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SESSION NO. 35

Wednesday, November 14, 2007

**FOURTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 35
Wednesday, November 14, 2007

CALL TO ORDER

At 3:21 p.m., the Senate President, Hon. Manny Villar, called the session to order.

PRAYER

The Body observed a minute of silent prayer.

ROLL CALL

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

Angara, E. J.	Lapid, M. L. M.
Aquino III, B. S. C.	Legarda, L.
Arroyo, J. P.	Madrigal, M. A.
Cayetano, A. P. C. S.	Pangilinan, F. N.
Cayetano, C. P. S.	Pimentel Jr., A. Q.
Defensor Santiago, M.	Revilla Jr., R. B.
Ejercito Estrada, J.	Roxas, M.
Enrile, J. P.	Villar, M.
Honasan, G. B.	

With 17 senators present, the Chair declared the presence of a quorum.

Senators Biazon, Escudero and Zubiri arrived after the roll call.

Senator Gordon was on official mission.

Senator Lacson was unable to attend the session due to a previously accepted engagement.

Senator Trillanes was unable to attend the session.

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. 34 and considered it approved.

REFERENCE OF BUSINESS

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

BILLS ON FIRST READING

Senate Bill No. 1865, entitled

AN ACT PROVIDING FOR THE MAGNA
CARTA OF WOMEN

Introduced by Senator Angara

**To the Committee on Youth, Women and
Family Relations**

Senate Bill No. 1866, entitled

AN ACT ACCREDITING THE PHILIPPINE
MEDICAL ASSOCIATION AS THE
INTEGRATED MEDICAL PROFES-
SIONAL ORGANIZATION OF THE
PHILIPPINES

Introduced by Senator Angara

**To the Committees on Civil Service and
Government Reorganization; and Health and
Demography**

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Senate Bill No. 1867, entitled

AN ACT ESTABLISHING A SPECIAL HOSPITAL FOR OVERSEAS CONTRACT WORKERS (OCWs) AND THEIR DEPENDENTS, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Manuel "Lito" M. Lapid

To the Committees on Labor, Employment and Human Resources Development; Health and Demography; and Finance

RESOLUTION

Proposed Senate Resolution No. 204, entitled

RESOLUTION URGING THE SENATE COMMITTEES ON YOUTH, WOMEN AND FAMILY RELATIONS, AND SOCIAL JUSTICE, WELFARE AND RURAL DEVELOPMENT TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE REPORTED INCREASING NUMBER OF TRAFFICKING OF YOUNG FILIPINO WOMEN IN SINGAPORE, AND THEIR BEING FORCED TO ACCEPT SEXUAL SERVITUDE WORK OR "HOSTESSING" JOB IN THE CITY-STATE WITH THE END-IN-VIEW OF CHARTING REMEDIAL POLICIES TO HALT THE VICTIMIZATION OF FILIPINAS AND THEIR PROTECTION AGAINST ABUSE AND DISCRIMINATION

Introduced by Senator Manny Villar

To the Committees on Youth, Women and Family Relations; and Justice and Human Rights

COMMUNICATION

A copy of Memorandum from the Office of the Ombudsman – General Investigation Bureau A re: Ombudsman Fact-Finding Report vis-à-vis Committee Report No. 256, dated August 7, 2003, with findings and recommendations stated therein.

To the Archives

INTERPELLATIONS ON SENATOR ARROYO'S SPEECH

(Resumption)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed the interpellations on Senator Arroyo's speech.

Thereupon, the Chair recognized Senator Arroyo, and Senator Legarda for her interpellation.

INTERPELLATION OF SENATOR LEGARDA

Asked by Senator Legarda on the possibility that the Philippine National Oil Company (PNOC)-Energy Development Corporation (EDC) would be more efficient if it is privatized considering the fact that the government is known as an inefficient administrator of the country's resources, Senator Arroyo stated that generally, government corporations do not perform well except for a few like Petron and the PNOC-EDC which are among the corporations it efficiently handled, the latter, in fact, recognized worldwide as number one in steam technology. He maintained that profitable companies efficiently run by government should not be sold.

Senator Legarda pointed out that in a business paper, Mr. Paul Aquino, chief executive officer of the PNOC-EDC, was quoted to have said that there would be substantial efficiency to be gained after the sale of the PNOC-EDC because it would no longer be subject to the Government Procurement Act and that once privatized, the operation of the plant and geothermal wells would be optimized.

Senator Arroyo stated that the difficulty that a corporation is subjected to under the Government Procurement Act is not the issue; it is the question of who would undertake the exploration and use of the country's indigenous energy sources after the sale of the PNOC-EDC. He maintained that even the President cannot invade this area because this involves a policy matter which is essentially the primacy of Congress.

Asked if there is any other government agency involved in the exploration and use of indigenous energy sources apart from the PNOC-EDC, Senator Arroyo replied in the negative, adding that there is not even a budget allocation for this purpose in the General Appropriations Act.

AK

MB

Asked about the public offering of the shares of PNOC-EDC last year, Senator Arroyo stated that in 2006, there was a resolution of the JCPC limiting the sale, not of the EDC shares, but of geothermal plants with certain reservations. He asserted that although the EDC is a publicly listed company and its shares could be traded through the stock exchange, its sale could not be viewed simply as a commercial transaction because of policy implications.

Moreover, Senator Arroyo noted that officials of the Department of Finance kept on saying that the country's revenue agencies were doing well but during the budget hearing, the contrary came out because they admitted that they plan to sell government corporations and shares of stocks of government in private corporations to bridge the budgetary deficits.

Asked how much of the PNOC-EDC was publicly listed and sold, Senator Arroyo said that what he knew is that government still has control of 60% of the PNOC-EDC which posted a net profit of P5.4 billion for the first three quarters of 2007 or a projected net income of P7.2 billion for the year.

Senator Legarda noted that compared to Indonesia, which has 20,000 megawatts potential in geothermal energy, the Philippines has 800,000 megawatts developed through the PNOC-EDC despite its present personnel and drilling capabilities. Considering the potentials of the country's geothermal sites, she asked Senator Arroyo if he would agree that given to a private investor with sufficient capital, there could be further expansion, exploration and drilling that would result in the maximization of these potentials in geothermal energy.

In reply, Senator Arroyo acknowledged that given to a private company, the PNOC-EDC would be more efficiently managed. But he doubted if the private company would continue with the development of indigenous sources of energy.

On the possibility that a well-funded private company with foreign investors can build the PNOC-EDC into an international geothermal and drilling company which could replace its old and poorly maintained oil rigs and could leverage on the Filipino drilling talent, Senator Arroyo stated that while it is true that a private company would have better equipment, there is a statute – the law that created the EDC – that cannot be simply circumvented. He maintained that government ought to clarify to the

prospective new owners of the corporation that the sale would not nullify the corporation's mandate under the law of researching indigenous energy sources and that they should not simply use the EDC to make profits. He said that the Senate has not been given that assurance.

Noting that the privatization of the PNOC-EDC is a pragmatic move as proceeds of the sale would reduce the country's budget deficit to P63 billion, Senator Legarda wondered, however, whether its privatization – with no government agency involved in indigenous energy – would also adversely affect the government's fiscal position due to decreased revenues, increased expenditures and outstanding debt. Senator Arroyo replied that the Department of Finance was created to raise revenues not through the sale of government assets but through its agencies such as the Bureau of Internal Revenue and the Bureau of Customs. He bemoaned the possible loss of a prized government asset like the 30-year old EDC, stressing that the Senate must be given the assurance that the principal policy behind its creation would be followed and continued.

Asked how government could promote the EDC's mandate of exploring, developing and harnessing alternative energy sources especially at this time when the country – the world, in fact – is faced with the challenge of promoting renewable and environment-friendly sources of energy, in light of its impending privatization, Senator Arroyo replied that the EDC budget allocated for research of indigenous energy sources could be incorporated in the national budget, but there would be no assurance that it would be a priority.

Asked on the PNOC-EDC's purchase of privatized assets in Tongonan and Palimpinon, Senator Arroyo stated that the Joint Congressional Power Commission (JCPC) had given the EDC permission to sell some geothermal plants as a compromise. He explained that the PNOC-EDC management could not be faulted for such transactions because the company is making money. But he pointed out that the real issue is the vacuum to be created as a result of the company's privatization. He said that a body like Congress should have a stand on such issues particularly since it has been the practice of secretaries of the Department of Finance to sell government assets to raise revenues while borrowing money to fund government operations without thinking how their successors would pay off debts incurred as a result.

AS
MS

Asked on the objective behind Proposed Senate Resolution No. 203, Senator Arroyo said that the resolution is simply urging the President to hold in abeyance the forthcoming bid to enable the Senate to closely consider the implication of the sale of the government's energy program in relation to its fiscal position. He clarified that the resolution does not intend to block the sale of publicly traded shares of the EDC even as he acknowledged that it is only the President who could order its deferment.

INTERPELLATION OF SENATOR PIMENTEL

Asked by Senator Pimentel to explain the mandate of the EDC, Senator Arroyo explained that the EDC, which has attained global recognition, was created to explore and harness indigenous energy sources.

Upon further queries, Senator Arroyo affirmed that although it is a research company, the EDC, which has been managed by several company presidents, is projected to earn some P7.2 billion by the end of the year despite not having done any business with foreign firms in the country.

Senator Pimentel pointed out that since the EDC's P5.4 billion net profit is not common to private or government corporations, it was probable that the EDC must have entered into some contracts with foreign firms which enabled it to earn such a huge amount of money. Expressing concern over the government's plan to sell a profitable asset, he suggested that the Senate encourage that the EDC be retained as a government-owned corporation. He noted that while the decision to sell government corporations lies with the President, the inputs of the legislative branch, as the policy-making body of government, should also be considered by the chief executive.

Senator Arroyo agreed, as he noted that the sale of the EDC is a one-shot deal and, as such, this matter should be considered when the proposed national budget is brought before the Body in plenary session before the end of the year. He pointed out that at present, there is no budgetary allocation for the exploration of indigenous energy sources.

To the observation that the impending privatization of the EDC is similar to the government's sale of its shares in Petron Corporation, Senator Arroyo agreed, as he noted that there is no country in Southeast Asia which does not have a national oil company because it serves as a stabilizing force. He pointed out that

Indonesia still has a national oil company because it refuses to be at the mercy of the pricing war; on the other hand, the Philippines has lost its leverage when government sold 60% of Petron.

In the corporate world, Senator Pimentel stated that selling 60% gives the buyer the authority to run the corporation as it sees fit. He supposed that the primary objective of the creation of the EDC was to explore and develop indigenous energy sources to be used by the Filipino people.

Asked whether the buyers of EDC are foreigners, Senator Arroyo doubted that foreigners would have majority control precisely because of the constitutional provision on ownership. He clarified that his concern is who would take the place of EDC in exploring and developing the indigenous sources of energy because the sale would create a vacuum. He asserted that his objection, as stated in the resolution, would be met only if the government could say that someone else would take care of the functions of EDC. He stressed that the Senate cannot be bypassed and needs to know the details of the transaction.

Speaking of transparency, Senator Pimentel stressed that the Senate should scrutinize the terms of the sale and the identity of the buyers, among others. He also agreed that the sale of the EDC would leave a vacuum that cannot be filled easily. He emphasized that a certain amount of planning involving the whole energy sector and some experts, as well as inputs from legislators, is necessary.

In the course of Senator Pimentel's interpellation, Senate President Villar relinquished the Chair to Senate President Pro Tempore Ejercito Estrada.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 4:09 p.m.

RESUMPTION OF SESSION

At 4:10 p.m., the session was resumed.

INTERPELLATION OF SENATOR HONASAN

Preliminarily, Senator Honasan noted that Senator Angara has pointed out the need to have a policy

providing for a mandatory review of foreign direct investments. He recalled that the U.S. Foreign Investment and National Security Act of 2007 (FINSA) came into being as a result of the efforts of a Dubai-owned company to acquire the Shipping Operator Peninsular and Oriental Steam Navigation, including its subsidiaries that operate six key U.S. ports.

Asked whether it is imperative to identify through legislation some policy issues that must be considered in entering into future investment deals, taking into consideration financial, diplomatic, economic and national security implications, Senator Arroyo pointed out that with respect to the issue of national security, the government, as mandated in the Constitution, can temporarily take over the control of public utilities like communication and transportation in times of emergency.

INTERPELLATION OF SENATOR MADRIGAL

At the outset, Senator Madrigal stated that the Leyte Geothermal Production Field (LGPF), the world's largest steam field, is producing one of the largest outputs of geothermal energy next to the United States, and that the PNOC-EDC accounts for 60% of the country's installed geothermal capacity.

Asked if there are any constitutional issues with regard to sovereignty over energy or control of natural resources should EDC be 100% privatized, Senator Arroyo said that there is no problem if the buyer is a Filipino-owned or controlled company but a problem would arise if the buyer cannot meet the 60% constitutional requirement on ownership.

At this juncture, Senator Madrigal enumerated the potential investors who have already gone through the screening process, namely, Aboitiz Power Corporation, Alsons Consolidated Resources, Inc., First Gen Corporation, Filinvest, One Energy Ltd., and San Miguel Corporation, among the locals; and Ashmore Group of New Zealand, Geyser Green Energy, International Power, Reykjavik Energy, Marubeni Corporation and Sumitomo Corporation, among the foreign corporations.

Senator Arroyo stated that the Privatization Council must be able to look into the matter, particularly its constitutionality, which could be determined only after the bid papers have been filed. Ideally, he said, these corporations should meet the constitutional requirements before they submit their bid to the


Privatization Council which, on the other hand, must thoroughly screen and evaluate them before pre-qualifying them to bid. He disclosed that he would prefer Filipino owners, the first set of list that Senator Madrigal read earlier.

Senator Madrigal recalled that on December 13, 2006, there was a P5.3 billion offering comprising 40% of the EDC, 74% of which was sold to foreigners. That being the case, she said there is no assurance that these foreign companies would not increase the price of geothermal energy or that the government would work towards energy independence precisely because it is allowing foreign entities to control the country's energy resources.

Senator Arroyo commented that given the data presented by Senator Madrigal, 70% of the 40% is 28% and the limit that foreigners can own in public service companies is 40%. He assumed that the EDC had carefully studied the matter but he maintained the 60% should be reserved to Filipinos pursuant to the Constitution.

Asked if he is in favor of selling the assets to bridge the country's budget deficit which apparently is the purpose of the sale, Senator Arroyo replied in the negative, pointing out that the privatization program was initiated precisely to reduce the country's indebtedness. Unfortunately, he said, the sale of EDC assets is being designed to help bridge the fiscal deficit.

Senator Madrigal noted that the EDC is a very lucrative company with a net income of P6.8 billion in 2006 as against P9.9 billion in 2005, the difference mainly due to the drop in foreign exchange gains on year-end realignment of the yen and dollar denominated loans. But she pointed out that in 2007, the country has been experiencing a strong peso due to the huge weakening of the dollar. She wondered what the net income would be in 2007 in view of the continued slump of the dollar vis-à-vis the other currencies. She surmised that in a few years, the EDC, without having to sell its assets, would be able to generate enough money to help the country. Senator Arroyo agreed, adding that the appreciation of the peso would improve by 15% to 20% the net income. He said that despite the currency changes, the EDC made more money in 2006 and it is still doing well.

On whether he could propose a stronger measure than a resolution to urge the Arroyo government to hold the forthcoming sale of EDC in abeyance, 



Senator Arroyo replied that he would leave the matter to the Committee on Rules to do what needs to be done with the resolution.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 4:33 p.m.

RESUMPTION OF SESSION

At 4:35 p.m., the session was resumed.

SUSPENSION OF THE INTERPELLATIONS ON SENATOR ARROYO'S SPEECH

Upon motion of Senator Pangilinan, there being no objection, the Body suspended the interpellations on the speech of Senator Arroyo.

ADDITIONAL REFERENCE OF BUSINESS

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

BILLS ON FIRST READING

Senate Bill No. 1868, entitled

AN ACT ESTABLISHING THE FORENSIC SCIENCE INSTITUTE IN THE UNIVERSITY OF THE PHILIPPINES SYSTEM, DEFINING ITS FUNCTIONS AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Manny Villar

To the Committees on Public Order and Illegal Drugs; Education, Arts and Culture; and Finance

Senate Bill No. 1869, entitled

AN ACT PROHIBITING SMOKING TOBACCO PRODUCTS IN A MOTOR VEHICLE WHEN A MINOR IS PRESENT AND PROVIDING GRADUATED PENALTIES THEREFOR

Introduced by Senator Manny Villar

To the Committee on Health and Demography

Senate Bill No. 1870, entitled

CERVICAL CANCER AWARENESS AND PREVENTION CAMPAIGN ACT

Introduced by Senator Manny Villar

To the Committee on Health and Demography

Senate Bill No. 1871, entitled

AN ACT TO STRENGTHEN THE UNIVERSITY OF THE PHILIPPINES AS THE NATIONAL STATE UNIVERSITY

Introduced by Senator Manny Villar

To the Committees on Education, Arts and Culture; Ways and Means; and Finance

Senate Bill No. 1872, entitled

AN ACT ESTABLISHING AN INTER-AGENCY INITIATIVE TO ENHANCE SERVICES FOR INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS

Introduced by Senator Manny Villar

To the Committees on Health and Demography; and Finance

Senate Bill No. 1873, entitled

AN ACT PUNISHING THE ACT OF UNDERAGE TATTOOING AND BODY PIERCING

Introduced by Senator Manny Villar

To the Committees on Health and Demography; and Justice and Human Rights

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RESOLUTION

Proposed Senate Resolution No. 205, entitled

RESOLUTION CONDEMNING IN THE STRONGEST POSSIBLE TERMS THE RECENT BOMBING AT THE HOUSE OF REPRESENTATIVES, EXTENDING SYMPATHIES TO THE VICTIMS, AND CALLING ON AUTHORITIES TO CONDUCT A SWIFT AND THOROUGH INVESTIGATION INTO THIS INCIDENT

Introduced by Senators Mar Roxas, Biazon, Pangilinan and Benigno S. Aquino III

To the Committee on Rules

CONSIDERATION OF PROPOSED SENATE RESOLUTION NO. 205

Upon motion of Senator Pangilinan, there being no objection, the Body considered Proposed Senate Resolution No. 205, entitled

RESOLUTION CONDEMNING IN THE STRONGEST POSSIBLE TERMS THE RECENT BOMBING AT THE HOUSE OF REPRESENTATIVES, EXTENDING SYMPATHIES TO THE VICTIMS, AND CALLING ON AUTHORITIES TO CONDUCT A SWIFT AND THOROUGH INVESTIGATION INTO THIS INCIDENT.

With the permission of the Body, only the title of the resolution was read without prejudice to the insertion of its text into the Record of the Senate.

ADOPTION OF PROPOSED SENATE RESOLUTION NO. 205

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 205 was adopted by the Body.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 4:37 p.m.

RESUMPTION OF SESSION


At 4:39 p.m., the session was resumed.

ADJOURNMENT OF SESSION

Upon motion of Senator Pangilinan, there being no objection, the President Pro Tempore declared the session adjourned until three o'clock in the afternoon of Monday, November 19, 2007.

It was 4:40 p.m.

I hereby certify to the correctness of the foregoing.


EMMA LIRIO-REYES
Secretary of the Senate

Approved on November 19, 2007