

mentioned in Section 2, are hereby required to promulgate the Implementing Rules and Regulations within sixty (60) days after the effectivity of this Act.

SEC. 6. *Repealing Clause.* - All laws, executive orders, rules and regulations, or any part thereof, inconsistent with any provision of this Act are hereby repealed or modified accordingly.

SEC. 7. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.

Approved,

RATIFICATION OF THE CONVENTION BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE REPUBLIC OF HUNGARY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

WHEREAS, the Convention Between the Republic of the Philippines and the Republic of Hungary for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income was signed in Budapest, Hungary on 13 of June 1997;

WHEREAS, the Convention provides for the means by which citizens of both countries could avoid double taxation and prevent fiscal evasion with respect to taxes on their respective incomes;

WHEREAS, the Convention shall apply, in case of the Philippines, to the income taxes imposed under Title II and the stock transaction tax in accordance with Section 127 of the Tax Reform Act of 1997; and in the case of Hungary, to income tax on individuals and corporation tax;

WHEREAS, the Convention also regards as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from alienation of movable and immovable property, and taxes on the total amount of wages or salaries;

WHEREAS, under the Convention, the contracting State shall not, in accordance with its domestic laws, be prevented from taxing their citizens who may be residing in the other Contracting State;

WHEREAS, Article 28 of the Convention provides that it shall be ratified and shall enter into force upon the exchange of the instruments of ratification;

WHEREAS, pursuant to Section 21, Article VII of the 1987 Constitution, "No treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the members of the Senate";

NOW, THEREFORE, be it resolved that the Senate of the Philippines concur as it hereby concurs in the ratification of the Convention Between the Republic of the Philippines and the Republic of

RESOLUTION ON SECOND READING
P. S. Res. No. 1145--RP-Hungary Convention on the Avoidance of Double Taxation and Prevention of Fiscal Evasion With Respect to Taxes on Income

Senator Tatad. Mr. President, I move that we consider Proposed Senate Resolution No. 1145 under Committee Report No. 987 as reported out by the Committee on Foreign Relations.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Consideration of Proposed Senate Resolution No. 1145 is now in order. With the permission of the Body, the Secretary will read only the title of the resolution, without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Proposed Senate Resolution No. 1145, entitled

RESOLUTION CONCURRING IN THE RATIFICATION OF THE CONVENTION BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE REPUBLIC OF HUNGARY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The following is the whole text of the resolution:

Proposed Senate Resolution No. 1145

RESOLUTION CONCURRING IN THE

Hungary for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income.

Adopted,

(Sgd.) BLAS F. OPLE
Chairman

Committee on Foreign Relations

Senator Tatad. Mr. President, for the sponsorship speech, I ask that the distinguished chairman of the Committee on Foreign Relations, the President Pro Tempore, be recognized.

The President. The chairman of the Committee on Foreign Relations, Sen. Blas F. Ople, is recognized.

SPONSORSHIP SPEECH OF SENATOR OPLE

Senator Ople. Mr. President, on behalf of the Committee on Foreign Relations, I have the honor to submit for concurrence of the Senate the ratification of the Convention Between the Republic of the Philippines and the Republic of Hungary for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income.

The first round of negotiations to conclude the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income between the Republic of the Philippines and the Republic of Hungary was held in Budapest on April 27-29, 1992. The Philippine delegation was led by Mr. Jose Ong, then BIR Commissioner.

The second round of negotiations and the conclusion of the said convention transpired in Manila on February 19-23, 1996. The Philippine delegation was headed by BIR Commissioner Liwayway Vinzons-Chato. The Convention was signed on June 13, 1997 in Budapest by Ms Vinzons-Chato and Dr. Tibor Draskovics, Administrative Secretary of State, Ministry of Finance, representing the governments of the Philippines and Hungary, respectively.

The salient provisions embodied in the tax treaty include:

1) Personal scope - This provides for a reservation clause that both states are not precluded from taxing their citizens who may be residing in the other Contracting State in accordance with their domestic laws. However, in the case of the Philippines, this provision is no longer relevant because of the passage of the Tax Reform Act of 1997 which specifically provides that "a non-resident citizen is taxable only on income from sources within the Philippines."

2. Taxes covered - The list of taxes are those imposable by both states reflecting their respective tax legislations.

3. Dividends, Interest and Royalties - The tax rates on these incomes are lower than the existing domestic tax rates of both countries, primarily to promote investment by the private sectors of the two states.

- a. Dividends - A preferential rate of 15 percent with the holding requirement of at least 25 percent of capital of the paying company; otherwise, 20 percent; and
- b. Interest - a rate of 15 percent.

However, interest is exempt from taxes in respect of:

i. A bond, debenture or other similar obligation of the government of the first mentioned Contracting State or a political subdivision or local authority thereof; or

ii. A loan made, refinanced, guaranteed or insured, or a credit extended, refinanced, guaranteed or insured by:

— in the case of the Philippines, the Central Bank of the Philippines;

— in the case of Hungary, the National Bank of Hungary, or

— other governmental agencies or lending institutions as may be specified and agreed in an exchange of notes between the competent authorities of the Contracting States.

- c. Royalties—A rate of 15 percent, or the lowest rate of Philippine tax that may be imposed on royalties derived by a resident of a third state.
- d. Pensions—The provision on this Article conforms to our tax law that pensions arising from employment are not subject to tax.

Mr. President, in view of the foregoing, may I urge this august Chamber to concur in the ratification of the Convention Between the Republic of the Philippines and the Republic of Hungary for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income.

Thank you, Mr. President.

Senator Romulo. Mr. President.

The President. The Assistant Majority Leader, Senator Romulo, is recognized.

Senator Romulo. Mr. President, will the distinguished sponsor yield for a few questions?

Senator Ople. Very gladly to my distinguished colleague from Central Luzon, Senator Romulo.

Senator Romulo. Mr. President, this is a good Convention, and I am all for it. Basically, this Convention would address the problem of double taxation and the prevention of fiscal evasion with respect to taxes on income. Is that a fair statement?

Senator Ople. That is correct, Mr. President.

Senator Romulo. Mr. President, in avoiding double taxation, what rule would be applied? What tax would be imposed? What jurisdiction would be imposed?

Senator Ople. With respect to Filipinos in Hungary, they are already exempt from the payment of income tax under the CTRP law that has been enacted by Congress.

Senator Romulo. Under this Convention, can Hungary impose some tax on Filipinos who are exempt from the CTRP?

Senator Ople. Apparently not, Mr. President. The rule that prevails is where the income was earned. If it was earned in the Philippines, then obviously Hungary cannot impose any tax.

Senator Romulo. Under the CTRP, the Filipino citizen is exempt.

Senator Ople. Yes, Mr. President.

Senator Romulo. But since it was precisely earned in the Philippines and not in Hungary, then under this Convention the Hungarian government has no right to tax the Filipino citizen on the income of the Filipino citizen in the Philippines.

Senator Ople. It has no right under this treaty, Mr. President.

Senator Romulo. How about the Hungarian citizens? Would that also apply? The Philippine government cannot tax the Hungarian citizen except the income of the Hungarian citizen in the Philippines. Is that correct?

Senator Ople. Yes, Mr. President.

Senator Romulo. Any additional income of the Hungarian citizen in Hungary or other countries outside of the Philippines is not subject to taxation by the Philippine government.

Senator Ople. Yes, that is correct, Mr. President.

Senator Romulo. On the question of fiscal evasion with respect to taxes on income, how would this apply to Filipino citizens?

Senator Ople. I suppose the general laws on tax evasion will apply in both Hungary and the Philippines to their respective nationals.

Senator Romulo. Is a Filipino who earns income in Hungary obliged to pay his income tax in the Philippines on that income earned in Hungary?

Senator Ople. No, Mr. President. He is exempt from the CTRP.

Senator Romulo. He is exempt.

Senator Ople. Yes, Mr. President.

Senator Romulo. Therefore, as far as the Filipino is concerned, he is exempt here and he will also be exempt from the income he earns in Hungary as far as the Philippine laws are concerned.

Senator Ople. Yes, Mr. President.

Senator Romulo. But he would be subject to the laws of Hungary if it imposes a tax on his income earned there?

Senator Ople. Yes, Mr. President.

Senator Romulo. Because this is a good law, Mr. President, how many countries has the Philippines entered into a convention? Would the gentleman have, at least, the ballpark figure?

Senator Ople. Yes, a total of 22 countries, Mr. President. I want to correct myself—it is 28 now, with the United States of America bringing up the rear.

Senator Romulo. Are Japan and the Asian countries included there?

Senator Ople. They are included, Mr. President.

Senator Romulo. Are the European countries also included there, Mr. President?

Senator Ople. Yes, the most important European countries.

Senator Romulo. Do I take it that because this is a good convention, there are pending conventions of similar nature with the other foreign countries where the Filipinos are working?

Senator Ople. Yes, I expect that there will be more agreements of this kind to be submitted to the Senate, Mr. President.

Senator Romulo. Would our distinguished sponsor be able to tell us how many such conventions are now pending in the Committee on Foreign Relations?

Senator Ople. There are seven such conventions pending before the Committee on Foreign Relations, Mr. President.

Senator Romulo. And what countries are involved here, Mr. President?

Senator Ople. May I enumerate: Bangladesh and Chile, with respect to international shipping; Finland; Hungary, which is now in the agenda; Indonesia, which is subject for renegotiation; Nigeria and Yugoslavia.

Senator Romulo. And so within the next two days left for the session, is there time to ratify these conventions?

Senator Ople. Mr. President, I am afraid that the Senate may not have the material time to consider the other agreements. But in the case of the Hungarian Agreement, there seems to be some urgency because the Committee on Foreign Affairs has received from the Department of Foreign Affairs and Malacañang a special request for the consideration of this measure since the President of Hungary is going to pay a state visit to our country beginning Saturday.

Senator Romulo. Would that mean that we should finally dispose of this resolution by tomorrow, Mr. President?

Senator Ople. Yes, Mr. President. I understand that the Department of Foreign Affairs has requested Malacañang for a certification.

Senator Romulo. On the other hand, Mr. President, as far as the others are concerned, perhaps, we can take them up between now and tomorrow and when we resume sessions after the elections, then those conventions can be passed.

Senator Ople. Yes, Mr. President. We hope that the

Committee on Foreign Relations can conclude the necessary public hearing, Mr. President.

Senator Romulo. I would like to thank the gentleman, Mr. President. I am in full support of this convention, and I would vote yes when this convention is called to a vote.

Thank you.

Senator Ople. May I thank the distinguished Assistant Majority Leader for that, Mr. President.

Senator Tatad. Mr. President, there being no further interpellations, I move that the period of interpellations be closed.

The President. Is there any objection to this motion? [Silence] There being none, the motion is approved.

APPROVAL OF P. S. RES. No. 1145
ON SECOND READING

Senator Tatad. Mr. President, I move that we vote on Second Reading on Proposed Senate Resolution No. 1145.

The President. Is there any objection? [Silence] There being none, we shall now vote on Second Reading on Proposed Senate Resolution No. 1145.

As many as are in favor of the resolution, say *aye*.

Several Senators. *Aye*.

The President. As many as are against the resolution, say *nay*. [Silence]

Proposed Senate Resolution No. 1145 is approved on Second Reading.

SUSPENSION OF CONSIDERATION
OF P. S. RES. NO. 1145

Senator Tatad. Mr. President, I move that we suspend consideration of Senate Resolution No. 1145.

The President. Is there any objection? [Silence] There being none, the motion is approved.

May the Chair inform this Body that yesterday, the Senate President received a letter from the Department of Foreign Affairs under the signature of Sec. Domingo L. Siazon Jr. The Chair would like to read this into the *Record*:

4 February 1998

Sir:

I would like to inform the Senate President that one of the highlights of the State Visit of Hungarian President Arpad Goncz is the signing of the Protocol of the exchange of instruments of ratification of the Convention on the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income between the Philippines and Hungary. This document was negotiated and signed in Budapest on 13 June 1997. However, the exchange of ratifications might not be possible because the Convention has not been concurred to by the Senate.

It could be taken as a good gesture from the Philippine Senate if the Convention were ratified in time for President Goncz's visit on 7 to 9 February 1998. The Senate President could personally convey this to President Goncz during his call on him on 9 February at the Manila Hotel. Kindly be informed that the Hungarian Parliament has already ratified the Agreement in order that the exchange may take place during President Goncz's visit.

The Senate President's preferential attention on this matter would be highly appreciated.

Very truly yours,

(Sgd.) DOMINGO L. SIAZON JR.
Secretary of Foreign Affairs

The Honorable
Neptali A. Gonzales
Senate President
Financial Center, GSIS Bldg.
Pasay City

The Senate is willing to act and approve this Resolution of Concurrence, but to this date and hour, the Chair was informed by the Secretariat that no presidential certification has been filed or received.

The Majority Leader is recognized.

SUSPENSION OF SESSION

Senator Tatad. May I ask for a one-minute suspension of the session, Mr. President.

The President. The session is suspended, if there is no objection. [There was none.]

It was 4:11 p.m.

RESUMPTION OF SESSION

At 4:13 p.m., the session was resumed.

The President. The session is resumed.

ACKNOWLEDGMENT OF GUESTS

We are honored with a visit of the local officials from Itbayat, Batanes, led by Mayor Simaco Gutierrez.

SUSPENSION OF SESSION

To enable the members of this Chamber to greet our visitors, session is suspended for one minute, if there is no objection. [There was none.]

It was 4:13 p.m.

RESUMPTION OF SESSION

At 4:15 p.m., the session was resumed.

The President. The session is resumed. The Majority Leader is recognized.

Senator Tatad. Mr. President, I move that we consider Senate Bill No. 1523...

Senator Mercado. Mr. President.

The President. Senator Mercado is recognized.

Senator Mercado. Mr. President, with due apologies to the Majority Leader, may I just interrupt. It is a matter of parliamentary information.

Yesterday, I raised the issue of discussing the local bills in view of the fact that the House of Representatives has not tackled the Bicameral Conference Committee Report on the Clean Air Act.

I guess, Mr. President, that as a consequence of this—or maybe they are inspired by other forces—the Bicameral Conference Committee Report in the House of Representatives has finally emerged from nowhere. It is now being discussed and being defended on the floor by Rep. Coring Acosta.

Because it is now being discussed, Mr. President, I would like to withdraw my opposition to discussion of local bills, considering that our intent was merely to bring it to the floor.

Thank you very much.

Senator Romulo. Mr. President.

The President. The Assistant Majority Leader, Senator Romulo, is recognized.

Senator Romulo. Will the distinguished senator from Quezon City and Leyte yield for some questions?

Senator Mercado. Gladly, Mr. President.

Senator Romulo. Mr. President, is the version that is in the House the same version that the Senate has, and to which the two Houses have agreed?

Senator Mercado. Yes, Mr. President. It is the same version that has been called and being defended by the Chairperson of the Committee on Environment.

Senator Romulo. The Chair of our panel, Senator Mercado, is in complete accord with the version of the Bicameral Conference Committee that is now being discussed in the House.

Senator Mercado. Yes, that same Bicameral Conference Committee Report includes a ban on the incinerators. It is what we have approved in the Bicameral Conference Committee.

Senator Romulo. Have we approved the Bicameral Conference Committee Report on the part of the Senate?

Senator Mercado. Yes, Mr. President. We have long approved the Bicameral Conference Committee Report. What is now lacking—to be able to come up with the enrolled bill—is the approval or the ratification of the Bicameral Conference Committee Report by the House. So, we have done our share already.

Senator Romulo. At any rate, Mr. President, as the Minority Leader was suggesting, we devote up to seven o'clock in the evening to the national bills, to which we have agreed. Therefore, hopefully by that time, the Bicameral Conference Committee Report on the Clean Air Act would have been ratified by the House.

Senator Mercado. We are praying, Mr. President, just as hard as the Assistant Majority Leader.

Senator Romulo. That is exactly what we are doing, Mr. President. At that time, I would join my colleague from

Quezon City in moving that we consider all the local bills of the House, provided that it has ratified the Clean Air Act and that our Secretary is informed that it has done so.

Senator Mercado. We do not know how the vote will go, Mr. President; it is beyond our control. But the good thing about it is that they are discussing it, and a vote could be taken. That, for me, is sufficient.

Senator Romulo. At any rate, Mr. President, we have up to seven o'clock in the evening to ascertain whether the vote is in our favor or not. Thank you, Mr. President.

The President. The Majority Leader is recognized.

BILL ON SECOND READING

S. No. 1523—The Domestic Adoption Act of 1998

Senator Tatad. Mr. President, I move that we consider Senate Bill No. 1523 as reported out under Committee Report No. 286.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

Consideration of Senate Bill No. 1523 is now in order. With the permission of the Body, the Secretary will read only the title of the bill, without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 1523, entitled

AN ACT ESTABLISHING THE RULES TO GOVERN THE ADOPTION OF FILIPINO CHILDREN IN THE PHILIPPINES

The following is the whole text of the bill:

Senate Bill No. 1523

AN ACT ESTABLISHING THE RULES TO GOVERN THE ADOPTION OF FILIPINO CHILDREN IN THE PHILIPPINES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

ARTICLE I GENERAL PROVISIONS

SECTION 1. *Short Title.* - This Act shall be known as the "Domestic Adoption Act of 1996."