it is the duty of the senators to take a look at the different interests of the stakeholders — manufacturers, importers, distributors, retailers, factory workers and tobacco farmers — Senator Recto suggested that the Members look into the Record of the Senate then and now so that they would see that the very same issues relating to the interests of the stakeholders are still being discussed.

Asked if the imposition of a 30% increase in tax would encourage smuggling, Senator Recto replied that it is always a possibility.

Senator Lim contended that it would have been better if it was argued that it would be up to the proper authorities to check smuggling. He added

that the failure to neutralize such activities puts the country at the mercy of the illegal manufacturers.

Senator Recto stated that it was the farthest thing in his mind not to go after smugglers. He said that during the committee deliberations, it was discovered that 20% of the total volume of cigarettes are smuggled into the country. As a smoker, he said that he is able to identify the different retail outlets that are selling smuggled cigarettes. He added that while it is true that tax policy is different from tax administration, they are related to one another. Furthermore, he asserted, with a weak law enforcement, smuggling has definitely increased.

Citing the statement of Senator Gordon that there was no instance of smuggling during his term as SBMA Chairman, Senator Lim stated that it takes a really competent executive to stop smuggling.

Senator Lim warned that succumbing to the proposal of the taipans might result in further speculations that lobby money has entered into the picture, as alleged by a congressman last week.

Adverting to the claim of Senator Enrile that his proposal was more advantageous not only to the government but to the health of the consumers, Senator Lim proposed that 5% of the additional revenues be divided between the Philippine Lung Center, the Philippine Heart Center and the National Kidney Institute for patients afflicted with lung sickness.

Senator Recto said that while the bill is a revenue measure, the Committee on Ways and Means did call for the Department of Health to be present during the committee deliberations because health is a secondary issue. In fact, he said, Section 6 provides that:

“Ten percent (10%) of the incremental revenue generated by the government from the excise tax on alcohol and tobacco products starting January 2005 shall be earmarked for the national health insurance program to meet and sustain its goal of universal coverage, and two and a half

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percent (2½ %) shall be earmarked for the public information programs on the ill effects of smoking of the Department of Health.”

RESERVATIONS TO INTERPELLATE

Senator Pangilinan informed the Body that Senators Lacson, Madrigal, Angara, Osmeña, Ejercito Estrada (J), Ejercito Estrada (L), Pimentel and Enrile who have reservations to interpellate would do so either the following day or at some other day.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1854

Upon motion of Senator Pangilinan, there being no objection, the Body suspended consideration of the bill.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 4:15 p.m.

RESUMPTION OF SESSION

At 4:15 p.m., the session was resumed.

COMMITTEE REPORT NO. 3 ON SENATE BILL NO. 1837

(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1837 (Committee Report No. 2), entitled

AN ACT EXTENDING THE UTILIZATION PERIOD OF THE AGRICULTURAL COMPETITIVENESS ENHANCEMENT FUND, AMENDING FOR THE PURPOSE SECTION 8 OF REPUBLIC ACT NO. 8178, ENTITLED “AN ACT REPLACING QUANTITATIVE IMPORT RESTRICTIONS ON AGRICULTURAL PRODUCTS, EXCEPT RICE, WITH TARIFFS,

CREATING THE AGRICULTURAL COMPETITIVENESS FUND” AND FOR OTHER PURPOSES.

Senator Pangilinan stated that the parliamentary status was still the period of interpellations. He informed the Body that Senators Osmeña, Villar, Gordon and Defensor Santiago have reservations to interpellate.

Thereupon, the Chair recognized Senator Magsaysay, sponsor of the measure, and Senator Defensor Santiago for her interpellation.

SUSPENSION OF SESSION

Upon motion of Senator Magsaysay, the session was suspended.

It was 4:16 p.m.

RESUMPTION OF SESSION

At 4:18 p.m., the session was resumed with Senate President Pro Tempore Flavier presiding.

INTERPELLATION OF SENATOR DEFENSOR SANTIAGO

Senator Defensor Santiago noted that the reason for extending the life of ACEF by 10 more years is based mostly, if not wholly, on administrative incompetence and inefficiency. She said that when the law was passed in 1996, it was very clear that it needed certain administrative procedures to be undertaken in order for its objectives to be properly pursued; however, she noted that these procedures, which the DBM should have initiated and continued until their logical conclusion, were not followed.

In view thereof, Senator Defensor Santiago asked whether it was possible to identify the individuals who were responsible for the administrative incompetence and inefficiency that makes it virtually imperative to extend the life of the Fund so that proper charges could be filed against them with the Ombudsman.

Senator Magsaysay explained that as soon as the law was passed in 1996, the Bureau of Customs remitted the in-quota tariff based on the

Minimum Access Volume to the National Treasury; however, he said that since there was no special fund until 1999 or 2000, the funds were commingled with the General Fund and were used for other purposes as a result of the Asian crisis in 1997 and 1998. He said that it was only in 2000 that then Agriculture Secretary Angara and Senate Agriculture Committee Chair Serge Osmeña initiated Special Fund 183 and all collections for ACEF were isolated from the General Fund. He said that he could not pinpoint whose fault it was that the initial funds were used as part of the General Fund.

Senator Defensor Santiago pointed out that when the Fund commingled with the rest of public funds and used for other purposes, there was a violation of the law because it specifically provided that the Fund shall go to certain agricultural purposes. She said that she would propose amendments to the bill so as to provide for the criminal prosecution of those who were responsible for the failure to devote ACEF to the objectives enumerated in the law, which could be a case of malversation or malfeasance, at the very least. She suspected that the individuals involved are from the Department of Budget and Management. Senator Magsaysay stated that he was a first-term senator during the financial crisis when there was a 20% across-the-board reduction in the budgets of all departments.

Senator Defensor Santiago pointed out that the issuance did not refer to special funds which needed special account numbers. She said that it was the duty of the DBM to open an account number where the funds could be deposited. The funds, she said, should not have been used for other purposes because the Constitution provides that funds shall be used only for purposes as specified by law.

In reply, Senator Magsaysay narrated the following events:

- 1) In September 1997, the Department of Agriculture modified the rules to make ACEF in the form of a grant; out of 300 applications in 1997, four were approved and endorsed to the DBM for funding.

- 2) In November 1997, the DBM stated that it cannot release funds without a certification of actual ACEF collections from the National Treasury and that the ACEF does not appear to be a revolving fund or a special account, so that the amount collected in the previous years would automatically revert to the General Fund;
- 3) On June 22, 1998, or eight months later, the Bureau of Customs finally released a report to the National Treasury of its in-quota tariff collections covering October to December 1997, and January to May 1998;
- 4) From July to October 1998, the Senate Blue Ribbon Committee conducted an investigation. As a result thereof, in November 1998, the DBM classified the ACEF as a special account, Special Fund 183. In the meantime, the National Treasury said that it cannot issue any certification regarding customs collection on ACEF from 1996 to October 1998 as these have already been reverted to the General Fund.
- 5) Finally, on September 20, 1999, the National Treasury credited to Fund 183 the amount of P153 million which covered only customs remittances from three major ports out of the 115 ports in the country and 10 major ones. The period covered was January to June 1999, P153 million was credited to Fund 183 in 1999.

Senator Defensor Santiago stated that this only confirms that the DBM was at fault because it did not immediately open a special account number. She stated that whoever was responsible for the account number should be held responsible.

Adverting to lines 1 to 12, page 2 of the bill, Senator Defensor Santiago asked on the justification for providing only 15% for research

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and development. She admitted that there is a need for farm-to-market roads, irrigation and post-harvest equipment and facilities, all of which were her thrust during her stint as the Secretary of Agrarian Reform. However, she pointed out that there must be ample allocation for research, development and training. She observed that the strongest department in any managed organization is research and development as cited in the latest business administration manuals and magazine articles. She further noted that in other agricultural countries, agricultural products are heavily subsidized. On the other hand, she observed that 85% is proposed to be set aside for field activities.

Senator Magsaysay noted that the ACEF law states that the entire proceeds is set aside and earmarked by Congress for "irrigation, farm to market roads, post harvest, etc... including research, credit research and other marketing infrastructures." He explained that the committee has proposed that a specific percentage of the Fund should go to research and development since the Department of Agriculture and the AFMA have already allocated funds for agricultural concerns in their budgets. He pointed out that there is no quantification in the law. He agreed with Senator Defensor Santiago on the importance of research and development in modern technology. He explained that the amendment was being proposed because the ACEF in the past five years has not been allocated for research and development. Senator Defensor Santiago stated that she would take up the issue again during the period of amendments.

As regards the issue of extending the utilization period of the ACEF, Senator Defensor Santiago asked if it is possible to limit the extension to six years. She cited the DBM report that P271 million of the Fund is utilized in a year, thus, given the limited absorptive capacity, the extension should only be six years because that is how much money the agricultural sector can use at any given time.

Senator Magsaysay clarified that the goal is to maximize the use of the balance of about P2.7 billion. He added that the loan is interest-free up to seven years thus, there will be collections from entities with loans, which could be reused

until 2015. He clarified that if lending will start on 2005, with a 2-year grace period, the payment will start after 5 years, hence, the target period is 2012. He added that there were also representation in the past weeks that the Fund should continue beyond 2015 because agriculture is one of the backbones of the country's economy. He said that if the Fund is nurtured, collected and used well, it could continue supporting the agricultural sector.

Senator Defensor Santiago posited that the problem could actually be solved if a new provision is inserted in the bill that would make it necessary for the agriculture people to show that the utilization rate of ACEF justifies the 10-year extension period and its absorptive capacity can be raised. She said that she would bring this up during the period of amendments.

Senator Magsaysay posed no objection, stating that an amendment that would give the Department of Agriculture the authority to examine the absorptive capacity of the ACEF would improve the bill. He further pointed out that the DBM is not up to date in releasing the approved loans and at this time, P153 million is yet to be released for four approved projects. He noted that there is a bottleneck at the DBM as far as releases are concerned.

If that is the case, Senator Defensor Santiago said that the DBM, in effect, is exercising the power of "impoundment" because despite an appropriation made by Congress, it refused to obey the congressional mandate by simply delaying the release of funds on the pretext that the Constitution specifies the Executive as the only branch of government that can release public funds. The U.S. Supreme Court, she said, has ruled that impoundment is unconstitutional. She commented that the Executive cannot, in the guise of a power not explicitly granted to it under the Constitution, contravene or oppose the power of the purse of the Congress. This, she stressed, should be made clearer in the next six years.

Adverting to Section 2, Senator Defensor Santiago asked why there is no officially designated depository bank, pointing out that the Land Bank of the Philippines and the

Development Bank of the Philippines are institutions that have vast expertise in lending operations. Senator Magsaysay posed no objection to specifying the Landbank or the DBP as the depository bank.

Adverting to a committee hearing on December 16, 2003, Senator Defensor Santiago recalled that DBM operations director, Nora Oliveros, made a statement that Special Fund 183 showed a balance of more than P4 billion in its book; the release of the Fund to the Department of Agriculture was constricted because it had to compete with other sectors. She asserted that, in effect, Ms. Oliveros said that there was no money in the National Treasury and implied that the DBM follows its own list of priorities in releasing money.

Senator Defensor Santiago underscored the need for an assurance that the Fund will go to the agricultural sector and that it does not have to compete with other sectors because the law has already set aside money specifically for agriculture.

On whether safeguards have been put in place against the unauthorized poaching by the DBM on Special Fund 183, Senator Magsaysay replied that this was the reason why Section 2 was inserted in the bill so that the Fund shall be retained in the depository bank. He pointed out that there is a provision in the law that by March 2005, all the funds -- both unutilized and collected -- will have to go back to the DBM. He stressed that by extending the utilization of the ACEF, the Fund shall become a revolving fund that will stay with Special Fund 183. He said that the Department of Agriculture, the Landbank or even Quedancor may continue to lend whatever is left of the Fund.

Senator Defensor Santiago stated that she would propose more safeguards for that purpose during the period of amendments.

INTERPELLATION OF SENATOR GORDON

Senator Gordon believed that the effectivity of the ACEF law should be extended because it allows farmers and people involved in agriculture to

have some kind of purchasing power to make them competitive. However, he wondered how the money is actually dispersed since no committee or authority handles it.

Senator Magsaysay said that under the ACEF, entities like farmers, cooperatives and even small-medium enterprises in agriculture and food that have proven track records and have been operating for a minimum of three years could avail themselves of loans.

Asked how a farmer would go about borrowing money from the ACEF, Senator Magsaysay replied that he could go to the Quedancor.

QUESTION OF QUORUM

At this juncture, Senator Enrile raised a question of quorum and moved for a roll call.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 4:55 p.m.

RESUMPTION OF SESSION

At 4:57 p.m., the session was resumed.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate called the roll, to which the following senators responded:

Arroyo, J. P.	Lapid, M. L. M.
Defensor Santiago, M.	Madrigal, M. A.
Drilon, F. M.	Magsaysay Jr., R. B.
Ejercito Estrada, L. L. P.	Pangilinan, F. N.
Enrile, J. P.	Pimentel Jr., A. Q.
Flavier, J. M.	Revilla Jr., R. B.
Gordon, R. J.	Villar Jr., M. B.
Lacson, P. M.	

With 15 senators present, the Chair declared the presence of a quorum.

Senators Ejercito Estrada (J) and Roxas arrived after the roll call.

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INTERPELLATION OF SENATOR GORDON

(Continuation)

Senator Gordon observed that there seems to be a gargantuan bureaucracy that a farmer has to deal with before he can borrow money.

Senator Magsaysay stated that on the highest level, the ACEF Execom is chaired by the Agriculture Secretary; co-chaired by the Senate Agriculture Committee Chairman and the House Agriculture Committee Chairman; the members include the Agriculture Department Undersecretary, Administrator of the Sugar Regulatory Administration, and representatives from the Agriculture and Fisheries Mechanization Program Committee, the National Fisheries and Aquatic Resources Management Council, National Federation of Hog Farmers, Sugar Millers Association, and the Sugar Planters Association who are private individuals. The ACEF National Technical Committee, he said, is chaired by the Assistant Secretary for Policy and Planning with the Assistant Secretary for Finance as Vice-Chair; and the Assistant Secretary for Field Operations of Agriculture, and representatives from the Bureau of Fisheries and Aquatic Resources, National Agriculture and Fisheries Council (NAFC), National Irrigation Administration, Department of Budget and Management as members.

Further, Senator Magsaysay said that the Regional Technical Committee, which evaluates the application for an ACEF loan, is headed by the Department of Agriculture with representatives from the Landbank and NAFC. He stated that once the ACEF Executive Committee approves the financing, the application goes to the DBM for endorsement and it is the Landbank that sits down with the applicant to discuss the important requirements that include repayment schedule and the counterpart equity, after which it releases part of the loan or the whole of it.

On whether it takes about six months for an individual to get a loan, Senator Magsaysay said that the Executive Committee tries to work within the framework of six months although there was an instance when one borrower waited for three years.

Senator Gordon suggested that the Executive Committee enunciate the policies to guide the people on how to get loans that can be endorsed to the regional office. The application, he said, should go to the Executive Committee only if the amount goes beyond a certain limit, otherwise, it would take years to process it.

Senator Magsaysay said that the Execom members have been insisting that the whole process should have a 90-day time frame. He added that the committee has been advising the national technical committee to go to the regional level whenever there is a set of applications.

Senator Gordon stated that the process should be on the regional level so as not to make the borrowers wait for a long period of time as he recalled that in the case of Subic Bay, he was able to move very fast because decisions were made on the ground level. He asked whether it would be better to give the regional office the authority to release a maximum amount of P10 million while the Executive Committee monitors the budget.

Senator Magsaysay replied that the suggestion could be considered although there would be a problem with the release of funds by the DBM. He said that he has asked the national technical committee to join the regional technical committee in one meeting to discuss the matter. Upon the approval of the measure, he stated, the endorsements would be sent to the ACEF Executive Committee.

Senator Gordon asked why the DBM should overstep its boundaries without authorization from Congress. He stated that he would file an amendment that would allow disbursement of the money up to a certain amount on the regional level; the Executive Committee could step in subject to policies enunciated made by the national technical committee and the Executive Committee. He added that he would like to put a face to the agency that would be in charge of the money. Senator Magsaysay welcomed the proposal, saying that it would encourage the various bureaucracies to act faster and be more responsive to the market.

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Senator Gordon observed that about P6 billion is already allotted to irrigation as provided for in the GAA. However, he said that in spite of Section 8 of the law, irrigation has not been given priority. He cited the percentage breakdown of the agriculture budget, specifically for farm-to-market roads, equipment and facilities and post-harvest facilities, among others, and remarked that there was an inappropriate expenditure of the money. To hasten the process under the ACEF, he suggested putting priority on post-harvest facilities on the regional level.

Senator Magsaysay pointed out that the measure seeks to devote 85% of the Fund to post-harvest facilities because farm-to-market roads and irrigation already have allocations in the GAA. He informed the Body that the loans being interest-free, those who will borrow are expected to pay.

Senator Gordon recalled a lecture sponsored by U.P. Los Baños on the state of the country's agriculture, saying that about 30% of the cost goes only to the handling of the goods, meaning, from the farmer, to the middlemen, to the seller and so on.

Asked what improvements are needed to improve this inefficiency and, thus, make agriculture more competitive, Senator Magsaysay replied that there are efforts to modernize the system of transporting the produce to the market, and to maintain the same quality standards that consumers expect. He added that cooperatives, federations or even corporations that would want to venture into post-harvest activities could access the loans.

On the observation that the funding for marketing is almost negligible, Senator Gordon stressed that it is important that the farmers be made aware that the Fund is available to them. He noted that there were only 58 loans that had been approved since 1999 for an average of 12 loans a year. He said that the problem might be that of marketing the Fund, in the same way that when one markets a country's tourism industry, local provinces and beautiful destinations are showcased. He remarked that if there is a particular loan that could be made available to

the masses, then they should be made aware of the advantages they may get from availing themselves of the same. Senator Magsaysay agreed.

Stressing that marketing is an activity that the government must take, Senator Gordon said that public information must always be part of every project to make the agriculture industry modern and competitive. Senator Magsaysay agreed as he said that the bill provides for an 85% increase in the budget for post-harvest facilities including market promotion. Further, he agreed that the public should be informed as they may not even be aware of ACEF. He added that it was only last year that the DBM released the P5 million administrative fund.

Senator Gordon stated that people could not make ends meet because they are unaware that the government can provide them with sources and support for their agricultural needs. He asserted that a lean and mean staff is needed to lobby with the DBM to release the money, create and market the necessary government programs, ensure the Fund's objective are met, disseminate information to the people, and report to Congress on the status of the Fund. Part of marketing, he said, is to define what kind of productivity is being required. He mentioned that countries like Thailand utilize tourism programs to sell and export high-value crops.

Senator Magsaysay agreed that information should be relayed in a more resourceful way. He recalled that when Thailand concentrated on agriculture and tourism, the government partly funded Thai restaurants all over the world, making it their culture, food and products showcases.

Citing lines 9 to 12 of page 2 of the measure, Senator Gordon asked if research could be pursued in terms of the development of hybrid crops. Senator Magsaysay replied in the affirmative, saying that it is the kind of research and development that should be funded. He pointed out that there is no ACEF office and its staff were gathered from different offices of the Department of Agriculture. Senator Gordon noted that ACEF does not need a new bureaucracy; instead, it needs a dedicated office that would ensure the availability of funding.

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promote marketing and facilitate researches and make them accessible to farmers.

Senator Magsaysay revealed that the Execom is one entity that could regularly meet, and direct and prioritize the ACEF. Senator Gordon stated that without necessarily adding to the bureaucracy, there should be a regional staff in the DA that could work with other agencies and make decisions regarding funding. He pointed out that there must be a driving force for the Fund, an organization that is always overseeing the money and in touch with DBM to release the funds. He stressed that it should have a marketing capability to inform the public that the Fund is available, and to market organization-funded researches.

Senator Gordon believed that the ACEF should look into developing post-harvest facilities and hybrid vegetables and fruits to modernize agricultural capabilities along with the use of advanced machinery. Moreover, he opined that with this structure in place, funds for the agricultural sector need not be included in the national budget as Fund 183 would be used for this purpose. While conceding that the existing set-up for the ACEF could be improved with better implementing rules and regulations, Senator Magsaysay nonetheless stressed the need to find a leader with a vision who could make the ACEF more competitive and help attain the original objectives for its creation.

Senator Gordon said it would be a pity if the ACEF failed owing to government's lack of understanding of the extent of the problem and the absence of a structure to implement the objectives of the Fund. Further, he clarified that his suggestions were meant to lay the basis for amendments at the proper time. Senator Magsaysay gave assurance that the committee would welcome amendments to improve the bill.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1837

Upon motion of Senator Pangilinan, there being no objection, the Body suspended consideration of the bill.

RECONSIDERATION OF THE APPROVAL OF THE JOURNAL OF SESSION NO. 36

Upon motion of Senator Pangilinan, there being no objection, the Body reconsidered the approval of the Journal of Session No. 36.

APPROVAL OF THE JOURNAL AS CORRECTED

Thereafter, upon motion of Senator Pangilinan, there being no objection, the Body approved the Journal subject to the correction made by Senator Pangilinan on page 805, left column, sixth paragraph, first line, to insert the word NOT between the words "may" and "recommend."

REMINDER OF SENATOR PANGILINAN


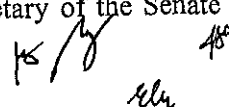
Senator Pangilinan reminded the Body that it would resume consideration of Senate Bill No. 1854 the following day and that Senators Lacson, Madrigal, Angara and Ejercito Estrada (J) have reservations to interpellate on the same.

ADJOURNMENT OF SESSION

Upon motion of Senator Pangilinan, there being no objection, the Chair declared the session adjourned until three o' clock in the afternoon the following day.

It was 5:34 p.m.

I hereby certify to the correctness of the foregoing.


OSCAR G. YABES
Secretary of the Senate


Approved on November 23, 2004