



**REPUBLIC OF THE PHILIPPINES**

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# **Journal**

**SESSION NO. 83**

Wednesday, May 28, 2008

**FOURTEENTH CONGRESS  
FIRST REGULAR SESSION**

**SESSION NO. 83**  
Wednesday, May 28, 2008

**CALL TO ORDER**

At 3:17 p.m., the Senate President, Hon. Manny Villar, called the session to order.

**PRAYER**

The Body observed a minute of silent prayer.

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 3:18 p.m.*

**RESUMPTION OF SESSION**

At 3:22 p.m., the session was resumed.

**ROLL CALL**

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

Aquino III, B. S. C.	Escudero, F. J. G.
Arroyo, J. P.	Gordon, R. J.
Biazon, R. G.	Honasan, G. B.
Defensor Santiago, M.	Pangilinan, F. N.
Ejercito Estrada, J.	Pimentel Jr., A. Q.
Enrile, J. P.	Villar, M.

With 12 senators present, the Chair declared the presence of a quorum.

Senators Lapid, Legarda, Roxas and Zubiri arrived after the roll call.

Senators Angara, Cayetano (A), Lacson and Madrigal were on official mission.

Senator Cayetano (P), who was on official mission, also arrived after the roll call.

Senator Revilla was absent.

Senator Trillanes was unable to attend the session as he is under detention.

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 3:22 p.m.*

**RESUMPTION OF SESSION**

At 3:23 p.m., the session was resumed with Senate President Pro Tempore Ejercito Estrada presiding.

**ACKNOWLEDGMENT  
OF THE PRESENCE OF GUESTS**

Upon resumption, Senator Pangilinan acknowledged the presence of students from the Mindanao State University; Barangay Captains Mallari and Marlon Hipolito and members of the *Sangguniang* Barangay, all of Concepcion, Tarlac; and the *Sangguniang Kabataan* Federation presidents of Cagayan Province.

Senate President Pro Tempore Ejercito Estrada welcomed the guests to the Senate. *AK* *ys*

## 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. 82.

## REFERENCE OF BUSINESS

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

### BILL ON FIRST READING

Senate Bill No. 2333, entitled

AN ACT TO AMEND REPUBLIC ACT  
NO. 9189 OTHERWISE KNOWN  
AS THE OVERSEAS ABSENTEE  
VOTING ACT OF 2003

Introduced by Senators Manny Villar and  
Pimentel Jr.

**To the Committees on Constitutional  
Amendments, Revision of Codes and Laws;  
Foreign Relations; and Finance**

### RESOLUTIONS

Proposed Senate Resolutions No. 423, entitled

RESOLUTION DIRECTING THE PROPER  
SENATE COMMITTEE TO CONDUCT  
AN INQUIRY, IN AID OF LEGIS-  
LATION, ON THE PROLIFERATION  
OF DOUBLE-DEAD MEAT IN THE  
MARKET

Introduced by Senator Miriam Defensor  
Santiago

**To the Committees on Trade and Commerce;  
and Agriculture and Food**

Proposed Senate Resolution No. 424, entitled

RESOLUTION DIRECTING THE PROPER  
SENATE COMMITTEE TO CONDUCT  
AN INQUIRY, IN AID OF LEGIS-  
LATION, ON THE ALLEGED  
DECLINE OF THE BUSINESS

## SECTOR'S CONFIDENCE IN THE ECONOMY

Introduced by Senator Miriam Defensor  
Santiago

**To the Committee on Economic Affairs;  
and Trade and Commerce**

## PROPOSALS OF SENATOR DEFENSOR SANTIAGO

Raising a point of order, Senator Defensor Santiago reiterated her request that the Secretariat place two podiums, one at each side of the bar that separates the Secretariat from the floor so that the senators, if they so choose, could face the Body as they deliver their speeches. She believed that the chair of the Committee on Rules would be well within his powers to instruct the Secretariat to place the podiums at the designated place by Monday.

On another matter, Senator Defensor Santiago requested the Office of the Majority Leader to furnish the Body with a weekly agenda. She recalled that during her first term, with Sen. Neptali Gonzales as Senate President and Sen. Alberto Romulo as Majority Leader, the agenda for the following week was distributed on Friday so that the senators had time over the weekend to prepare for their participation in the debates and it made the proceedings orderly and organized.

Senator Defensor Santiago pointed out that the Majority Leader had the discretion to make appropriate exceptions when a senator, for instance, needed to deliver a speech, without prior notice, to defend himself against an attack on his personal character. Nobody at that time, she said, cancelled or inserted an item in the agenda at the last minute, although there were exceptions such as when a senator was called away on urgent official business abroad or got sick. She acknowledged that the Majority Leader is under pressure from his colleagues and he has to be flexible but, as much as possible, she said, the senators should follow the weekly agenda agreed upon and not discuss bills piecemeal.

Senator Pangilinan stated that indeed that practice was followed by the Office of the Majority Leader until recently when some senators requested the deferment of their interpellation and, therefore, changes had to be made on a daily basis. He noted

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that the proposal of Senator Defensor Santiago would not succeed without the full cooperation of the Body.

Senator Defensor Santiago opined that adjusting the agenda just to accommodate one senator's wish does not give a good impression of the Senate unless he is ill and cannot come to the session. The Majority Leader, she said, should be authorized to set a weekly agenda and the senators should try their best to follow it.

#### **REMARKS OF SENATOR GORDON**

Senator Gordon expressed support for the proposal of Senator Defensor Santiago as he believed that following the schedule of their interpellation would force the senators to prepare and focus on bills that are called on the floor for consideration.

In addition, Senator Defensor Santiago stated that if a senator is absent on the day that he has made a reservation to interpellate on or amend a bill, it should be deemed as a waiver of the reservation.

Senator Pangilinan welcomed the proposal of Senator Defensor Santiago, adding that it would make the work of the Majority Leader much easier. He stated that if it is the consensus of the Body, the Office of the Majority Leader would release the agenda for the week on Thursdays. He appealed to the senators to follow the agenda.

#### **REMARKS OF SENATOR ENRILE**

Senator Enrile stated that he has raised the same matter time and again. He opined that it is unfair to the people if a senator, who has made a reservation to interpellate on or amend a bill, keeps on postponing it just to derail a bill that ought to be passed. He said that the Body must dispose of legislation by way of votes and not by consensus or delaying tactics. Moreover, he pointed out that it is not the proponent of the bill nor its sponsor who suffers from the delay in the passage of legislation but the people who elected the senators.

Senator Enrile agreed to Senator Defensor Santiago's suggestion, saying that when he makes a reservation to interpellate, he does so on the reserved date so as not to delay legislation. He believed that the senators were elected because they are qualified

leaders with the necessary intellectual and experiential education to tackle the work, thus, they should be prepared to interpellate when the bills are brought to the floor for debates. He said that while the Minority Leader can ask questions anytime, the others who made reservations should be prepared to ask their questions on the reserved date. He believed that it does not speak well of the character of a member who takes one to two weeks to study a simple bill, or who made a reservation for the purpose of delaying the disposition of the pending legislation.

Senator Defensor Santiago recalled that the practice during the prior Congresses was that when a senator who made a reservation to interpellate or to amend could not be present on the reserved date, he delegated another senator to ask questions or propose amendments on his behalf. She suggested that the Body adopt the practice to have a liberal approach, but cautioned very strongly against allowing a measure to suffer just because of sheer personal inconvenience to a certain senator.

#### **REMARK OF SENATOR ZUBIRI**

For his part, Senator Zubiri expressed support for the proposal as he underscored the need to speed up deliberations on pending bills.

#### **FURTHER PROPOSAL OF SENATOR DEFENSOR SANTIAGO**

As her third and final point of order, Senator Defensor Santiago proposed that the Senate President bang his gavel promptly at three o'clock in the afternoon so that the session could proceed, on the condition that it becomes valid only after a quorum shall have been established. She acknowledged that the proposal is a deviation from the regular Rules of Order, but she believed that it is the only way to ensure that the session would start at three o'clock and the senators would know when they are free to talk with their constituents and visitors. She said that if the Body so agrees, her proposals could be adopted because, as affirmed by the Supreme Court, the Senate is not bound by the Robert's *Rules of Order* or even by the Rules of the Senate as amendments thereto could emanate from the Body anytime.

In reaction, Senator Pangilinan said that he would bring these matters to the attention of Senate President

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Villar as well as the reinstatement of the previous practice of starting session at two-thirty in the afternoon if there are privilege speeches to be delivered and deferring the roll call until such time that a quorum is established to save time.

#### **REMARKS OF SENATOR PIMENTEL**

Senator Pimentel stated that the members of the Minority support the motion of Senator Defensor Santiago to start the session at three o'clock, not at two-thirty, and if there is no quorum, the senators, if they so wish, could deliver privilege speeches. He believed that this way, the Body would get used to the idea of starting promptly at three o'clock.

Senator Pimentel likewise agreed to the proposal to turn the podiums around because the senators are speaking to their peers, not to the Senate President who is acting only as presiding officer for purposes of the sessions.

Senator Defensor Santiago proposed to start with an experiment by placing the podiums in the center facing the senators so that, as scheduled, Senators Gordon and Pimentel could deliver their privilege speeches facing the Body. Senator Pangilinan requested that this be done in the next session day, as he pointed out that the podiums would have to re-wired.

#### **SUGGESTION OF SENATOR GORDON**

For is part, Senator Gordon suggested that a swivel podium be placed instead so that the speaker can turn to anyone he wishes to address. He manifested support for the proposal of Senator Defensor Santiago as he recalled that at one time, he drew attention to the fact that when a senator delivers a speech, the others do not listen or they talk among themselves while the gallery watches. Likewise, he agreed to the suggestion to strictly follow the week's agenda as he recalled that in the 13<sup>th</sup> Congress, when some senators were not ready to interpellate him on a bill when their reserved time came, he got the impression that it was no longer a Senate that was legislating or debating, but simply one that was acting on consensus. He underscored the importance of placing all the debates on record because in case there are doubts on statutory construction, the Supreme Court could look at the transcripts of the session to determine the intent of the Senate.

Senator Defensor Santiago summed up her three points of order, to wit: 1) to add two podiums facing the senators; 2) to distribute next week's agenda before the weekend; and 3) to call the session to order promptly at three o'clock, whether or not there is quorum, on the implicit and agreed upon condition that the proceedings would be validated once a quorum shall have been established, at which point, the roll would be called.

#### **PARLIAMENTARY INQUIRY OF SENATOR ARROYO**

Senator Arroyo posed queries on two points: first, whether it is necessary to refer every privilege speech to a committee; and second, whether a privilege speech asking for an investigation should be referred, at the behest of the speaker, to a particular committee.

On the first point, he averred that not all privilege speeches should be referred to a committee as some might be only for the education of the members or for the Record of the Senate; and he pointed out that too many referrals add to the work of the committees.

On the second point, he believed that it is improper and unfair for a senator who delivers a speech to make a choice or recommend to which committee his speech would be referred lest the accuser becomes also the chooser of the committee. Besides, he pointed out that the recommendation as to which committee a speech should be referred is the work of the Committee on Rules.

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

Thereafter, upon motion of Senator Pangilinan, there being no objection, the proposals of Senator Defensor Santiago were adopted by the Body.

#### **REFERRAL OF SENATOR ARROYO'S INQUIRY**

Upon motion of Senator Pangilinan, there being no objection, the Chair referred the parliamentary inquiry of Senator Arroyo to the Committee on Rules.

#### **PRIVILEGE SPEECH OF SENATOR PIMENTEL**

Availing himself of the privilege hour, Senator Pimentel delivered the following speech: *15*

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**HENRY CANOY:  
OUR COLUMBUS, OUR MAGELLAN**  
(Tribute to a Great Cagayanon)

***Outstanding leader***

I knew Henry Canoy earlier as an outstanding civic leader of the Cagayan de Oro community. And besides, he was also a friend of my father.

But I personally met him only after he opened a modest radio station called DXCC in the city, and some of us, students in the Ateneo de Cagayan, were organized by the great Jesuit, Fr. William F. Masterson, to have an hour-long Catholic prayer and news program aired by the station. This was in the 1950s.

***The world's own***

Even then, he impressed me as a great citizen of Cagayan de Oro, but who did not actually belong only to the city.

In my mind, he belonged to the world.

***Best legacy***

For like Columbus and Magellan, who braved the unknown world in their time and placed their patron countries' fame on the map of the world, Henry Canoy dared to penetrate the dark recesses of the broadcast world. In the process, he placed Cagayan de Oro in the consciousness first of the people of Mindanao, then of the entire country, and finally of the world.

That, to me, was the best legacy that Henry can rightfully claim. And he can, with unadulterated pride, leave it behind not only to his wife, Inday, his sons Eric, Butch and Charlie, and his daughters Rebecca, Harriet and Hvette, but to the people of Cagayan de Oro, of Mindanao, and of the entire country.

For with single-minded devotion, Henry pursued his life's vision and brought DXCC to many parts of Mindanao, and with the help of his wife and his sons, he brought the station to the Visayas and Luzon now as RMN, the Radio Mindanao Network, and even to foreign shores like the United States of America.

***Prayerful Christian***

But what impressed me a lot is the fact that even as he was broadening his reach of RMN, he remained a simple man, a devoted Christian. In his commitment to spread the word of God, Henry helped bring the *Cursillos* in

Christianity to Cagayan de Oro and Mindanao in the '60s.

As a Cagayanon, I bow my head to Henry, a great man, arguably the best gift that God had given to our beloved city, that is, Cagayan de Oro.

***Widened speech freedom***

As a Mindanaonon, I salute Henry as a pioneer who broke up the stranglehold of the traditional franchise holders on the broadcast industry in Manila and brought the word of the radio to the frontiers of Mindanao. Later, he competed successfully with the established radio dons all over the country. In doing so, he widened in practice the scope of the freedom of speech in a manner that we, politicians, could only orate on.

As a Filipino Christian, I raise my hands in thanksgiving to the Lord that He had given us Henry, whose faithfulness to his wife, love for his family, loyalty to his country, and faith in the word of God, we, politicians, can truly admire and hope to emulate.

May God bless you, dear friend. May your family bear the pain of your passing with fortitude and strength, knowing that you are now where you are and where we all hope to be – in the bosom of the Lord for eternity.

**ACKNOWLEDGMENT  
OF THE PRESENCE OF GUESTS**

Senator Pangilinan acknowledged the presence of Mayor Nick delos Santos of Alcoy, Cebu Province.

Senate President Pro Tempore Ejercito Estrada welcomed the guest to the Senate.

**PRIVILEGE SPEECH  
OF SENATOR GORDON**

Availing himself of the privilege hour, Senator Gordon drew attention to the growing drug problem in the country as manifested by an incident in Subic Bay last Sunday, the details of which he narrated as follows:

- ◆ At eight o'clock in the morning last Sunday, a Subic Bay Metropolitan Authority (SBMA) patrol accosted a man who was putting boxes inside a Mitsubishi Outlander and bothered by his nervous demeanor, the guards brought him to the security department; when asked

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to provide documents for the cargo, the man claimed that the boxes contained computer parts and that they belong to a certain Anton Ang; when asked to bring back the documents, the man never returned, so SBMA officials, along with the Presidential Anti-Smuggling Group operatives, opened the eight boxes and found 90 kgs. of shabu inside;

- ◆ At eight o'clock in the morning of the following day, another two boxes floating at the ship repair area were recovered containing another 20 kgs. of shabu;
- ◆ At eleven this morning, the SBMA-MPA operatives, acting on a tip from warehouse employees that Mr. Anton Ang had parked a van in an empty warehouse in the Taiwan zone, confiscated 60 boxes of shabu containing an estimated 660 kgs.; the total volume seized from the operation was 770 kgs. of shabu with a market cost of P4.62 billion.

Senator Gordon stated that even before the boxes were opened, Mr. Ang allegedly offered the SBMA officials P50 million in return for the boxes but the SBMA officials turned it down. He commended the SBMA and the PASG operatives on their accomplishment.

Senator Gordon said that drug trafficking has been going on in many areas of the country from Batanes to Zamboanga. He urged the government to take a strong position against the proliferation of drugs that destroy the youth and the very moral fabric of society, and corrupt bureaucrats and law enforcers through bribes offered by drug dealers. He disclosed that he had urged Administrator Arreza to inspect vessels operating in Subic Bay, especially those transporting cigarettes, and conduct more surveillance as the interdiction of the drug shipment happened by accident. Anton Ang, he noted, has been in Subic since 2003, allegedly operating a transshipment business.

### **SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 4:03 p.m.*

### **RESUMPTION OF SESSION**

At 4:03 p.m., the session was resumed.

Senator Gordon said that the government has conducted all kinds of operations against drug trafficking, especially in light of its worldwide operation, with the Philippines as one of the main targets for expansion. He enumerated the smuggling routes as follows: Ilocos Sur, Pangasinan, Babuyan, Zambales, Aurora, Quezon, Mindoro, Mindoro Occidental, the ports of Palawan, Masbate, Sorsogon, South Cotabato, Sulu, and Tawi-Tawi, and also Dipolog. He opined that if the government does not provide law enforcement agencies with the wherewithal to effectively fight drug trafficking, they will always have the excuse that they do not have the means to accost drug traffickers. He urged the Body to act on the matter, manifesting that he would file a resolution to reward those who did a great service to the country.

In closing, he suggested that the speech be referred to the Committee on Public Order and Illegal Drugs so that it could prepare the needed legislation and propose the inclusion of more funds for law enforcement agencies in next year's budget to enable them to effectively operate against drug traffickers.

### **INTERPELLATION OF SENATOR ENRILE**

Given the identification of Mr. Anton Ang as the importer of seized shabu in SBMA, Senator Enrile asked what the law enforcement agencies intend to do and if there are efforts to ask the Bureau of Immigration and Deportation (BID) to interdict him. Senator Gordon replied that the law enforcement agencies have not disclosed their action on the matter although they have placed the house of Mr. Ang in Olongapo under surveillance and they have reported the matter to Malacañang. He said that he had suggested to the law enforcers to immediately go to BID and request that Mr. Ang be stopped at any port of the country.

Given the volume of the contraband, Senator Enrile asked if there is any information whether it will be sold in the country or if the country is being used only as a transshipment point. Senator Gordon surmised that some can be sold in the country and some transported elsewhere.

Asked on the volume of daily usage of shabu in the country and its total daily value to determine if the drug was intended to be sold in the country or in other destinations, Senator Gordon stated that he was

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not able to get the data in his desire to immediately bring the matter to the attention of the Body. However, he said, what is important is to understand the ill-effects of this drug on Filipinos.

Senator Enrile clarified that he got information from a reliable source, an inmate in the National Penitentiary, who was killed after his release, that there are two kinds of drug operations in the country: 1) there is a resort in Dapitan with a laboratory where tourists from mainland Asia come to cook shabu, and move to different parts of the country to sell it; and, 2) junks from mainland Asia dock at the Iwahig coastline in Palawan to unload shabu which is then brought to Sablayan up to Muntinlupa where the operators load it in a newly purchased automobile, negotiate with the buyer, and turn over the key to the buyer who drives the automobile out of the place. He opined that these operations indicate that there is a lucrative market for shabu in the country, victimizing thousands of young Filipinos who could be tomorrow's leaders but, instead, have become weaklings and drug-dependents. He pointed out that the drug problem has been discussed for a very long period of time but nothing has really happened. He believed that drug trafficking cannot happen without the cooperation and participation of law enforcement units. Thus, he underscored that law enforcement units should cooperate and participate in dealing with this problem. Incidentally, he recalled a Senate investigation on a raid conducted in Pasig where a big operation was ongoing but nothing was heard about the case. He surmised that those suspected leaders and members of the drug syndicates may have left the country or have escaped. In the interest of the nation, he believed that the Senate should look once more into the drug problem and do something more drastic than merely using the laws of the land. He noted that the individuals who stand to gain materially from these operations are foreigners with "one-syllable" names like Mr. Ang who enjoyed the hospitality of the country.

#### **REMARKS OF SENATOR HONASAN**

Senator Honasan underscored that for the last three Congresses, the Senate has been pushing the Philippine National Police (PNP) and other anti-illegal drug agencies for an update on the national crime information system.

He expressed the view that the Senate's response to the problems of illegal drugs, terrorism and crime,

in general, depends on the ability of the authorities to consolidate accurate, timely information. He suggested that the matter of integrating illegal drugs and terrorism information systems should be placed on a higher level of priority to enable the government to track down drug pushers, drug manufacturers, and drug traffickers and pursue more effective counter-operations.

Senator Enrile recalled that shortly after his reelection to the Senate, he requested the PNP to eradicate any drug trafficking in Cagayan Province. He disclosed that he even talked with one of the suspected drug traffickers and warned him to get out of Cagayan or else he would get hurt. He believed that as leaders of the country, this is the only way of dealing with the problem because nothing will happen if they just waited for the authorities to go after the drugs syndicates successfully.

In closing, Senator Enrile commended Senator Gordon for bringing the drug menace to the fore so that the Senate could address it.

Senator Gordon agreed that there is a need to address the drug problem as soon as possible especially in the light of the revelation of a suspected Australian drug trafficker on YouTube that well-to-do individuals in Manila are using shabu and cocaine. He stated that the contraband seized in Subic was 750 kilos of 99% pure shabu with a street value of P4.62 billion. He recalled that when he asked for the names of the people involved in the illegal cargo, SBMA Administrator Arreza advised him that it is better to keep quiet about it until the suspect had been arrested so as not to endanger the lives of government operatives.

As to the investigation that the Senate would conduct on the matter, Senator Gordon expressed hope that the PDEA and other law enforcement agencies would be able to give the Committee a complete picture of the drug problem in the Philippines so that it could propose the necessary legislation.

#### **REFERRAL OF SPEECH TO THE COMMITTEE**

Upon motion of Senator Pangilinan, there being no objection, the Chair referred the privilege speech and the interpellations thereon to the Committee on Public Order and Illegal Drugs.

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## SPECIAL ORDER

Upon motion of Senator Pangilinan, there being no objection, the Body approved the transfer of Committee Report No. 46 on Senate Bill No. 2230 from the Calendar for Ordinary Business to the Calendar for Special Orders.

### COMMITTEE REPORT NO. 46 ON SENATE BILL NO. 2230

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2230 (Committee Report No. 46), entitled

AN ACT FURTHER AMENDING THE PROVISIONS OF PRESIDENTIAL DECREE NO. 1866, AS AMENDED, ENTITLED "CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF, AND FOR OTHER PURPOSES."

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Pangilinan, only the title of the bill was read without prejudice to the insertion of its full text into the Record of the Senate.

The Chair recognized Senator Honasan for the sponsorship.

### SPONSORSHIP SPEECH OF SENATOR HONASAN

In sponsoring the measure, Senator Honasan delivered the following speech:

Your Committee on Public Order and Illegal Drugs wishes to submit, for the approval of this Chamber, Senate Bill No. 2230 under Committee Report Number 46, entitled AN ACT FURTHER AMENDING THE PROVISIONS OF PRESIDENTIAL DECREE NO. 1866, AS AMENDED,

ENTITLED "CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION, OR DISPOSITION OF FIREARMS, AMMUNITION, OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION, OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF, AND FOR OTHER PURPOSES." This is in substitution of Senate Bill Nos. 1883, 2158, and 2189, taking into consideration House Bill No. 3242, authored by Senators Enrile and Lapid, and Senate President Villar, respectively.

Over the years, our country has suffered from bombings allegedly perpetrated by terrorist groups affiliated with Jemaah Islamiyah, the Abu Sayyaf, and other organized bandits working to destabilize the peace and order situation in our country. Bombs and explosives have become the main instruments used to sow terror in spite of the stringent enforcement of Presidential Decree No. 1866, as amended by Republic Act No. 8294, criminalizing the unlawful manufacture, sales, acquisition, disposition or possession of explosives.

The Davao City Airport bombing in 2003; the improvised bomb explosion at a bus terminal in Cotabato City that killed three people and injured 15 others; the 2005 Valentine's Day bombing in Makati City that killed four people and injured 60 others; and the explosion at the Batasang Pambansa complex last year that killed Congressman Wahab Akbar of Basilan, among others, are just some of the gruesome attacks in our recent history.

From the latest available data collected from the Philippine Bomb Data Center, in 2006 alone, there were 374 explosives-related incidents nationwide. There have been 107 bombings, 37 explosions, 210 recoveries of improvised explosive devices (IEDs), unexploded ordinances (UXOs), explosive ingredients, and hoax devices, one case of stolen explosives, and 19 bomb threats.

From the combined number of bombings and explosions, 94 people were killed and 276 injured, or a total of 368. On bombing incidents, statistics showed that 32 cases targeted government personnel and facilities; 32 were commercial establishments; and 40 were private individuals and residences. On the other hand, statistics by motive showed that three instances were acts of terrorism; 36 were cases of vandalism; two were politically motivated; 12 were emotionally motivated; 11 were the result of ideological beliefs of

dissident terrorists (DTs); one was for personal gain; and 38 had no established motive or reason. In terms of location, for the last quarter, NCR had the most number of incidents, at 63, followed by Region IV-A with 42 incidents; and Regions III and ARMM with 38 incidents each.

Based on these hard facts, I am compelled to state that our present law is not enough to deter such act of violence using explosive devices. This is in no small part due to the availability of the easy access to explosives in many parts of the country, especially in the rural areas, where dynamite fishing remains rampant. The source of the explosives used in dynamite fishing could well be the very same one relied on by terrorists.

The accidental explosion inside a subdivision in Bacoor, Cavite, and the blasting caps explosion in Rosario, Cavite, which left several people dead and many more injured, prove the existence of an underground industry for blasting caps and similar components for the manufacture of explosives. It is apparently an industry that has long been thriving, resulting in substantial loss of lives and destruction of properties.

Findings from the investigations of major bombing incidents suggest that the blasting caps used for the Rizal Day bombing in 2000, the General Santos bombings in 2002, and the Valentine's Day bombing in 2005, were acquired by operatives of the Jemaah Islamiyah terrorist organization in Talisay, Cebu, a known nucleus for the illegal manufacture and trade of explosives.

Presidential Decree No. 1866 was enacted to penalize any person who shall unlawfully manufacture, deal in, acquire, dispose of, or possess any firearm or explosive device. However, finding that the penalty for mere illegal possession of a firearm was too severe, Congress was compelled to reduce the penalties for crimes committed under Presidential Decree No. 1866 by virtue of Republic Act No. 8294. According to one of the authors of this current measure, Sen. Juan Ponce Enrile, "While the effort to reduce the penalties of illegal possession of a firearm was indeed laudable for humanitarian considerations, the effect was a sweeping change, for under the present law, even illegal possession of explosives has been given the same lesser penalty. Undoubtedly, the possession of explosives, hazardous materials, and other chemicals of the same nature is more dangerous than the possession of a mere firearm. Even a small quantity of explosives

and other materials can cause multiple deaths or massive destruction to property."

It is alarming to note that perpetrators of terrorist attacks who were previously arrested for violation of Presidential Decree No. 1866 were released by the courts upon posting bail. In 2002, a man was arrested in Tarlac, but was later granted bail by the Regional Trial Court. After jumping bail and undergoing further training in Mindanao for two years, he planted and remotely detonated the bomb that exploded in Makati on Valentine's Day of 2005, killing four people and injuring 60 more.

In order to enforce more effectively the government's drive against terrorist attacks as well as industrial disasters involving the use of explosives, your Committee is proposing to further amend Presidential Decree No. 1866 by increasing to *reclusion perpetua* the penalty imposed for the unlawful manufacture, sales, acquisition, disposal, or possession of explosives or instruments intended to be used in such manner. With this penalty, the courts will have the discretion not to grant bail to the suspected possessor, manufacturer, or dealer of explosives, thereby possibly preventing *him from carrying out any deadly attack on innocent civilians*.

The same penalty shall be meted out upon those who shall be convicted of the crimes contained in the Revised Penal Code or special laws on the use of explosives. If this law is violated in the furtherance of the crimes of *rebellion, insurrection, sedition, and coup d'etat* and the proposal or conspiracy to commit the same, the penalty of *reclusion perpetua* shall also be imposed. This harsh punishment shall likewise be extended to any of the officers of a corporation, firm, or entity, whether public or private, who shall knowingly and willingly allow the explosives they own to be used by the person convicted of such crimes.

Moreover, considering that certain chemicals are now widely used as main components for explosives, the Committee has included provisions in the law giving the Philippine National Police blanket authority to regulate the importation, sale, or possession of chemicals used as ingredients for making explosives. As contained therein, only business entities with licenses issued by the Firearms and Explosives Division of the PNP will have the authority to trade and possess such chemicals.

As Presidential Decree No. 1866 is one of the predicate crimes under the Human Security <sup>AS</sup>

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Act (HSA), this piece of legislation will strengthen the HSA, which this Chamber passed during the previous Congress. With the passage of this bill into law, our people can be confident of the government's serious efforts to suppress violence in any form.

This proposed measure is only a portion of the comprehensive amendments to Presidential Decree No. 1866 that the Committee on Public Order and Illegal Drugs intends to push.

For now, bringing the regulation on the unlawful use, disposition, and trade of explosives and its components to a higher and more effective level will already go a long way in achieving our goal of a peaceful and orderly society.

### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2230**

Upon motion of Senator Pangilinan, there being no objection, the Body suspended consideration of the bill.

### **COMMITTEE REPORT NO. 45 ON SENATE BILL NO. 2213 (Continuation)**

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2213 (Committee Report No. 45), entitled

**AN ACT DECLARING A NATIONAL POLICY FOR TOURISM AS AN ENGINE OF INVESTMENT, EMPLOYMENT, GROWTH AND NATIONAL DEVELOPMENT, REORGANIZING THE DEPARTMENT OF TOURISM AND ITS ATTACHED AGENCIES TO EFFECTIVELY AND EFFICIENTLY IMPLEMENT THAT POLICY, PROVIDING NECESSARY INCENTIVES FOR INVESTMENT AND APPROPRIATING FUNDS THEREFOR.**

Senator Pangilinan stated that the parliamentary status was still the period of interpellations.

Thereupon, the Chair recognized Senator Gordon, Sponsor of the measure, and Senator Defensor Santiago for her interpellation.

### **INTERPELLATION OF SENATOR DEFENSOR SANTIAGO**

Expressing her support for the bill, Senator Defensor Santiago opined that the proposed measure is a step in the right direction. She noted that given the Philippines' location and wage levels, it would be hard for the manufacturing sector to be the engine of growth because the country's economic growth would be very dependent on worker remittances driven by the service sector. She stated that the Business Process Outsourcing (BPO) would contribute to economic and employment growth but would not create enough jobs because there are not enough qualified workers to fill the BPO requirements like the ability to speak English and/or accounting and information technology skills.

Senator Defensor Santiago pointed out that tourism is the country's best bet for generating employment and economic growth, given the Filipino tradition of hospitality and the country's natural attractions. She noted that developing tourism would result in growth not only in the Metro Manila area and the richer regions of the country. She explained that the bill seeks to a) reorganize the Department of Tourism (DOT) and its attached agencies to make them more capable of developing the tourism sector; b) earmark more public funds to tourism development; c) create tourism zones; and d) grant incentives to private investors. She agreed that there is obviously a need to restructure the tourism bureaucracy, pointing out that the Secretary should have more control over the Duty Free Philippines and the Philippine Tourism Authority (PTA), and the DOT should have greater control over tourism promotions which should receive adequate funding.

Senator Defensor Santiago underscored the importance of prioritizing the development of tourism zones as she noted that given the nature of Philippine politics, there is a tendency to spread out funding too thinly. Investments, she said, must follow market potentials rather than political influence and interests. She stated that the creation of tourism enterprise zones would be a good instrument for focusing resources and setting priorities. She said that given resource scarcity and the need for critical mass in each tourism zone, government cannot afford to spread resources too thinly. She noted that there is a strong tendency to create many more zones than necessary if congressmen expect that congressional districts with tourism zones tend to

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get more resources than districts that do not have such zones, but she warned that prioritization would not happen if too many tourism zones are created.

Relative thereto, she said that the proliferation of state universities and colleges (SUCs), even after the Commission on Higher Education (CHED) was created, only proves that every congressman wants a nationally funded university in his district, in spite of the fact that studies have shown that it is much better to have less than 30 high-quality SUCs than over a hundred low-quality state-subsidized universities. She added that a similar experience happened in the Department of Agriculture (DA), which sought to prioritize investments in irrigation and post-harvest facilities in areas that have the highest potential for increasing agricultural production by designating Strategic Agriculture and Fisheries Development Zones (SAFDZ); however, every municipality wanted to have a SAFDZ, which defeated the purpose of its creation and eventually caused the DA to abandon the approach because it did not get much support from congressmen when it tried to limit the number of SAFDZs.

Senator Defensor Santiago noted that the earmarking of funds for tourism promotion and development ensures that tourism development would get the funding it deserves and paves the way for a trust fund so that unused funds in any given year and the income of such funds can be dedicated to tourism development. She added that it would be wise to limit the expenditures of the Tourism Promotion Board on administrative and operating expenses to 10% of the total utilization of the fund in any given year. She suggested that while there is no mention of infrastructure spending in the list of items that the funds could be spent on, it would be better to explicitly state that the development fund can be used for infrastructure. She pointed out that infrastructure investments or design and engineering studies, which are needed to trigger such investments, are essential to the growth of tourism, especially to the extent that they increase access to tourism areas or preserve/improve the quality of the environment there. She said that much of the spending for infrastructure and environmental protection may have to come from the budget of the DPWH, DOTC and DENR but it may be necessary for the seed money for projects which are eventually funded by the budgets of these departments to come from the tourism development fund.

Senator Defensor Santiago wondered what could be done to prevent what happened in the agriculture and education sectors to happen to the tourism sector. She recommended that Section 52 (*Designation*) should explicitly state that the number of zones to be prioritized should not exceed a certain number, which should be based on studies already done by or for the DOT. She underscored that the risk of proliferation is much more serious than the risk that the limit set by the law would be too small. She said that the mere fact that proliferation is mentioned in this provision as a threat to tourism development means that the drafters of the bill are just too well aware of its likelihood.

Senator Gordon stated that the observations and proposal of Senator Defensor Santiago are certainly acceptable, as he indicated that he would like to make sure that the creation of zones would be driven by market demand. He said that the promotion of TEZAs seeks to get domestic and foreign investments to create zones that they would handle because there is a market to be generated or a demand for a particular market.

On Section 73 (*Fiscal Incentives Available to Zone Operators and Registered Enterprises*), Senator Defensor Santiago cautioned that it might be a mistake to have a separate set of incentives for investors in the tourism sector because the rationalization of fiscal incentives would then have to apply to the Omnibus Investment Code and the fiscal incentive sections of the Tourism Development Act. She added that this might send the wrong signal to investors in the tourism sector that the incentives would be revised just a year or two after the passage of the Tourism Development Act. She believed that it is sufficient to state that private investors, which are deemed to contribute to the growth of the tourism sector, should get the most generous fiscal incentives granted under the Omnibus Investment Code or the PEZA law.

She pointed out that the grant of income tax holidays under this particular section has been shown in many studies to be redundant. She said that the problem with income tax holidays is that these can be enjoyed only by investors who expect to make a lot of profit. She stated that if an investment is already highly profitable, the investment would be made whether or not it is granted an income tax holiday; on the other hand, an investment good for tourism because of its spill-over effects but is not profitable would not be an attractive investment even if it is

granted an income tax holiday since the income tax liabilities to be waived by the tax holiday is quite small.

Senator Defensor Santiago further suggested the deletion of Section 73(c) or a budget ceiling be imposed on how much duties and taxes can be waived in any given year so that any amount in excess of the limit would be included in the annual appropriation of the DoT to make the officials more accountable and selective in granting these incentives. She pointed out that the waiver of duties and taxes on imported capital goods might end up being given to capital goods and equipment that can be easily diverted to other uses, resulting in a large tax leakage. Likewise, she pointed out that the incentives granted under Section 73(d)(1) are also quite risky because the control of the use of tax and duty-exempt imported goods is bound to be an administrative nightmare if such goods are "actually consumed in the course of services actually rendered by or through registered enterprises within a zone," in spite of the provision that "no goods shall be imported for the purpose of operating a wholesale or retail establishment in competition with the DFPC." Such incentives, she cautioned, are more likely to encourage smuggling or attract domestic tourists who would rather buy imported goods at a lower price, than foreign tourists.

She pointed out that Section 73 (d) (2) is probably the worst fiscal incentive one can think of because "a tax credit equivalent to all national internal revenue taxes paid on locally sourced goods and services, directly or indirectly used by the registered enterprise for services actually rendered within the zone" is a gold mine for corrupt tax administrators. She said that a credit gives cash or direct reductions in taxpayers' other liabilities to the BIR or Customs and it is even worse if the credits are negotiable. She warned that the harm that these provisions can do to the economy could very well dwarf any good that they do for the tourism sector.

Asked if he would welcome amendments to rectify the provisions on incentives for tourism zones, Senator Gordon replied that he would accept any amendment which shall strengthen the integrity of the bill. Nonetheless, he explained that these incentives are being given now principally because the tourism industry is way behind in terms of investments and tourist arrivals. He said that an oversight committee consisting of members from both Houses would be responsible for overseeing the implementation of the Act.

## **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2213**

Upon motion of Senator Pangilinan, there being no objection, the Body suspended consideration of the bill.

## **MANIFESTATION OF SENATOR DEFENSOR SANTIAGO**

Senator Defensor Santiago informed the Body that she had requested Senator Pangilinan to file a motion to close the period of interpellations on Senate Joint Resolution No. 12 considering that Senator Legarda has requested that her listed reservation be cancelled and there were no other reservations for interpellation.

However, Senator Pangilinan stated that Senator Pimentel has expressed his intention to interpellate Senator Defensor Santiago on the joint resolution.

## **COMMITTEE REPORT NO. 52 ON SENATE JOINT RESOLUTION NO. 12 (Continuation)**

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Joint Resolution No. 12 (Committee Report No.52), entitled

## **JOINT RESOLUTION CREATING THE CONGRESSIONAL COMMISSION ON NATIONAL TERRITORY.**

The Chair recognized Senator Defensor Santiago, Sponsor of the resolution, and Senator Pimentel for his interpellation.

## **INTERPELLATION OF SENATOR PIMENTEL**

Senator Pimentel recalled that in her sponsorship speech, Senator Defensor Santiago stated that Philippine baselines as defined under the Treaty of Paris would be bigger than that under the United Nations Convention of the Law of the Sea (UNCLOS). However, he pointed out that the Philippines ought not to adopt the definition under the Treaty of Paris if the Batanes group of islands is not covered by its baselines. Senator Defensor Santiago clarified that the Treaty of Paris sets wider baselines for the

Philippines than the UNCLOS which includes that island group.

To the observation that the 12-mile territorial sea and the additional 12 miles of contiguous zone provided for the Philippines under the UNCLOS supports the stand that the country's sovereignty over the seas under this agreement is wider than that under the Treaty of Paris, Senator Defensor Santiago replied in the negative, as she pointed out that under the Treaty of Paris, the country's territorial seas, which include both the contiguous and exclusive economic zones, would be nearly 300 miles wider than the UNCLOS limit of only 12 miles. She added that under the present Baselines Law, the Philippines exercises absolute sovereignty over its contiguous and exclusive economic zones because these are considered part of its internal waters, and is in fact broader in scope than that under the UNCLOS.

Senator Defensor Santiago also explained that under the Treaty of Paris, the Philippine territorial sea would begin from a much wider baseline since it covers the maritime zones under the UNCLOS, and the territorial sea, contiguous zone and the continental shelf would be subject to absolute sovereignty of the Philippines without exception. However, she stressed the need for a commission to study the matter particularly since the territorial limits set under that Treaty of Paris are being disputed by several countries.

To the contention that even without the UNCLOS, the exceptions recognized by international law that would limit the Philippine's absolute exercise of its sovereignty over its claimed sea areas would also apply to those areas delimited under the Treaty of Paris, Senator Defensor Santiago said that although the Philippine Constitution adopts the generally accepted principles of international law, this provision only refers to international customary law and not international conventional law or treaty law since a treaty is binding only among its signatories. She said that this is precisely the reason behind the need for a commission to study the preemptory norm of international law with respect to maritime zones independently of the UNCLOS.

Upon further query, Senator Defensor Santiago replied that the treaty limits under the Treaty of Paris have been adopted not only in the Baselines Law but even in the 1935 Constitution and in the subsequent Constitutions of 1983 and 1987. This being the case,

she noted that questions would arise over whether the Philippines has absolute jurisdiction over such limits and, if so, whether it is these limits or those under the UNCLOS that define territorial limits to be the archipelagic baselines that would prevail. She also pointed out that although the Treaty of Paris is only binding upon Spain, France and the United States, the 1935 Constitution, as well as the Tydings-McDuffie Law, defined Philippine territorial limits as those defined in the Treaty of Paris.

To the suggestion that the device to be used in defining territorial baselines ought to be one that expands Philippine territory without causing conflicts with other countries, Senator Defensor Santiago agreed, saying that the Philippines could not impose its will on other nations. She said that the definition of the country's baselines should also be accepted by the international community through a multilateral treaty or unilateral declaration.

Senator Pimentel believed that the Philippines ought to assert its sovereignty by adopting the UNCLOS because it is a more expansive way of delimiting the country's claim over its internal waters. He pointed out that although the 12 nautical miles of territorial sea and additional 12 miles of contiguous zone would give the Philippines a total baseline of 24 nautical miles, this area is still subject to the Rights of Innocent Passage as stated in Article 19 of the UNCLOS.

At this point, Senator Pimentel lamented the absence of other Members during the interpellation considering that Senate Joint Resolution No. 12 is a very important piece of legislation that would determine the country's future. He said that the proposal to create a commission is well taken. However, he expressed concern over the supposed May 2009 deadline for the submission of the claim which, if ignored, could be prejudicial to the country's bid for extended baseline territory.

Senator Defensor Santiago stated that the resolution mandates the commission to submit a partial report for use in defining the baseline of the Philippines not later than the end of December to allow the Senate more time to discuss whether or not the country should submit a claim to the UN Commission on extended continental shelf by May. She said that all the other national territory questions, including the country's claim to Sabah and other territories, can be dealt with later by the Commission.

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Senator Pimentel said that there are certain *difficulties which stand in the way of the Philippines' claim to Sabah*, pointing out that the Filipinos have never been in actual occupancy of Sabah and the historical fact that Sabah was part of the reward given to the Sultan of Brunei by the Sultan of Borneo and Sabah for helping him against foreign invaders. He suggested that the matter be seriously taken up in caucus.

Senator Defensor Santiago believed that it would not be feasible to hold a caucus if there is no formal report on which the discussions shall be based. She maintained that it would be better to organize a commission composed of interested and qualified members from the Senate and the House, and form a secretariat which shall produce a scholarly report on the issues and make the necessary recommendations. She opined that conducting a wide open, full-blown caucus would not serve the purpose because most of the comments would be uninformed. She said that as chair of the Committee on Foreign Relations, she would propose to the Senate President that Senator Pimentel be recommended as one of the members of the Senate panel. Senator Pimentel said that he would discuss the matter seriously with the members of the Minority.

Senator Defensor Santiago underscored the importance of creating the commission and organizing its technical staff in order to meet the December 31 deadline for the submission of the report, a copy of which shall be furnished each senator. Likewise, she pointed out that there is the issue on whether the Philippines is a party to the UNCLOS because the Batasang Pambansa passed a resolution of concurrence but with impermissible reservation, which is prohibited under the UNCLOS. She pointed out that under international law, the Philippines, having made a reservation, would be exempt from the UNCLOS provisions but this would incur opposition from all the other member-states.

She stressed that difficult issues would confront each senator, especially to a layman, and it is an entire skill in itself to identify a principle of international law. She explained that to identify an international custom, one has to prove that 1) there is a practice; 2) this practice has been repeated over the required period of time for that particular topic; and 3) it has obtained *opinio juris*, which is the opinion of experts and the leading states engaged in the practice that such practice is correct, right and moral.

Senator Pimentel stated that several countries have denounced the Philippines' reservation on the UNCLOS, including eight members of the former Soviet Union. Senator Defensor Santiago added that even the U.S., who was a signatory of the Treaty of Paris, also denounced the reservation of the Philippines.

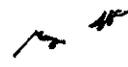
Senator Pimentel said that there are proposed baselines bills that were filed by Senators Enrile, Angara, Biazon and Trillanes and himself, which can be discussed contemporaneously with the resolution. He maintained that it would be best to hold a caucus to resolve the issue and for the Body to approve a particular bill asking the commission to do a study in support of the discussions.

Senator Defensor Santiago opined that there is no point asking the experts to comment on the bill when it has already been passed by Congress; experts should tell Congress which among the five bills should be passed first.

Senator Pimentel agreed that there is indeed a need for a commission to study the matter before the Senate embarks on defining the baselines. However, he expressed apprehension that the UNCLOS might set deadlines that might impinge on the senators' desire to comment.

Senator Defensor Santiago expressed confidence that the Philippines would meet the deadline based on the technical report in her possession, assuring that within January to April 2009, both Houses shall be able to pass the pertinent bill. She believed it is perfectly feasible with the cooperation of the Majority Leader when he sets the agenda for 2009. However, at present, she said that she is not prepared to discuss the issues without the benefit of an expert's background paper. She opined that it would be extremely difficult to first pass a bill because then there would be no more reason for mandating the creation of a commission. She admitted that she does not have the time to conduct an in-depth study on the matter because of her other duties. She assured the Body that by the end of December, the Body would already begin its debates on the baselines bills.

To the suggestion that debates on the issue be started soon, Senator Defensor Santiago reiterated that while she can provide inputs, she is not prepared to answer questions at this time. Considering the time constraints, Senator Pimentel suggested that the Body discuss the bills and request the experts to come up



with comments and recommendations in support of a particular proposal. He said that he was representing not only his views but those of other Opposition senators with whom he necessarily has to consult regarding the measure.

Senator Defensor Santiago believed that it may not even be advisable to file the country's claim, hence, there is no deadline to beat. If the Philippines would insist that it is a state party to UNCLOS, she said that government has to accept the fact that the country is an archipelagic state as defined by UNCLOS. She stated that under UNCLOS, the internal waters of Philippine archipelago would automatically become archipelagic waters which would give foreigners rights over Philippine internal waters, hence, government need not file a claim for an extended continental shelf. Nonetheless, she said that this is another issue which the experts should study.

#### **INTERPELLATION OF SENATOR BIAZON**

Senator Biazon recognized the possibility of conflicts and disputes around the country, to the North, in the South China Seas and even in the areas between Indonesia and the Philippines in the South. He pointed out the need to define the territorial seas, contiguous and exclusive economic zones, and even the extended continental shelf, as well as other areas of interests particularly in relation to the AFP's duty to enforce laws and defend the Philippine territories. He stated that the AFP has jurisdiction over the territorial seas and the contiguous zone in the enforcement of customs laws and environmental standards, and therefore it has interests in the definition of the exclusive economic zone. He noted that government has so far defined certain boundaries, including the definition of the country's baselines as provided for in the existing laws. He wondered whether the Treaty of Paris has been mentioned in any of those laws, considering that the definition of the country's national territory under the 1935 Constitution had reference to it.

Moreover, Senator Biazon noted that in the 1973 Constitution, the definition of the national territory had reference to historical and legal ownership, in which case, he assumed, was based on the 1935 Constitution. But he said that the present Constitution only provides for jurisdiction and sovereignty as a definition of national territory. He asked whether that phrase in the 1987 Constitution has reference to

Republic Act Nos. 3046 and 5446, and P.D. Nos. 1596 and 1599.

Senator Defensor Santiago replied that the reverse is better. She said that the Baselines Law, as amended, is an attempt to carry out the provision of the Constitution which, in effect, is based on the limits of the Treaty of Paris.

But Senator Biazon pointed out that there are differences in the definition under the three Constitutions and, clearly, the 1935 Constitution defined the Philippine territory in reference to the Treaty of Paris and the U.K./U.S. Treaty of 1930; in the 1973 Constitution, national territory impliedly referred to the same because of the words "historical and legal ownership"; and the 1987 Constitution came after P.D. Nos. 1596 and 1599 which showed that there was a problem in the lines drawn and through the use of coordinates, enclosing the Kalayaan Island Group, but the horizontal line only ended at the boundary described by the Treaty of Paris and did not join the line as defined by said laws.

Asked whether the 1987 Constitution refers to the boundaries described by the P.D. Nos. 1596 and 1599, Senator Defensor Santiago replied that no constitutional provision has to refer to any prior law because the Constitution always prevails over any other law. On whether Article I (National Territory) of the 1987 Constitution should be interpreted in light of the existing laws at that time, she explained that it is the existing law which should be read in light of the constitutional provision because the Constitution is always supreme.

Senator Biazon asked whether the Philippine government, under the 1987 Constitution, has to define the country's baselines as required by the UNCLOS. Senator Defensor Santiago replied that the matter could not be resolved until a case is brought to the Supreme Court or to the International Court of Justice. She opined that under the existing Constitution, national territory is defined in its boundaries by the Treaty of Paris, so nobody has any business questioning what is found in the Constitution, unless there is an adverse interest affected directly by the implementation of that constitutional provision.

While there is difficulty in the interpretation of the three different provisions in the definition of national territory in the three constitutions, Senator

Biazon believed that the definition under the present Constitution would prevail.

Senator Defensor Santiago replied that there are no differences in the interpretation of all those articles because although they are in different languages, the claim is still that the Philippines has the capacity to determine its own boundaries regardless of what international law says. For instance, she said, in the present Constitution, there is no mention of the Treaty of Paris but that is replaced with the clause "The national territory comprises all the other territories over which the Philippines has sovereignty and jurisdiction," which includes territories under the Treaty of Paris because the Philippines has already claimed sovereignty and jurisdiction within the limits of the Treaty of Paris. She said that all the other preceding constitutional provisions do not, in any way, conflict with the existing constitutional provision.

Asked if there would be conflicts in the event that the Philippine Navy asserts its authority over the territorial waters, contiguous zone, and exclusive economic zone, Senator Defensor Santiago replied in the affirmative.

Asked if a country that has invoked its own law would be disadvantaged against the claims of another country that has invoked the UNCLOS, Senator Defensor Santiago replied in the affirmative.

To the observation that it would be a different matter if the dispute is between China and the U.S., Senator Defensor Santiago stated that the international tribunal would always have the last word. She said that all the parties to a controversy would have to abide by the decision of the internal tribunal and if a losing party refuses to do so and threatens the other with the deployment of superior maritime force, the international community would condemn that act and the belligerent country would be treated as a pariah. She opined that no country, no matter how powerful, can afford the consequences of not being able to trade with others.

As to what the Philippine baselines would be if it does not submit a baseline definition to the UNCLOS, Senator Defensor Santiago stated that under international law, each country has the right to draw baselines of not more than 12 miles from the shoreline of every island. She pointed out that each island would have its own territorial sea, beyond which, all foreign vessels would have the right of

innocent passage even including internal waters. However, she said that if the Philippines follows the UNCLOS, then it has to draw straight baselines from the outermost islands of the archipelago and they would form the baselines. She explained that under the Philippine Baselines Law, straight baselines were drawn connecting the outermost points of the archipelago and the difference between the former and the UNCLOS is very minimal. She pointed out that the only question left is the breadth and width of the territorial sea because the Philippine law conflicts with the UNCLOS.

Asked if the conflict arose because of the Treaty of Paris, Senator Defensor Santiago replied in the affirmative, noting that under the Treaty of Paris, the Philippines' territorial sea on the west side is 221 miles and on the east, 283 miles, as compared with the UNCLOS' 12 miles.

As to when the concept of exclusive economic zone took effect, Senator Defensor Santiago replied that the UNCLOS was adopted by the UN in 1982 but it provides that it shall come into effect only after 60 states shall have ratified it. She disclosed that Guyana was the 60<sup>th</sup> state that ratified it sometime in 1992; so, in effect, the UNCLOS became a binding international law in 1992.

As regards the disparity between the baselines as defined in the Treaty of Paris and in the UNCLOS, Senator Defensor Santiago stated that under the Treaty of Paris, the Philippines has wider, territorial seas, contiguous zones and exclusive economic zones but, she pointed out that no state would recognize the self-proclaimed boundaries of the Philippines. Therefore, she noted that it is useless to enact a law expanding the country's territory and argue the claims before the international tribunal.

On the observation that it is best to leave the technical issues to the proposed commission, Senator Defensor Santiago agreed. She conceded that there are so many issues that even she cannot give a definitive opinion on. She stressed that international law is constantly changing and since it is not codified, specific provisions cannot be found in one particular book and, precisely, there is an International Court of Justice to arbitrate conflicts between states.

Upon further queries, Senator Defensor Santiago stated that the chair of the House Committee on Foreign Relations is enthusiastic and eager about

the idea of creating a commission which shall be composed of representatives from both Houses of Congress.

**SUSPENSION OF CONSIDERATION  
OF JOINT RESOLUTION NO. 12**

Upon motion of Senator Pangilinan, there being no objection, the Body suspended consideration of the resolution.

**MANIFESTATION OF SENATOR ESCUDERO**

Senator Escudero manifested that the House of Representatives has adopted Senate Bill No. 2293 (granting exemptions to minimum wage earners). In view thereof, he requested that the Secretariat be instructed to facilitate the enrolment of the bill so that it could be sent to the President for her signature.

**ADDITIONAL REFERENCE OF BUSINESS**

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

**BILLS ON FIRST READING**

Senate Bill No. 2334, entitled

**AN ACT PROHIBITING THE RELEASE  
OF CERTAIN BALLOONS**

Introduced by Senator Miriam Defensor  
Santiago

**To the Committees on Environment and  
Natural Resources; and Justice and Human  
Rights**

Senate Bill No. 2335, entitled

**AN ACT AMENDING REPUBLIC ACT  
NO. 8794, ALSO KNOWN AS AN  
ACT IMPOSING MOTOR VEHICLES  
USER'S CHARGE ON OWNERS OF  
ALL TYPES OF MOTOR VEHICLES  
AND FOR OTHER PURPOSES,  
SECTION 6 ON THE PENALTY FOR  
OVERLOADING**

Introduced by Senator Miriam Defensor  
Santiago

**To the Committee on Ways and Means**

Senate Bill No. 2336, entitled

**AN ACT ESTABLISHING THE  
NATIONAL CLIMATE PROGRAM**

Introduced by Senator Miriam Defensor  
Santiago

**To the Committees on Environment and  
Natural Resources; Local Government; and  
Finance**

Senate Bill No. 2337, entitled

**AN ACT PROVIDING FOR AN  
INCREASE IN THE SALARY OF  
GOVERNMENT PHYSICIANS AND  
ADDITIONAL INCENTIVES APPROPRIATING FUNDS THEREFOR**

Introduced by Senator Antonio "Sonny" F.  
Trillanes IV

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

Senate Bill No. 2338, entitled

**AN ACT ESTABLISHING A FARM  
MACHINERY MANUFACTURING  
PROGRAM AND APPROPRIATING  
FUNDS THEREFOR**

Introduced by Senator Antonio "Sonny" F.  
Trillanes IV

**To the Committees on Trade and Commerce;  
Agriculture and Food; and Finance**

Senate Bill No. 2339, entitled

**AN ACT ESTABLISHING INTER-  
AGENCY ENERGY CONSERVATION  
COMMITTEE TO DEPLOY COST-  
EFFECTIVE ENERGY CONSERVATION  
MEASURES AND TECHNOLOGIES  
AND FOR OTHER PURPOSES**

Introduced by Senator Antonio "Sonny" F.  
Trillanes IV

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**To the Committees on Energy; Public Works, and Finance**

**RESOLUTION**

Proposed Senate Resolution No. 428, entitled

RESOLUTION URGING THE APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE ISSUES CONCERNING THE TELECOMMUNICATIONS INDUSTRY AT PRESENT BROUGHT ABOUT BY THE ALLEGED QUESTIONABLE DECISIONS OF THE NATIONAL TELECOMMUNICATIONS COMMISSION WITH RESPECT TO THE ISSUANCE OF 3G-FREQUENCY TO THE CONNECTIVITY UNLIMITED RESOURCES, INC. WHICH EVENTUALLY SOLD ITS ASSETS TO SMART TELECOMMUNICATIONS, AS WELL AS THE GRANT OF BWA/WIMAX BANDWIDTH TO EXISTING AND NEW PUBLIC TELECOMMUNICATION ENTITIES, WITHOUT PROMULGATING THE NECESSARY AND APPROPRIATE GUIDELINES, WITH THE END IN VIEW OF RECOMMENDING IMMEDIATE REMEDIAL MEASURES TO ENSURE NON-DISCRIMINATION AND FAIR COMPETITION AMONG THE INDUSTRY PLAYERS AND, MORE IMPORTANTLY, PROTECT THE WELL-BEING OF OUR CONSUMERS

Introduced by Senator Enrile

**To the Committees on Public Services; and Trade and Commerce**

**COMMITTEE REPORTS**

Committee Report No. 57, prepared and submitted by the Committee on Foreign Relations, on Proposed Senate Resolution No. 425, entitled

RESOLUTION CONCURRING IN THE RATIFICATION OF THE PROTOCOL AMENDING THE CONVENTION BETWEEN THE REPUBLIC OF THE

PHILIPPINES AND JAPAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME,

recommending its adoption without amendment.

Sponsor: Senator Miriam Defensor Santiago

**To the Calendar for Ordinary Business**

Committee Report No. 58, prepared and submitted by the Committee on Foreign Relations, on Proposed Senate Resolution No. 426, entitled

RESOLUTION CONCURRING IN THE RATIFICATION OF THE PROTOCOL AMENDING THE CONVENTION BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF NEW ZEALAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME,

recommending its adoption without amendment.

Sponsor: Senator Miriam Defensor Santiago

**To the Calendar for Ordinary Business**

Committee Report No. 59, prepared and submitted by the Committee on Foreign Relations, on Proposed Senate Resolution No. 427, entitled

RESOLUTION CONCURRING IN THE RATIFICATION OF THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF UNITED ARAB EMIRATES FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL AND ITS PROTOCOL,

recommending its adoption without amendment.

Sponsor: Senator Miriam Defensor Santiago ✱

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**To the Calendar for Ordinary Business****INQUIRY OF SENATOR ROXAS**

To the query of Senator Roxas how his attendance was recorded for the day's session, the Chair replied that he was marked "arrived after the roll call."

**PROPOSED SENATE RESOLUTION NO. 400**

Upon motion of Senator Pangilinan, there being no objection, the Body considered Proposed Senate Resolution No. 400, entitled

RESOLUTION COMMENDING THE DEPARTMENT OF HEALTH FOR ITS EXEMPLARY EFFORTS IN PROVIDING OUR COUNTRY WITH THE BEST CHILD HEALTH CARE AMONG 55 DEVELOPING COUNTRIES.

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

**ADOPTION OF PROPOSED SENATE RESOLUTION NO. 400**

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 400 was adopted by the Body, subject to style.

**PROPOSED SENATE RESOLUTION NO. 412**

Upon motion of Senator Pangilinan, there being no objection, the Body considered Proposed Senate Resolution No. 412, entitled

RESOLUTION CONGRATULATING AND COMMENDING GIAN CARLO DAPUL FOR WINNING FIRST PLACE IN THE RECENTLY CONCLUDED ENGLISH SPEAKING UNION'S (ESU) INTERNATIONAL PUBLIC SPEAKING COMPETITION IN LONDON AND FOR BRINGING PRIDE, HONOR AND PRESTIGE TO OUR COUNTRY IN THE FIELD OF PUBLIC SPEAKING.

With the permission of the Body, only the title of the resolution was read without prejudice to the

insertion of its full text into the Record of the Senate.

**ADOPTION OF PROPOSED SENATE RESOLUTION NO. 412**

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 412 was adopted by the Body, subject to style.

**PROPOSED SENATE RESOLUTION NO. 422**

Upon motion of Senator Pangilinan, there being no objection, the Body considered Proposed Senate Resolution No. 422, entitled

RESOLUTION COMMENDING JOE DATUIN, FOR WINNING THE GRAND PRIZE FOR SCULPTURE IN THE INTERNATIONAL SPORT AND ART CONTEST IN CONNECTION WITH THE 2008 BEIJING OLYMPICS.

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

**ADOPTION OF PROPOSED SENATE RESOLUTION NO. 422**

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 422 was adopted by the Body, subject to style.

**ADJOURNMENT OF SESSION**

Upon motion of Senator Pangilinan, there being no objection, the Senate President Pro Tempore declared the session adjourned until three o'clock in the afternoon of Monday, June 2, 2008.

*It was 6:14 p.m.*

I hereby certify to the correctness of the foregoing.

  
EMMA LIRIO-REYES  
Secretary of the Senate

Approved on June 2, 2008