

FOURTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
Second Regular Session )

9 FEB 18 P5:06

SENATE  
P.S.R. No. 899

RECEIVED BY: *[Signature]*

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Introduced by Senators Lacson, Aquino, Legarda, Madrigal and Roxas

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**RESOLUTION**

**DIRECTING THE COMMITTEE ON ACCOUNTABILITY OF PUBLIC OFFICERS AND INVESTIGATIONS (BLUE RIBBON) TO CONDUCT AN INQUIRY , IN AID OF LEGISLATION, INTO THE REPORTED DEBARMENT OF FILIPINO AND CHINESE FIRMS FOR ALLEGED COLLUSIVE PRACTICES TOGETHER WITH CERTAIN PUBLIC OFFICIALS, BOTH ELECTED AND APPOINTED, WITH RESPECT TO THE NATIONAL ROADS IMPROVEMENT AND MANAGEMENT PROGRAM**

*Whereas*, last month, the World Bank announced the debarment of several Filipino and Chinese firms for allegedly engaging in collusive practices with regard to the National Roads Improvement and Management Program I (NRIMP-1) of the Department of Public Works and Highways;

*Whereas*, as a result thereof several resolutions were filed to investigate the matter in order to determine the veracity of the report and to provide remedial legislations in order to strengthen Republic Act No. 9184, otherwise known as the Government Procurement Reform Act;

*Whereas*, investigations being conducted by the Senate and House and representatives pursuant to the powers granted to it by the Constitution are in aid of legislation and not for prosecution purposes and as such, technical rules of evidence should not generally apply;

*Whereas*, the World Bank sanction process is also not in the nature of criminal proceedings where proof beyond reasonable doubt is the required standard rather, under its guidelines, the World Bank uses a different standard of proof, i.e. ***“that is more likely than not”*** which means that upon consideration of all the relevant evidence, a preponderance of the evidence supports a finding that the respondent engaged in a sanctionable practice;

*Whereas*, the primary purpose of the Bank’s sanctioning process is to protect the assets entrusted to the bank from misuse or abuse in the future and as such, the adoption of an unduly rigorous standard of proof would be neither effective nor efficient. Moreover, the World Bank investigators have neither traditional law enforcement powers that investigators in member nations use to obtain evidence to build criminal cases, nor even the limited rights to compel the production of documents or witness testimony that parties to criminal or civil proceedings in national courts may utilize;

*Whereas*, despite said handicaps, the referral report of the World Bank has been used by different countries in investigating and successfully prosecuting those who have violated not only the rules and regulations of the

bank but also the law of a member country as can be gleaned from the following examples:

1. On July 21, 2004, the Attorney General of Bolivia Oscar Crespo informed the World Bank of the criminal conviction of 15 people involved in fraudulent and corrupt activities in relation to the World Bank financed "Participatory Rural Investment Project." The Bolivian Attorney General's Office took this action following an investigation and criminal referral by the World Bank's Department of Institutional Integrity.

2. On June 17, 2004, the Minister of Justice of the Republic of Guinea informed the World Bank of the criminal convictions of three individuals involved in corrupt activities in relation to the World Bank financed "Capacity for Service Delivery" (PRCI) project. The Guinean Ministry of Justice took this action following an investigation and criminal referral by the World Bank's Department of Institutional Integrity to Guinean authorities in October 2003.

3. On January 13, 2004, the district court in Huddinge, Sweden convicted two individuals of bribery in connection with the misuse of World Bank trust funds. The World Bank vigorously pursued this particular investigation since the allegations were first reported to the World Bank's Fraud and Corruption Hotline in 1999. In 2000, the World Bank terminated the employment of three of its own staff members involved in the matter and referred this case to the U.S. and Swedish authorities. The World Bank cooperated fully with the authorities and a World Bank staff member testified at the trial in Sweden at the request of the prosecution. Two of the former staff members had already pled guilty to charges in a U.S. district court and two individuals in Sweden who were involved in the firms that received World Bank contracts - financed by Consultant Trust Funds - have been convicted of making payments to the former staff members.

**Whereas**, the World Bank also investigated and debarred German company, Lahmeyer International GmbH (Lahmeyer), this time on the basis of a decision rendered by the government of Lesotho which found the firm to have engaged in corrupt activities in connection with the Lesotho Highlands Water Project (LHWP);

**Whereas**, the following shows that with proper coordination with the World Bank, allegations of fraud and corruption can be properly investigated and successfully prosecuted;

**Whereas**, since 2001, the World Bank INT has handled close to 3,000 cases of alleged fraud, corruption, or other wrongdoing, resulting in the public debarment of 351 companies and individuals, whose names have been listed on the Bank's website and its referrals to member governments of fraud or corruption have resulted in 26 criminal convictions;

**Whereas**, considering the foregoing, it is therefore a surprise that our Ombudsman seems to be at a loss with regard to the way she should proceed with respect to the referral report given to her on November 2007;

**Whereas**, under its guidelines, the submission of a referral report indicates that it is the opinion of the bank that the law of a member country may have been violated by a respondent;

**Whereas**, the documents in its possession while may not be strong enough to warrant the filing of information in court are however investigative leads that the Ombudsman can use to determine the truth of the different allegations indicated in the referral report;

**Whereas**, it should be noted that the investigation of the World Bank was not limited to collusive practices but it also includes charges of corrupt practices;

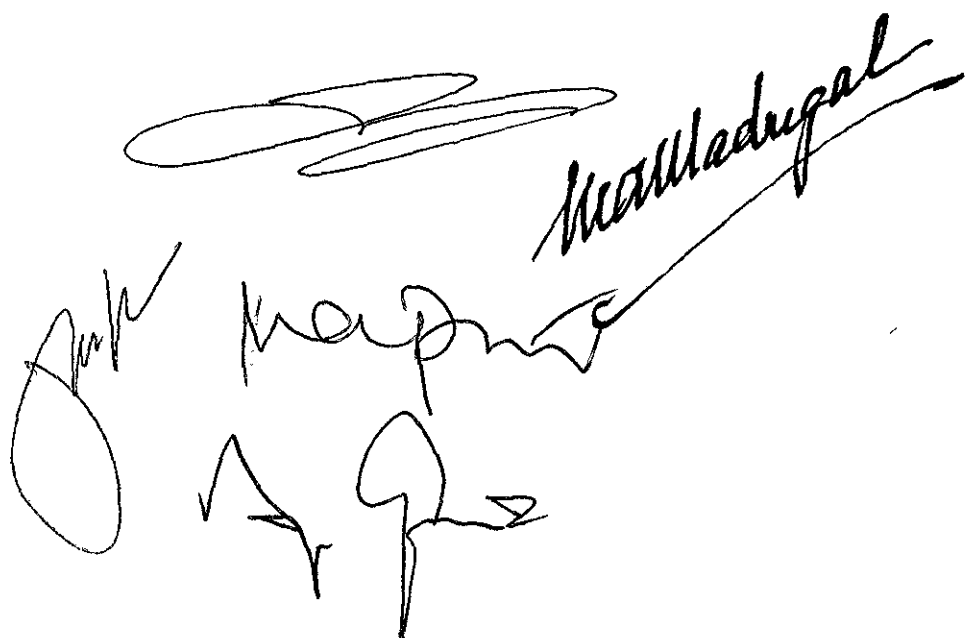
**Whereas**, while allegations of corrupt practices were not proven by the INT to the sanction board, said allegations are serious matters that should be pursued considering that public monies are involved as well as the integrity of our procurement process;

**Whereas**, this serious allegations should not be allowed to pass without it being given a second look considering that names of certain individuals connected with the Department of Public Works and Highways and elected public officials are mentioned as involved in facilitating and masterminding the alleged collusive practices in the bidding process;

**Whereas**, considering the mandate given to it by the Constitution, the Ombudsman should act promptly on this matter and not expect that it will be spoon fed with all the necessary information and evidence by the World Bank;

**NOW THEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED**, to direct the Committee on Accountability of Public Officers and Investigations, to conduct an inquiry, in aid of legislation, into the recent debarments issued by the World Bank for alleged collusive practices in complicity with certain government officials with the end in view of providing remedial legislations to further strengthen Republic Act No. 9184, otherwise known as the Government Procurement Reform Act, and, if necessary, to amend Republic Act No. 6770 otherwise known as the "Ombudsman Act of 1989" in order that it will have the necessary powers to successfully investigate and prosecute corruption, malfeasance and misfeasance in government.

**Adopted,**



Handwritten signatures and initials, including a large signature that appears to read "Mauludyal" and several other illegible signatures.