


THIRTEENTH CONGRESS OF THE)  
REPUBLIC OF THE PHILIPPINES )  
Third Regular Session )

SENATE

P. S. Res. No. 620

RECEIVED BY: 

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Introduced by Senator S. R. Osmena III

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**RESOLUTION**

**DIRECTING THE COMMITTEE ON FINANCE TO CONDUCT AN INQUIRY IN AID OF LEGISLATION INTO THE REPORTED IRREGULARITIES ATTENDING RECENT GOVERNMENTAL ACTIONS WITH RESPECT TO THE NAIA TERMINAL 3 BOT PROJECT THAT THREATEN TO EXPOSE THE NATIONAL GOVERNMENT TO UNDUE CLAIMS, FOR THE PURPOSE OF CRAFTING LAW THAT WILL STRENGTHEN PRUDENTIAL REQUIREMENTS ON PUBLIC EXPENDITURE**

**WHEREAS**, the NAIA Terminal III Project was one of the earliest major infrastructure projects under the auspices of Republic Act No. 6957 as amended by Republic Act No. 7718, otherwise known as the Build-Operate-Transfer (BOT) Law, yet also one of the earliest to have been mired in anomalies;

**WHEREAS**, from August to September 2002, the Senate Committee on Accountability of Public Officers and Investigations, jointly with the Committee on Public Works and the Committee on Constitutional Amendments, Revision of Codes and Law, conducted hearings on these anomalies and thereafter found that: [1] the project contracts between the Department of Transportation and Communications (DOTC) and the Manila International Airport Authority (MIAA) on one hand and the Philippine International Air Terminals Co., Inc. (PIATCO) on the other, are void; [2] the internationally accepted safety and security facilities have not been installed in the terminal; [3] the matter of the project cost is of public concern; and [4] the project was tainted with anomalies every step of the way committed principally by DOTC;

**WHEREAS**, in May 2003, the Supreme Court, in *Agan, et al. v. PIATCO*, held that the award of the project to PIATCO was null and void *ab initio*, as with the concession agreement and all amendments thereto;

**WHEREAS**, in February 2003, PIATCO commenced arbitration proceedings against the Government of the Philippines with the international Chamber of Commerce (ICC) International Court of Arbitration, seeking, among others, the reinstatement of the concession agreements and compensation in the amount of US\$565,000,000.00;

**WHEREAS**, in June 2003, the executive branch created the Cabinet Oversight Committee on the Ninoy Aquino international Passenger Terminal III composed of the Secretaries of Trade and Industry, Transportation and Communication, and Tourism, assisted by the Solicitor General and the Government Corporate Counsel, to formulate and adopt courses of action towards ensuring that the terminal is completed, opened and operated in the most practicable time;

**WHEREAS**, in September 2003, Fraport AG Frankfurt Airport Services Worldwide commenced arbitration proceedings against the Republic of the Philippines before the International Centre for the Settlement of Investment Disputes (ICSID), seeking compensation in the amount of US\$425,000,000.00;

**WHEREAS**, the Office of the Solicitor General (OSG) engaged the services of White & Case, a US-based law firm, and the Sycip, Salazar, Hernandez & Gatmaitan Law Offices to assist the government in its defense in the arbitration cases filed with the ICC and ICSID;

**WHEREAS**, in March 2004, the Cabinet Oversight Committee was dissolved, upon the recommendation of the OSG that all proposals and suggestions concerning the arbitration proceedings be conveyed to the government and discussed only on a lawyer-to-lawyer basis;

**WHEREAS**, several cases have likewise been filed against PIATCO, its stockholders including Fraport, and their officers for violation of the Anti-Dummy Law, Law Against Plunder, Anti-Graft and Corrupt Practices Act, National Internal Revenue Code and the Revised Penal Code;

**WHEREAS**, it has been reported that secret high-level negotiations and disturbing developments in the cases filed against the alleged perpetrators of the anomalies have been weakening the position of the government in the arbitration proceedings;

**WHEREAS**, it has been further reported that the government is prepared to pay US\$450,000,000.00 to the contractor although the amount is less likely than what the contractor could document; and

**WHEREAS**, over a decade from the time the project was bid out and more than four years since the Senate conducted its investigation, new anomalies have been piling up, further aggravating the financial exposure of the national government vis-à-vis the claims of Fraport and its cohorts, without any comprehensive and lawful solution in sight.

**NOW THEREFORE**, in view of the foregoing and of protecting the financial interest of the national government, and in order to protect and pursue the Senate's constitutional prerogatives,

**BE IT RESOLVED**, as it is hereby resolved, to direct the Committee on Finance to conduct an inquiry in aid of legislation into the reported irregularities attending recent governmental actions with respect to the NAIA Terminal 3 BOT Project that threaten to expose the National Government to undue claims, for the purpose of crafting law that will strengthen prudential requirements on public expenditure.

Adopted,

A handwritten signature in cursive script, appearing to read "Armen", is located at the bottom right of the page.