



REPUBLIC OF THE PHILIPPINES

**S e n a t e**

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# **Journal**

**SESSION NO. 46**

Tuesday, December 14, 2004

**THIRTEENTH CONGRESS  
FIRST REGULAR SESSION**

**SESSION NO. 46**  
Tuesday, December 14, 2004

**CALL TO ORDER**

At 2:54 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

**PRAYER**

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

Lord,

Our legislative calendar ends our sessions on the 17<sup>th</sup> of this month. That means that we have a lot of work to do before we take a break to celebrate Christmas, a season of love, in Your honor.

We go into our Christmas break with a heavy heart. Many innocent lives were lost in many parts of our country due to natural and man-made calamities.

And for those of us in the Opposition, we go with a heavier load in our minds and hearts because we have just lost our leader, Fernando Poe Jr., a man who by his daring to serve our people, had shown all of us what integrity means and what it takes to uphold the rule of law.

We pray for the repose of the souls of the victims of the floods and the typhoons and of those whose lives were snatched by bullets in Mindanao. We also pray for peace for their families and for our country.

We pray especially for Fernando Poe Jr., that he will find vindication -- that was denied him here in this vale of tears in the land from whose bourne no traveler returns.

We pray for the Senate leadership and all the senators that as we end the

year, we go into the next with a renewed spirit of service and devotion to the cause of national development.

Amen.

**DEFERMENT OF THE ROLL CALL**

Upon motion of Senator Pangilinan, there being no objection, the Body deferred the roll call to a later hour.

**DEFERMENT OF THE APPROVAL OF THE JOURNAL**

Upon motion of Senator Pangilinan, there being no objection, the Body deferred the consideration and approval of the Journal of Session No. 45 to a later hour.

**PRIVILEGE SPEECH OF SENATOR PIMENTEL**

Availing himself of the privilege hour, Senator Pimentel delivered the following speech:

**FPJ'S DEATH,  
WE HAVE LOST A GOOD MAN**

Fernando Poe Jr., the presidential candidate of the Opposition in the last presidential election, died of coronary thrombosis at the crack of dawn today.

I share the grief of Susan and the members of his family and of the millions who supported him in the elections.

To some, that may sound presumptuous because on the personal level, it may be said that I hardly knew the man. He was my *compadre* at two or three weddings. But aside from that, we hardly had any contact at all.

### *Passion for integrity*

That said, however, on the level of our common desire to serve our people with singularity of purpose and with consummate passion for integrity in public service, I dare say that I knew the man absolutely and well.

FPJ was probably the person closest to President Erap Estrada barring none who cemented the latter's acceptance by the *masa* as one of them. And yet, he never took advantage of the unrestricted access he had to President Estrada, not only during Erap's campaign for the presidency or even when Erap was already in power. That virtue counted a lot in my book.

FPJ was probably the only presidential candidate who turned down contributions by the millions even as he needed the money, whenever he perceived them to be "investments" in his presidency.

Again, that meant a plus point for him in my political score sheet.

### *Short on words*

FPJ was probably the only national politician who was perennially short on words but long on undiluted love for welfare of the people. Again, despite my innumerable lapses into the world of wordy politicians, I thought that was one virtue politicians like me should emulate.

When I met him shortly before the start of the campaign, I suggested to him that even if he would win the presidency because of his popularity, he still needed a platform to run the country well.

### *FREEDOM*

Without hesitation, he embraced the platform that I suggested to him which was encapsulated in the acronym FREEDOM.

F for federalism, R for reforms in the bureaucracy, E for reforms in education, E for reforms in the economy, D for debt management, O for harnessing the might of the overseas workers, and M for Mindanao as the focus of agri-industrial development.

In all candor, he told me that he understood what the acronym stood for except the F for federalism. He thought that federalism was too complicated to understand as a concept in one sitting. He said that he was, however, willing to submit the issue for the people to consider when we amend the Constitution.

### *Other views*

That, to me, was sufficient guarantee that here was a person who would lead the country not by his personal executive fiat but by democratic consultation with others. And more important, that he would listen to views that may not necessarily coincide with his.

And during the campaign, when for whatever reasons tensions run high even among his colleagues in the opposition slate, I found Fernando Poe Jr. a beacon of integrity and courage who could say "No" even to his closest advisers.

### *No patsy*

That facet of his character demolished in my book the criticisms that others had leveled against him that he would be a patsy in the hands of Senators Ed Angara, Tito Sotto, Greg Honasan, Tessie Oreta or Jojo Binay, the big guns who ran his campaign.

FPJ was, in my mind, *sui generis*. A man alone; a class act unto himself. The leader who would have provided our people with a rallying point for renewal.

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*God's plans*

God, however, had his plans. In Greek mythology, they would have said that the Three Fates had decided his life from the beginning of time: Clotho spun the thread of his life from birth; Lachesis measured the thread of his life as he was growing up; and Aropos cut the thread of his life at dawn today.

God has determined the course of the life of Fernando Poe Jr. and the Fates have implemented that decision. We have lost a good man. And as we pray for the repose of his immortal soul we can only ask, using the words of Mark Anthony who spoke at the funeral of Caesar: "When comes such another?"

**PRIVILEGE SPEECH OF  
SENATOR EJERCITO ESTRADA (J)**

Also availing himself of the privilege hour, Senator Ejercito Estrada (J) delivered the following speech:

Today, the Filipino nation mourns the passing of a great and honorable man, Fernando Poe Jr. or FPJ as we fondly know him.

I take this opportunity to join our beloved countrymen in expressing our common and collective grief over the untimely death of this distinguished man who had served as a model and an inspiration to many generations of Filipinos, mine included.

He inspired his people not only in his many films that extolled the triumph of good over evil, of integrity over deceit, of honor above all, of fortitude over crisis, and of other outstanding values that many of us have forgotten, but which we, today, must continue to cherish and observe.

FPJ lived his life the way he lived his screen role. He was the champion of the oppressed — the good, God-fearing,

kindhearted man who would come to the rescue.

He portrayed and championed these values not only in his films. He observed them as a living creed and did not seek attention or publicity in the many charities he had made.

He worked quietly without the glare of media. Even as a private citizen, he embarked on helping our least fortunate *kababayans* through educational grants and scholarships, medical missions and in various financial assistance and donations.

Indeed, we have lost a great man — a man who would be very difficult to replace not only in his heart but in his caring and affection for the poor and the impoverished

*Marami sa ating kababayan ang nakakaalam at nakakabalita ng mga kagandahang loob ni FPJ.* In life, he was larger than the characters he had portrayed. In death, he has become even larger.

He was *ninong*, counsel and advisor to me. I have known him in my growing years. And today, as I learned his legacies, I would like to believe that I know him even better now. He inspired me like many other Filipinos of my generation. He was a dear friend of my father, and this friendship has engendered between these two great men the same goal, the same vision, resolute determination — to be a humble instrument in leading the masses from the quagmire of poverty and hopelessness into the path towards the life they truly deserve, a life of hope.

He is also a friend of my family. But most of all, an even dearer friend of the masses. This is why we mourn his passing deeply today. He had left and bequeathed to us the true meaning and value of honor, of integrity, of a life well

lived, of grace and courage under fire, especially during the recent presidential elections.

There are many more things to say about him and many of these may remain unsaid. But we know that they are deep in our hearts and minds.

We will remember Fernando Poe Jr. and his memories will always struggle for recall in the national consciousness because he showed us that the film, as an image and mirror of reality, could be translated into our own lives.

On this occasion, I ask the distinguished Members of this Body to join me in paying tribute to Fernando Poe Jr. and in offering a prayer for the eternal repose of his soul. I also ask you to join me in extending the sympathies and condolences of the Senate to his loved ones, most especially to Mrs. Susan Roces Poe, for she suffers not only the loss of a husband but the loss of a lifetime partner as well.

## ROLL CALL

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

Arroyo, J. P.	Lapid, M. L. M.
Biazon, R. G.	Lim, A. S.
Defensor Santiago, M.	Madrigal, M. A.
Drilon, F. M.	Magsaysay Jr., R. B.
Ejercito Estrada, J.	Pangilinan, F. N.
Ejercito Estrada, L. L. P.	Pimentel Jr., A. Q.
Enrile, J. P.	Recto, R. G.
Flavier, J. M.	Revilla Jr., R. B.
Lacson, P. M.	

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

Senators Angara, Cayetano, Gordon, Osmeña, Roxas and Villar arrived after the roll call.

## 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. 45 and considered it approved.

## REFERENCE OF BUSINESS

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

### MESSAGES OF THE PRESIDENT OF THE PHILIPPINES

Letters of Her Excellency, President Gloria Macapagal Arroyo, dated December 6, 2004, submitting to the Senate for its consideration and concurrence, certified true copies of the following:

Ratification of the **ILO Convention on Migration for Employment (Revised Convention No. 97)**, consisting of the twenty-three (23) articles and three (3) annexes, which was adopted in 1 July 1949 on the 32<sup>nd</sup> Session of the International Labor Conference convened at Geneva and entered into force on 22 January 1952; and

Ratification of the **Migrant Workers (Supplementary Provisions) Convention (Convention No. 143)**, consisting of the twenty-four (24) articles which was adopted by the members of the International Labor Organization on 24 June 1975 during the 60<sup>th</sup> Session of the International Labor Conference at Geneva and entered into force on 09 December 1978.

### To the Committee on Foreign Relations

Letter of Her Excellency, President Gloria Macapagal Arroyo, dated December 8, 2004, certifying to the necessity of the immediate enactment of Senate Bill No. 1871, entitled

*Handwritten signature*

AN ACT TO IMPROVE THE REVENUE COLLECTION PERFORMANCE OF THE BUREAU OF INTERNAL REVENUE (BIR) AND THE BUREAU OF CUSTOMS (BOC) THROUGH THE CREATION OF A REWARDS AND INCENTIVES FUND AND OF A PERFORMANCE EVALUATION BOARD AND FOR OTHER PURPOSES,

to address the urgent need of improving the government's capacity to finance its cash disbursement program and achieve its annual budget deficit targets by instituting a special reward system for exemplary service and accountability reform system in the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC).

**To the Committee on Rules**

**BILL ON FIRST READING**

Senate Bill No. 1873

AN ACT INCREASING THE RATE OF THE VALUE-ADDED TAX, AMENDING FOR THE PURPOSE SECTIONS 106, 107, 108 AND 114 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES

Introduced by Senators Drilon, Flavier and Pangilinan

**To the Committee on Ways and Means**

**RESOLUTION**

Proposed Senate Resolution No. 145

RESOLUTION URGING THE SENATE COMMITTEE ON CULTURAL COMMUNITIES TO CONDUCT AN INQUIRY ON THE CONTINUING THREATENED DISPLACEMENT OF TWO HUNDRED (200)

INDIGENOUS PEOPLES IN THE ISLAND OF BORACAY, PROVINCE OF AKLAN DESPITE THEIR ANCESTRAL DOMAIN CLAIMS WITH THE END IN VIEW OF FORMULATING POLICY MEASURES THAT WOULD RESPECT THE RIGHTS OF THE CULTURAL COMMUNITIES

Introduced by Senator M.A. Madrigal

**To the Committee on Cultural Communities**

**ADDITIONAL REFERENCE OF BUSINESS**

The Secretary of the Senate read Proposed Senate Resolution No. 146 which the Chair referred to the Committee on Rules:

Proposed Senate Resolution No. 146, entitled

RESOLUTION EXPRESSING THE PROFOUND CONDOLENCE OF THE SENATE ON THE UNTIMELY DEMISE OF FERNANDO POE JR. "FPJ" AND HONORING HIS CONTRIBUTION TO PHILIPPINE SOCIO-CULTURAL AND POLITICAL DEVELOPMENT

Introduced by Senator Jinggoy Ejercito Estrada

**COAUTHOR**

Senator Pangilinan manifested that Senator Revilla is a coauthor of Proposed Senate Resolution No. 146.

**REMARKS OF SENATOR REVILLA**

Senator Revilla expressed his belief that the untimely demise of Mr. Fernando Poe Jr. is truly a tragic loss not only to his family and the motion picture industry but also to the entire country.

He said that Mr. Poe touched the lives of millions of Filipinos, his portrayal has become a true-to-life expression of love, justice and equality, and Mr. Poe's work left a deep mark not only in the hearts of his family,

friends, adoring fans and supporters but also in culture, heritage and history of the Philippines.

Senator Revilla stated that these were the reasons that he manifested his desire to be a coauthor of Proposed Senate Resolution No. 146.

#### REMARKS OF SENATOR ENRILE

Requesting that he be made coauthor of Proposed Senate Resolution No. 146, Senator Enrile made the following remarks:

I met this man casually over the last two years starting in 2003 when the Opposition was searching for a candidate for the presidency. Along with a distinguished member of this Chamber, the honorable senator from Cavite, Panfilo M. Lacson, he was one of those names and personalities who were brought into the minds of the Opposition for consideration. In the end, he was chosen as the candidate of our part of the Opposition at that time.

I would like to say that this man was probably one of the rarest persons that I have ever met in my life, both as a private citizen and as a functionary. He was a very simple person, yet he was very difficult to fathom. He was genial and friendly, yet distant. He seemingly appeared to be weak, yet very easy to make hard decisions.

I have joined him in the campaign. He campaigned tirelessly and was overwhelmed by crowds far beyond my ability to describe. I have been in many political campaigns all my 80 years on this earth, before martial law, during martial law, after martial law. I have yet to find a man that drew crowds as I have seen him draw them in a political campaign. I accompanied him in a very small mining town in the Cordilleras and we could hardly pass through the streets because the people blocked his way. Everywhere in the country, whether it was in the North, in the Cagayan Valley, in the Ilocos Region, in Central Luzon, in Metro Manila,

the Southern Tagalog Region, the Bicol Region and throughout the Philippines, even in the smallest town of the Republic, I was with him as the others in the Opposition were with him, and we were witness to a political phenomenon unseen by us in the past.

Now, he is gone. He belongs to the Opposition. He is a mortal man leaving this scene. Perhaps, the Lord was kind to him in not blessing him the good fortune to be the leader of this nation at a time when this country is beset by so many problems, almost insurmountable. He is gone from us. Physically, he is gone. Yet, I think time will tell whether, indeed, the expectation of others that he will be forgotten will materialize.

For my part, I daresay that his name, his image and his aura as a person will live in the hearts and in the minds and in the psyche of our people and this nation.

#### REMARKS OF SENATOR LAPID

Expressing his desire to coauthor the same resolution, Senator Lapid made the following remarks:

*Tulad ng sinabi ni Senador Revilla, Senador Estrada at Senador Enrile, lagi ko pong sinasabi na walang Lapid sa pelikula kung hindi kay Fernando Poe Jr. Naging double po ni Fernando Poe Sr. ang tatay ko sa pelikula at ng naging double din po si Jess Lapid Sr. ni Fernando Poe Jr. At ako po ay nakasama niya ng ilang beses, naging extra, stuntman, hanggang sa naging bida na rin po ako sa pelikula, hanggang naging pantay na ang pangalang Fernando Poe Jr. at Lito Lapid sa "Kalibre .45."*

*Nalulungkot po ako, kasama ko ang mga artista sa pulitika. Iyong sinasabi po nila, ako na po mismo ang magpapatunay na napakabait na tao niyan.*

## REMARKS OF SENATOR DEFENSOR SANTIAGO

Requesting that she be made coauthor of the same resolution, Senator Defensor Santiago delivered the following remarks:

I am genuinely sad of the demise of Fernando Poe Jr. It is very rare that a person can leave his impression on others in such a strong manner by doing it so gently. We were friends because I was very close to his mother who was my neighbor in U.P. Village. At one point, his Mom had a birthday party and especially called for him so that he and I could meet each other. I challenged him to a boxing match but he very politely declined. As we know, he had a singular boxing position in the movies, and I illustrated to him how I could do it the same way. All I elicited was his shy smile.

My impressions of Fernando Poe Jr. are: 1) He was a tall man for a Filipino; 2) He was very good looking but he did not exploit it in the presence of females; 3) He was very quiet. It was very difficult to carry on a conversation with him because he hardly spoke a word. And you never knew what was passing through his mind. Lastly, he seemed to be very compatible with Ms. Susan Roces who matches his credentials in good breeding, in cultured behavior and empathy for others.

Death should always be an occasion for happiness, according to Christian theory, because at that point, the creature meets the Creator and there can be no higher happiness. It is possible, according to some schools of thought, that our death day has been determined even before our birthday. So, even before we were born, we are already destined to die on a certain day at a certain place at a certain hour. Sometimes, those theories call this the exit point. God has designed an exit point for Mr. Poe and he had virtually no choice on the matter which raises the question in

the mind of the philosophically minded on what is the ultimate meaning of life *since everything has already been decided*, birth and death. Whatever happens, both great and small, since the small things have to be pre-decided, it is the big things that have to happen.

All of these are philosophical questions that are elicited by the death of someone who is very sympathetic to the masses who idolized him beyond belief.

In any event, this occasion, which should be sad for our country, should not be turned or exploited or manipulated by those who have other than the public interest in mind. I have known Mrs. Poe for a short while and I realized that she is one of those people who prefer to take a back bench in life, and would rather really not occupy the front bench. If there is any jeopardy that might be raised by the death of Mr. Poe, it will come from people who think that destabilizing society will favor them. We have therefore to be on guard against such development.

I am a Christian and I am supposed to be happy at this time because he has entered the spiritual dimension. He is supposed to be around us, possibly here in the Senate. When a person dies, it is said that he has become freed of all limitations of space and time. Where Ronnie Poe is today, there is no space and there is no time. So it is entirely possible that he is listening to us. It is said that people who have died remain exactly as they were and therefore we should act exactly as if they were here with us.

If that is a happy thought, then I am happy. Otherwise, I do not even fully understand why I am filled with sorrow that a person in good faith who did not cause or plan to cause any bother to anybody should have passed away.

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In a sense, he was lucky because he just keeled over and died. It was a much better exit than if he had continued in a non-medically healthy condition. Still, he tried to become leader of the Philippines. I do not know what the result would have been. That is beyond me.

He should at least be credited for the effort and for hoping that in the midst of all hopelessness which surrounds the present debate on the fiscal crisis and the fiscal problem, he managed to spark hope in the breaths of millions of Filipinos.

So, I would like to request the privilege of coauthoring the proposed resolution authored by Senator Jinggoy Ejercito Estrada, a resolution expressing the condolence of this Chamber on the death of Mr. Poe.

#### REMARKS OF SENATOR LIM

Expressing his desire to coauthor Proposed Senate Resolution No. 146, Senator Lim made the following remarks:

Si G. Fernando Poe Jr. ay hindi ko gaanong kakilala ang pagkatao ngunit hinahangaan ko po ang taong ito. Ako po ay mahirap humanga sa kapwa ko tao.

Itong taong ito sa tatlong buwan na nakasama namin ni Senador Enrile sa kampanya ay inobserbahan ko ang kanyang mga kilos, pananalita at pinapakinggan ko ang kanyang mga sinasabi.

Sa pakiwari ko po, itong taong ito, si G. Fernando Poe Jr., ay walang pagbabalatkayo sa kanyang katawan, walang pagkukunwari, walang pagmamayabang, walang pagkabarumbado, walang iniisip kung paano niya mamaliitin o iinsultuhin ang kapwa tao. Ang iniisip lamang ng taong ito ay kung, papaano siya makakatulong sa kapwa niya na hindi lamang pinamamarali, hindi man lamang ina-advertise na siya ay tumutulong. At sa pagkakaalam ko nitong

nakaraang bagyo na maraming nasalanta sa ating mga kababayan, siya ay nagpadala ng tulong sa Quezon, Aurora, Nueva Ecija, Bulacan. At ang sabi niya, huwag sasabihin na nanggaling sa kanya ang tulong na iyon. Pambihira po itong taong ito. Dapat po itong taong ito pamarisan ng mga kabataan.

Ang sinasabi nila, si Fernando Poe Jr. daw ay walang pinag-aralan at tila second year high school lamang ang naabot. Ngunit kung ang ganitong taong walang pinag-aralan dahil sa kagustuhan niyang mapag-aral iyong kanyang mga kapatid na iniwan sila sa pagka-ulila ng kanilang nasirang ama, ay sinakripisyo po ang pansariling kapakanan, pansariling kinabukasan at siya na ang bumuhay sa kanilang pamilya. Napag-aral ang mga kapatid at napagtapos. Siya, naiwan na isang second year high school.

Kaya minsan po, sa aking pag-iisa, ay nasasabi ko masyado naman yatang malupit ang mga ibang tao na humuhusga sa kakayahan ng kapwa nila dahil lamang pinagtampuhan ng kapalaran itong taong ito.

Hindi po ginusto ni Fernando Poe Jr. na mamatay ang kanyang ama dahil noong nabubuhay pa si Fernando Poe Sr., sila po ay marangya ang kabuhayan. Napakalaki ang bahay nila sa San Francisco, Del Monte dahil si Fernando Poe Sr. was a movie star in his own right. Ngunit sa takda ng panahon, biglang namatay ang kanyang ama. Siya na ngayon ang nagkaroon ng responsibilidad para buhayin ang kanyang butihing ina at ang kanyang mga kapatid.

At siguro po puwede nating ihalintulad si Fernando Poe Jr. kay Gat Andres Bonifacio. Si Gat Andres Bonifacio na bayani ng bayan ay isa ring taong kapos sa mataas na pinag-aralan. Ngunit sa pagmamahal sa bayan, sa pakikipaglaban sa mga dayuhang sumasakop sa atin, ay palagay ko po, kapantay na rin ni

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Gat Andres Bonifacio si Dr. Jose Rizal na masasabi nating uliran sa karunungan dahil napakarami po niyang titulo. At dito ko na sasabihin na ang aming kaibigang si Fernando Poe Jr. ay katulad din ni Gat Andres Bonifacio. Siguro yan ang kanyang naging idolo, ang bayani ng bayan, na kahit siya ay umabot lamang ng pangalawang baytong sa high school, ay sinabi niya sa kanyang sarili at pinagsigawan ng kanyang puso, ng kanyang damdamin, ng kanyang isipan na kaya niyang pamunuan ang ating bayan, kaya po siya kumandidato bilang pangulo. Sa sinamaang-palad po, alam na nating lahat kung ano ang nangyari.

Kaya ang masasabi ko lamang po, sana magkaroon pa ng maraming Fernando Poe Jr. dito sa ating bayan at sana naman doon sa ibang taong lumilibak sa kanyang kakulangan sa karunungan ay mag-isip-isip muna bago humusga, bago menosin ang kapwa nila.

Kaya kami po ay nakikiramay ng taos-puso sa kanyang asawa, si Mrs. Susan Roces, sa kanyang pamilya, mga kapatid, at lahat po ng ating mga kababayan ay nakikiisa rin sa pagdadalamhati sa pagyao ni Fernando Poe Jr., isang magiting na bayani ng bayan sa larangan ng pagbibigay ng kasiyahan at kaligayahan sa ating mga kababayan.

#### REMARKS OF SENATOR ARROYO

Senator Arroyo made the following remarks:

I did not know Mr. Fernando Poe Jr. In the past, we met each other, we smiled each to other but we really did not know each other. But I would like to share with my colleagues a real incident. The time was at the height of the canvassing of the Presidential and Vice-Presidential contest in Congress. Nene Pimentel asked me, "Can you attend the oath-taking of Jojo Binay?" They belong to this struggling little PDP-Laban. I said, "Yes." So I went. Before long, Mr. Poe and

Eddie Garcia came. I knew Eddie Garcia because he is a Bicolano. So Mr. Poe greeted me first and, of course, he knew that I was one of the principal proponents for the proclamation of Gloria Macapagal Arroyo. We had a 15-minute conversation. It was inane, but he was polite enough just to maintain the conversation. When the cameras, the photographers came in, he took it upon himself to suggest that I should go because it would be embarrassing perhaps for me to be seen with him. So I agreed and I left.

And I think that is the measure of the man, that he took the initiative of saving me from the embarrassment of being photographed at the height of the canvassing with the very person whose proclamation I was fighting.

So with that, we parted. And as everybody knows, the difference between President Arroyo and Mr. Poe is only about a million votes. That he got that number of votes is a measure again of the esteem with which he is held by the public. That is why I would find it an honor to be included as coauthor of the resolution.

#### REMARKS OF SENATOR EJERCITO ESTRADA (L)

Senator Ejercito Estrada (L) made the following remarks:

My husband lost a brother. As we know, the relationship between the two are more than brothers. They had been friends for 40 years. And permit me to recall that during parties, *kung nagkakasayahan at nagkakatukshuhan sila, pupuntahan ni Fernando Poe Jr. si Erap, yayakapin niya, hahalitan niya. Kung minsan nga, ang sabi ko sa kanilang dalawa: "Sino ba ang babae sa inyong dalawa? Sino ba ang lalaki?" Kaya napakalalim ang kanilang pagkakaibigan. At saka kung minsan,*

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*magtutuksuhan sila, iyong buhok daw ni Erap ay toupee kahit hindi naman totoo. Nag-e-exchange sila ng mga biruan; ang kanilang pagkakaibigan ay nagpapatunay sa kanilang mga ginagawa, sa kanilang mga tuksuhan at sa kanilang pagmamahalan. Ang respeto ay makikita sa bawat isa sa kanila.*

*Kung mayroong sasabihin si Fernando Poe na medyo alangan, kakausapin niya si Erap nang mahusay. At kung siya naman ay may kailangan, ang respeto at hiya ay nandoroon. Ang sinasabi nga ni Erap sa akin, "Alam mo, kung may kailangan iyan, hindi lalapit iyan sa akin." Pero ibang tao ang magsasabi sa kanya. Kaya pinupuntahan na lang siya ni Erap sa bahay.*

The respect and the love for each other are deeply rooted. *Kaya, si Erap, noong mabalitaan niya iyan, umiyak siya. Hanggang kahapon umiyak pa rin siya.*

I therefore want to manifest the inclusion of my name in the coauthorship of the resolution filed by my son, Sen. Jinggoy Ejercito Estrada.

#### REMARKS OF SENATOR ROXAS

Senator Roxas made the following remarks:

I only knew Fernando Poe Jr. from afar. I had several occasions to be acquainted with him and to exchange a few words. I knew him to be a shy, retiring person – one who preferred that the spotlight not be on him but be placed on others. So ironic, given the line of work that he was in.

I note, however, that for such a shy, retiring man, toward the end of his career, he decided to enter an electoral exercise by running for office, the highest position within the gift of our people.

And it is a measure of his willingness to put himself outside of what was comfortable to him or what was familiar to him and to place himself at the risk of the rigors of a 90-day political campaign.

I see this as his sacrifice in the interest and in the intent to put his own oar in the water, so to speak, so that we could move this country that we all love forward. I would be proud to be associated with this resolution and ask the author to consider including this Representation as a coauthor.

#### REMARKS OF SENATOR CAYETANO

Senator Cayetano made the following remarks:

I never knew Fernando Poe Jr. In fact, the only time I recall seeing him was during the senatorial proclamation. But I would like his family to know that all the people I ever met who had anything to say about him only had good things to say.

What strikes me most is that never did anyone fail to say that he was such a humble man, and a person who loved his country very much. I believe that these are the most important traits that one should aspire to have if one intends to run for public office. And I truly wish that more public servants would embody this humility that this man had. I express my deepest condolence to his family.

#### COAUTHORS

Upon motion of Senator Pangilinan, there being no objection, the following senators were made coauthors of Proposed Senate Resolution No. 146: Senate President Drilon, Senators Pangilinan, Angara, Arroyo, Biazon, Cayetano, Defensor Santiago, Ejercito Estrada (L), Enrile, Flavio, Gordon, Lacson, Lapid, Lim, Magsaysay, Osmeña, Pimentel, Recto, Revilla, and Roxas.

✓ MS

**PROPOSED SENATE RESOLUTION NO. 146**

Upon motion of Senator Pangilinan, there being no objection, the Body considered Proposed Senate Resolution No. 146, entitled

RESOLUTION EXPRESSING THE PROFOUND CONDOLENCE OF THE SENATE ON THE UNTIMELY DEMISE OF FERNANDO POE JR. "FPJ" AND HONORING HIS CONTRIBUTION TO THE PHILIPPINE SOCIO-CULTURAL AND POLITICAL DEVELOPMENT.

Secretary Yabes read the text of the resolution, to wit:

WHEREAS, Fernando Poe Jr., best known for his acronym "FPJ," passed away shortly after 12 midnight of Monday, 13 December 2003;

WHEREAS, considered as the king of Philippine movies, Fernando Poe Jr. entered the movie industry at a young age of 15 with his first movie "*Anak ni Palaris*." This film paved the way for his more than 200 movie titles donning the role of actor, director, writer and producer;

WHEREAS, in the course of his career in the movie industry, he has won numerous acting awards as well as earned praise for directing some his own films;

WHEREAS, his films like *Romano Rapido*, *The Ravagers*, *Dito sa Pitong Gatang*, *Kapag Lumaban ang Api*, *Kapag Puno na ang Salop*, *Sigaw ng Digmaan*, *Baril at Rosario*, *Ang Panday*, *ang Alamat ng Lawin*, among others, showcased the Filipino's indomitable and resolute spirit that prevails over insurmountable hardship;

WHEREAS, as a concerned Filipino and desirous to uplift the quality of life of his countrymen, he became the standard-bearer of the opposition

Koalisyon ng Nagkakaisang Pilipino (KNP) in the just concluded 2004 Presidential elections;

WHEREAS, he aimed his candidacy at the same poor and downtrodden class whom he championed in his movies, promising to deal with the problems of the Philippines' large lower class;

WHEREAS, throughout his life he has stood for integrity, decency, sincerity, hardwork and perseverance, qualities that have endeared him to the hearts and minds of the Filipino people: Now, therefore be it

*Resolved by the Senate of the Philippines*, To express, as it hereby expresses, its profound condolence on the untimely demise of Fernando Poe Jr., an institution in the Philippine movie industry.

*Resolved, further*, That the Senate also honor the contributions of Fernando Poe Jr., former standard bearer of the Koalisyon ng Nagkakaisang Pilipino (KNP), to the socio-cultural and political development of the country.

*Resolved, finally*, That a copy of this resolution be transmitted to the bereaved family of the deceased.

**EJERCITO ESTRADA (J) AMENDMENTS**

As proposed by Senator Ejercito Estrada (J), there being no objection, the Body approved the following amendments:

1. On the first "WHEREAS" clause, change the word "Monday" and the date to TUESDAY, 14 December 2004;
2. On the same "WHEREAS" clause, replace the phrase "best known for his acronym" with POPULARLY KNOWN AS.

✓ /s/

## ADOPTION OF THE RESOLUTION

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 146, as amended, was adopted by the Body.

### COMMITTEE REPORT NO. 5 ON SENATE BILL NO. 1854 (Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1854 (Committee Report No. 5), entitled

AN ACT INCREASING THE EXCISE TAX RATES IMPOSED ON ALCOHOL AND TOBACCO PRODUCTS, AMENDING FOR THE PURPOSE SECTIONS 141, 142, 143, 144, 145 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED.

Senator Pangilinan stated that the parliamentary status was the period of individual amendments.

The Chair recognized Senator Recto, Sponsor of the measure.

## SUSPENSION OF SESSION

With the permission of the Body, the Chair suspended the session.

*It was 3:49 p.m.*

## RESUMPTION OF SESSION

At 3:55 p.m., the session was resumed.

### PROPOSED AMENDMENTS OF SENATOR ENRILE

Using the clean copy of the bill as of December 13, 2004, Senator Enrile proposed the following amendments:

1. On page 16, bracket the words and figures after the date "JANUARY 1,

2005," on line 28 up to the figure "(P1.65)" on line 29, and in lieu thereof, insert the words and figures THREE PESOS (P3.00);

2. On page 17, after the year "2007" on line 1, bracket the words and figures starting with the word "TWO" up to the figure "(P1.87)" on line 2, and in lieu thereof, insert the words and figures THREE PESOS AN TWENTY-SEVEN CENTAVOS (P3.27);
3. On the same page, after the year "2009" on line 3, bracket the words and figures starting with the word "TWO" up to the figure [(P2.10)] on line 4, and in lieu thereof, insert the words and figures THREE PESOS AND FIFTY-FIVE CENTAVOS (P3.55); and
4. On the same page, after the year "2011" on line 5, bracket the words and figures starting with the word "TWO" up to the figure "(P2.34)" on line 6, and in lieu thereof, insert the words and figures THREE PESOS AND EIGHTY-FOUR CENTAVOS (P3.84).

Senator Recto believed that it would be highly unfair to tax the poorest consumers a 170% increase while the middle-income consumers would be taxed 16% and 17%, and the upper class, which consumes premium cigarettes, only an additional 30%. He said that he could not accept the proposed Enrile amendments.

Senator Enrile explained that while it would appear that the proposed rate of increase for low-class cigarettes was very high at 168%, the magnitude on which the rate would be applied was very low. He maintained that if there should be equity in the treatment of the various classes of cigarettes and for a well-ordered and uniform rates which would set a level playing field, the proposed starting rate of P3.00 for 2005 and the adjustments thereafter would be reasonable and just.

✓ MS

Thereafter, Senator Enrile asked that the Body vote on the matter.

Senator Roxas stated that some Members would be voting on the proposed amendments as a package and not on a per category basis as the latter would be difficult. He wondered if the Majority Leader, Minority Leader and the Senate President could discuss the matter.

Senator Enrile stated that there was a tacit agreement with the Majority to maintain the gaps between each category. He said that his proposed starting rate of P3.00 for the low cigarettes would maintain the gap at P3.75 between the low and the medium classes, and between the medium and the high classes, at least for 2005.

For an easy, orderly procedure, the Chair believed that it would be best to vote on each proposed amendment as the Body could always reconsider the approved rate should problems arise later on.

#### SUSPENSION OF SESSION

Upon motion of Senator Roxas, the session was suspended.

*It was 4:06 p.m.*

#### RESUMPTION OF SESSION

At 5:01 p.m., the session was resumed.

Upon resumption, Senator Enrile reiterated that his proposal touching only on the low-priced cigarettes for the years 2005, 2007, 2009 and 2011 assumed that the gap between the low and medium-priced cigarettes would exceed P3.75 while the medium- and high-priced cigarettes would not exceed P3.75.

Senator Recto reiterated that he was declining the amendment because the bill already increased the taxes of low-end cigarettes by 100%, medium-priced cigarettes by 17%, and premium cigarettes by 30%. The Enrile amendment, he said, would be unfair to low-end consumers who would pay such a large tax burden, and that the proposal was not market-sharing neutral

because Fortune Tobacco has 55% of the market but would be paying 66% of the tax, while Philip Morris which has 37% of the market would pay 25%.

Senator Enrile said that he would assume the political responsibility for his proposed amendment precisely because he would like to stop people from smoking cigarettes for health reasons. He clarified that he was dealing with interclass taxation, not inter-company tax burden.

#### INQUIRY OF SENATOR ANGARA

Asked by Senator Angara how much revenues would be raised as a result of the amendment, Senator Enrile said that the incremental revenue for government would be between P3 billion to P4 billion, on top of the P5 billion assumed by the committee report. Inclusive of the liquor tax of P5 billion, he said that the total sin taxes would approximate P13 billion.

The Chair stated that the Committee Report would raise an increment of P5 billion and the Enrile amendment would add another P3 billion to P4 billion to the cigarette tax, or a contribution of P8 billion to the total sin taxes. On the other hand, it said, the House version would raise approximately P7 billion.

To Senator Angara's observation that the Enrile proposal would almost double the revenue take of the Senate version, Senator Enrile replied that in fairness to the Committee on Ways and Means, it introduced an amendment which would lift the exemption of cigarettes and liquor sold in duty-free shops which would generate an additional P5 billion to the government coffers. He said that the bill would yield a total incremental revenue of at least P18 billion.

Senator Angara manifested his affirmative vote for the measure.

#### VOTING ON THE ENRILE AMENDMENT

Submitted to a vote, and with the majority of the Members voting in favor, the Enrile amendment was approved.

✓ 16

**DEFENSOR SANTIAGO AMENDMENTS**

As proposed by Senator Defensor Santiago and accepted by the Sponsor, there being no objection, the Body approved the following amendments:

1. On page 3, between lines 22 and 23, insert another paragraph to read:

WILLFUL UNDERSTATEMENT OF THE SUGGESTED NET RETAIL BY AS MUCH AS FIFTEEN PERCENT (15%) OF THE ACTUAL NET RETAIL PRICE SHALL RENDER THE MANUFACTURER LIABLE FOR ADDITIONAL EXCISE TAX EQUIVALENT TO THE TAX DUE ON THE DIFFERENCE BETWEEN THE UNDERSTATED SUGGESTED NET RETAIL PRICE AND THE ACTUAL NET RETAIL PRICE;

2. On page 5, line 1, between the words "EVERY" and "MONTH," insert the word THIRD; and delete the word "THEREAFTER";

Senator Defensor Santiago explained that the amendment would avoid redundancy in the information to be submitted to the BIR and would make compliance with the law easier.

3. On the same page, line 9, after the word "UPON," delete the word "DISCOVERY" and in lieu thereof, insert the phrase A FINAL FINDING BY THE COMMISSIONER THAT THE VIOLATION WAS COMMITTED KNOWINGLY AND WILLFULLY;

Senator Defensor Santiago explained that the amendment would protect the taxpayers's right to due process.

4. On the same page, line 12, after the word "SPIRITS" and the period (.), insert a new sentence to read: HOWEVER, THE COMMISSIONER OR HIS AUTHORIZED

REPRESENTATIVE IS HEREBY EMPOWERED TO SUSPEND THE BUSINESS ESTABLISHMENT UPON DISCOVERY OF THE VIOLATION.

Senator Defensor Santiago pointed out that as a general rule, earmarking revenues is undesirable because it introduces inflexibility in the rational allocation of budget resources as the earmarked revenues become an entitlement difficult to discontinue even if the justification no longer exists or higher priority programs remain under-funded for lack of financing. She pointed out that if earmarking is to be done, the Body should instead put a specific peso value rather than a percentage of the incremental value to allow for more transparency; or, if the Committee is not amenable to putting a specific peso value, a sunset provision for the earmarked fund be inserted to allow for flexibility should the purpose for which the funds were earmarked cease to exist or higher priority programs arise. Thus, she proposed the following amendment which the Body approved:

5. On page 23, line 11, after the period (.) following the word "HEALTH," insert another sentence to read: THE EARMARKING PROVIDED UNDER THIS PROVISION SHALL BE OBSERVED FOR FIVE (5) YEARS STARTING FROM JANUARY 2005.

Senator Recto said that he accepted the amendment because Congress could increase the budget for the Department of Health during the budget deliberations.

Relative to the sunset provision of Senator Defensor Santiago, Senator Enrile suggested that the amount earmarked for health be directly remitted to the Department of Health.

**SUSPENSION OF SESSION**

Upon motion of Senator Recto, the session was suspended.

*It was 5:17 p.m.*

**RESUMPTION OF SESSION**

At 5:17 p.m., the session was resumed.

✓ 16

**FLAVIER AMENDMENT**

On page 23, Senator Flavier proposed the deletion of lines 3 to 11 and in lieu thereof, the insertion of a new Subsection (C) to read:

(C) INCREMENTAL REVENUES FROM THE EXCISE TAX ON ALCOHOL AND TOBACCO PRODUCTS. – (1) FIVE PERCENT (5%) OF THE INCREMENTAL REVENUE FROM THE EXCISE TAX ON ALCOHOL AND TOBACCO PRODUCTS STARTING JANUARY 2005 SHALL BE REMITTED DIRECTLY TO THE PHILIPPINE HEALTH INSURANCE CORPORATION FOR THE PURPOSE OF MEETING AND SUSTAINING THE GOAL OF UNIVERSAL COVERAGE OF THE NATIONAL HEALTH INSURANCE PROGRAM; AND (2) FIVE PERCENT (5%) OF THE INCREMENTAL REVENUE FROM THE EXCISE TAX ON ALCOHOL AND TOBACCO PRODUCTS STARTING JANUARY 2005 SHALL BE CREDITED TO THE ACCOUNT OF THE DEPARTMENT OF HEALTH AND CONSTITUTED AS A TRUST FUND FOR ITS DISEASES PREVENTION PROGRAM.

Senator Recto accepted the proposed amendment, subject to the Defensor Santiago amendment on the limitation.

There being no objection, the Flavier amendment was approved by the Body.

**INQUIRIES OF SENATOR LACSON**

Replying to Senator Lacson's inquiries, Senator Recto affirmed that raising revenue specifically with the higher tax rates under the bill, would help solve the present economic problem. He clarified that based on the specific tax and tier system proposed in the bill, tax rates need to be increased to be able to raise revenues.

On Senator Lacson's contention that revenues could be increased without raising taxes, Senator Recto explained that the same issue had been adequately discussed during the period of

interpellations. He added that it was the first consideration of the committee.

On the request for a copy of the annual removals from 1996 through 2003, Senator Recto replied that he did not have a copy on hand. He opined that it would be more appropriate to talk about removals after the rate increase in 2000, otherwise, the Body could go back not only to 1996 but way back to the 1980s or the 1970s.

Senator Lacson clarified that he was asking for a copy of the annual removals in order to show a pattern that even if certain brands are reclassified to pay higher taxes, removals keep increasing through the years. On the other hand, he said, if he is convinced that there is a slide in consumption once classification is undertaken, then he will not even introduce his amendment.

Senator Recto opined that asking for the annual removals from 1996-2003 was unfair because Congress had already adopted a policy imposing a rate increase in 1997 and a shift from a value-based *ad valorem* system to a volume-based specific system in addition to the one-rate increase adopted in the year 2000. It would be more appropriate to discuss the removals from 2001 to 2003 and the projections for 2004, he stated.

At this juncture, the Chair stated that all the arguments had been raised and both Senators Lacson and Recto have their respective positions. At the end of the day, it pointed out, the entire Body would vote on the amendments which is how a collegial body works. He appealed to Senator Lacson to present his amendment so the Body could decide on his point.

At this juncture, Senator Defensor Santiago adverted to Rule XXV of the *Rules* particularly Section 7(e). She said that to her understanding, the debate had been closed such that only amendments would be entertained at this stage.

Senator Lacson started that he was aware of the *Rules* which was the reason that he manifested that he would not resume his interpellation on the understanding that he would not be prevented from asking clarificatory questions, to which both the Chair and the sponsor agreed.

✓ MS



## SUSPENSION OF SESSION

With the permission of the Body, the Chair suspended the session.

*It was 5:29 p.m.*

## RESUMPTION OF SESSION

At 6:16 p.m., the session was resumed.

Senator Pangilinan said that Senator Lacson had requested that he be allowed to suspend momentarily his opportunity to raise clarificatory questions during the period of amendments until after the other senators shall have raised certain issues and made some manifestations.

## MANIFESTATION OF SENATOR LIM

Senator Lim read into the record the column of Prof. Solita Collas-Monsod in the December 11, 2004 issue of the *Philippine Daily Inquirer*, as follows:

### Fortune versus the Filipinos

“Indeed, it is fair to say that if this piece of legislation is not passed and signed before the end of this year, the entire government’s credibility with respect to the entire fiscal- and debt-problem will have been irretrievably lost.”

This part of the paper by the “UP 11” (emphasis theirs), written four months ago, refers to the sin tax bill. So why should it take so long to pass such a bill, especially when it has been discussed already in at least two past Congresses?

The question is valid, because there are really only two simple changes that have to be made in the current sin tax law (R.A. 8424) for it to perform as expected, or even better. One is an addition, the other a subtraction.

The addition is a provision that was in the original Comprehensive Tax reform package: that the sin tax levels should be adjusted periodically to reflect inflation,

i.e., indexation. The subtraction comes with the deletion of a provision that was not in either the House or the Senate bills in 1997 but was inserted during the bicameral committee negotiations: “The classification of each brand of cigarettes based on its average net retail price as of October 1, 1996, as set forth in Annex ‘D’, shall remain in force until revised by Congress.” Innocuous as it sounds (for what could possibly be dangerous about a listing?), it has proved deadly in its impact (which is why I call it a poison pill).

What is the impact? First, it has given unfair competitive advantage over the years to the brands existing in 1996 over those introduced after that year, because the latter pay sin taxes based on their current net retail prices, while the former pay taxes based on their net retail prices in 1996. In effect, Congress created an uneven playing field in the cigarette industry.

Second, it has deprived the government of tax revenues that make the expected additional take from the recently approved House Bill 3174 and the Recto bill (SB 1854), which is currently under discussion, look puny in comparison. For 2004 alone, if the cigarette brands existing in 1996 were to pay taxes based on their current average net retail prices instead of on what they were eight years ago as provided by the poison pill provision, it is estimated (using 2003 removals) that the additional revenue collected would be about P22 billion. Compare this to the P4 billion and P3 billion in the Recto and House bills, respectively.

Actually, if push comes to shove, our legislators don’t even have to add the indexation provision. They just have to delete the poison pill provision. Why? Because, in effect, if all cigarette brands were to be taxed according to their current average net retail prices, their continuing increases will ensure that eventually only the highest specific tax (P13.44) remains – leading to a uniform tax for all brands,

which is what the Enrile bill wants to achieve, using other means. Right now, for example, without the poison pill provision, there would be very few, if any, cigarette brands that would be classified under the P1.12 specific tax bracket (i.e., those whose average net retail price is at most P5).

So there is nothing wrong, and everything right, with removing that poison pill provision. It will create an even playing field in the cigarette industry. It will bring government the much needed revenues and in really meaningful amounts. There will be no need to argue anymore about the effect of increased taxes on the poor (the tax levels will be the same as they were in 1997, for heaven's sake). And it could be passed in the blink of an eye.

And yet neither HB 3174 nor the Recto bill even adverted to it. Neither does the Enrile bill for that matter, but there is a profound difference: this bill ensures that the same end is achieved as by removing the poison pill, except he uses different means.

But now we have to ask: Why do the two bills pretend that the poison pill in the 1997 law does not exist? Or better still, having identified the losers because of the poison pill insertion, we must now ask, who were the winners? Identifying them would also show who would lose the most if the poison pill provision were deleted, and who therefore would have worked (obviously with marked success thus far) to keep the provision in.

In order to get a clue, we have to look at the Annex D referred to in the poison pill provision. It is a listing of all the cigarette brands as of Oct. 31, 1996, and their average net retail prices (exclusive of VAT and the excise taxes) at that time. What do we find there?

For one, we see the Annex D lists 52 brands, although it says the grand total of brands is only 50, an indication of how hastily that list was included in the law.

For another, we see that there were five cigarette manufacturing firms responsible for manufacturing those cigarette brands: Fortune Tobacco, La Suerte, Sterling Tobacco, Anglo American, and Mighty Corp.

But now we see the light. Among these five manufacturers, one of them produces almost one-half (25) of the 52 brands listed: Fortune Tobacco. It stands to reason that Fortune would have the most to gain from keeping the poison pill provision, or conversely, the most to lose if the provision were deleted.

So now it seems the fight boils down to Fortune Tobacco versus the Filipino people. The House of Representatives, whether it realizes it or not, has made its choice. Now it is the Senate's return.

Senator Lim said that he could not see any reason why the measure is being railroaded on the pretext that government needs additional revenues in the light of the fiscal crisis when what the Sponsor wants is a reduction of the revenues that would be generated with the deletion of the poison pill provision. He asked whether the senators are working for the interest of the country and its people, or for certain vested interests who will profit P22 billion.

#### MANIFESTATION OF SENATOR MADRIGAL

Senator Madrigal stated that she would like to insert into the Record a study she has made in support of Senator Lacson's contention that cigarette removals have continued to increase. She explained that she wanted the study entitled "Incremental Tax Effects on Consumption of Low-Priced Cigarettes," reflected in the *Journal and Record of the Senate* because it is an empirical study that shows the increasing demand of low-priced cigarettes, demand elasticity, the plot of the demand curve which shows the income effect and the demand elasticity effect on low-priced cigarettes, and additional revenue of each of the bills proposed by Senators Recto and Enrile and in between, a point called the zero-volume effect which shows that government can raise revenues much higher than what the

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Recto bill proposed and still not have an effect on low-priced manufacturers.

Senator Madrigal seconded the opinions of Senators Lim and Lacson, adding that if the intent is to raise the maximum revenues with the maximum beneficial effect on the people, then the economic models speak for themselves. She expressed the wish that the senators would take time to read the study which shows that the tax rate could be raised up to 356% without interfering with the demand. She stated that as the Senate President had said, the senators would be voting on the bill in accordance with their conscience which dictates that they should vote for the highest possible revenue for the country. In closing, she said that she was also in support for the deletion of Section 145.

#### REMARKS OF THE CHAIR

The Chair directed the Secretariat to enter into the Record of the Senate Senator Madrigal's manifestation together with the study, copies of which she distributed to the senators. (*Please see Annex "A"*)

#### REMARKS OF SENATOR RECTO

Senator Recto stated that the Chamber would not be amending the law if it did not have any flaw. He pointed out that in the existing law that increased rates only once in 2000, there is an unlevel playing field with regard to those in the Annex, and the new brands and variants. He said that in 1996, the growth rate of the revenue collection was roughly 18% based on an *ad valorem* tax system while the growth rate in the last seven to eight years under the specific tax system has only been 5%, so the problem could lie with the system, the loopholes in the law or the economic difficulties which the government faces at present.

Further, Senator Recto stated that he thought it best to continue with the specific tax system and have rate increases until 2011 because Congress had already decided in the past that it was difficult to implement an *ad valorem* tax system. He added that if Congress would go back to the issue of the *ad valorem* tax system, rebracketing the tiers, and adjusting the rates,

legislators would not be able to finish before the year ends.

#### REMARKS OF SENATOR ENRILE

As a backgrounder, Senator Enrile recalled that at the beginning of the 13th Congress, he delivered a speech in which he defined the role of the Opposition—they will not obstruct; they will cooperate critically; and that whatever is good for the country, they will support it.

He stated that when the sin taxes were being considered and discussed, he did not bother to participate in the discussion until he decided to file a bill only on cigarettes because he wanted to put some degree of regimen to the taxation of [this product which is hazardous to health.

He pointed out that under the four-tier classification of machine-packed cigarettes with different rates, there was a lot of cheating and distortion, so that even if supply is increasing, the income of government is decreasing. This, he said, prompted him to suggest the use of quantity instead of price as basis for taxing cigarettes, and that he also wanted to do away with brands and move to a single rate.

Senator Enrile explained that he had wanted to do away with the provision on reclassification so that there will be a migration of products from one level to a higher level and let the tax operate accordingly. Unfortunately, he lamented, in the law enacted in 1997, this provision with annexes for cigarettes was inserted.

He disclosed that in the committee hearings, he presented his position to delete that provision to the officials of the DOF, but he realized that he can only attain much. Nevertheless, he declared that he was not abandoning his position for a single rate.

Senator Enrile, however, warned that the proposal to delete Section 145 would reopen the entire field of sin taxes and would have to leave the whole problem of handling the characterization of one product, one kind against another kind under one classification or another to the Bureau of Internal Revenue. For this to be implemented, he underscored the need to conduct a resurvey.

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Realizing that this is not possible, upon invitation, he said that he met with the Senate President and Senators Recto, Pangilinan, Pimentel and Angara, and they agreed on certain terms upon which a consensus was arrived at.

Senator Enrile reiterated that he was not abandoning his position for a single rate to level the playing field, and that he was simply adopting a practical way of increasing tax for low cigarettes in order to recover for the government taxes it should have earned in the past through at least 170% increase in low-class cigarettes plus a mild increase in the upper level.

#### INQUIRY OF SENATOR PIMENTEL

Senator Pimentel asked what the effect would be if the entire paragraph would not be deleted but the date "October 1, 1996" would be updated.

Senator Enrile replied that the date "October 1, 1996" was placed in the law because it was the date when a survey was conducted by the Department of Finance as requested by the Senate Committee on Ways and Means at that time to determine the classification of low, medium, high and premium cigarettes.

Senator Recto said that he would have no objection to an amendment updating all the annexes to 2003 as well as to the deletion of whatever discretion the BIR has insofar as new brands and variants are concerned, for the sake of fairness.

Senator Enrile agreed with Senator Recto to write new annexes.

#### SUSPENSION OF SESSION

With the permission of the Body, the Chair suspended the session.

*It was 6:47 p.m.*

#### RESUMPTION OF SESSION

At 7:58 p.m., the session was resumed.

Upon resumption, Senator Pangilinan informed the Body that the parliamentary status was the period of individual amendments, and that Senator Lacson was posing his proposed amendments with clarificatory questions.

#### SUSPENSION OF SESSION

Upon motion of Senator Pimentel, the session was suspended.

*It was 7:58 p.m.*

#### RESUMPTION OF SESSION

At 8:13 p.m., the session was resumed.

#### INQUIRIES OF SENATOR LACSON

*(Continuation)*

Senator Lacson disclosed that on the basis of documents shown him indicating the removals from 1996 to 2003, the reclassification of certain brands of cigarettes did not result in a slide in consumption, contrary to Senator Recto's claim on elasticity.

Senator Recto explained that in 1997, tax rates as of 1991 were adjusted by 30% which in turn were further adjusted by 12% in 2000 or a 32% adjustment from 1991 to 2000. He said that removals in 1995 were 3.5 billion packs and in 1996, 3.8 billion packs. He recalled that when the first adjustment of 30% in 1997 was imposed, removals dropped to 3.27 billion packs; in 1998, removals were 3.4 billion packs; and with the moderate increase in rates of 12% in 2000, removals increased to 3.9 billion packs.

To the observation that the drop in 1997 was caused by an overproduction in 1996 in anticipation of a higher tax rate the following year, Senator Recto conceded that such was possible. However, he pointed out that volume still dropped to 3.2 billion packs in 1997 from 3.5 billion packs in 1995 because of the 30% increase in tax rate. Compared to a 435% adjustment, he said that he suggested a 48% increase, the highest at any other time in the country's history, to capture the "downtrading," but he accepted the 170% increase proposed by Senator Enrile on the assumption of constant volume.

*W MB*

Senator Recto clarified that there was a rate increase of 12% in 2000 as provided for by law, based on the assumption of an annual 4% inflation rate since 1998 but the BIR can reclassify new brands and variants at any given time. He disclosed that the last reclassification was done in 2003 which affected a few new brands and variants of alcohol and tobacco. He cited La Suerte products, Astro and Memphis, that were reclassified from a low-tier classification at P1.60 to a medium-tier classification at P5.60, or a rate increase of more than 400%, which consequently resulted in an 80% drop in volume.

As to where the 80% went, Senator Recto expressed the view that consumers of these low-brand cigarettes did not upgrade because of their limited purchasing power.

But Senator Lacson noted that the market remained intact in spite of a drop of 80% on the consumption of the two brands because other competitors were not reclassified. Senator Recto clarified that only the new brands and variants were reclassified because the old brands existing as of October 1, 1996 cannot be reclassified. However, he pointed out that Congress adopted a specific tax because the *ad valorem* tax system was hard to administer. He argued that if reclassification would be allowed every year, Congress, in effect, would be passing to BIR the task of reclassifying all alcohol and tobacco products, impose a tax rate and count the volumes every year. He said that under the amended committee report, the BIR would reclassify new brands and variants only once, that is, within three months upon product launch.

Senator Lacson agreed that the task of reclassifying should remain with Congress. Nonetheless, he proposed the deletion of Section 145, so that cigarette manufacturers would pay higher taxes. Senator Recto commented that its deletion would mean that the BIR would have to look at prices every six months or every year, and if the price increases, it has to reclassify and collect the taxes based on the volume. He explained that under the bill, tax rates would be increased every two years to ensure predictable, stable revenues.

To Senator Lacson's argument that the rule of taxation must be uniform and equitable as the Constitution mandates, Senator Recto replied that there is nothing in the bill that is not uniform, equitable and progressive.

At this juncture, the Chair noted that Senators Recto and Lacson have an honest difference of opinion and it pointed out that in a debate, no one can compel another to accept any position. In order to dispose of the matter, it requested Senator Lacson to propose his amendments for the Body to consider.

Asked by Senator Lacson why the Senate is hard pressed to pass the bill, the Chair replied that if Congress would not be able to pass the measure, it would appear that the Philippine government is not serious in bridging the gap between its expenses and revenues. Consequently, it said that the credit rating of the Philippines would be downgraded which would also mean a P20 billion more price tag on the country's interest rates. It stated that this measure, which is expected to generate P16 billion to P18 billion, would be the first major test for the government. The acceptability of this projection as well as the validity of Moody's assessment was a matter addressed to the judgment and conscience of each senator, it stressed.

At this juncture, Senator Lacson read into the record the November 17, 2004 IMF Mission Statement at the conclusion of the 2004 Article IV consultation and post-program monitoring discussions with the Philippines, to wit:

Since taking office in July, the new administration has formulated a package of reforms to address fiscal, power, and banking sector issues. The authorities are to be commended for their initial focus on legislative tax measures and efforts to bring this quickly for congressional approval... However, the legislative process for the administration's proposed tax measures is still at an early stage and some of these measures are proving to be contentious. This has led to signs of impatience in financial markets with sovereign spreads edging up and ratings agencies warning of possible downgrades....

The mission recommends that strong up-front fiscal adjustment be taken in 2005. A large initial reduction in the deficit would send a strong signal to the markets of the authorities' commitment to balancing the budget. However, while the authorities' goal of raising P80 billion in new tax revenues is key to fiscal effort, only a small fraction of this amount so far appears assured. To date, only one tax measure with a clear revenue impact — higher alcohol and tobacco taxes with an estimated yield of P7 billion — (House version) has been passed by the House. Given how lightly these products are taxed in the Philippines, the revenue impact of this version of the measure seems fairly small. The mission looks forward to a further strengthening of this measure as well as the passage of more substantive revenue-raising measures in the coming months.

Senator Lacson informed the Body that the IMF Executive Board will receive the mission's findings on February 2005. He urged the Body to pass a reasonable and substantive bill.

Senator Recto expressed the view that the IMF, World Bank and the credit ratings agencies want to see the Philippine Congress act on many tax measures as one industry cannot bear the onus alone. He said that he would hear, next week, the fiscal incentives bill on the expansion of the value-added tax, and hopefully, by January next year, a committee report can be filed on the VAT and fiscal incentives bills. He expressed the hope that Congress can pass all the measures within the first three months of next year.

On the comment that the Senate might as well start right by passing a reasonable, substantive tax measure on the sin taxes, Senator Recto maintained that the present bill is reasonable and substantive.

#### REMARKS OF SENATOR LIM

At this juncture, Senator Lim read into the record a column which appeared in the September

11, 2004 issue of the *Philippine Star* as he noted that public interest is being sacrificed, as follows:

#### CODE NGO:

##### **Let the Public Interest Prevail**

At this crucial time when we are faced with a fiscal crisis, we are dismayed at government's inability to prevail over vested interests and come up with meaningful revenue measures. For decades, factions of the political, economic elite have avoided bearing their share of the burden of uplifting this nation and they have done so by exploiting the weaknesses in our public institutions.

This really is demonstrated once again in the ongoing legislative debate on sin taxes. The current cigarette tax system which classifies cigarettes into four price categories, each with the corresponding tax rate, has allowed cigarette manufacturers to effectively evade taxes for years by getting their cigarettes classified into the lowest possible category even as cigarette prices moved up over the years. Over an 8-year period since 1996, this has amounted to billions of lost revenue for government and huge profits for specific tobacco companies.

The House of Representatives version of the sin tax bill, which only prescribes tax rate increases on sin products but leaves the current four-tier cigarette tax system and the existing tax rates intact, can only be interpreted as a huge concession to particular tobacco firms. This only lends credence to the candid remark of Congressman Herminio Teves that money flowed from the cigarette lobby during the House deliberations on sin taxes. Already maligned for stubbornly holding on to their entire pork barrel against the tide of public opinion, the House of Representatives is once more appearing like a collection of opportunists willing to put aside self-interest in favor of the common good.

Senate Bill No. 1815, on the other hand, offers some hope. By proposing a uniform tax rate for all cigarettes regardless of price, it does away with the current four-tier tax system thereby leveling the playing field. This is also simpler from a tax administration perspective, and justly penalizes smoking uniformly because the health hazards generated are the same regardless of the brand and price of cigarettes smoked. This bill also provides for automatic adjustments of tax rates relative to inflation, which strengthens the revenue-generating aspect of the measure.

As the enduring drama of vested interest vs. public interest plays out, we call President Gloria Macapagal Arroyo to put the political clout of her fresh mandate behind meaningful revenue-generating measures that correct the inequities in our taxation system—a system that penalizes the poor and rewards the rich, and fails to generate enough money to support national development. “Compromise” legislation that retains the current cigarette tax framework will fail to achieve the revenue and reform objectives of the sin tax. The Filipino people cannot be expected to support national efforts to address the crisis if government does not provide the political and moral leadership.

Let the public interest prevail!

Senator Lim said that the following were in accord with the contents of this column: People’s Campaign for Agrarian Reform Now (AR-NOW!); Manindigan!; Philippine Community Organizers Society (PhilCOS); Local Governance Citizens Network (LGCNet); Institute for Popular Democracy (IPD); Institute for Political and Electoral Reform (IPER); Social Democratic Caucus (SDC); Pambansang Samahan ng Kilusang Magsasaka (PAKISAMA); Federation of Free Workers (FFW); Ateneo Office for Social Concern and Involvement (OSCI); and Konsiyensyang Pilipino (KP).

## **PROPOSED AMENDMENT OF SENATOR LACSON**

Thereafter, on page 20, Senator Lacson proposed the deletion of lines 11 to 18. He explained that unless deleted, the provision violates the principle of uniformity and horizontal equity in taxation. He pointed out that the failure to reclassify cigarettes according to their current retail price would result in cigarettes of the same category being taxed differently in violation of the neutrality or efficiency rule in taxation. He stressed that an efficient tax is a neutral tax – it does not create distortions in the choices of consumers or producers.

He argued that without reclassification, low-priced cigarettes are perpetually subsidized since they are not imposed the correct taxes, thereby, making artificial the competitive edge and prevents a level playing field in business. This, he said, discourages new investments as new players in the market are taxed more heavily. Finally, he contended that the provision sends a clear signal that the government has no political will in improving revenue collection and to design good policies

Senator Recto rejected the proposed amendment as the same provision applies to all manufacturers or importers. He said that the same system and procedures are imposed on new brands.

## **DIVISION OF THE HOUSE**

Submitted to a vote, and with majority of the senators voting against, the proposed amendment of Senator Lacson was lost.

At this juncture, the Chair thanked the Members for their patience in listening to all the arguments.

## **EXPLANATION OF VOTE BY SENATOR ENRILE**

Explaining his abstention, Senator Enrile said that although his bill carried the same amendment, he had already submitted to Senator Recto his proposed amendments which would rectify the imbalance between the brands that were listed in Annex “D” and to those that were not.

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## INQUIRY OF SENATOR CAYETANO

Anent the Flavier amendment on page 23, lines 3 to 11, Senator Cayetano asked whether alcoholism is included in the disease-prevention program of DOH.

The Chair and Senator Recto replied in the affirmative.

## TERMINATION OF THE PERIOD OF AMENDMENTS

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

## INQUIRIES OF SENATOR OSMEÑA

Senator Osmeña expressed his desire to clarify certain provisions, so that when challenged, the Supreme Court would not take a different interpretation from what Congress had intended.

On page 3, asked on the meaning of the term "any variant of that brand" on line 15, Senator Recto explained that a variant of a brand refers to a brand on which a modifier is prefixed and/or suffixed to the root name of the brand; and/or a different brand which carries the same logo or design of the existing brand. For example, he cited, San Mig Light which would be a variant of San Miguel beer, and would be taxed the highest under its classification.

Asked how a particular brand would have different classifications, Senator Recto stated that precisely because of its variants. He disagreed to the observation that all variants of existing brands are placed into the same classification, as he explained that it would be taxed under the highest classification of any variant of the same brand. For instance, he said that if a variant for a medium brand is introduced, that variant would be classified under the medium tier. He said that this prevents downtrading.

For cigarettes, Senator Recto said that Champion Menthol, Champion Kings or Champion Light are variants of Champion which were

classified according to their suggested retail prices in 1996.

Asked how the BIR would determine Champion X as a variant of Champion King or Champion light, Senator Recto replied that it would be based on the retail price of the new brand but it would be classified on the highest classification of the brand; so if Champion, which is in the premium level, comes out with Champion X, a variant, the latter would pay the highest classification of a premium. On the other hand, he said, if Champion, which is a premium brand, introduces a variant for the low-end tier, the law would not allow it because then it would be downtrading.

On the possibility that a manufacturer may introduce a new variant of higher quality and in order to get away with paying the right taxes, uses the same name and simply add a suffix or prefix to it so that it would be taxed at a lower level, Senator Recto explained that the new variant would have to pay the highest classification of the existing brand; so if variant B, which is classified as medium-tier, introduces variant C, the latter would be classified as medium-tier. He conceded, however, that a variant of a higher quality and net retail price would qualify automatically for a lower tax bracket than what its net retail price would have forced it into without the said provision.

Senator Osmeña suggested that the proviso be expressly stated as the bill has several other provisions preventing downgrading.

Senator Recto clarified that the provision is still in the existing law and has not been amended by the bill. He surmised that a brand at the low-end market would not introduce a variant in a higher market as normally, a brand name would be introduced in a lower category to avoid paying the proper amount of taxes; for instance, Marlboro would introduce Marlboro X at the low-end tier so that lesser taxes would be paid.

Senator Osmeña, however, said that a Marlboro premium could be introduced yet still be taxed at a lower classification. He recalled that when he used to sit in the board of San Miguel-Hong Kong,

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the company introduced a San Miguel premium which proved to be a mistake because San Miguel was seen as a medium-priced beer such that the premium brand did not catch on the market, precisely because the brand identifies the type of consumer that it wants to capture.

Thereafter, he proposed the deletion of lines 11 to 15 on page 3 and of all similar paragraphs in order to allow any variant to be classified according to its new net retail price.

Senator Recto conceded that if a variant is introduced to cater to low-end consumers, then it should not pay the higher tax. However, he believed that it would be best not to touch the provision in the existing law because it would favor the State.

#### **SUSPENSION OF SESSION**

With the permission of the Body, the Chair suspended the session.

*It was 9:03 p.m.*

#### **RESUMPTION OF SESSION**

At 9:04 p.m., the session was resumed.

#### **RECONSIDERATION OF THE TERMINATION OF THE PERIOD OF INDIVIDUAL AMENDMENTS**

Upon motion of Senator Pangilinan, there being no objection, the Body approved to reconsider the termination of the period of individual amendments.

#### **OSMEÑA AMENDMENTS**

On page 3, as proposed by Senator Osmeña and accepted by the Sponsor, there being no objection, the Body approved the deletion of lines 12 to 15.

On the same page, Senator Osmeña asked why lines 16 to 19 were included in the bill. Senator Recto replied that the same definition could be found in the existing law. He explained that if a variant of San Miguel, for instance, would use the logo of the holding company, then taxes have to be paid accordingly. But Senator Osmeña

believed that the provision could be used as a loophole because companies like San Miguel could produce a hundred types of beer.

Thereafter, on page 3, as proposed by Senator Osmeña and accepted by the Sponsor, there being no objection, the Body approved the deletion of the phrase starting with the words "AND/OR" on line 18 up to the word "BRAND" on line 19.

On the same page, asked why the word "INITIALLY" was inserted on line 21 and the word "CURRENT" was deleted on line 22, Senator Enrile explained that the bill requires that after three months, there would be a validation of the suggested price for the product's permanent classification which could not be revised except by Congress.

On the reason for the initial classification, Senator Enrile said that a new brand that is being launched in the market could not yet be classified, thus, a suggested retail price is assigned to it. He said that after three months, a survey would be done according to the number of retail outlets in Metro Manila and the provinces and the net retail price, as found in the survey, would become the permanent classification.

Replying to another query, Senator Enrile stated that the sentence on lines 10 and 11 of page 4 was inserted precisely to prevent the BIR from reclassifying new brands introduced in the market to ensure equal protection for all the brands. He stated that the term "new brand" refers to brands considered new under Republic Act No. 8240, or brands launched in the market after January 1, 1997.

Asked why new brands that were classified by the BIR in the lowest tier, such as Astro and Memphis, were reclassified to a higher category, Senator Enrile replied that they were launched in the market after 1997 with a net retail price below P5; however, the prices were subsequently raised by the manufacturers.

Senator Recto affirmed that under the proposed measure, the BIR could not bring prices up to a higher tax bracket, so a company would launch

an existing brand at the lowest tier and raise the price later since the BIR could not reclassify it. He conceded that it might be another loophole in the law.

On whether manufacturers would be willing to take losses in the beginning of its operations, Senator Osmeña believed that a \$30 billion-\$40 billion corporation like Altria, which is the new name for Philip Morris, would take a P100 million or P200 million beating.

Senator Recto said that he would welcome refinements to the provision.

Senator Osmeña said that the prevailing sentiment during the several days of debate was that proper taxes were not collected *vis-a-vis* the total sales of the tobacco industry which, at present, stands at P80 billion because of the tax categories such that a brand with a net retail price of P4 in 1997 and paid P1.12 in tax would still pay the same amount of tax even if its net retail price had already gone up to P10 or to P20 ten years hence.

To Senator Osmeña's opinion that the measure was actually a modified *ad valorem* bill, Senator Recto agreed that there is indeed a combination of *ad valorem* and specific taxes only with regard to new brands and variants, but purely specific tax for classified brands and variants. He agreed that the *ad valorem* is the fair tax system except for the attendant loopholes. He affirmed that the *ad valorem* was modified into four tiers so that all that had to be done was to validate the net retail price and count the removals.

As to why the BIR could not be allowed to capture the net retail price every year when in reality it is the manufacturer that classifies its new product by raising its net retail price, Senator Recto maintained that in that case, the *ad valorem* system would be a better tax system even as he acknowledged that no tax system is a perfect one. Senator Osmeña concurred, saying that precisely the Chamber is trying to make the measure closer to perfect by capturing any increase in net retail prices of the manufacturers.

Senator Osmeña suggested that the BIR be allowed to validate the net retail price annually in order to capture the same percentage of taxes should the retail price be increased.

At this juncture, the Chair suggested that an amendment be proposed to address Senator Osmeña's concern.

#### SUSPENSION OF SESSION

With the permission of the Body, the Chair suspended the session.

*It was 9:23 p.m.*

#### RESUMPTION OF SESSION

At 9:41 p.m., the session was resumed.

Upon resumption, Senator Osmeña withdrew his proposed amendment to delete lines 12 to 15 on page 3 subject to the rewording of the existing provision.

On page 4, line 22, Senator Osmeña proposed the substitution of the word "PRODUCTS" with DISTILLED SPIRITS. On the same page, line 24, he asked whether there should only be one cut-off date that determines the classification of existing brands, and new brands and variants.

Senator Recto said that during the period of interpellations, it was pointed out that certain brands commercially produced even before 1996 were omitted in 1994 so the measure seeks to capture these brands that fell through the cracks. He said that a list of these brands would be included as an amendment to Annex "A." He agreed to furnish Senator Osmeña with a copy of the list.

At this point, Senator Enrile said that he applied the same provision as regards machine-packed cigarettes to distilled spirits covered by Annex "A," wines covered by Annex "B," and fermented liquors covered by Annex "C."

Senator Osmeña suggested that these products be validated by the BIR as some might have been previously registered but might have stopped production in the Philippines at that time.

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Senator Enrile said that the cigarette brands should have been registered and commercially produced before January 1, 1997 up to present.

Thereafter, on page 4, as proposed by Senator Osmeña and accepted by the Sponsor; there being no objection, the Body approved the rewording of line 24 to read as follows: AND BEING COMMERCIALY PRODUCED AFTER OCTOBER 1, 1996 UP TO JANUARY 1, 1997, subject to style.

Asked by Senator Osmeña whether the tax rate is different for distilled spirits, Senator Recto replied in the affirmative, adding that it is specific for wines so lines 12 to 14 of page 4 and lines 4 and 5 of page 8 would be retained.

The Chair stated that as suggested by Senator Recto, the amendments on line 24 of page 4 would be considered as omnibus amendments which would be reflected in other sections and all previous amendments.

Senator Enrile said that the provision that was the subject of the omnibus amendment is found on Sections 141, 142, 143 and 145.

On page 23, Senator Osmeña stated that as regards paragraph "(C)," of the 100% incremental revenues that government expects from this law and on the excise rates imposed on alcohol and tobacco, 40% would go to the IRA for local government. He said that if the Sponsor wanted to give a greater impact to those who are rating the bonds, he might want to delete the particular provision.

Senator Recto stated that it is the reason that he agreed with Senator Defensor Santiago to at least have a sunset provision.

## SUSPENSION OF SESSION

With the permission of the Body, the Chair suspended the session.

*It was 9:58 p.m.*

## RESUMPTION OF SESSION

At 10:43 p.m., the session was resumed.

## OSMEÑA AMENDMENTS

On page 3, line 14, between the words "THE" and "HIGHEST", as proposed by Senator Osmeña and accepted by the Sponsor, there being no objection, the Body approved the insertion of the phrase PROPER CLASSIFICATION THEREOF BASED ON THEIR NET RETAIL PRICE; PROVIDED, HOWEVER, THAT SUCH CLASSIFICATION SHALL NOT IN ANY CASE BE LOWER THAN THE.

As proposed by Senator Osmeña and accepted by the Sponsor, there being no objection, the Body approved the following amendments:

1. On page 4, line 10, between the word "CLASSIFIED" and period (.), insert the following: AFTER THE END OF EIGHTEEN (18) MONTHS FROM SUCH VALIDATION, THE BUREAU OF INTERNAL REVENUE SHALL REVALIDATE THE INITIALLY VALIDATED NET RETAIL PRICE AGAINST THE NET RETAIL PRICE AS OF THE TIME OF REVALIDATION IN ORDER TO FINALLY DETERMINE THE CORRECT TAX BRACKET WHICH A NEW BRAND OF DISTILLED SPIRIT SHALL BE CLASSIFIED; PROVIDED, HOWEVER, THAT BRANDS OF DISTILLED SPIRITS INTRODUCED IN THE DOMESTIC MARKET BETWEEN JANUARY 1, 1997 AND DECEMBER 31, 2003 SHALL NO LONGER BE SUBJECT TO THE INITIAL VALIDATION AND REVALIDATION HEREIN REQUIRED BUT SHALL CONTINUE TO REMAIN IN THE CLASSIFICATION UNDER WHICH THE BUREAU OF INTERNAL REVENUE HAS DETERMINED THEM TO BELONG AS OF DECEMBER 31, 2003.;

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2. On the same page, same line, after the word "CLASSIFICATION," insert the phrase OF NEW BRANDS INTRODUCED BETWEEN JANUARY 1, 1997 AND DECEMBER 31,2003.;
3. On page 7, line 7, between the words "THE" and "HIGHEST," insert the phrase PROPER CLASSIFICATION THEREOF BASED ON THEIR NET RETAIL PRICE; *PROVIDED, HOWEVER, THAT SUCH CLASSIFICATION SHALL NOT IN ANY CASE BE LOWER THAN THE;* and
4. On the same page, line 11, delete the phrase "AND/OR A DIFFERENT BRAND WHICH CARRIES THE SAME LOGO OR DESIGN OF THE EXISTING BRAND."

As proposed by Senator Osmeña and accepted by the Sponsor, there being no objection, the Body approved the following omnibus amendments:

1. On page 10, line 9, between the words "the" and "highest," insert the phrase PROPER CLASSIFICATION THEREOF BASED ON THEIR NET RETAIL PRICE; *PROVIDED, HOWEVER, THAT SUCH CLASSIFICATION SHALL NOT IN ANY CASE BE LOWER THAN THE;*
2. On the same page, delete the phrase beginning with the words "AND/OR" on line up to the "BRAND" on line 14;
3. On page 11, line 12, between the word "CLASSIFIED" and the period (.), insert the following phrase: AFTER THE END OF EIGHTEEN (18) MONTHS FROM SUCH VALIDATION, THE BUREAU OF INTERNAL REVENUE SHALL REVALIDATE THE INITIALLY VALIDATED NET RETAIL PRICE AGAINST THE NET RETAIL PRICE AS OF THE TIME OF REVALIDATION IN ORDER TO FINALLY DETERMINE

THE CORRECT TAX BRACKET WHICH A NEW BRAND OF FERMENTED LIQUOR SHALL BE CLASSIFIED; *PROVIDED, HOWEVER, THAT THE BRANDS OF DISTILLED SPIRITS INTRODUCED IN THE DOMESTIC MARKET BETWEEN JANUARY 1, 1997 AND DECEMBER 31, 2003 SHALL NO LONGER BE SUBJECT TO THE INITIAL VALIDATION AND REVALIDATION HEREIN REQUIRED BUT SHALL CONTINUE TO REMAIN IN THE CLASSIFICATION UNDER WHICH THE BUREAU OF INTERNAL REVENUE HAS DETERMINED THEM TO BELONG AS OF DECEMBER 31, 2003;*

4. On the same page, line 13, after the word "CLASSIFICATION," insert the phrase OF NEW BRANDS AND BRANDS INTRODUCED BETWEEN JANUARY 1, 1997 AND DECEMBER 31, 2003;
5. On page 18, line 14, after the word "the," insert the phrase PROPER CLASSIFICATION THEREOF BASED ON THEIR NET RETAIL PRICE; *PROVIDED, HOWEVER, THAT SUCH CLASSIFICATION SHALL NOT IN ANY CASE BE LOWER THAN THE;*
6. On the same page, delete the phrase beginning with "AND/OR" on line 18 up to the word "BRAND" on line 19;
7. On page 19, line 26, after the word "CLASSIFIED," insert the following phrase: AFTER THE END OF EIGHTEEN (18) MONTHS FROM SUCH VALIDATION, THE BUREAU OF INTERNAL REVENUE SHALL REVALIDATE THE INITIALLY VALIDATED NET RETAIL PRICE AGAINST THE NET RETAIL PRICE AS OF THE TIME OF REVALIDATION IN ORDER TO

FINALLY DETERMINE THE CORRECT BRACKET WHICH A PARTICULAR BRAND OF CIGARETTES PACKED BY MACHINE SHALL BE CLASSIFIED; PROVIDED, HOWEVER, THAT THE BRANDS OF CIGARETTES PACKED BY MACHINE INTRODUCED IN DOMESTIC MARKET BETWEEN JANUARY 1, 1997 AND DECEMBER 31, 2003 SHALL NO LONGER BE SUBJECT TO INITIAL VALIDATION AND REVALIDATION HEREIN REQUIRED BUT SHALL CONTINUE TO REMAIN IN THE CLASSIFICATION UNDER WHICH THE BUREAU OF INTERNAL REVENUE HAS DETERMINED THEM TO BELONG AS OF DECEMBER 31, 2003; and

8. On the same page and line, after the word "CLASSIFICATION," insert the phrase OF NEW BRANDS AND BRANDS INTRODUCED BETWEEN JANUARY 1, 1997 AND DECEMBER 31, 2003.

On page 20, the Chair asked whether lines 11 to 18 had been deleted by a previous amendment.

Senator Osmeña replied in the negative, stating that his amendment would make the date October 1, 1996 as the takeoff date.

Senator Enrile proposed an amendment to the amendment by using the words ON OR AFTER OCTOBER 1, 1996.

Senator Osmeña recalled that his amendment on line 24 of page 4 used the dates October 1, 1996 and January 1, 1997, to capture cigarette brands that were excluded from Annexes "A," "B," "C," and "D."

However, Senator Enrile argued that under Republic Act No. 8240, all brands that were introduced after January 1, 1977, were considered new but registered brands produced on or before January 1, 1997 and which continue to be commercially produced thereafter would be

considered as old brands, in order to avoid mixing old and new brands.

Senator Osmeña said that he did not disagree with the intent of the amendment but the brands should be divided into categories. But he pointed out that a brand produced in the '50s or '60s but went out of production would be captured by the language of the bill. Senator Enrile disagreed, stating that such a brand would not be considered an old brand as it stopped to be commercially produced.

To Senator Recto's observation that Senator Osmeña's proposed amendment intended to capture the brands produced from October 2, 1996 up to December 31, 1996, Senator Enrile replied that it was already covered by the provision.

He said that there must be a continuous registration and production of the brand before January 1, 1997 up to the present so it will be considered an "old registered active brand."

Thereafter, as proposed by Senator Osmeña and modified by Senator Enrile, there being no objection, the Body approved the rewording of line 15 of page 20 as follows: AND WERE BEING COMMERCIALY PRODUCED ON OR AFTER OCTOBER 1, 1996.\*

The Chair stated that as an omnibus amendment, it would be applied to other similar provisions.

#### TERMINATION OF THE PERIOD OF AMENDMENTS

There being no other individual amendment, upon motion of Senator Pangilinan, there being no objection, the Body closed the period of amendments.

#### APPROVAL OF SENATE BILL NO. 1854 ON SECOND READING

Submitted to a vote and with 17 senators voting in favor, three against, and no abstention, Senate Bill No. 1854 was approved on Second Reading.

\*As corrected by Senator Enrile on December 16, 2004.

*Handwritten initials and a checkmark.*

Senator Pimentel manifested that he voted in the affirmative but with reservation.

Senator Lacson stated that he need not explain his negative vote.

Senator Ejercito Estrada (J) waived the explanation of his negative vote.

Senator Madrigal requested that the written explanation of her negative vote be entered into the record.

*Hereunder is the written explanation of vote of Senator Madrigal:*

#### *Overview*

The object of taxation is not simply to raise revenues for the government, but also to correct market failures by restricting the conduct of certain activities and by encouraging particular courses of action by providing higher taxes or incentives through the tax structure, respectively.

Further, the case of imposing a tax on sin products is an expression of the government's policy to restrict the consumption of commodities like tobacco and alcohol. Simply stated, when a government imposes "sin taxes," its ideal and primary aim should be to discourage smoking and alcohol consumption to minimize the health effects to society, the increase of revenue being merely secondary.

To summarize, the reason for my negative vote is based on the following general points:

1. The proposed sin taxes are anti-poor;
2. The social cost far outweighs the purported economic benefits to be derived from imposing the said taxes, and
3. The proposed sin taxes shall not deter cigarette and alcohol consumption.

#### *1. The proposed sin taxes are anti-poor*

The discourses we made on the floor focused solely on the wisdom of the different scenarios on the proposed tax rates on the low-end or low-tiered cigarettes due to the nonavailability of data on alcohol at the time of interpellation. Notwithstanding, the Sponsor failed to convince me to adopt the proposed tax rates because the provisions on tobacco were not balanced. It did not validate the need to address the sumptuary purpose of health, which is as important as the revenue purpose as well as the protection of the tobacco farmers. Since it was purportedly drafted only as a purely revenue measure, it lost sight of the true nature of a "sin tax," which is a tax imposed for luxury goods with adverse effects on health (*Source: European Observatory on Health Care Systems*). Further, my assessment of the correlative effects of the proposed tax rates by the Sponsor on low-end cigarettes depended on an econometric model which showed that the level of consumption and demand will not decrease, thus, it will not be an effective deterrent to smoking. The health costs will go as far if the said rates are passed. On the other hand, the sponsor never showed a study or an econometric model from which he based his proposal but only mere projections.

Studies made by the World Health Organization (WHO) and the World Bank will show that tobacco consumption only increases the poverty of individuals and families:

- Together, tobacco and poverty create a vicious circle. In most countries, tobacco use tends to be higher among the poor.
- Poor families, in turn, spend a larger proportion of their income on tobacco. Money spent on tobacco cannot be spent on basic human needs such as food, shelter, education and health care.

- Tobacco can also worsen poverty among users and their families since tobacco users are at much higher risk of falling ill and dying prematurely of cancers, heart attacks, respiratory diseases or other tobacco-related diseases, depriving families of much-needed income and imposing additional costs for health care.
- Although the tobacco industry provides jobs for thousands of people, the vast majority employed in the tobacco sector earn very little, while the big tobacco companies reap enormous profits.
- It is the poorer and the poorest who tend to smoke the most.
- Globally, 84% of smokers live in developing and transitional economy countries. At the country level, tobacco consumption varies by socioeconomic group.
- In many countries, at all levels of development and income, it is the poor who smoke the most and who bear the most of the economic and disease burden of tobacco use.
- The smokers' addiction to nicotine drives them to spend money on tobacco, diverting critical resources that could otherwise be spent on vital necessities. In the case of the poorest, where a significant portion of their meager income is required to buy food, expenditures on tobacco may make the difference between an adequate diet and malnutrition.
- Countries suffer huge economic losses due to high healthcare costs and lost productivity as a result of tobacco-related illnesses and premature deaths.
- The tobacco industry claims that it employs 33 million people, but this number includes farmers who grow other crops in addition to tobacco, seasonal

laborers, family members and other part-time workers.

- While the tobacco industry often boasts of the positive economic benefits of growing tobacco, it fails to mention that the overwhelming majority of the profits go to the large companies, while many tobacco farmers find themselves poor and in debt.

*2. The social cost far outweighs the purported economic benefits to be derived from imposing the said taxes*

As fully discussed in the study entitled "Incremental Tax Effects on Consumption of Low-Priced Cigarettes" conducted by our Senate office, in close consultation with Prof. Victor Abola of the University of Asia and the Pacific and other economists, which was manifested on the floor on 14 December 2004, the proper tax rate that should be imposed for low-tiered cigarettes that will achieve the maximum revenue the government could raise without affecting the market's demand for the said classification of cigarettes is the imposition of a 356% excise tax rate which would redound to an increase of Php 3.99.

The bill failed to consider the health deficit that would be incurred due to the "health costs" which would necessarily result from government's duty to provide social services in the form of treatments that would be afforded to the poor people who would be inflicted with cigarette-caused diseases.

Simple arithmetic would easily show that with the accepted amount of health costs being incurred, conservatively pegged at Php 27 Million per day or a translated Php 9.8 Billion per year, the government could possibly incur a loss of approximately Php 1.8 billion. That is, given that Senator Recto's optimistic projections of Php 8 billion are correct.

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3. *The proposed sin taxes shall not deter cigarette and alcohol consumption*

Though the present tax rate of 353% would not negatively affect the demand of the current market, it does, however, serve as a deterrent for the youth who will not be able to afford to even take up smoking in the first place. Thus, a win-win situation would be attained as the government would thereby be able to generate such so-called "much-needed" revenues to address the current fiscal crisis and at the same time, decrease the number of smokers in the future by decreasing the number of new or first-time smokers.

However, as discussed earlier and as our manifested economic model would show, any point below said 353% tax rate would not create any effect of change in the demand for cigarettes.

**PRESIDENTIAL CERTIFICATION**

Upon direction of the Chair, Secretary Yabes read the President's certification as to the necessity of the immediate enactment of Senate Bill No. 1854, to wit:

Malacañang  
Manila

November 17, 2004

HON. FRANKLIN M. DRILON  
Senate President  
Philippine Senate  
Pasay City

Dear Senate President Drilon:

Pursuant to the provisions of Article VI, Section 26(2) of the 1987 Constitution, I hereby certify to the necessity of the immediate enactment of Senate Bill No. 1854, under Committee Report No. 5, entitled

**AN ACT INCREASING THE EXCISE TAX RATES IMPOSED ON ALCOHOL**

**AND TOBACCO PRODUCTS, AMENDING FOR THE PURPOSE SECTIONS 141, 142, 143, 144, 145 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED.**

to address the urgent need of raising much-needed revenues for the government and address the social concerns arising from the harmful effects of alcohol and tobacco products by instituting the timely adjustment of their tax rates.

Best wishes.

Very truly yours,

(Sgd.) GLORIA ARROYO

CC: HON. JOSE C. DE VENECIA, JR.  
Speaker  
House of Representatives  
Quezon City

**APPROVAL OF SENATE BILL NO. 1854 ON THIRD READING**

In view of the Presidential certification, upon motion of Senator Pangilinan, there being no objection, the Body considered on Third Reading, Senate Bill No. 1854.

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

**AN ACT INCREASING THE EXCISE TAX RATES IMPOSED ON ALCOHOL AND TOBACCO PRODUCTS, AMENDING FOR THE PURPOSE SECTIONS 131, 141, 142, 143, 144, 145 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED.**

Secretary Yabes called the roll for nominal voting.

*JFB*



**RESULT OF THE VOTING**

The result of the voting was as follows:

*In favor*

Arroyo	Magsaysay
Biazon	Osmeña
Cayetano	Pangilinan
Defensor Santiago	Pimentel
Drilon	Recto
Enrile	Revilla
Flavier	Roxas
Gordon	Villar
Lapid	

*Against*

Ejercito Estrada (J)  
Lacson  
Madrigal

*Abstention*

None

With 17 senators voting in favor, three against, and no abstention, the Chair declared Senate Bill No. 1854 approved on Third Reading.

**EXPLANATIONS OF VOTE***By Senator Roxas*

Senator Roxas stated that he had hoped to address more revenues from the measure but substantial improvement had been attained by committee amendments and those set forth by the Chair, Senator Enrile and other Members. He manifested, however, his reservations on the structure of the measure even as he realized that it was the best that the political tactical terrain would allow at present. He commended Senator Recto his vigorous defense of the bill as well as the Body for its passage. He voted in favor of the measure.

*By Senator Gordon*

Senator Gordon explained that he voted in favor of the measure because he believed that the excise taxes are necessary for the country's development

and that he wanted to assure the international community that the country is serious in its efforts. He pointed out, however, that he would have desired for a higher rate of taxation, particularly on cigarettes. He said that the passage of the bill was largely due to the able sponsorship of Senator Recto and the support of Senator Enrile as well as of the other Members whose ideas enriched the debates.

*By Senator Enrile*

Senator Enrile stated that he would have wanted a whole pie but realized that half a pie is better than none at all.

**INQUIRY OF SENATOR LACSON**

Senator Lacson inquired what Senator Roxas meant by "political tactical terrain."

Senator Roxas stated that as a collegial body, the Members subscribe to the realities of political alliances and vision of government. He conceded that political realities underlined the need to get a bill passed so that in the end, this value superseded his own personal desire for specific changes in both the structure of the measure and the rates imposed.

**CONFERENCE COMMITTEE ON SENATE BILL NO. 1854 AND HOUSE BILL NO. 3174**

Upon nomination by Senator Pimentel, on the part of the Minority, there being no objection, the Senate President designated Senators Enrile, Angara and Ejercito Estrada (J) as members of the Senate panel in the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 1854 and House Bill No. 3174.

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, there being no objection, the session was suspended.

*It was 11:15 p.m.*

**RESUMPTION OF SESSION**

At 11:16 p.m., the session was resumed.

*J 16*

Thereafter, upon nomination by Senator Recto, on the part of the Majority, there being no objection, the Senate President designated Senators Recto, Arroyo, Villar, Revilla and Lapid as members of the Senate panel in the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 1854 and its counterpart House bill.

**COAUTHORS**

Senator Pangilinan manifested that Senators Osmeña and Villar are coauthors of Proposed Senate Resolution No. 146.

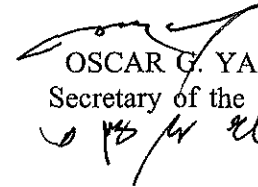
**ADJOURNMENT OF SESSION**

Upon motion of Senator Pangilinan, there being no objection, the Chair declared the session

adjourned until three o'clock in the afternoon of the following day.

*It was 11:18 p.m.*

I hereby certify to the correctness of the foregoing.

  
OSCAR G. YABES  
Secretary of the Senate

Approved on December 16, 2004

## ANNEX "A"

<p style="text-align: center;"><b>INCREMENTAL TAX EFFECTS ON CONSUMPTION OF LOW-PRICED CIGARETTES</b></p>
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### BACKGROUND OF THE STUDY

**What is the study all about?**

The study investigates the impact of a price increase as a result of a tax increase on the demand for low-priced cigarettes under the different scenarios as proposed Senate Bill 1815 (Recto Bill) & Senate Bill 1854 (Enrile Bill).

The study also looked into the effects of an increase in personal consumption expenditure/income on the demand for low-priced cigarettes given an increase in price due to tax increase.

However, the study does not consider the change in demand for low-priced cigarettes due to down-trading or shifting from medium/high-priced brands to low-priced brands as a result of a price increase.

**What is the OBJECTIVE of the study?**

To develop a model or formula that will estimate the maximum rate of increase in tax on low-priced cigarettes such that the present demand for the low-priced cigarettes will not decrease nor increase. Through this, we would be able to maximize the collectible revenues.

**What is the RATIONALE of the study?**

We want to identify the exact rate of tax increase where the effect on demand is zero so as to maintain the present volume of cigarette consumption at least in the low-priced category so as to contain the *social cost* of smoking at its present level.

It must be noted that smoking causes some inevitable cost to the health of smokers and to the society as a whole. The Government inevitably incurs cost in the treatment of poor people with cigarette-caused diseases. Thus, a sound tax policy on cigarette should consider both the revenue that will be generated and the costs that will be incurred by the government due to such "health costs."

## STUDY PROPER

**What are the effects of the different Senate bills on the prices of low-priced cigarette brands?**

Estimates show that the Recto Bill will raise prices by around 7% while the Enrile Bill will increase prices by 60%.

(i.e. Given Brand X = P10.00 à Recto Bill: P10.70 / Enrile Bill: P16.00)

**Table 1: Gross Price Changes of Senate Bills (in pesos)**

Case	(A) Net Price	(B) Excise Tax Rate	(A) + (B) = (C) Base VAT	(C) x 10% = (D) VAT	(C) + (D) = (E) Gross Price	% change from present
Present*	6.97	1.12	8.09	0.81	8.90	0.00
Recto bill	6.97	1.65 (47.32%)	8.62	0.86	9.48	6.55
Enrile bill	6.97	6.00 (433.74%)	12.97	1.30	14.27	60.31

\* Assumes gross price of P8.90 for low-priced brands (weighted average in 2003)

**Given these price increases, what are their effects on cigarette demand? By how much?**

As cigarettes are defined as normal goods, its demand is expected to fall when price increase.

According to estimates, the sensitivity of cigarette demand to prices is about  $-0.32$  assuming that incomes remain the same. This estimate of price elasticity mean that for every 1% increase in prices, demand for cigarettes will fall by 0.32%. When applied to the Senate tax proposals, the Recto bill will decrease sales volumes by about 2%; while the Enrile bill will lessen demand by 19%.

**Table 2: Demand Effects of Proposed New Taxes**

Case	(F) % Price Change	(G) Price Elasticity	(F) x (G) = (H) % Demand Change
Recto bill	6.55	-0.32	-2.11
Enrile bill	60.31	-0.32	-19.42

**What is the effect of a change in income to the demand for cigarettes?**

Estimates show that the sensitivity of cigarette demand to income - or income elasticity - is 2.97. This means that for every 1% increase in incomes, cigarette demand rises by 2.97%. When applied to a projected 5% increase in incomes, this translates to an expected demand increase for cigarettes by 14.84%.

**Table 3: Demand Effects of Projected Income Change**

Case	(K) % Income Change	(L) Income Elasticity	(K) x (L) = (M) % Demand Change
Projection	5.0*	2.97	14.84

\* Average real growth of GDP during GMA era.

**What is the net change in demand for cigarettes vis-à-vis the different Senate Bills?**

**\*HB 1185 (Rector Bill):** Cigarette demand will continue to rise by approximately 13% with low end cigarette manufacturers earning an additional P2.4 billion in sales revenue or about P1.256 billion in additional revenues for the government;

**\*HB 1584 (Enrile Bill):** Demand for cigarettes shall lower by approximately 5% and would create sales revenue loss of P869 million or about P10.4 billion in additional revenues for the government.

**Table 4: Price and Income Effects on Demand**

Case	(% change)			Additional Effects (in P mll)*	
	Price	Income	Net	Revenue of Firms	Excise Tax Revenue
Present	0.00	14.84	14.84	2,812.43	0
Recto	P 2.11	14.84	12.73	2,412.66	1,256.1
Enrile bill	P19.42	14.84	-4.58	(868.47)	10, 355.21

\* Based on changes to 2003 removals

**What is the maximum excise tax increase that will leave demand unchanged assuming the given price and income effects (ZERO EFFECT POINT)?**

The estimated price increase to completely offset the projected income effect is about 46.1%. This translates to a new excise tax of P3.99 from the present P1.12 rate, or tax rate increase of approximately 356%.

**Table 6: New Excise Tax for Zero Change in Cigarette Demand**

(P)	(Q)	(P) / (Q) = (R)	P8.61 (1+R)=(S)	(S) less VAT & Net Price			
% Demand Change from Income Effect	Price Elasticity	% Price Change	New Gross Price*	New Excise Tax	Additional Excise	% Increase	
Zero Sales	14.84	-0.32	46.01	13.00	5.10	3.99	356%

\* Assumes present gross price of P8.90 for low-priced brands (weighted average in 2003)

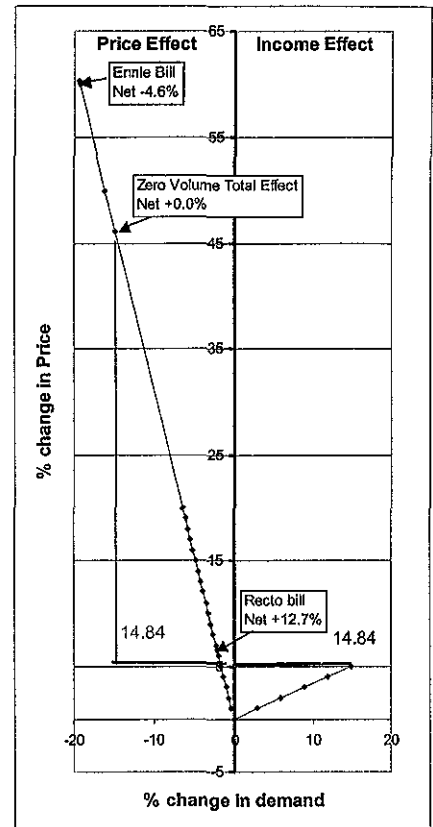
**\*Note:** Projected Incremental Tax Revenue = P 8.546 Billion

**How does the price and income effect discussed earlier look in graphical form?**

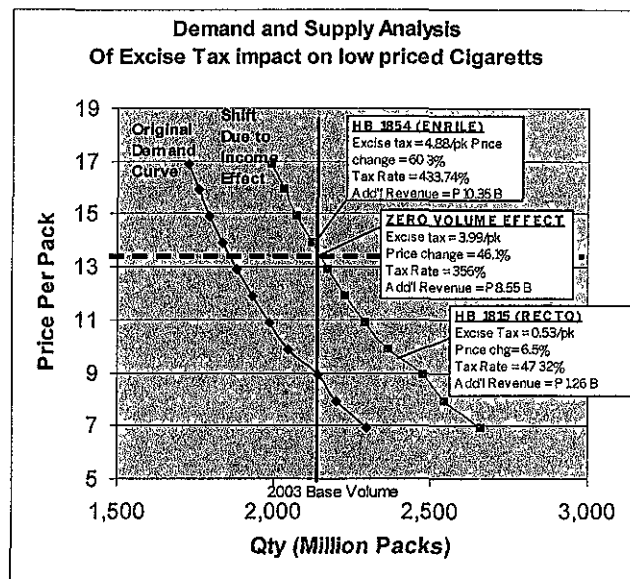
The price and income effects can also be expressed in terms of the chart at right.

Explanation:

- a. The **horizontal axis** is the % change in cigarette demand. The right (positive) side shows the income effect of +14.84% on cigarette demand due to a 5% in real incomes (disregarding inflation). This demand change is due to an increase in income so the right side of the vertical axis refers % change in income. So for example, a higher % income change translates to higher % change in cigarette sales.
- b. The left side of the **vertical axis** refers to the negative effect of price increases (due to tax increase) on cigarette demand. In this case the vertical axis refers to the % change in price. So in our estimates, a corresponding 14.84% decline in cigarette demand will occur if prices rise (with higher taxes) by 46%.
- c. The Recto bill leads to a 6.55% price increase which in turn allows a 12.7% increase in sales. (See Table 1)
- d. The Enrile bill which translates to 60% price increase leads to a decline in demand by 4.6%. (See Table 1)
- e. To offset the 14.84% income effect, a price effect amounting to 46% is necessary.



**Annex : DEMAND AND SUPPLY ANALYSIS OF EXCISE TAX IMPACT**



**RESOURCE PERSONS**

**Professor Victor Abola**  
Strategic Business Economics Program Director, Univ. of Asia and the Pacific

**Professor Leandro Tan**  
School of Economics, Univ. of Asia and the Pacific

## Annex 2:

## EMPIRICAL ESTIMATION OF CIGARETTE ELASTICITIES AND THEIR IMPLICATIONS

## A. Basic Data used (annual)

1. Removals (quantity in millions of packs) — from BIR
2. Average prices by category (data sources given below by period)
  - a. 1995 – DOF Worksheets
  - b. 1996 – Internal Revenue Code
  - c. 1997 – Derived using CPI for Tobacco
  - d. 1998 – Derived using CPI for Tobacco
  - e. 1999 – Derived using CPI for Tobacco
  - f. 2000 – Derived using CPI for Tobacco
  - g. 2001 – Derived using CPI for Tobacco
  - h. 2002 – Derived using CPI for Tobacco
  - i. 2003 – BIR
3. Personal Consumption Expenditures (real) – from National Statistical Coordination Board

## B. Estimation method: Ordinary Least Squares (OLS)

1. The OLS method employs using a line that best fits the data points which in this case consists of the quantities of cigarettes as the dependent variable  $Y$  when using average cigarette prices, real personal consumption (i.e. the latter is a proxy for personal disposable incomes) and average prices of substitutes as factors or independent variables affecting cigarette sales volumes. When expressed as a function, it becomes:

Qty Demand =  $f$  (Real Consumption Spending, Ave Price for category, Ave price of substitute category)

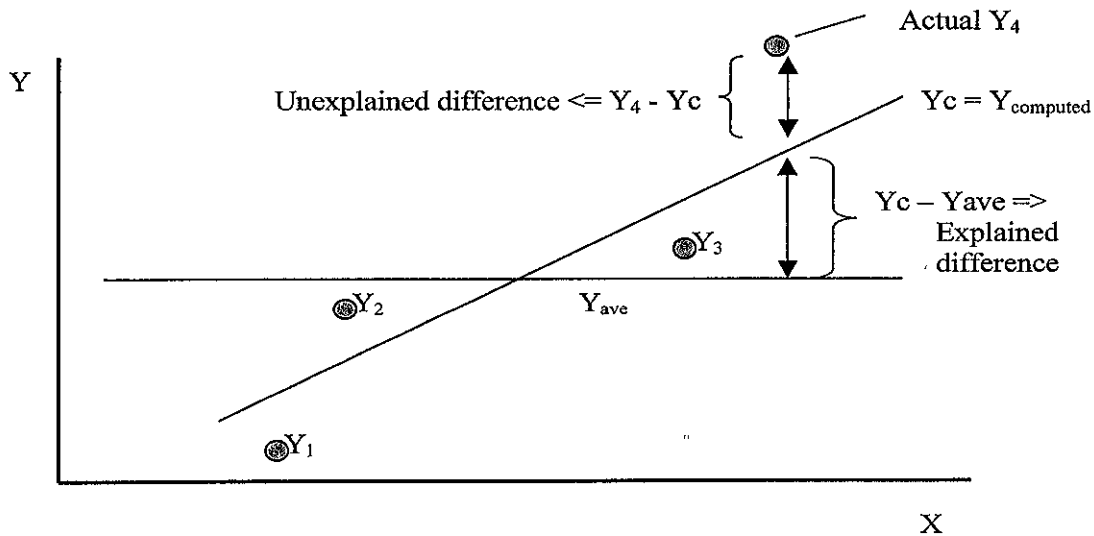
As an equation, the relationship is expressed as:

$$Y (\text{computed}) = d + a X_1 + b X_2 + c X_3$$

where

$Y$	=	Qty Demand for low-priced cigarettes
$X_1$	=	Personal Consumption Spending (real)
$X_2$	=	Price of low-priced cigarettes
$X_3$	=	Price of substitute good (i.e. medium-priced cigarettes)
$a, b, c$	=	coefficients of $X_1, X_2, X_3$ in affecting $Y$
$d$	=	constant term

2. Through the OLS method, the derived line for cigarette demand has the lowest possible sum of the squares of the vertical deviations from the actual cigarette demand. In the OLS method the first step obtains the vertical distances between the actual  $Y$ 's and the computed  $Y$ 's. This individual differences are squared to eliminate sign (i.e. + or -) differences (i.e. expressing them in absolute figures). The next step is to get the sum of all these squared differences. This final figure is then minimized while trying out different combinations of  $X$ 's.
3. This concept is better explained using the diagram below. In this case, a sample difference between the actual  $Y$  and the computed  $Y$  is seen in  $Y_4 - Y_c$  when  $X = 4$ .



4. The total difference for each actual point and computed Y is then:

$$\begin{aligned} \text{(Actual Y - average Y)} &= \text{(Actual Y - computed Y)} + \text{(computed Y - average Y)} \\ \text{Total} &= \text{Unexplained} + \text{Explained} \end{aligned}$$

When each point is squared and summed up, the equation becomes:

$$\begin{aligned} S (\text{actual Y} - \text{ave Y})^2 &= S (\text{actual Y} - \text{comp Y})^2 + S (\text{comp Y} - \text{ave Y})^2 \\ \text{Total Sum of Squares} &= \text{Error Sum of Squares} + \text{Regression Sum of Squares} \\ \text{TSS} &= \text{ESS} + \text{RSS} \end{aligned}$$

- In the case of OLS, the unexplained portion (defined as ESS) is minimized such that the computed line for Y is now closer to all the actual Ys as a whole.
- The “goodness of fit” of the computed Y equation to the actual Y can be measured by the indicator  $R^2$  which is the ratio of RSS to TSS so that  $(0 < R^2 < 1)$  where  $R^2 = 1$  denotes a perfect fit.

$$R^2 = \frac{\text{Explained Diff}}{\text{Total Diff}} = \frac{\text{RSS}}{\text{TSS}}$$

**C. Estimation Method: Price and Income Elasticity**

- Elasticity refers to the % effect on Y (i.e. cigarette demand) corresponding to a 1% change in the factors considered (i.e. real consumption spending, prices, prices of substitutes)
- This can be expressed in the equation  $Y = d X_1^a X_2^b X_3^c$

where Y = Qty Demand for low-priced cigarettes  
 $X_1$  = Personal Consumption Spending (real)  
 $X_2$  = Price of low-priced cigarettes  
 $X_3$  = Price of substitute good (i.e. medium-priced cigarettes)  
 a,b,c = elasticities of  $X_1, X_2, X_3$  in affecting Y  
 d = constant term

3. Note that the above equation though multiplicative can be transformed to an additive equation via log transformations in order to use OLS.

$$\begin{aligned} Y = d & \quad (X_1^a) \quad (X_2^b) \quad (X_3^c) \\ \text{Log Y} &= d + a (\log X_1) + b (\log X_2) + c (\log X_3) \\ Y (\text{computed}) &= d + a X_A + b X_B + c X_C \end{aligned}$$