



**REPUBLIC OF THE PHILIPPINES**

**S e n a t e**

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# **Journal**

**SESSION NO. 64**

Tuesday, March 11, 2008

**FOURTEENTH CONGRESS  
FIRST REGULAR SESSION**

**SESSION NO. 64**  
Tuesday, March 11, 2008

**CALL TO ORDER**

At 4:42 p.m., the Senate President, Hon. Manny Villar, called the session to order.

**PRAYER**

Sen. Aquilino Q. Pimentel Jr. led the prayer, to wit:

Lord, bless our people  
in these times of need.  
Spare them from evil and men of greed.  
Bring them peace and prosperity  
and in the after life, eternity.

Amen.

**ROLL CALL**

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

Aquino III, B. S. C	Lacson, P. M.
Arroyo, J. P.	Legarda, L.
Biazon, R. G.	Madrigal, M. A.
Cayetano, A. P. C. S.	Pangilinan, F. N.
Ejercito Estrada, J.	Pimentel Jr., A. Q.
Enrile, J. P.	Roxas, M.
Escudero, F. J. G.	Villar, M.
Gordon, R. J.	Zubiri, J. M. F.
Honasan, G. B.	

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

Senator Angara arrived after the roll call.

Senators Cayetano (P), Defensor Santiago and Revilla were on official mission abroad.

Senator Lapid was absent.

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. 63 and considered it approved.

**APPROVAL OF SENATE BILL NO. 2092  
ON THIRD READING**

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Third Reading, Senate Bill No. 2092, printed copies of which were distributed to the senators on March 6, 2008.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, upon motion of Senator Pangilinan, there being no objection, Secretary Reyes read only the title of the bill, to wit:

**AN ACT ESTABLISHING LIVELIHOOD  
AND SKILLS TRAINING CENTERS  
IN FOURTH, FIFTH AND SIXTH  
CLASS MUNICIPALITIES AND FOR  
OTHER PURPOSES.**

Secretary Reyes called the roll for nominal voting.

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## RESULT OF THE VOTING

The result of the voting was as follows:

### *In favor*

Aquino	Lacson
Arroyo	Legarda
Biazon	Madrigal
Ejercito Estrada	Pangilinan
Enrile	Roxas
Escudero	Zubiri
Gordon	Villar
Honasan	

### *Against*

None

### *Abstention*

None

With 15 senators voting in favor, none against, and no abstention, the Chair declared Senate Bill No. 2092 approved on Third Reading.

## ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Pangilinan acknowledged the presence in the gallery of students from the University of Makati.

Senate President Villar welcomed the guests to the senate.

## PARLIAMENTARY INQUIRY OF SENATOR ARROYO

In light of the confusing reports about Proposed Senate Resolution No. 315 bearing on the Spratly Islands, Senator Arroyo inquired to which committee the resolution was referred. In reply, Senator Pangilinan explained that Proposed Senate Resolution No. 315, directing the Committee of the Whole to conduct an inquiry, in aid of legislation, on the propriety of the agreements entered into by the administration of President Gloria Macapagal-Arroyo, allowing China to explore gas and oil deposits in the Spratly Islands was referred during the plenary session of March 5, 2008, to three committees, namely, the Committee on Accountability on Public Officers and Investigations (Blue Ribbon Committee), the Committee on National Defense and Security, and the Committee on Environ-

ment and Natural Resources, because the agreements seemed to be a precondition to the bilateral loan agreements to finance government's overpriced and anomalous projects such as the ZTE-NBN deal and the North Rail project.

But Senator Arroyo questioned why the resolution was not referred to the Committee on Foreign Relations considering that the Spratly Islands issue is essentially a foreign affairs problem and also an energy problem because of the gas and oil deposits therein.

Asked why the most important committee has been left out, Senator Pangilinan said that the preliminary determination to refer the resolution to the Blue Ribbon Committee was made primarily because the issue being raised was that the bilateral agreement was entered into in consideration of the loan agreements with China to finance government projects including ZTE-NBN, which is the subject of the ongoing investigation of the Blue Ribbon Committee. Nevertheless, he said that should there be a request for a change of referral, the same would be submitted for the Body's consideration in plenary session.

## PARLIAMENTARY INQUIRY OF SENATOR ENRILE

Senator Enrile asked what particular aspect of the agreement covering the Spratly Islands would be the subject matter of the investigation considering that it involves many aspects — security, economic, political in view of the Philippine claim over the islands, territorial because of the possible encroachment into the country's undisputed domain; or simply put, whether it has to do with the ongoing investigation into the ZTE-NBN deal. In reply, Senator Pangilinan explained that the resolution seeks to look into the agreement allowing China to explore the gas and oil deposits in the Spratly Islands as a precondition to the grant of Chinese loan to the Philippines.

Considering the sensitivity of the issue involving, as it does, countries friendly to the Philippines, Senator Enrile underscored that it behooves the Senate to canalize and limit the inquiry to the exploration agreement and not stray far, lest it commit a diplomatic *faux pas*. He stated that the Senate cannot delve into security matters when the agreement is with friendly countries. On the issue of the Philippine claim to the Spratly Islands, he asserted that by entering into the exploration agreement, the

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Philippines has secured the benefit of being recognized as claimant by the two other claimants.

For his part, Senator Arroyo stated that there are three countries involved, namely, the People's Republic of China, the Republic of the Philippines and the People's Republic of Vietnam, and the contract was signed by three state-owned companies, namely, the PNOC of the Philippines and its counterparts in China and Vietnam, so that it could not even be considered a government-to-government contract. He underscored that when it comes to foreign affairs, the Senate should proceed with prudence because given its treaty-ratifying power, it has a bigger role than the House of Representatives.

Senator Arroyo then moved that the Committee on Rules study first the matter in order to determine the proper committee to which it should be referred.

The Chair said that with the consent of the Body, the matter may be referred to the Committee on Rules so that it can recommend the appropriate action that the Chamber may take since there is an apparent overlap in the committee jurisdiction.

#### REMARKS OF SENATOR PIMENTEL

Senator Pimentel informed the Body that he was in China with President Arroyo when the particular agreement was entered into but he did not know the details of the agreement except that it was an attempt to defuse the situation in the Spratly Islands and to avoid conflict between the Philippines and other claimants countries like China and Vietnam.

Senator Pimentel said that if the Memorandum of Agreement under question only focused on the seas around the Spratly Islands, it would not pose too much of a problem for the Philippines. However, he pointed out that since the scope of the agreement covers the seas of Palawan, this would raise security concerns. He acknowledged that the country should not unnecessarily rile China and Vietnam but it is incumbent upon the Senate to protect and assert the country's territorial rights.

#### REMARKS OF SENATOR BIAZON

Senator Biazon stated that there are four resolutions filed related to the Spratly Islands issue — three of these would look into the possible link between the Joint Marine Seismic Undertaking

(JMSU) and the ZTE-NBN contract and other related ventures, and the possibility of a sellout; and one would look into the matter of foreign relations. He said that the agreement in question likewise raises the constitutional issue on when the Senate's power to ratify treaties would come in.

#### MANIFESTATION OF SENATOR CAYETANO (A)

Senator Cayetano (A) stated that he would not object to the referral of the resolution to the Committee on Rules as he agreed that the Senate should be careful when it comes to diplomatic relations. However, he clarified that the Blue Ribbon Committee would investigate any anomalous transactions that the government entered into and what its officials did. For instance, he said that if the Philippines entered into an exploration agreement with Malaysia over Sabah, which the Philippines is claiming, he would not take offense if the Malaysian government investigated its own people for allowing the deal to take place. Moreover, he acknowledged that each claimant country to the Spratly Islands would push its own national interest to advance its claim.

Senator Cayetano (A) said that as far as the Committee is concerned, it wants to know whether Philippine officials overstepped their bounds when they entered into the anomalous NBN-ZTE deal.

#### CHANGE OF REFERRAL

Upon motion of Senator Pangilinan, there being no objection, the Chair referred Proposed Senate Resolution Nos. 300, 309, 315 and 319 to the Committee on Rules.

#### ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Pangilinan acknowledged the presence of Reps. Albert Garcia of the 2<sup>nd</sup> District of Bataan and Carissa Coscuella of the Buhay Partylist.

Senate President Villar welcomed the guests to the Senate.

#### MANIFESTATION OF SENATOR GORDON

Senator Gordon stated that just the other day, he filed Proposed Senate Resolution No. 321 urging the

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Senate to amend its Rules of Procedure Governing Inquiries in Aid of Legislation to provide rules on deposition authority and the prior submission of sworn statements by witnesses in order to expedite inquiries in aid of legislation.

Senator Gordon stated that the ZTE-NBN hearing is a glaring example of what the Senate must do to ensure that it is not bamboozled by witnesses who announce that they would testify, then all of a sudden back down. He asked whether it is very timely for the Body to consider amending said rules particularly involving situations which may end up in criminal prosecution later on.

Senator Gordon expressed hope that the Body would take up the resolution soon.

Senator Pangilinan assured Senator Gordon that the Committee on Rules would convene at the soonest possible time to deliberate on the matter and make the necessary recommendations.

Senator Gordon explained that he filed the resolution in order for the hearings to be handled expeditiously. He said that although there is a requirement for witnesses to be sworn in, Section 21 of the Rules of Procedure Governing Inquiries in Aid of Legislation provides for a general counsel who can take depositions from witnesses. He opined that the matter should be considered first before proceeding with other committee hearings, otherwise, it would diminish the prestige of the Senate. He pointed out that the same questions are being raised in the ZTE hearings primarily because new witnesses show up without prior submission of depositions before the hearing. He hoped that the general counsel would conduct investigations on its own; take the deposition and provide the Members with the same one week before the hearing; allow the staff to study all statements for the orderly questioning of the witnesses and a logical cross-examination by the Members. He said that this procedure would prevent what had happened earlier in the ZTE-NBN hearing as he also recalled that when Mr. Madriaga, who had already testified for hours, was asked if his written statement was an exact reproduction of what he said in the hearing, the latter replied in the affirmative but when asked to sign the statement under oath, he asked that he be provided with a counsel. He said that he did not pursue the matter because the situation spoke for itself. He urged the Committee on Rules to act swiftly on the matter to bolster the sanctity of the proceedings.

At this juncture, the Chair gave assurance that the Committee on Rules would address Senator Gordon's concerns.

Incidentally, the Chair informed the Body that the report on the matter of thermostat installation has already been prepared for Senator Gordon.

#### **REFERRAL TO COMMITTEE**

Upon motion of Senator Pangilinan, there being no objection, the manifestation of Senator Gordon was referred to the Committee on Rules.

#### **REFERENCE OF BUSINESS**

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

#### **MESSAGE FROM THE HOUSE OF REPRESENTATIVES**

Letter from the Secretary General of the House of Representatives, informing the Senate that on 5 March 2008, the House of Representatives agreed to a conference and designated Representatives Defensor Jr. (M.), Javier, Escudero III and Rodriguez (R.) as its conferees to the Bicameral Conference Committee on the disagreeing provisions of House Bill No. 1890, entitled

**AN ACT ENLARGING THE ORGANIZATIONAL STRUCTURE OF THE COURT OF TAX APPEALS, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES,**

and Senate Bill No. 2009, entitled

**AN ACT FURTHER EXPANDING THE ORGANIZATIONAL STRUCTURE OF THE COURT OF TAX APPEALS, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.**

**To the Committee on Rules**

*hil 11/11/08*

## RESOLUTIONS

Proposed Senate Resolution No. 327, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON GOVERNMENT CORPORATIONS AND PUBLIC ENTERPRISES TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, INTO THE ALLEGED MISMANAGEMENT OF THE FOOD TERMINAL INCORPORATED (FTI)

Introduced by Senator Pimentel Jr.

**To the Committees on Government Corporations and Public Enterprises; and Accountability of Public Officers and Investigations**

Proposed Senate Resolution No. 328, entitled

RESOLUTION DIRECTING THE COMMITTEE ON CULTURAL COMMUNITIES TO INVESTIGATE, IN AID OF LEGISLATION, THE MINING EXPLORATION ACTIVITY IN THE DECLARED PROTECTED SEASCAPE AND LANDSCAPE IN PUJADA BAY, COVERING THE VILLAGE OF MACAMBOL IN THE CAPITAL CITY OF MATI, AND MT. HAMIGUITAN IN DAVAO ORIENTAL, THAT THREATENS THE LIFE AND LIVELIHOOD OF THE MANDAYA TRIBE RESIDING IN THE AREA AND TO REVIEW THE UNCHECKED ISSUANCE OF THE MINERAL PRODUCTION SHARING AGREEMENT (MPSA) EVEN WITH QUESTIONABLE FREE PRIOR INFORMED CONSENT (FPIC) FROM THE AFFECTED INDIGENOUS PEOPLES

Introduced by Senator M.A. Madrigal

**To the Committees on Cultural Communities; and Environment and Natural Resources**

## COMMITTEE REPORT

Committee Report No. 41, prepared and submitted jointly by the Committees on Labor, Employment

and Human Resources Development; and Finance, on Senate Bill No. 2116, with Senators Jinggoy Ejercito Estrada, Ramon "Bong" Revilla Jr., Angara, Loren Legarda, Manuel "Lito" M. Lapid and Enrile as authors thereof, entitled

AN ACT STRENGTHENING AND EXPANDING THE COVERAGE OF THE SPECIAL PROGRAM FOR EMPLOYMENT OF STUDENTS, AMENDING FOR THE PURPOSE PROVISIONS OF R.A. 7323, OTHERWISE KNOWN AS THE SPECIAL PROGRAM FOR EMPLOYMENT OF STUDENTS,

recommending its approval in substitution of Senate Bill Nos. 6, 776, 917, 923 and 1621.

Sponsor: Senator Jinggoy Ejercito Estrada

**To the Calendar for Ordinary Business**

## SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

*It was 5:12 p.m.*

## RESUMPTION OF SESSION

At 5:16 p.m., the session was resumed with Senate President Pro Tempore Ejercito Estrada presiding.

Senator Pangilinan informed the Body that the Committees on Accountability of Public Officers and Investigations, Trade and Commerce, and National Defense and Security would resume the hearings on the ZTE-NBN deal so that they may avail of the presence of the witnesses. He then sought the permission of the Body to allow the Committees to resume their joint hearing and, at the same time, it would continue with the plenary session.

## PARLIAMENTARY INQUIRY OF SENATOR GORDON

Senator Gordon pointed out that the Rules does not allow committee hearings to be conducted while plenary session is ongoing. He said that the resolution he had manifested earlier primarily speaks of the

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orderly functions in the hearings to save time and prevent intrusion into the plenary sessions.

Senator Gordon stated that earlier in the congressional oversight committee hearing on automated elections, it was only him and Senator Arroyo on the part of the Senate and eight congressmen who were present because the other senators had to attend other hearings. He said that he was not complaining but that he was simply pointing out that this does not give a good impression on the Senate, which could have been avoided if the Rules were applied accordingly.

Further, Senator Gordon said that suspension of the rules would require a majority vote and he doubted if there was even a quorum on the floor.

Senator Pangilinan explained that precisely, as a premise to his motion, he sought the permission of the Body to allow the resumption of the joint hearing while the plenary session is ongoing.

Senator Gordon objected to the motion in the interest of orderly proceedings. He pointed out that because of the hearings, senators would have late lunches and would be recorded absent if they do not make it in time for the plenary session in the afternoon even if they have been in a hearing of the Commission on Appointments or other committees. In fact, he said, he came running into the session hall when the chime rang at 4:30 p.m. just to be in the hall for the roll call.

At this point, Senator Gordon asked whether allowing committee hearings to be held while plenary sessions are ongoing would also mean changing the rules on tardiness.

#### **SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 5:21 p.m.*

#### **RESUMPTION OF SESSION**

At 5:22 p.m., the session was resumed.

#### **MOTION OF SENATOR PANGILINAN**

Senator Pangilinan said that although the Body could choose to suspend the *Rules of the Senate*,

it would defer to the points raised by Senator Gordon to be consistent with the *Rules*.

Senator Pangilinan moved to adjourn the session.

#### **PARLIAMENTARY INQUIRY OF SENATOR GORDON**

Senator Gordon asked whether the session would be adjourned upon motion of a member of the Body or upon motion of the Majority Leader. He said that he would understand if the session is adjourned because there is nothing left to discuss. Noting, however, the scheduled interpellations on or committee amendments to certain measures in the Order of Business, he underscored the need for a ruling on the matter because action on the motion would set a precedent.

Senator Pangilinan replied that during the break, Senator Angara has graciously agreed to call the pre-need code bill, the only item on the day's agenda, first thing the following day.

Senator Angara confirmed that while he was indeed prepared to introduce committee amendments to the pre-need code, he readily accepted the suggestion of Senator Pangilinan to call the measure as well as the renewable energy bill the following day.

Reacting to an earlier comment of Senator Arroyo, Senator Gordon affirmed that indeed Senate President Pro Tempore Ejercito Estrada has been doing a yeoman's work presiding over the sessions in behalf of Senate President Villar. He said that he had, in fact, intimated the hard work of Senator Ejercito Estrada in a radio interview the previous day.

In the same manner, Senator Gordon said that he would like to show the public that the Senate can conduct its plenary sessions and do the business of the day without adjourning for the sake of a committee investigation which has its proper time. He maintained that committee investigations like the ongoing ZTE hearing should not intrude on the plenary sessions to avoid the risk of public censure that the Senate is delaying the business of the country.

The Chair manifested his gratitude to Senator Gordon for his kind comments.

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**MANIFESTATION OF SENATOR ARROYO**


Senator Arroyo reminded the Body that in case of conflict between a committee hearing and a plenary session, by every rule, the latter always prevails. He believed that nobody would be prejudiced if the committee hearing was resumed the following day.

**ADJOURNMENT OF SESSION**

Upon motion of Senator Pimentel, there being no objection, Senate President Pro Tempore declared the session adjourned until three o'clock in the afternoon of the following day.

*It was 5:27 p.m.*

I hereby certify to the correctness of the foregoing.

  
EMMA LIRIO-REYES  
Secretary of the Senate  
*He-til pro*

Approved on March 12, 2008