

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 96

**DISSOLVING THE CABINET OVERSIGHT COMMITTEE ON THE NINYO AQUINO
INTERNATIONAL PASSENGER TERMINAL III AND FOR OTHER
PURPOSES**

WHEREAS, on June 25, 2003 Administrative Order No. 75 was issued by the President of the Philippines entitled "Creating the Cabinet Oversight Committee on the Ninoy Aquino International Passenger Terminal III and for other purposes";

WHEREAS, on February 26, 2003 the Philippine International Air Terminal Company, Inc. (PIATCO) filed a Request for Arbitration against the Republic of the Philippines with the International Chamber of Commerce (ICC), Paris, France, asserting a variety of claims against the Republic in relation to the "Concession Agreement for the Build-Operate-Transfer Arrangement for the Ninoy Aquino International Passenger Terminal III", the "Amended and Restated Concession Agreement", and three (3) supplements thereto, all of which have been held to be null and void *ab initio* by the Supreme Court of the Philippines in the cases of Demosthenes D. Agan, Jr., et al. v. PIATCO, et al., G.R. No. 155001; Salacnib F. Bateria, et al. v. PIATCO, et al., G.R. No. 155547; and Severino C. Lopez, et al. vs. PIATCO, et al., G.R. No. 155661 decided on May 5, 2003, PIATCO's, et al., Motion for Reconsideration having been denied "with finality" on January 21, 2004;

WHEREAS, on September 17, 2003 Fraport AG Frankfurt Airport Services Worldwide (Fraport) filed a Request for Arbitration against the Republic of the Philippines with the International Centre for Settlement of Investment Disputes (ICSID) in Washington, DC alleging, among other things, that the Republic has expropriated the investments of Fraport in NAIA Terminal III in alleged violation of the Philippines-Germany Bilateral Investment Treaty signed on 17 April 1997;

WHEREAS, the President of the Philippines approved the recommendation of the Solicitor General of the Philippines that all proposals and suggestions concerning the resolution of the disputes which have been brought before the ICC and the ICSID shall be conveyed to the Government of the Republic of the Philippines and discussed only on a lawyer-to-lawyer basis, that is, on the basis of discussion and communication between and among, on the one hand, the Solicitor General of the Philippines, Justice Florentino P. Feliciano and White and Case; and on the other hand, the counsel of record of PIATCO and Fraport;

WHEREAS, evidence has emerged concerning numerous deficiencies and deviations from the plans and specifications of the NAIA Terminal III set out in the underlying bid documents and concerning failure of PIATCO to submit the detailed engineering drawings and plans of the NAIA Terminal III to the Manila International Airport Authority (MIAA) for the approval of the MIAA, as well as to the Japan Airport



Consultants Inc. (JAC) the Quality Assurance Surveyor, resulting in serious doubts about the structural soundness and safety and compliance with specifications of the still incomplete NAIA Terminal III in its present condition;

WHEREAS, PIATCO has refused to open its books to the Government of the Republic such that the latter is unable to determine what has in fact been reasonably and lawfully spent on the still incomplete NAIA Terminal III;

WHEREAS, on January 30, 2004 the Republic filed its Answer to the Request for Arbitration of PIATCO in the ICC, Paris;

WHEREAS, the arbitral tribunal in ICSID, seized with the Request for Arbitration filed by Fraport, has now been constituted and proceedings there have now commenced;

WHEREAS, as a result of the foregoing, it is essential that the Government of the Republic protect the safety and security of potential users of the NAIA Terminal III including passengers, airlines and NAIA staff as well as the interest of the Republic before the international arbitral fora to which PIATCO and Fraport have resorted;

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. The Cabinet Oversight Committee on the NAIA Terminal III, created by Administrative Order No. 75 dated 25 June 2003, and consisting of the Secretary of Trade and Industry as Chairman, the Secretary of Transportation and Communication and the Secretary of Tourism as Members, is hereby dissolved.

SEC. 2. The Cabinet Oversight Committee shall render its final report to the President within seven (7) days from the date of effectivity of this Administrative Order.

SEC. 3. All reports, records of proceedings and all documents of any kind whatsoever received, issued or collected by the Cabinet Oversight Committee shall forthwith be transferred to the Executive Secretary, Office of the President.

SEC. 4. This Administrative Order shall take effect immediately.

Done in the City of Manila, this 1st day of March, in the year of our Lord, two thousand and four.

Gloria Arroyo

By the President:

Alberto G. Romulo
ALBERTO G. ROMULO
Executive Secretary



PGMA Hologram # 24930