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**SESSION NO. 84**

Wednesday, May 11, 2005

**THIRTEENTH CONGRESS  
FIRST REGULAR SESSION**

SESSION NO. 84  
Wednesday, May 11, 2005

**CALL TO ORDER**

At 3:38 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

**PRAYER**

Sen. Ma. Ana Consuelo "Jamby" A. S. Madrigal read "Prayer for the Poor" from the book *Sundays for Skeptics: The Homilies*:

***Our Father...***

Father of the weak, the powerless, and the poor.  
Father of the abandoned, the sick, the aged,  
the very young, and the unborn.  
Father of the last, the least, the lost,  
and the lonely.

***Who art in heaven...***

Where everything will be reversed.  
Where the first shall be last,  
and the last shall be first.  
But where everything will be well.

***Hallowed be thy name...***

May we know what Your holiness really means.  
May we see that Your ways are not our ways,  
Your standards are not our standards.  
May the respect we give Your name lead us  
to respect our neighbor.

***Your kingdom come...***

Help us to create a world where, beyond our own  
needs and hurts, we will do justice.

***Your will be done...***

May we use our freedom to serve those  
most in need.

***On earth as in heaven...***

May our work here in this world be a forecast  
of what You have waiting for us in heaven.

***Give...***

Give life and love to us.  
Help us see that everything is a gift.  
Help us to know that nothing comes to us by right.  
And that we must give because  
we have been given to.  
Help us see that we must give to the poor  
not because they need it.  
But because we need to give so that  
we may grow.

***Us...***

May we realize that "us" means not just  
our narrow circle of loved ones.  
"Us" includes even those who are very  
different from us.

***This day...***

Not tomorrow...  
Wake us up from our comfort and complacency.  
May we see the urgent need for us  
to act without making excuses.

***Our daily bread...***

May all receive enough food, enough clean water,  
enough clean air, adequate health care,  
and access to good education.  
And may we give not only from our surplus,  
but from our need.

***And forgive us our trespasses...***

Forgive us our blindness toward our neighbor,  
our self-preoccupation, our racism, our sexism.  
Forgive us our capacity to watch the evening  
news and do nothing about it.

***As we forgive those who trespass against us...***

Help us to forgive those who victimize us.  
Help us not to be cynical.  
Grant us hope.

***And do not put us to the test...***

Do not judge us only by whether we have fed  
the hungry, given clothing to the naked,  
visited the sick, or tried to change the systems  
that oppress us.  
Spare us this test because we can never  
do enough.  
Give us, instead, more days to change our ways,  
our selfishness, and our world today.

***But deliver us from evil...***

That is, from our indifference, our apathy,  
and even our participation in systems  
which do not care who get less  
as long as we get more.

Amen.

**ROLL CALL**

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

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Angara, E. J.	Flavier, J. M.
Arroyo, J. P.	Gordon, R. J.
Cayetano, C. P. S.	Lacson, P. M.
Defensor Santiago, M.	Madrigal, M. A.
Drilon, F. M.	Pimentel Jr., A. Q.
Ejercito Estrada, J	Revilla Jr., R. B.
Ejercito Estrada, L. L. P.	Roxas, M.
Enrile, J. P.	

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

Senators Lapid, Magsaysay and Osmeña arrived after the roll call.

Senators Biazon, Pangilinan and Villar were on official mission abroad.

Senators Lim and Recto were absent.

#### **DEFERMENT OF APPROVAL OF THE JOURNAL**

Upon motion of Senator Cayetano, there being no objection, the Body deferred the approval of the Journal of Session No. 83.

#### **REFERENCE OF BUSINESS**

The Secretary of the Senate read the following resolution which the Chair referred to the Committees on Banks, Financial Institutions and Currencies; and National Defense and Security:

#### **RESOLUTION**

Proposed Senate Resolution No. 255, entitled

**RESOLUTION DIRECTING THE SENATE COMMITTEE ON BANKS, FINANCIAL INSTITUTIONS AND CURRENCIES; AND NATIONAL DEFENSE AND SECURITY TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, INTO THE ALLEGED IRREGULARITIES AND CORRUPTION IN THE PHILIPPINE VETERANS BANK, AND TO INSTITUTE REFORMS TO PROTECT THE RIGHTS AND INTERESTS OF THE WORLD WAR II VETERANS**

Introduced by Senator Pimentel Jr.

#### **SPECIAL ORDER**

Upon motion of Senator Cayetano, there being no objection, the Body approved the transfer of Committee Report No. 19 on Proposed Senate Resolution No. 242, and Committee Report No. 20 on Proposed Senate Resolution No. 243 to the Calendar for Special Orders.

#### **COMMITTEE REPORT NO. 19 ON PROPOSED SENATE RESOLUTION NO. 242**

Upon motion of Senator Cayetano, there being no objection, the Body considered, on Second Reading, Proposed Senate Resolution No. 242 (Committee Report No. 19), entitled

**RESOLUTION CONCURRING IN THE RATIFICATION OF THE CONVENTION ON THE CONSERVATION AND MANAGEMENT OF HIGHLY MIGRATORY FISH STOCKS IN THE WESTERN AND CENTRAL PACIFIC OCEAN AND ITS ANNEXES.**

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Cayetano, only the title of the resolution was read without prejudice to the insertion of its full text into the Record of the Senate.

The Chair recognized Senator Defensor Santiago for the sponsorship.

#### **SPONSORSHIP SPEECH OF SENATOR DEFENSOR SANTIAGO**

Initially, Senator Defensor Santiago stated that the Convention is very important since tuna is the leading fishery export of the country, it employs at least 100,000 people, and it contributes to the GDP, second only to agricultural crops.

Senator Defensor Santiago pointed out that the resolution has been certified as urgent by the President because the countries that have already ratified the Convention are authorized at any time to establish a Commission that has the power to determine how much tuna can be caught by every country in the covered area of the Pacific Ocean, and if Congress does not ratify the instrument,

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the Philippines would not be able to take part in the assignment of quotas to its detriment.

Senator Defensor Santiago expressed hope that the Senate would have the necessary votes to ratify the Convention at the soonest possible time.

The full text of her speech follows:

Your Committee on Foreign Relations respectfully submits that it is urgent to approve Senate Resolution No. 242, under Committee Report No. 19, recommending Senate concurrence in the ratification of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, popularly referred to as the Western and Central Pacific Fisheries Convention (WCPFC). The President has certified this ratification as urgent.

The ratification of this Convention is urgently advocated by our fishing sector, and endorsed by the relevant government agencies. Your Committee echoes their sentiments, and I shall provide you with reasons on why it is necessary for the Philippines to become a party to the Convention.

Allow me, then, to walk you through the background and the significance of the Convention.

#### *Definition of Highly Migratory Fish Stocks*

The term "highly migratory fish stocks" refers to a grouping of usually genetically related fish with geographic distribution and movement patterns whose range covers the high seas adjacent to the Exclusive Economic Zone (EEZ) and within the EEZ. In International Law, there are several kinds of water. All waters found within our land territory is called "internal waters" and over these waters, we have total and absolute sovereignty. But from our baseline, the waters are no longer solely ours to dispose of. From the baseline, we measure 12 miles and that area is called "territorial waters." There, our sovereignty is already qualified. Also, from the baseline, if we mark off 200 nautical miles, that is our EEZ. We do not

own that. We do not exercise sovereignty but we have exclusive rights to exploit the natural resources within the EEZ. These migratory fish stocks operate either within or beyond our EEZ, meaning, in the oceans or in international waters. Simply put, these refer to fish stocks that by nature migrate across maritime boundaries and the adjacent high seas. The movement of the fish stocks depends on ocean temperature, availability of food, and other factors. The 1982 United Nations Convention on the Law of the Sea (UNCLOS) identified the highly migratory species, consisting primarily of the major tuna species. The United Nations Food and Agriculture Organization (FAO) estimated that the total annual harvests of highly migratory stocks may be as high as 15 million tons, which is roughly equal to one fifth (1/5) of the total harvests from the world marine captured fisheries for the year 2001.

#### *Challenges in the Management of Highly Migratory Fish Stocks*

Due to their highly mobile nature, the management of the highly migratory fish stocks becomes a particularly complex task. This is because there is a lack of clearly defined property or user rights and responsibility over these fish stocks. Highly migratory fish stocks, therefore, necessitate a special management regime to ensure the sustainability of these stocks. Recognizing this, the 1982 UNCLOS urged the coastal States and other States whose nationals fish in the region for the highly migratory fish stocks to cooperate directly or through appropriate international organizations to ensure conservation and promote optimum utilization of such species throughout the region.

*Ang ibig sabihin, dahil ang isda ay palipat-lipat, hindi natin maaaring pabayaang lamang dahil kung magkaka-ganoon, iyong mga mayayaman at maka-pangyarihang bansa na lamang and makikinabang sa mga isda lalung-lalo na ang tuna. Umaasa pa naman ang mga kababayan natin sa Mindanao sa tuna fishing industry.*

*AK*

*MS*

*Ngayon, ang kasulatang ito ay naghahangad na magpatayo ng isang komisyon na siyang magbibigay ng limitasyon kung gaano karaming isda ang maaaring hulihin ng bawat bansa.*

#### *Cooperative Fisheries Management*

The concept of cooperative fisheries management, particularly of establishing Regional Fisheries Management Organizations (RFMOs) to implement management measures in the high seas, was borne out of the need to strengthen fisheries governance. Indeed, discounting even the migratory nature of the fish stocks, the argument and need for effective fisheries governance is fueled by a growing awareness of the declining state of fisheries resources. *Kaya napaka-importante ang kasulatang ito dahil sa kakaunti na lamang ang isda sa ating high seas. Hindi natin puwedeng pabayaang itong malalaking barkong pangisda ng mga dayuhang bansa dahil inuubos nila ang mga isda. Wala nang natitira para sa mga maliliit at mahihirap na bansa katulad natin.*

Cooperative fisheries management is specially required for highly migratory fish stocks because there is simply a need for unified and coordinated management measures of these resources. More specifically, cooperative fisheries management should be in the form of a regional fisheries management organization, which will set and oversee the implementation of the management measures for the highly migratory fish stocks within its area of competence. The RFMO will ensure compatibility and coherence between national and international conservation measures for the said stocks.

#### *Regional Fisheries Management Organizations (RFMOs)*

The important role of regional and sub-regional fisheries management organizations in the conservation and management of the high seas is recognized by the 1982 UNCLOS. *Kaya makikita natin dito na noon-pa-man, 20-taon-na-ang-nakalilipas, ay naging problema na kung papaano natin hahatiin ang mga isda sa*

*malalalim na dagat or the high seas. Noong 1982 pa iyon, kaya samakatuwid mahigit 20 taon na.* This is further amplified by the 1995 United Nations Fish Stocks Agreement (UNFSA). The Agreement strengthens the legal regime for the conservation and management of highly migratory and straddling fish stocks implemented through global, regional, or sub-regional fisheries management organizations (RFMOs).

#### *The Western and Central Pacific Fisheries Convention (WCPFC)*

The Convention is one of the first regional fisheries agreements to be adopted since the conclusion of the 1995 UNFSA. The Convention, basically, is a concrete implementation of the UNFSA in the Western and Central Pacific Ocean region.

The objective of this Convention is to ensure, through effective management, the long-term conservation and sustainable use of highly migratory fish stocks in the Western and Central Pacific Ocean (WCPO), in accordance with the 1982 United Nations Convention on the Law of the Sea, and the 1995 UN Fish Stocks Agreement.

At this point, let me remind the Senate that the Philippines is a signatory and a party to both international instruments – 1982 UNCLOS and 1995 UNFSA. When a conference is called to draft a convention or a treaty, the parties participating that wish to do so will sign that convention. It is then called a signatory but it is not bound by the convention at that point. It has to go home to its home country and ask the proper agency of its government as determined by local laws to ratify that convention. When that ratification is issued, then the country becomes a full party to the treaty, meaning, that it assumes duties, rights, responsibilities, privileges and prerogatives under the treaty.

At present, the Philippines is only a signatory to this Convention. It is not a party so we have no privileges under the Convention. However, we are already a party to the predecessor conventions, the UNCLOS and the UNFSA. As parties, we are bound by

*PH*

these two conventions. It is specifically provided that parties to these two conventions are bound to participate in a regional organization such as the Commission that is being established under this treaty.

### *The Philippine Obligation*

A compelling reason for the ratification of the Convention is enshrined in its objective of conservation and management of fisheries resources in the region. The Philippines, as a party to both the 1982 UNCLOS and the 1995 UNFSA, has an obligation to cooperate with any conservation and management initiatives aimed at promoting sustainable fisheries. The UNFSA even explicitly requires the parties to the Agreement to join regional fisheries management organizations (RFMOs), or to agree to comply with the measures that these organizations will create. The UNFSA goes so far as to state that parties to the Agreement, which fail to join RFMOs, will not be allowed to fish in the areas where these management measures apply.

Given that the Philippines is a party to UNFSA, it may be said, therefore, that the Philippines is bound by its obligation under the Agreement to join RFMOs, in this case the WCPFC.

Let me, however, clarify that such obligation does not form the heart of the argument for the urgency of ratification. The Philippines may be bound to comply with this provision, but I will not personally urge the ratification if I have not acknowledged the benefits that the Philippines, specifically its fishing industry, will receive from its participation in the Convention.

### *The Philippine Fishing Industry*

As we are aware, the Philippines, being an archipelago of more than 7,100 islands, considers fishing as one of the oldest and most practicable sources of income for its citizens. The fishing industry's contribution to the economy is considerable. In year 2001, fisheries contributed 3.9% to the country's Gross Domestic Product (GDP). The sector also employs 10% of the active labor force in agriculture, and 5% of the total labor

force. The Philippine tuna industry alone employs at least 100,000 workers.

Tuna is the number one fishery export of our country. In year 2002, Philippine tuna exports were valued at US\$145.2 million.

Being highly migratory in nature, the tuna resources of the Philippines migrate across the Western and Central Pacific ocean.

Tuna resources in the WCPO, therefore, are shared resources of the South Pacific Islands and other neighboring Southeast Asian countries, particularly the Philippines and Indonesia.

At the moment, much of the Philippine tuna catch is captured in international waters and in the waters of Indonesia, Papua New Guinea, and other Pacific islands. In the Western and Central Pacific, it is estimated that the Philippines captures 300,000 metric tons per year or about 15% of the Western and Central Pacific tuna total catch.

The significance of being a party to the instrument is highlighted by the fact that the tuna resources of the Philippines migrate to the management area of the Convention – the Western and Central Pacific Ocean and extending well beyond the South Pacific into the North Pacific.

The management area is also the common fishing ground of the Philippine fleets. Nonparticipation in the Convention is tantamount to waiving the country's opportunity to co-manage the shared tuna resources. Nonparticipation in the Convention is tantamount to surrender by the Philippines of its chance to acquire access to the resources of the WCPO.

### *Important Features of the Convention*

Permit me to elucidate this point by a brief discussion of the important features of the Convention.

The Western and Central Pacific Fisheries Convention (WCPC) is a regional fisheries management agreement, borne out of the common and shared interest of the States surrounding the region to manage the

highly migratory fish stocks within the area. This Convention is a product of four years of negotiation between the Western and Central Pacific and States-fishing in the region. The Philippines was among the first States which signed the Convention in September 2000 during the Multilateral High Level Conference.

*Pumirma ang ating bansa noon pang 2000. Ngayon ay 2005 na, limang taon na ang nakalilipas na hindi man lamang tayo naging partido sa kasulatan na pinirmahan natin.*

At the heart of the WCFC is the organization of a Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. The Commission is tasked to implement the conservation and management measures of the Convention which include, among others, the establishment of Total Allowable Catch (TAC) and allocation of catch quotas among members.

Only the Contracting Parties or those which ratified, accepted, or acceded to the Convention will be considered members of the Commission.

#### *Urgent Need For Ratification*

The nonratification of the Convention prevents the Philippines from becoming a member of the Commission, and consequently denies the country of the benefits afforded to the members of the Commission, which include, among others: 1) access to fisheries resources in the WCPO; 2) vote of influence in the decision-making process; 3) access to data; and 4) access to technical and financial assistance from developed member-states.

It may be argued that under international law, a country is not bound by the decisions of a Regional Fisheries Management Organization (RFMO) to which it does not belong. But in this case, the Philippines could do well to remember that member-countries of the WCFC may apply sanctions on non-member countries such as trade restrictions, import bans, and port control

measures which may be in the forms of denial of catch landing or rejection of transshipment requests. More significantly, the Philippines' access to fishing waters of the member-countries could be further restricted or, worse, prohibited.

Given the aforementioned scenario, it may thus be concluded that the current and continuing economic prospects of the Philippine tuna fishing industry are closely tied to our participation in this Convention.

In summary, let me just restate that the urgency and necessity of the ratification of the Convention is warranted by two main reasons.

First, it is an obligation of the Philippines under UNCLOS and UNFSA. The two international agreements have urged the cooperative management of highly migratory fish stocks, which must be implemented through the regional or sub-regional fisheries management organizations.

Second, ratification is necessary for the protection of the interest of the Philippine tuna fishing industry to ensure that the Philippines would not be at a distinct disadvantage in the allocation of resources, and in any decisions and rules that the Commission will make. And, given the significant contribution of the tuna fishing industry to our economy, it is only fitting that the Philippine government should extend its support by ratifying this Convention.

#### **INTERPELLATION OF SENATOR ANGARA**

At the onset, Senator Angara recalled that as then Agriculture Secretary, he sent a delegation to Hawaii to sign the Convention, as a result of which the Philippines became one of the original members. He agreed that it is important that the Philippines ratify the Convention because the fishing grounds move and most of them are now in the South, Central and Western Pacific which are also the management areas contemplated under the Convention. He stated that nonratification would not entitle the Philippines to get a fishing quota. In this regard, he pointed out that the tuna stocks between Celebes and Mindanao are not only migratory but are also vanishing.

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Asked why it took the government five years to push for the ratification of the Convention, Senator Defensor Santiago replied that it was not a priority of the national government.

But Senator Angara argued that it should be a priority because tuna export amounts to at least US\$ 200 million. He lamented that while ratifying the Convention would ensure access to tuna stocks, the government, however, is not supporting domestic fishing vessels which cannot compete with state-of-the-art foreign fishing vessels.

Senator Defensor Santiago agreed as she pointed out that there is, in effect, a war between small fishing states like the Philippines and developed rich states that are capable of building huge fishing vessels equipped with the latest technology. She said that unless the Philippines belonged to a UN organization, its obsolete fishing fleet would never be able to catch tuna in such quantity that it has become the No. 1 export.

Senator Angara pointed out that the danger of all the canning factories in General Santos, Zamboanga, Navotas and Malabon closing down is real due to the diminishing tuna stocks in spite of the fact that the Philippines has tuna highways that cross the South and the Pacific. On the other hand, he observed that Thailand, which does not have the same highways, is now exporting at least US\$1 billion worth of tuna to Europe and the United States because of its modern fishing fleets and canning facilities. He believed that the Senate should not only ratify the Convention but also remind the government to push for the modernization of the tuna fishing vessels including the canning facilities. Senator Defensor Santiago agreed as she pointed out that the modern fishing vessels of Thailand are equipped with canning facilities, thus, the Philippines cannot expect to compete unless the Philippine government took its membership in the Convention seriously.

In this regard, Senator Angara recalled that one of the Scandinavian countries had given the Philippines a low interest loan through the Development Bank of the Philippines precisely for the refueling of the fishing vessels but no one has taken advantage of it because DBP imposed an 8% service charge that made the loan facility prohibitive. He suggested that the Senate pass a resolution urging the government to provide funds to the indigenous tuna fishing industry to prevent its collapse.

Senator Defensor Santiago believed that since the only source of economic hope of the country lies in its internal waters, territorial seas and exclusive economic zones, the national government and the people must learn to preserve and conserve the country's marine resources like the tuna stocks.

Senator Angara warned that unless the government took immediate and important steps, the Philippines would lose its marine resources within its 200-mile exclusive economic zone by default to the Taiwanese, Korean and the Japanese modern fishing fleets. He noted that at present, much of the tuna being brought to Japan and Taipei are being caught off the coast of Aurora and Isabela in the Pacific.

### REMARKS OF SENATOR ROXAS

Senator Roxas added his voice to the call of Senator Defensor Santiago for the Senate to concur in the ratification of the Convention. He recalled that as then Secretary of Trade and Industry, he negotiated preferential treatment for Philippine tuna with the European community by reducing the tariff from 24% to 12% that resulted in a 25,000-ton export, more than one-third of which come from the Philippines. However, he pointed out that one of the problems of the industry is that it is having difficulty in meeting the quota because its fishing vessels have to sail farther to catch tuna.

### INTERPELLATION OF SENATOR ENRILE

Asked by Senator Enrile what area is covered by the Convention, Senator Defensor Santiago replied that it is the Western and Central Pacific areas that are delimited in Article III, paragraph 1 of the Convention.

Asked if it covers the waters from the southern tip of Chile all the way to New Zealand, Senator Defensor Santiago replied in the affirmative, adding that New Zealand is the depository country.

Asked on the difference between the so-called coastal states and the distant-water fishing nations, Senator Defensor Santiago replied that a coastal state like the Philippines is a state bounded by non-internal waters, its EEZ and eventually by the high seas; on the other hand, distant-water fishing nations are countries that have no direct access to the sea, either on all sides or on a certain side. She reported to the Body that a map drawn by the UN



Secretariat of the Conference that drew up the Convention includes the following countries in the outermost Western Pacific countries: Hawaii, Kingman Reef, Kiribati, Jarvis Islands, Cook Islands and French Polynesia; and Central Pacific countries like Nauru, Vanuatu, Solomon, Fiji all the way to New Zealand and to the coast of mainland Asia including Russia, Japan and China.

On the number of states involved in the treaty, Senator Defensor Santiago stated that 19 countries signed the Convention, out of which, 16 have ratified it: Australia, China, Cook Islands, Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Papua New Guinea, Samoa, Solomon Islands and Tuvalu.

Senator Enrile noted that the purpose of the Convention is to maintain a certain degree of conservation of the quantity of stocks of migratory fish in the Western Pacific and Central Pacific areas that are harvested yearly and that the quantity would be allocated by way of quotas to the signatory countries. Senator Defensor Santiago agreed.

On the assumption that there is a certain number of allowable harvests annually, Senator Enrile asked how much allocation is allowed per country. Senator Defensor Santiago replied that the Convention provides for list of criteria for allocations but basically, the total allowable catch is based on the historic catch of each country.

Asked if the quota allocation includes migratory fish caught in the internal waters, territorial waters or EEZ of a member-state, Senator Defensor Santiago clarified that only fish found in and beyond the EEZ are included in the quota.

Asked how the reporting would be done to ensure the integrity of the data on the fish catch of a member-state, Senator Defensor Santiago stated that the Scientific Committee and the Technical Committee, both subsidiary organizations under the Convention, are tasked to make sure that data on fish catch is accurate and not manipulated.

On the sanctions to be imposed on a member-state caught manipulating its data, Senator Defensor Santiago replied that there is a punitive procedure and the Commission is the final authority.

Asked what the sanctions are on unreported excess of catch in a given year, Senator Defensor

Santiago clarified that aside from the sanctions that may be imposed by the Commission which includes stripping the involved country of its membership, member-states can take certain measures individually like imposing trade restrictions on products of the erring state, barring the entry of the vessels of the erring states into its ports or rejecting trans-shipment requests.

Senator Enrile asked if the determined number of catch is based on the country of registry of the vessels or on the nationality of the ownership of the vessels regardless of the place of registry. Assuming that there are one thousand fishing vessels in the Philippines, 20% of which are owned by foreigners but registered in the Philippines, he queried if the catch of the 20% is attributable to the Philippines, Senator Defensor Santiago stated that the Convention uses the nationality of the flown-flag principle, therefore, any vessel that flies the flag of a country is considered as being under the control and sovereignty of that country.

Supposing a Taiwanese or Japanese fishing vessel, registered under the Philippine flag, was fishing in the Central and Western Pacific, Senator Enrile asked if its catch would be attributable to the Philippines. Senator Defensor Santiago replied in the affirmative and pointed out that similarly, the catch of Philippine vessels registered in another country would not be attributable as a catch of the Philippines.

#### INTERPELLATION OF SENATOR MADRIGAL

Initially, Senator Madrigal stated that her concern is the impact of the Convention on the environment in the lights of a provision in its Principles, to wit:

“there is the need to avoid the adverse impacts on the marine environment, preserve bio-diversity, maintain the integrity of marine ecosystems and minimize the risk of long term or irreversible effects of fishing operation”

Asked on the action plan to ensure the Convention's safe environmental impact, Senator Defensor Santiago said that there is a limit on the number of huge fishing vessels known as purse seine vessels per country. She distinguished purse seine fishing where two nets act like a purse to catch everything from “dirty fishing” where a long drift line catches the fish by hooks. She

long drift line catches the fish by hooks. She underscored that the Convention protects the environment by making marine resources sustainable by preserving the existing fish stocks. She cited that under the Principles, the Convention provides that the State party shall "ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield as qualified by relevant environmental and economic factors."

Asked if the signatory countries are obliged to use dolphin-safe nets, Senator Defensor Santiago replied in the affirmative and pointed out that the World Trade Organization Tribunal already ruled that nets should be designed in such a way that these will not catch baby dolphins.

Asked how the ruling is being enforced, Senator Defensor Santiago explained that the Commission has the ultimate authority on quasi-judicial issues; moreover, the Scientific Committee determines whether certain fishing facilities follow the principles set forth in the Convention. She added there are methodologies to check if the requirements are complied with.

Asked if small fishermen working in waters close to the Philippines are covered by the Convention, Senator Defensor Santiago replied that small fishermen never go to the EEZ area as they only work in territorial waters because of the limitation of their vessels. She confirmed that they are not covered by the Convention.

Replying to further queries, Senator Defensor Santiago said that those fishermen are classified as "subsistence fishermen" and the Convention leaves it to the jurisdiction of the local government to legislate whatever statutes are necessary in order to protect the seas even from small fishermen. She pointed out that it is actually a paradox as there is an effort to protect subsistence fishermen from industrial-sized fishing vessels; however, the former are made to comply with certain restrictions such as the use of dynamites that actually pose limitations on their fishing activities.

Asked on the allowable tonnage for fishing vessels for each member-state under the Convention, Senator Defensor Santiago replied that the matter would be decided by the Commission before

the end of the year. This, she stressed is the reason behind the urgent need to ratify the Convention. Further, she explained that as a member of the Commission, the Philippines would have a say in the amount of tuna it can catch.

As to whether China is a signatory to the Convention, Senator Defensor Santiago stated that China has ratified it.

Upon further queries, Senator Defensor Santiago clarified that the Convention does not apply to territorial waters. However, she stated that it is possible for the Philippines to use the Convention as a countermeasure to Chinese poaching. Expressing hope that China would be true to its word, she noted that China has announced it would not confront any other ASEAN state or country with respect to the exploitation of marine resources and moreover, it has adopted the principles of burden sharing and sharing of the produce of the sea.

For her part, Senator Madrigal lamented that in the past 20 years, the marine life of Palawan and the provinces in Mindanao had been greatly affected by dynamite fishing and large-scale industrial fishing of other nations. In closing, she expressed hope that by ratifying the Convention, the country's capability to conserve its fish supplies through strict environmental control would be enhanced and the instrument could be used as a countermeasure against Chinese poaching on Philippine waters.

#### INTERPELLATION OF SENATOR PIMENTEL

At the outset, Senator Pimentel wondered if China's accession to the Convention would be binding on Taiwan since China opposes Taiwan's bid to be conferred observer status in the World Health Organization (WHO). As such, he asked whether China's commitment to the Convention meant respect for the provisions against illegal fishing in certain waters. Nevertheless, he doubted if the Convention is sufficient to prevent this practice since certain Taiwanese vessels are known to poach in Philippines seas. While expressing support for the ratification of the Convention, he urged that any loopholes that might render the Convention nugatory be plugged. For her part, Senator Defensor Santiago affirmed that both China and Taiwan are parties to the Convention as the former acceded to it on November 2, 2004, while the latter signed it on September 5, 2000 and ratified it on November 2, 2004. *A*

Senator Pimentel welcomed the information, saying he had received reports that Taiwanese shipping vessels had been spotted in Tawi-Tawi and Sulu waters. Relative thereto, he reiterated the hope that China would not object to having Taiwan represented in the WHO.

On whether the Convention only covers tuna, Senator Defensor Santiago replied in the negative. She enumerated the 17 species covered by the Convention as follows: albacore, bluefin, bigeye, skipjack, yellowfin, blackfin, southern bluefin, tuna, frigate mackerel, pomfrets, marlins, sailfish, swordfish, sauries, dolphin, oceanic sharks and cetaceans.

Since the Philippines benefits more from aquatic resources than land resources, Senator Pimentel recalled that former President Estrada had once asked him to file a bill to create a Department of Fisheries. Relative thereto, he suggested that such an agency be created to ensure the attainment of the local and international goals of the Convention. Senator Defensor Santiago pointed out that the Bureau of Fisheries and Aquatic Resources has produced a "tuna management plan" in anticipation of the Philippine ratification of the Convention. However, she stated that although the Philippines relies heavily on aquatic resources, as an administrative principle, fewer bureaus and departments make for simpler governance.

In closing. Senator Pimentel pointed out that the Samal people of Tawi-Tawi believe that the land is for the dead and the sea is for the living.

#### **TERMINATION OF THE PERIOD OF INTERPELLATIONS**

There being no further interpellation, upon motion of Senator Cayetano, there being no objection, the Body closed the period of interpellations.

#### **TERMINATION OF THE PERIOD OF AMENDMENTS**

There being no committee or individual amendment, upon motion of Senator Cayetano, there being no objection, the Body closed the period of amendments.

#### **APPROVAL OF PROPOSED SENATE RESOLUTION NO. 242 ON SECOND READING**

Submitted to a vote, there being no objection, Proposed Senate Resolution No. 242 was approved on Second Reading.

#### **SUSPENSION OF CONSIDERATION OF PROPOSED SENATE RESOLUTION NO. 242**

Upon motion of Senator Cayetano, there being no objection, the Body suspended consideration of the resolution.

#### **COMMITTEE REPORT NO. 20 ON PROPOSED SENATE RESOLUTION NO. 243**

Upon motion of Senator Cayetano, there being no objection, the Body considered, on Second Reading, Proposed Senate Resolution No. 243 (Committee Report No. 20), entitled

#### **RESOLUTION CONCURRING IN THE RATIFICATION OF THE INTER- NATIONAL LABOUR ORGANIZA- TION CONCERNING FORCED OR COMPULSORY LABOR (FORCED LABOR CONVENTION).**

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Cayetano, only the title of the resolution was read without prejudice to the insertion of its full text into the Record of the Senate.

Thereupon, the Chair recognized Senator Defensor Santiago for the sponsorship.

#### **SPONSORSHIP SPEECH OF SENATOR DEFENSOR SANTIAGO**

At the outset, Senator Defensor Santiago called for the ratification of the ILO Convention that was drafted in 1930 but apparently overlooked. She recalled that the Philippines signed a successor treaty in 1960 also on the same topic and those in the Executive thought that the country was already bound to prohibit forced labor. It turned out, she said that there was a predecessor treaty in 1930 that has not been ratified. She recounted that the Executive was reminded of this only in 1998 when

the International Labour Organization passed a declaration on the fundamental rights of workers and called for the ratification by its member countries of what it called "Core Conventions of the Labor Movement" including Convention 29. It was at that point, she stated, that the Department of Foreign Affairs discovered that the Philippines had not ratified it. In effect, she said, that the Senate is being asked to concur in the ratification of a Convention that has long since been implemented and out of a compelling sense of solidarity with the international labor movement.

The full text of the speech follows:

The Committee on Foreign Relations respectfully presents Senate Resolution No. 243, under Committee Report No. 20, for concurrence in the ratification of ILO Convention No. 29, also known as the Forced Labor Convention of 1930.

Our society has always displayed an overwhelming public sympathy for protecting the much-vaunted and recognized rights of workers. We have always stood by the principle that everyone has the right to gain his living by work which he freely chooses, and to freedom from all work or service made under threat of penalty. We have always adhered to the tenet, "Labor is not a commodity."

Thus, we have long abolished bonded labor from our statute books and from our workplaces. We have long obligated ourselves to penalize those who blatantly violate our cherished right to be free from any form of involuntary servitude.

It is in this light that your Committee presents ILO Convention No. 29, which was adopted during the 14<sup>th</sup> Session of the General Conference of the International Labour Organization (ILO) in Geneva on 10 June 1930.

In essence, the agreement calls for the suppression of "forced or compulsory labor", and obliges signatory States to arrest the use of forced labor in all its forms, within the shortest possible period. The Convention defines "forced or compulsory labor" as "all work or service exacted from any

person under the menace of any penalty and for which said person had not offered himself voluntarily." However, the agreement exempts the following:

- Work or service exacted by virtue of compulsory military law;
- Minor communal services and those which form part of a citizen's civic obligations;
- Those exacted as a consequence of a conviction by a court of law; and
- Those exacted in cases of emergency when the well-being of the population is endangered.

The Convention obligates State-parties to suppress and criminalize those forms of compelled labor which are not allowed under its terms. Further, it requires signatory states to make an Annual Report to the International Labour Office, pursuant to the ILO Constitution, on the measures they have taken to give effect to the provisions of the Convention.

The Forced Labor Convention of 1930 is among the most widely ratified of all human rights conventions in the United Nations system. Several countries have undertaken obligations either through ratification or confirmation of obligations applicable to them even before they became independent States. Currently, 163 out of the 177 member-states of the ILO have ratified the Convention.

Since the Philippines is deeply conscious of the maxim "Worker's rights are human rights," ratification of the Convention is, for us, a moral imperative.

#### **INTERPELLATION OF SENATOR EJERCITO ESTRADA (J)**

Asked by Senator Ejercito Estrada if there are instances of forced labor in the country, Senator Defensor Santiago replied that based on the record of the Department of Labor and Employment (DOLE), there is none. In the global context, however, she noted that there was a question of whether or not the employment of undocumented Filipino migrant

*JMS*

workers in Japan fell under forced labor. Apparently, she said, the Foreign Affairs Department took the position that those workers could not be classified as forced laborers because they chose to seek employment in Japan except that they did not get the working conditions that they had thought they would. The solution of the DFA, she recalled, was to cooperate with the Japanese government in repatriating those workers back to the Philippines if they alleged or complained that their employers were forcing them to work beyond what they had agreed upon.

Asked why there is a need to ratify the ILO Convention when forced labor is already prohibited in the country, Senator Defensor Santiago cited the following statements of DOLE concerning the benefits of ratifying the Convention:

Ratifying Convention 29 will show that the Philippines is in solidarity with the ILO and the international community, that the Philippines stands for an environment where workers can work on their own free choice.

Ratification is an act to which a member-state formally undertakes to make the provisions of the ILO Convention effective, both in law and practice.

The ILO Convention covers a wide range of issues in the world of work including basic human rights, labor administration, industrial relations, employment policy, working conditions, social security, occupational and safety, and health, among others.

These international labor standards of the ILO contribute most effectively to the attainment of economic and social development of member-states.

In the Philippines, this body of labor standards serves as models and helps in the development of Philippine administration and labor legislation.

However, Senator Defensor Santiago admitted that the above objectives are not responsive. She stated that the real reason Convention 29 should be ratified, despite its being old and superseded by Convention 150 to which the Philippines is already a party, is that in 1998, the ILO told all its

member-states that they must ratify at least eight conventions, among them Convention 29.

On whether she would be attending the ILO Convention in Geneva next month, Senator Defensor Santiago replied in the negative, stating that it may conflict with other trips that she was obliged to make such as the trip to China, upon invitation of the Chinese government, and the trip to Japan to attend an energy conference.

Asked whether the resolution was deliberated upon in the last Congress, Senator Defensor Santiago replied in the affirmative, adding that it was not ratified because during the hearing, certain points were raised concerning the definition of "prison labor" as used in the Convention. She said that the DFA had to seek clearance from the DOJ concerning the term "prison labor" and the fact that the Philippines had already ratified Convention 105 which provides for the abolition of forced labor.

Relative thereto, Senator Defensor Santiago explained that each of those issues had already been clarified by the DOJ and that the question on prison labor was raised during a hearing because Samsung, a Korean firm, apparently entered into a contract with the Bureau of Corrections to allow prison inmates of the National Bilibid Prison to manufacture Philippine handicraft on a voluntary basis and for which they were paid on a piece-meal basis. The DOJ ruled that there was no forced labor in that instance because it was the voluntary choice of the inmates to enter the program, she narrated. As to the second point, she explained that Convention 105 refers to "forced labor" in certain specific instances related to political suppression. She concluded that it would still be worthwhile to ratify Convention 29 because it is wider in scope.

In closing, Senator Ejercito Estrada expressed willingness to cooperate with the Committee on Foreign Relations on any effort aimed at developing the labor sector.

#### INTERPELLATION OF SENATOR CAYETANO

Preliminarily, Senator Cayetano noted that there is evidence that Filipino children are being prostituted, involved in pornography and cybersex. She asked whether this alarming situation is a form of forced labor. Senator Defensor Santiago replied in the affirmative. She clarified, however, that in the

UN vocabulary, it is known as "child labor" and falls under another category that is covered by an entire class of separate conventions. She stated that forced labor is generally limited to the category of people who are between 18 and 45 years of age.

Senator Cayetano noted that in the recently concluded IPU, one of the main topics discussed was the problem of violence against women and children in areas of armed conflict like Mindanao and Bicol, among others, and she found out that there are women victims who were not only harmed physically but were forced to participate in the war by carrying arms, cooking and setting up camps, among others. She asked if this situation can be considered forced labor. Senator Defensor Santiago replied in the affirmative. She said that in technical terms, these situations fall under the Geneva War Conventions.

#### **TERMINATION OF THE PERIOD OF INTERPELLATIONS**

There being no other interpellation, upon motion of Senator Cayetano, there being no objection, the Body closed the period of interpellations.

#### **TERMINATION OF THE PERIOD OF AMENDMENTS**

There being no individual or committee amendment, upon motion of Senator Cayetano, there being no objection, the Body closed the period of amendments.

#### **APPROVAL OF PROPOSED SENATE RESOLUTION NO. 243 ON SECOND READING**

Submitted to a vote, there being no objection, Proposed Senate Resolution No. 243 was approved by the Body.

#### **SUSPENSION OF CONSIDERATION OF PROPOSED SENATE RESOLUTION NO. 243**

Upon motion of Senator Cayetano, there being no objection, the Body suspended consideration of the resolution.

#### **SUSPENSION OF SESSION**

Upon motion of Senator Cayetano, the session was suspended.

*It was 5:13 p.m.*

#### **RESUMPTION OF SESSION**


At 5:14 p.m., the session was resumed.

#### **ADJOURNMENT OF SESSION**

Upon motion of Senator Cayetano, there being no objection, the Chair declared the session adjourned until three o'clock in the afternoon of Monday, May 16, 2005.

*It was 5:14 p.m.*

I hereby certify to the correctness of the foregoing.

  
OSCAR G. YABES  
Secretary of the Senate  
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Approved on May 16, 2004