

BUILDING UP THE PHILIPPINES:
DISCUSSION SERIES ON PHILIPPINE INFRASTRUCTURE DEVELOPMENT

Roundtable Discussion 3
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Room 404, Ateneo Professional Schools
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TRANSCRIPTION OF PROCEEDINGS

Opening Remarks / Introduction of Presenter (Men Sta. Ana)

While we are discussing (of course you are free to have your lunch), we try to make this as informal as possible even if the topic right now is something quite serious. I will be your moderator for today, and I am substituting for my colleague, Ms. Maita Gomez, who is indisposed. I'll give a background of our main discussant.

As you all know the issue of the broadband network is quite controversial and this roundtable is just to give information to the public – to civil society organizations, to media, to policymakers. We really appreciate it very much that DOTC accepted our invitation, and we do have the Assistant Secretary of the DOTC. He is Atty. Lorenzo Formoso III. As some kind of background, his nickname is Amboy. At first I thought he belonged to a law fraternity, but it turned out that his first course in college was engineering, so he joined an engineering fraternity, Epsilon Chi. I don't know if that is familiar to you but Jarius would know because Ekit and Epsilon Chi belong to the same league.

He finished his philosophy at the University of the Philippines, and then went to the College of Law, but then moved on to the University of California (Davis) to obtain his *Juris Doctor* degree at the School of Law of UC Davis.

At present he is the Assistant Secretary of the Telecommunications Office of the DOTC, and he is also the current Commissioner of CICT.

Presentation: (Asec. Lorenzo Formoso III, DOTC)

Thank you. I can't honestly say that I'm glad to be here, but I'm here anyway. Please pardon me for sitting down so I can more easily discuss what I am supposed to discuss.

Before you start hammering me with questions, allow me to make a brief powerpoint presentation of the national broadband network (NBN) – the reasons why it was done, the details of it, as well as the processes that were involved in its approval – just to give a background of what it is. Also some information about items you might have read in the newspapers regarding Amsterdam Holdings, as well as Arescom.

Present government communications set-up. I think this is useful so that everybody knows where we're starting from. We spend approximately about P4 billion in communication expenses – that's across all the agencies in the national government. This does not include the local government.

For the P4 billion, we get this: voice over landline, of course the ever-present mobile phones, we have dial-up internet access – those who are lucky have DSL lines, and those with aggressive IT departments leased lines, and of course PABX and various local area networks. We pay retail NDD as well as IDD when we use the circuit, and definitely there is no data network for government.

There's no demand aggregation in government, so each agency sources its own communication requirements, including its data center capacity. Most of the mail servers of government are located all over the place.

None of the government agencies have their own virtual private networks.

And third, most of the email and file transfers that occur in current government (at least between government agencies and even between offices within the same government agencies) are done through Yahoo or Google – with their large capacities. Most of the mail servers can't accommodate anything approaching 1 gig of files that you need to transfer.

So with that backdrop the NBN project was conceptualized. It calls for the establishment of a national broadband network that will exclusively cater to the needs of national government agencies and local government units - no private involvement or no servicing of private subscribers at all.

Just to give you a secular background that this is not a "spur of the moment" thing, it has been included in the 2004-2020 Medium Term Philippine Development Plan, as well as in the Medium Term Philippine infrastructure Plan and the Comprehensive and Integrated Infrastructure Plan. It is basically developing digital infra to provide public access point to the delivery of e-government services. The adoption of voice over IP (VOIP) that would reduce the cost of connectivity, and the rationalization of existing government infra to enable sharing and interconnection of network resources.

The NBN project has basically two components: one is the actual infrastructure, and the other one would be the software side or the services side. You would have the network transmission backbone, the wi-max network transmission cluster as for your last mile distribution, an internet protocol (IP) core network, an integrated data center which shall also serve as your network operations center, and of course all our network support and management sub-systems. And then for it built-in applications, you will have the voice over IP system, internet capacity (meaning the BPNs for each government agency), internet access, and selected video conferencing systems because of the high bandwidth demand for this.

The transmission backbone will consist of 145 microwave relay stations – Luzon, Visayas, Mindanao – and the last mile distribution will consist of 300 wi-max base stations basically following the 802.16D specifications of the wi-max form.

It will cover 2,295 NGA (national government agencies) offices and 23,000 (or so) local government units. The reason for the number is that this system includes 25,000 customer premised equipment (CPEs). But after detailed engineering, the distribution may change because certain government agencies may need more than one CPE, depending on traffic.

There's an existing network owned by the government. This is the legacy network that was set up during your time, Ma'm (deferring to former DOTC Secretary Josie Lichauco), the NTP1-2, NTP1-3. That's what we're doing, Ma'm. For your background, there were three national telecom projects: NTP1-1 is the Luzon grid; NTP1-2 is the Visayas grid, and NTP1-3 is the Mindanao grid. NTP1-1 was privatized to Digitel, but as you well know, they are undergoing arbitration now.

From this set-up, which is basically a PDH transmission system (pardon me, I'm a lawyer so on the technical aspect, maybe you can correct me if I mis-state), its pleio-synchronus digital hierarchy transmission which is an outmoded mode of transmission. And then you have service levels- your platform is basically the services you can provide will be telephone, dial-up, etc.

After the implementation of the NBN project you will have this architecture for your system. Your infrastructure layer will consist of SDH, which they tell me means "synchronus digital hierarchy", then your wi-max, your data center, and of course your outside plant facilities. On top of that you will build your network, which will be IP backbone (which means Internet Protocol), then your Internet Data Center (IDC) network, local area network, as well as your multi-protocol layering service virtual private network. You can have your NBN VOIP, your net generation intelligent network.

And then for managing the systems you will have your monitoring programs, your network management system, as well as any IP-based system would require info security. And from that infrastructure, you can get a host of services, starting with VOIP and other e-government services. If the government wants to set up its own call center for complaints section, etc, etc, – they can do so.

The financing will be 100% from the People's Republic of China, in the amount of US\$329 million, repayable over a 20-year period that is inclusive of the 5-year grace; maximum interest at 3% per annum.

The major cost breakdown can be divided into two major components: one would be your equipment, including freight and insurance, and the other would be in terms of civil works services, etc., etc. (These are the breakdowns; I think you have copies there that you can pore through and do the calculations).

The whole point of NBN is to build a fully-integrated, single platform nationwide of broadband capability to allow seamless voice and video connectivity within and among national, regional and local government agencies. It will be common information pipeline for government. It will marshal the IT resources of the government, avoid duplication of systems, host all e-government systems including the adoption of cost-saving VOIP. It is a necessary first step to the implementation of government's enterprise architecture. Rather than mothballing existing Legacy government telecom infrastructure, it will optimize utilization, thereby preserving government's investments therein.

It will also make voice and data communications more efficient, resulting in savings in communications expenses, internet access, internet capacity, as well as ONM in the long-run. It will be more accessible and at the same time more secure.

The NBN and the private telecom sector. NBN will be a pure government network and will be for government use only, as allowed by Republic Act 7925. As such NBN will not compete with existing telecom carriers in the private arena. In fact, the transition to “government only NBN” will allow the government to comply with the privatization requirements of Republic Act 7925 by forcing it to spin off its existing private subscribers and utilized facilities to the private telecom carriers because as of now NTP1-2 and NTP1-3 in Visayas and Mindanao still has around 35,000 private subscribers.

As the NBN is a fixed network and has no mobile component by design, government will continue to source its mobile telephone requirements from the private mobile carriers. Internet access will still be sourced from the private sector, but with NBN the sourcing will be on a wholesale (as opposed to the existing retail) pricing. Instead of getting DSL, etc, we can get STMs and, at the better least, get E1s.

IDD services will still be sourced from the private sector, but with the NBN the sourcing will on the wholesale IDD-VOIP basis, instead of the retail pricing basis that we pay at this point in time. Of course the redundancy and back-up requirements will be sourced from the private sector as well.

I don't think I can completely discuss the NBN project without talking about the proponent, which is ZTE. Their proposal includes manage services, extensive training and technology transfer. After the 3-year implementation period, there will an 18-month hand holding period so that they can properly turn-over operations of the system to the Philippine government.

ZTE Corporation, as you know, is the only high-tech company listed in the Hong Kong and Shenzhen Stock Exchange. It's a publicly-listed company and everything about it is subject to inspection and disclosure. It has a track record of implementing projects and maintaining next generation and IP-based telecom networks similar to the NBN project in China, as well as in other countries. It has extensive RND capabilities and presence in more than 20 countries on the RND field. It develops and holds intellectual property rights on its technologies and solutions as well.

It has alliances and cooperation agreements with reputable and well-known international telecom and IP hardware and software manufacturers such as Microsoft, Cisco, Intel, Texas Instruments, Ericsson, Qualcomm, IBM, Vodafone, and Alcatel – basically a who's who of those involved in the IP or telecom sector.

The technologies proposed to be used in the NBN project are basically state-of-the-art – mature but they are really stages of product life – thereby avoiding early obsolescence.

As to how the project came about, ZTE Corporation (the NBN project proponent) submitted their proposal in July 2006. After the appropriate review and evaluation, the Commission on Information and Communication Technology endorsed the NBN project to NEDA for approval. The DOTC also reviewed and evaluated the project and endorsed the same to NEDA for approval.

The NEDA Investment Coordinating Committee reviewed and evaluated the NBN project proposal and endorsed it to the full NEDA Board for approval. The NEDA Board approved ZTE's NBN project proposal.

As a tied loan the People's Republic of China is entitled to nominate the main contractor, and it nominated ZTE Corporation. Such conditions imposed on tied loans (dispensing with bidding requirements) are sanctioned by Section 4 of Republic Act 9184, otherwise known as the Government Procurement Reform Act, as well as the Foreign Borrowings Act.

It bears reiterating that the NBN project is not a BOT project subject to the BOT Law. It is, among other reasons, a government-to-government transaction (so your Swiss challenges don't apply in this situation).

And then Amsterdam Holdings, one of the supposed competitors for the project, has no technical capability, much less a track record on IP-based telecommunications. Secondly, it proposes a predominantly mobile network with very limited coverage. It has no financial resources, as its paid-up capital is a mere P625,000, and has no firm commitments from equity or debt investors.

Arescom, on the other hand, will be using outmoded technology. They will be using pre-wi-max, which (for those tech people) would be 802.16E to 16D, 2004, and satellite. Satellite, nowadays, is the last recourse technology. They too have very limited coverage. Arescom is a San Jose-based, wi-fi DSL product manufacturer. It has no telecom system integration track record.

Thank you, and I think I'm ready for your questions. I think there will be lots of them.

Moderator: *(gap in taping due to non-use of the microphone)*

MR. PETER WALLACE: as you well know, a system like this requires highly experienced technical people. On government salaries, you won't get the quality of people you need. It will be very difficult.

This is also a system in today's modern world that will be changing all the time. We will see continuous upgrading, etc., which the private sector can adapt to. The government cannot, once the system is in place. We know that it will stay the same for many years and become outdated and obsolete. So it makes little sense to spend P350 million, or whatever it is, on a system that already exists, when it can spend very much less just to lease the systems that do exist.

I agree with you on the other two candidates, that they perhaps do not have the capabilities. But I don't agree with you that this should not have gone out to a bidding, despite being maybe a government-to-government arrangement. This government has stated transparency as public policy in several major fora recently. We see no transparency in this; we still have not seen the contract and yet this has been asked for many times and has been denied.

But we feel that this should have gone through public bidding, that others should have been given such an opportunity. You may have gotten a better deal. Without even trying, you don't know. I think I am going to stop.

MODERATOR: *What is the preference of the body – would be cluster the questions, or would we ask the Assistant Secretary to immediately answer any intervention?*

ASEC. FORMOSO: My preference would be to answer it right away – at least it gives it immediacy. I tend to lose my train of thought if I start listening to all these questions. It will probably take me the whole day to answer all these questions.

On the question of transparency, and you were focusing on a copy of the contract, perhaps now would be the right time to disclose certain events that occurred.

The contract was signed in Hunan on the occasion of the President's attendance at the BOA forum. It was signed in the presence of a number of people. When it was signed, it was turned over to the DTI representative, as per protocol. DTI – because they have a foreign commercial service department that handles all of the contracts that are signed outside.

When everybody came back to the Philippines, that contract was supposed to stay with the DTI Guangzhou branch for official transmission to the Philippines, as well as official transmission to ZTE. The following day, the DTI representative reported that the contract was stolen. Stolen. So it's easy to reproduce the document and have it signed again, but we waited until the NBI finished its investigation before we reconstituted the contract. And you might want to go ask NBI yourself as to what the contents of the investigation were. But it appears that certain forces were at hand to derail the project.

I'm trying to answer your question on transparency, Sir. I think we wanted to have that investigation out of the way before reconstituting the contract because it's a soft copy; you can print it right away. But we needed some indication as to what happened because we don't know what the end-game was.

On technology changing – that's always a challenge in any type of activity that involves the adoption of technology.

MR. BONDOC: (asks about transparency again, and the results from the NBI)

MS. TORDESILLAS: Nakarating ba sa iyo kung ano ang findings nila?

ASEC. FORMOSO: Perhaps I'd rather that you hear that directly from the NBI, Sir.

SECRETARY LICHAUCO: But you are basing on the findings of the NBI

ASEC. FORMOSO: It would be speculation on my part to be telling you what the NBI found out.

SECRETARY LICHAUCO: ... why didn't the person who was present during the signing hand-carry the contract to Manila?

ASEC. FORMOSO: Ma'm, there's a process that has to be done. There's what they call "chop" ... parang notaryo po sa atin. There's a system in China that in order to authenticate a document, they have to stamp each and every page and put it on a notarial record, so it cannot be brought back right away.

The reconstituted copy is already with us, Sir, it has been signed. It's where it's supposed to be – it's with DOTC.

SECRETARY LEUNG: (blank). We trust counterparts, but we trust ourselves most of all. We have to be very sure about whether these contracts can meet government resources of such significant amount, so there is a great irresponsibility, insofar as I am concerned, in the actions that described.

But you come and try to defend the issue of transparency by saying that the NBI is handling the investigation of this matter. Now, as the public officials in charge of this, if there was something that was stolen, would not the best thing be to reveal it so that it is disclosed and everybody would be watching out for it? Why put it into such a secret path? What is the consistency of that to the policy of transparency?

SECRETARY LICHAUCO: Thank you very much for your presentation, but you really gave us a surprise – surprise knockout – this morning. In my 19 years of government, Asec. Formoso, and I think you are new in the government. How long have you been in the government?

ASEC. FORMOSO: one year and nine months.

SECRETARY LICHAUCO: That's it, you see. Not a single contract of this dimension was lost, and I think there must (at least in the Department of Transportation and Communication; Ernest is a former Secretary of Finance; we worked together many times in the past) ...

I have other questions but I would just want to make this comment: this is a very serious matter and it should have been, as Ernest said, made known to the public in the spirit of transparency.

And in line with this also, there was something that you said that this was not a spur-of-the-moment thing. I'd like you, later on when my time comes to really ask the questions because I'm not supposed to ask questions now, as much as possible, let me just emphasize that particular thing. That is scandalous. It is a scandalous thing. When there are other copies of the contract, you should bring home one, even though it is still going to be, as you say, annotated by the Chinese authorities. They have these things (with which) to annotate right then and there, especially when the President rushed to China, in spite of the fact that her husband was not well, in order to witness this. This is such an important document because it will cost the government US\$333 million, and to lose it is really a scandalous thing. That should have been made known to the public.

ASEC. FORMOSO: I guess there's not much that I can say to convince you of what the Philippine government decided, and the way they pursue their course of action. I think they have their reasons why they wanted to keep it under wraps while they were investigating it. I'm not in a position to tell you why, but they have taken their course of

action and they have discovered certain things. I'm sure they will disclose it at the appropriate time, Ma'm.

DIRECTOR TARUC: Atty. Formoso, good afternoon. I'm Lito Taruc, I'm from DTI. There are a few things that bothered me in this report. Were you there during the signing, Sir?

ASEC. FORMOSO: I was, Sir.

DIRECTOR TARUC: Okay, and you said that DTI probably acted as the point-person for the activity where the President herself participated. So in those cases, I'd like to confirm that there are several copies of the contracts, and should there be a need to have it notarized or processed through their consular check-offs, definitely there are at least two sovereign copies that should be available immediately, so that the President should be able to bring back to the Philippines. That's the way I know it to happen because the trade treaties and investments and commercial agreements that the President normally signs during her trips are treated in that manner.

Now, my concern is that if it was really the fault of the DTI person who handled the consular processing of the other remaining documents and those documents were stolen from him, medyo ... well, I'm not saying that there is no credibility to the report that you have used in this morning's activity. Kaya lang, merdyo yung mga ganyang klase ng incident e putok yan sa amin. But I am very sorry to say na wala kaming nansense na nangyaring ganyan. I'm not defending DTI, but then Sir, medyo importante kasi yan, e. It's a matter of departmental pride.

ASEC. FORMOSO: I understand. The reason that they wanted to keep it under wraps as well is that it's a matter of national shame that the documents were lost in our possession.

DIRECTOR TARUC: It should be a "first things" thing.

ASEC. FORMOSO: But going back to your observations, Sir, there is actually an affidavit prepared by your guy – a DTI person actually handled that – attesting to the loss. So there was an investigation being handled. So maybe you weren't "in the loop", so you didn't find out. May I ask what department you're in, Sir?

DIRECTOR TARUC: I'm from the Board of Investments.

ASEC. FORMOSO: So it's actually different from the DTI in terms of their bureaucracy, right?

DIRECTOR TARUC: No, actually the BOI serves practically as Secretary Favila's think-tank and everything, so we're very close to DTI

ASEC. FORMOSO: Okay, but not in the operational aspects, I suppose.

DIRECTOR TARUC: Even the operational aspects.

ASEC. FORMOSO: But if you will make further inquiries with DTI, the report should be on record, Sir.

DIRECTOR TARUC: Okay.

MR. TARUC: regarding the controversy that accompanied this signing, how do we know now that what you reconstituted is the same as the original contract? All the dates, all the figures? All technical specifications? The soft copies are certified?

As to breaking the story about the “stolen” document, surely, you will be asked is the original is the same as the reconstituted one. People will certainly entertain doubts because of the controversy that now surrounds the contract, Sir. So what proof will show that this is the same as the original?

ASEC. FORMOSO: Only two sovereign copies were signed. Each party had a copy that was duly initialed, so they know that nothing will be changed. So if your question is whether – I don’t know why anybody would change it but the number has always been there; all the details have been there. So I think it’s just a matter of comparing what’s on file and what was actually signed.

The two sovereign copies were the ones that were stolen, that’s precisely why it has to be investigated. What would anybody gain from stealing those contracts?

SECRETARY LEUNG: Asec. Formoso, I’m sure your perception is somewhat not as deep as (those of) some of us, who grew up into it. And I may say that what you’ve described is very insulting to bureaucracy because I know very well that even when the bureaucracy is criticized, a lot of staff there do their work thoroughly. And whenever it comes to a signing between heads of state, we never make that kind of signing without a thorough study of things before we let the heads of state go and sign. So everything is “na-plancha”, as you say. Everything is analyzed, and so forth. And controversy, be that in the Cabinet, be resolved finally for the head of state to sign because it commits your republic.

And if you were to say that in the DTI the BOI would not know, and so forth, that is contrary to my knowledge because even when we run Finance, we always have Senior Executive Committee meetings to discuss among us. The BOI would know what BOC is happening; the Treasury would know what is happening. Everybody knows because we know that we don’t have that brilliance, that “everything in one mind”, and we know that there’s a whole structure of “everybody doing their thing” which has effects on each other.,

And therefore, to say that BOI will not know because DTI is somewhere else is insulting, as far as I’m concerned. And I hope this is not a truth because it is already going to be a destruction of the public sector if what you are saying is true.

ASEC. FORMOSO: With all due respect, Sir, if I insulted anybody, I apologize but that wasn’t my intention. What I was trying to say was that it is very possible that Mr. Taruc might not have known about the investigation happening because it is not directly related to his task. I’m sorry, Sir, that was not my intention.

(SECRETARY LEUNG clarified that he was referring to the processes that had transpired, surrounding the loss of the document.)

ASEC. FORMOSO: I think that's what the Philippine government was trying to find out, Sir, together with the Chinese government. They are cooperating on this. Why would anybody want to embarrass the Philippine and the Chinese governments? I think whoever did it has already accomplished the task.

I have not seen the final copy of the report

MR. BONDOC: But you are authorized to break the issue?

SECRETARY LEUNG: To tell us the whole story?

ASEC. FORMOSO: That's not my job, Sir, so please pardon me if I've gone out from the official purpose of this forum. It was an official investigation so whoever did it basically accomplished what they wanted to accomplish.

MR. BONDOC: May I just add to my question, Asec Formoso, that if they fire you for breaking this news, I think that will be another piece of transparency because here, the people are trying to know the truth. But since broke it, we appreciate it ...

ASEC. FORMOSO: I don't think that they would fire me, Sir. That was in response to what you said that if I'm not authorized, then I don't know the government part of it.

SECRETARY LEUNG: May we move on from this subject because I think he has taken enough and we don't want to embarrass our friend here.

ATTY. SANTOS: Just a last point on the matter. I'm Atty. Santos from Amsterdam Holdings. There have been suggestions that we may have been interested in this, and that we may have had a part in this, so for the record, the loss of this document is as much news to us as to everyone else here.

SECRETARY LICHAUCO: I think ... should we move out of that topic because ... it is admirable for Asec. Formoso to admit that this is a national shame. And let me tell you that maybe he said something initially, that you would like also to be able to plead the First Amendment, or the Fifth Amendment, to use the freedom of speech.

Maybe you should have pleaded that, unless you don't care for your job anymore, because this overwhelms. This is overwhelming news, I think. It supercedes anything I wanted to comment on or say about the contract. But if I may be permitted to ask a number of questions and make my comments, having been in the DOTC for 19 years, and having entered into some contracts myself and gone into public biddings where the Legislature really gave us HELL for that, and it was really a very honest bidding. The thing is that members of Congress are really patrons of the sponsors of some of the defeated contractors.

I think he is asking for water. Can I give you my tea first, because ...

You know, Ernest, my good friend Ernest, having said it's a national shame, I think he should really be excused from whatever ... you were talking about insulting the bureaucracy – that, also, I felt that the bureaucracy of old (I mean circa the 90s-2000) – it's really something because this is overwhelming news. It's really something we've never heard of ever before. The fact that it should be in 6 copies – were there 6 copies?

ASEC. FORMOSO: Ceremonial copies.

SECRETARY LICHAUCO: Ceremonial copies, but nonetheless we have one – the that was one stolen. They were both taken by the DTI to be stamped, etc. – to a lengthy process because it had to be removed and it had to be done after the signing, correct?

ASEC. FORMOSO: But if you will read the report, that contract was stolen in the hotel where the DTI representative stayed the night after the signing. It was stolen during the night.

MR. WALLACE: I'm sure there are witnesses. I'm sure that the Chinese kept their copy after it was signed.

ASEC. FORMOSO: the copies stayed with the DTI after they were signed. You don't have to take my word for it.

SECRETARY LICHAUCO: Okay, can we move on now to I said what about the diplomatic notes? ... No, but it is really something that, if there are members of media here, this is really overwhelming news. I see Jarius Bondoc at the end of the table.

MR. BONDOC: I am just raring to write a column

SECRETARY LICHAUCO: No, no, no, it's something. As the representative of Secretary Mendoza, were you authorized, however, because if I were the Secretary at that time, and the person was not authorized to say anything of this – although this never happened before – wouldn't this be a violation of trust? You're supposed to represent Secretary Mendoza. I don't think Secretary Mendoza would have said something like that.

And for that, Ernest, I'd call him a hero, rather than ... he never tried to insult us. Asec Formoso – a hero for having admitted it's a national shame, and for having exposed the news. I'm on your side against Ernest, this time. (laughter)

SECRETARY LEUNG: My comment was not addressed to any single person. My comment is addressed to whoever takes that position that one part of bureaucracy does not know what other parts of bureaucracy knows, within a Department, is insulting. Either they don't know what we do in the bureaucracy – how we work wee hours trying to reconcile inconsistencies of principles against what is best for the country.

When you know all those things done, to say that a bureaucracy within a certain department does not know what the other does, is insulting. But as I said, Asec. Formoso has been in government for only 18 months - that is understandable. And the fact that he was here to share whatever he knows with us is appreciated. It is the least that he can do in a large situation of cover-up. (laughter)

SECRETARY LICHAUCO: Remember I called you a hero, Atty. Formoso. Now, can we really move on? I think, firstly, the diplomatic notes and the loan agreement - this you should guard because this should not be stolen because I notice that the rate of interest – and that was what I was asking Peter and Ernest when you were discussing this – is the fact that this is not really a concessional loan. It's a tied loan but you've got OICF,

JDIC rates hovering between .5, 1, and 1.5 – and you’ve got 3% of a very expensive contract. Of course even though this has already been (I understand it should be), the loan agreement has already been signed. It’s a packaged deal.

So, where is the loan agreement? Aside from it being in the Monetary Board, that should also be made known. Is it really 3% - that is an Eximbank rate; a concessional rate.

But before I’d like to let you know, because you mentioned *Telepono sa Barangay*, the Municipal Telephone Project Office was already abolished because it had only a lifespan of 10 years. The Undersecretary who headed that reported straight to the Secretary of the Department, even through it was a telecom project and I was the Usec for communications before I became the Secretary of the DOTC. He never reported to me. I resigned from the Erap government because of the horrible *Telepono sa Barangay*, where I knew there were payolas because my foreign bank account (if I had any) was even being asked.

So I think the first order of the day is to make public. Since you already called it a “national shame” - and I’m on your side on this – it is a national shame. So that first, I think that the diplomatic notes on the China-Philippians loan agreement should be made public. That is a public document which us taxpayers and concerned citizens have a right to know.

Number two is the fact that the loan agreement which is not part of the diplomatic notes, and if it is appended to the diplomatic notes, it should also be made known., Ernest knows everything about this, and they do it up to the wee hours of the morning. We do that too. You probably do that – trying to erase some of the bad that is happening. There are so many things to erase – you agree with me that there are so many things to erase on this contract?

ASEC. FORMOSO: That’s why I’m here,

SECRETARY LICHAUCO: Okay, great. May I proceed? You said something about “this is not a spur of the moment contract”. I’ll tell you you’re wrong because not many members of media know, and I tried to explain this to Jarius when I first read his brief column on this because the three columns were good ones. I think he’s written about 3 or 4, if I’ve missed any.

But way back in 2005, when you were not yet there, it was in May 2005 when Executive Order 269 was signed consolidating (can you imagine, and I think this is a horror story, but it is nothing close to the national shame) ... in May 2005 and you were there September 2005, so you were there already when this happened – an Executive Order consolidating all the different telecom agencies, including the National Computer Center. And that’s the reason everybody in telecom, to the best extent possible, moved to the then and now Commission on Information and Communications Technology. For all intents, Virgilio Pena, who had a rank of Secretary, became the Chairman with 4 to 6 deputy commissioners with ranks of undersecretary supposed to do almost nothing. Am I correct?

He consolidated everything, and then listen to this, after the consolidation ... EO 269 was a good consolidation because she based (I’m talking now about Arroyo), the legal

base for the authority was the continuing right of the President to reorganize. And that was during Cory Aquino's time. It was a revolutionary government; she had to have the right to reorganize. It's still there in the statute of books used by President Ramos, used by Erap (I guess with all the Presidential assistants in Malacanang). That was fine and good, except that the Executive Order violated laws. This was a mere Executive Order by the President.

Even though 546 was an Executive Order, it is also the Charter of the DOTC that was done during the martial law period of Marcos and which carried the force of law because martial law is provided in our laws.

For that matter, I think that when she did it she really meant well. I'm talking about Arroyo. She meant well to consolidate, pending the creation of the Department of Information and Communications Technology which still did not exist at that time, she transferred NTC, which is a powerful regulatory body that has control over our frequencies, under Virgilio Pena. And put the words "respected the independence of the NTC" as far as its quasi-judicials are concerned.

"Supervision and control" - you cannot do that. Arroyo now has within her control the frequencies - I'm just talking about the frequencies; never mind the adjudicatory process. It's a quasi-judicial body, much like the SEC, and it is not supposed to be under the supervision and control. That is supported by jurisprudence and it's against the law.

Why did she put ... nasingit yung "control". And just from out of the blue, I saw it there, and that is the reason why I would like to get permission to distribute my humble column that appeared in Today which not so many people read.

I am just emphasizing the fact that it could not have been a "spur of the moment". That's not all. From out of the blue, recently EO 603 comes around because they know that this thing has to be enacted, has to go through the ZTE contract. Because the ZTE contract from out of the blue, EO 603 (the copy of which I cannot find anywhere. I have asked already the Office of the President for it and I was not given any. 603 brought back the Telof. So for all intents, wala nang kasama; there is no longer any agency. That is probably the reason why Virgilio Pena first resigned, and then now Ramon Sales resigned (among other things, as far as Secretary Sales is concerned).

Do you know of anything about this? Perhaps not because they don't want to talk about it, and then we invited and they're not here. That is very significant - that both former Secretaries who were part of the ping-pong (I call it a ping-pong of EOs). Then we have so much trouble with the "whos" and all that, and that's the reason we better control the frequencies, buck the NTC, and then inserting the word "control". As a lawyer you know what "administrative supervision and control" means - meaning she can overturn any decision.

Then now, from out of the blue again you have Executive Order 603, in preparation. It's brought back under Secretary Mendoza, removed from Secretary Sales. The "powers that be", I will just conjecture, do not trust Sales to implement the ZTE contract. Is he on record as being against it, or as having pushed it with NEDA?

Sorry for the long peroration but I had to explain that particular thing - which also is a national shame.

ASEC. FORMOSO: Okay. On the question of the participation of Secretary Sales, he, in fact was the first ... just to give you a matter of background, my first position in government was Deputy Commissioner for CICT. In fact now, I'm concurrent CICT Commissioner and Assistant Secretary of Telof.

SECRETARY LICHAUCO: Weren't you the one they trusted? Yes, they trust. Secretary Mendoz trusts you;, and so you're picked up from the halls of CICT to defend it – if you succeed in defending it.

ASEC. FORMOSO: What I'm trying to tell you, Ma'm, was that CICT endorsed the project., as well, to NEDA. CICT. So as to the question of whether 653 or 454 should have occurred, those are matters beyond my pay grade. Those are policy decisions that were made by higher ups. It's been done; I don't have an opinion on the matter.

SECRETARY LICHAUCO: yeah, I wanted to tell you that his happened before. So this is all leading up to the entry of ZTE into the scene because it was a very vulnerable contract. This is my thesis: it was done in haste, and it was such an important matter it led up to a very successful conclusion because Arroyo even went to China even though her husband was sick. She went to China and came back, didn't stay overnight – I mean that was a very important thing, and then the contract copy gets lost. It gets stolen.

That makes a real story for Jarius Bondoc now, and everybody else.

But I think what overwhelmed me was the way the Executive Orders happened in succession to remove the NTC just after when it was brought under the CICT. Then now you bring back the NTC, and it's back to Secretary Mendoza's control. And you insert the word "control".

That violates law, and that violates jurisprudence. Number one case is the Montano versus Silvino case – which you probably know about. Never in the history of the department has the NTC ever been under the adminsitrtive supervision and contol Control. Supervision means your decisions could be abrogated by the Secretary. That's never the case. The appeal should be in the appellate court; it's a quasi-judicial body.

And that's what I indict the government for. They keep talking about the rule of law but they're the first ones to violate. I have a series of others, but I've talked very much.

There are other laws that the ZTE contract violated. When we drafted, when we crafted the 7925 which, by the way, has to be amended already, updated – that was during terrible times for us. We de-monopolized and liberalized the environment, and privatized. A very important provision is probably something that you know already – Section 22. it was supposed to be a "catch 22" phrase and it's section 22; God made in section 22.

Here: the caption reads "privatization of existing networks". May I please have the right to read this, verbatim?

“The Department shall, within three years from effectivity of this Act, privatize all telecom facilities currently owned and/or operated by the government for public use, plus those facilities currently being planned under various bilateral funding arrangements. Unless otherwise authorized by law, privatization of telecom facilities, as well as construction of telephone infrastructure, shall be made through public bidding.”

That is already a separate line which should have fallen under another provision but they changed it. Before they passed it the legislative body changed it, and put together with privatization – just to show you how important it was. It was de-monopolization, liberalization which were very difficult to do because PLDT has a very powerful lobby.

But we did it, and a very important thing was privatization. The whole world was going that way. India was starting to privatize because they had a government telecom network. They created a regulatory body. The ITU – that was the way to go and we were one of the first to do it. And then now, one after the other we have violations; it is painful. That is another national shame. Not as overwhelming as a stolen thing – I still cannot get over that, you know.

But anyway, that’s Section 22. it was meant to be a catch 22.

ASEC. FORMOSO: Let me try to answer that. That is a legal matter, Ma’m.

SECRETARY LICHAUCO: I’m a lawyer.

ASEC. FORMOSO: I’m unwilling to debate with you, but my reading of the section has to do with government telecom facilities for public use. That 7925 was meant to create competition in the private sector; it could not have been meant to prohibit government from setting up its own network for its own communication requirements. I think that’s where we disagree.

SECRETARY LICHAUCO: I admit that – maybe for public use, the way it is put here now. But this kind of broadband infrastructure project, at US\$333 million (that’s about P16 billion) is just too much. It’s something that the existing networks – because from the time that we de-monopolized and that we started the first department order (it’s 7-188) issued during the time of Cory Aquino. But before we could really formalize it, we asked President Ramos if we could now institute the other, and then the law which formalized it came. This was rather late because it was still in 87.

What I’m trying to say is that we started the NTP with the intention to privatize it. And I’m on your side on the fact that it’s difficult to privatize. So never mind that provision, as the DOTC now cannot be guilty of privatization, maybe, of the existing facilities. And the horrible *Telepono sa Barangay* – the remnants of it are still there. You cannot privatize that. Nobody will take it because it’s in the rural areas. Everybody who is bidding wants these things for profit.

But don’t go into another situation where you will spend this kind of money, only to save, I understand, P4 billion worth of telecom, cell phone, calls, and telecommunications used by government officials, rank and file, etc. To say does not make mathematical sense; it is indefensible.

So when you first said “I plead the Fifth Amendment”, I was really on your side on the Fifth Amendment because it was really impossible to defend it; it’s indefensible, no matter how you put it. That kind of money – the taxpayers – and now I just found out that the rate of interest is 3 percent. My goodness, we need a copy of the loan agreement and the diplomatic notes. So go ahead, sorry.

ASEC. FORMOSO: Let me ... mahina ang kalaban ... let me try to answer the point on the P4 billion. You have to understand that this is not just cost substitution, but additional capacity. If government is supposed to have the kind of communication system it has to have, expenditures would be more than P4 billion. So if you net the present value of the loan repayments, including interest, together with the amount of money we’re spending now, even if you add in your ONM on an annual basis, from a net present value calculation analysis this project could still make economic sense.

MR. BONDOC: Sir, you wanted to save p4 billion, is it? And that you will sink in p16 billion, and then ..

ASEC. FORMOSO: P4 Billion is money you spend annually. I’m not an economist, but there’s such a thing as present net value calculation

MR. BONDOC: Yes, you wanted to save p4 billion so you’ll sink in p16 billion ..

ASEC. FORMOSO: Perhaps ... I’m not an economist, but there’s such a thing as present net value calculation

SECRETARY LEUNG: Let me try to interpret the lawyer’s explanation of economic choice. The question raised by Counsel Lichauco is how did the P5.4 billion move up to a P350 million?. The answer of counter-counsel is “increased capacity”. So just leave it at that – that’s the question of increased capacity – and don’t try to throw in present value subjects now, because you do not want to complicate your life. Leave it there and let us try to understand what are the incremental costs for capital, for capacity increase.

But after having said that, let me address the point made by my very good friend Josie, who always provokes me. The legal issue she cited emanated from very strong economic considerations. We came out of a Marcos period where common intervention was all over the place directly, as well as guarantees, and all that kind of thing, and the republic was going to the dogs. And that’s why there was that revolt. We don’t want to see that revolt happen again, but then actions are leading to that.

What happened during the Marcos period? Government entered many things, under the guise that “it is the best for the republic”. It enriched the cronies, and all that. So when the change of government came, the vengeance of changing policy was very strong – privatization, dismantle monopolies. So even the area of ports were opened up to private entry; much less communications.

We don’t know how all of a sudden, this policy of private sector competing and being rewarded by the market at better way – which is being followed by the rest of the world, or we are following the rest of the world – has all of a sudden changed to the government being in a better position to do things. Already, I think Peter has already mentioned about the competencies, particularly in the Philippines, of civil servants running public enterprise. And we in the Department of Finance have been suffering

like hell, picking up all the mess when all these publicly run corporations were thrown to us. And we see this coming out again.

At the end of the day, it's every taxpayer as well as every one who deserves to have support by government who will suffer because the resources that should have gone to education and social welfare to help the poor, would be used to pay up all these inefficiencies that have come around.

Your ability to justify the economic clause up to P350 billion is a big question mark. No way can I understand how something that is about P4 billion for, I dunno, conceived services, will require a capacity that will jump it nearly to P20 billion. As an investor I will never do that – to spend about P20 billion to generate P4 billion of business. Anyway, you should have your head examined – whoever thinks of that.

So the only consideration we see now is a repetition of the Marcos period. There are opportunities to take some money here for nothing – reward for certain favors done. I think if you want to be transparent, put out the names. We have heard even the Comelec is involved in this. We have heard people in the DOTC are involved in this. Maybe people in the press can tell me these things because I don't have the facts. But these are the things that should be brought out to light so that we don't repeat the same mistakes and bring us back to perfidy. Thank you.

DIRECTOR TARUC: I want to set the record a little bit straighter for my good friend, Atty. Formoso. For your comfort, I am Lito Taruc. I'm a Director with the Board of Investments; I've been in the service since 1980. So I assure you, I know where I'll be speaking from.

It's very seldom that you will be treated to Secretary Josie Lichauco, Secretary Ernest Leung, Mr. Peter Wallace in one venue. Plus Mr. Jarius Bondoc. So I'm telling you this is a high power gathering.

What I would like to suggest is that there is a truism – sometimes it's very hard to differentiate what is apparent from what is real. And I don't envy you your job.

Now, I'd like to set the record straight by putting the e-commerce law of the Philippines passed away during the term of Secretary Mar Roxas in the DTI. That mandated government by 2002 to get into e-commerce; lead the way for government to achieve at least, if not full, the passable operations that could allow clients to make their transactions online.

So we're going back to the year 2000 to project what capabilities we need to improve or add up to the government. And certainly, the reason why the Board of Investments tried to encourage private businesses to get strongly into telecommunications just to enable this e-commerce act to take off. And admittedly at that point in time, government did not have the resources to do it. And I believe that up to now, we do not have the resources to do it.

And although the loan that is promised by that contract is supposed to be very attractive, it's a tied loan and from my ICC days, it's among the last of the resources options that we will have to consider. It is tied, and when it is tied, all of our options would be with

the lender. So as much as possible – I don't know if there was a great change from that time to this time.

Now, the bottom line is with e-commerce alone as the baseline, probably this is a benchmark that we could use to have this national broadband project.

So, I don't know what changes happened, but then the added economic advantage you said earlier of getting into this is we will be able to get concessional rates from the service providers. I dunno whether the service providers are represented here, if they can validate this statement that with government account coming in, we don't need a project such as this to turn the favor on our side. Definitely they will give us the concessional rates because government is a big chunk of clientele.

So ang punto ay bakit tayo kailangang gumastos ng ganyan kalaki for us to be able to save P4 billion on government telecom services? Then again, para tayo makakuha ng concessional rates from the service providers.

So with that as a viewing lens, probably your job would be easier. And as I close I repeat, I don't envy you your job. Thank you.

MR. WALLACE: I'd like to go back to my original question. If we had the way it should be, the contracts would never have been lost or stolen because they've been our contracts. Private sector can do this, and I would like to know, we would like to know why it is that the government feels it must spend US\$330 billion, when it can spend almost nothing on capital equipment, capital expense, or anything eels, and just lease space on the existing systems? You mentioned in your presentation that with your own system you can have wholesale pricing – it's much cheaper.

I can virtually show you now in these companies, if you go out for public bidding today, that the price competition to get your business would be so intense that the costs you'll pay would be very small. Cost-wise, I don't think there is any question that leasing from the private sector would be far more beneficial than what you're trying to do, let alone the other factors that I have raised already.

The only negative that I could see – you might argue – is security of the system, access into government records, etc. I believe that can be well-protected. Even if you have your own system, you can hack into it anyway, if you're clever enough so I don't think that would be sufficient argument.

So I come to what I think really is the basic question diverted by the loss of the contracts. The basic question is: why is government doing something that the private sector is already doing that the government could use?

ASEC. FORMOSO: I think it all goes back to the question of additional capacity, as well as the net present value calculation that I was trying to present awhile ago. If the capacity that will be brought in by the system, if all the government agencies would have their BPNs that would result from the system, and then you start paying the government from the private sector, then it would be a multiple of the P4 billion that we're paying now because when I stated to you awhile ago, the P4 billion, Sir, covers only landlines that we have, some DSL lines, some leased lines, and then of course mobile phones – no data networks, no data capacity. That is already P4 billion.

So if you contract out , for example one department would have its own BPN, and then multiply that by the number of BPNs you need to have so that all your government agencies would have their own BPNs, and consolidate it in one major BPN, the amount of money you would spend would be a multiple of fours. It wouldn't be 4; your expenses on an annual basis would not stay at P4 billion. It would shoot up if you have the capacity that you want and that you can have, based on the network design that you will have.

So if you then calculate your net present value of what you will spend, you will spent P300... But that's not a one-time ... you have to amortize it. And the annual expense, let's say over a 5-year or 10-year operating period, you will easily end up spending P40-80 billion. Now, if we net value calculate that to the present, and compare it to the amount of money we have to pay in interest, etc, and add that to the loan amount – you will still be ahead.

MR. WALLACE: If I were doing a contract of this size and this complexity, I will have an intensive study done looking at all the possible options and the best costing of them. I am not aware that such a study is done but this is a major thing. You say this is not a spur of the moment; that it was Medium Term Development Plan. But I study this stuff all the time and I follow what's going on, and there is nothing I have seen to say that a study was done to say “is it best for the government to spend all this money itself and put it in place, or is it better to go leasing it out to the private sector”?

I haven't seen any approach to private sector to say “give us a bid on this; what would the cost to do it if you did it for us?” You talk about the P4 billion as just being part of it but you've never asked these people what would they charge you for the full system.

And I think you can't just go into something of this magnitude, and it is spur of the moment. I don't think any of us have heard of this before until it sort of suddenly appeared in China. And certainly there were two companies – I think which is the reason why the American Ambassador stood up very strongly, which is very unusual - on this issue.

It's a a questionable deal that I think needs much better explanation, and if you read Mr. Bondoc's columns (as I certainly do), the reputation of ZTE is not what you have said it was. He today exposes ZTE as a very questionable company and that worries me a lot too. And I'd like to have that answered.

But stick, please, first to the one of why isn't the government using the private sector, or why haven't they looked at and approached it as an alternative option before going into this question.

ASEC. FORMOSO: Mr. Wallace, as I already stated awhile ago, we “did the math”, so to speak. In fact when I was still with CICT, we made initial contacts with the carriers to get them to provide the services. PLDT, for one, has the IP centracks solution which is equivalent to a BPN-type of arrangement. Yet the cost is double that of a regular landline, and it doesn't have DSL capability, so we'll have to spend extra for that as well.

So that's just a micro-case, but if you can extrapolate all of that into your analysis, then the number starts ticking out to you – that in order to get the capacity that the NBN will have and pay the private carriers to do it, it will be a huge number.

ATTY. SANTOS: You have said you have done the math, and you have computed the net present value and it says to you that paying US\$330 million is good for the government, good for us. But there is a private company – Amsterdam Holdings -that has proposed to do this for the government, to undertake this, to build the network and maintain it, over time, at no cost to government. I think any net present value you compute, compared the zero cost, zero cost wins any time, hands down.

And to answer several points that you mentioned in your powerpoint presentation: you said that Amsterdam Holdings has no technical capability. We have not track record to speak of – I respectfully disagree. Our technical partner who would not deal with us if we were a fly-by-night company, as has been insinuated before, WAWEI is the second largest telecoms supplier in the world and it is operating in the Philippines already. In fact it has, I believe, about 1,500 operating sites already, compared to one-tenth of that that ZTE is already operating in the Philippines.

You did say also that what we were offering was predominantly mobile and with limited resources. We're both lawyers; we should not argue on the technical point of what our coverage is supposed to be, but suffice it to say that we do cover 100 percent of government offices, chartered cities, first and second class municipalities.

You did say that we have limited paid-up capital, but I think any prudent investor will not commit our project cost which we will be undertaking on our own – which is US\$240 million. I don't think any prudent investor would put that in as paid up capital just like that, to bid for a project, and then to have that money sitting in the bank, waiting for government to decide whether it will, or it will not, get the project.

But as you know, with any bidding there is a bid security. There are procedures to ensure that at the end of the day we will live to our commitment to pursue tot project, should it be awarded to us.

You also said that we have no firm commitments from equity or debt investors. I mentioned we have a Memorandum of Understanding with our technical partner, WAWEI, and we do have several investors, although with non-disclosure agreements , who are committed to this project, should this project be awarded to us.

ASEC. FORMOSO: It's a good thing that you came in because this is something that I know a lot about. It's quite very convenient that you have non-disclosure agreements with your investors. But assuming that we would go through BOT law, one of the primary tasks of the proponent agency would be to determine the capability of the proponent., and the only it can do that is through documentary evidence – technical and financial, You haven't submitted a joint venture or a cooperation agreement with your claimed partner WAWEI. Nor have you indicated to us any firm commitments from investors. So how, then, can we evaluate your capability to handle the project?

And one thing more that you might also want to find out is that one of the other proponents for a broadband network is also partnering with WAWEI. Nextel submitted a

proposal and their partner is WAWEI as well, so namamangka sa dalawang ilog yung WAWEI mo so you better clarify that with them.

And then going back to your service rate, you were saying that we won't spend anything. But you will be the first one to admit that there's no such thing as a "free lunch". Okay? So you will be charging government, and your stated spiel is that you will give us 25 percent discount.

With your bet-to-equity ratio of 10:1 (because that's what you're submitting: you'll borrow P10 billion, you'll put in P1 billion equity), between your debt servicing and your ONM, how can you then afford to give government a 25 percent discount? Where will you get the subsidy? From your private operations. Given the price competition in the private market, where will you get the buffer to subsidize government service?

So it's the other way around. I haven't heard of the private sector subsidizing the government. In all these BOT schemes, it's always been the government who has ended up subsidizing the BOT operator.

And then the fact that you will be using CDMA - in fact your proposal says you will set up mobile stations and additional field base stations – that means that you're designing a mobile network. Government is not interested in the mobile network because it is already being serviced properly by the private sector. SMART, Sun and Globe are already there. Why would we want to set up another cellular system, leveraging it on the government contract?

So it doesn't even matter to us that we would get the 25 percent discount because it's not the type of service that we want. How can you have a BPN is you are setting up a mobile network?

ATTY. SANTOS: Okay. You said that you could not evaluate us because we did not submit certain documents. My understanding is that we have submitted everything. We have submitted in December 5, 2006 and in the early part of January. Representatives of AHI have been in contact with the DOTC at least in the earlier part of this, and as far as we know, we have submitted everything that DOTC has asked us to submit.

And even then, under the rules, under the IRR, once we submit, you are supposed to tell us if we lack certain things. It says so in the rules. But you never said to us that we did not submit anything; we had to write you some time in March to say that it has been some time since we submitted. There has been no action. We asked for an evaluation. The only thing we got was a letter that said, which quoted the rules without specifying exactly what we did not submit.

We have a problem with that because you never told us that there were any deficiencies in our submissions, only to get it late in the day and at a time when we were already in talks with another proponent. It was like we were being deliberately delayed to favor another proponent.

ASEC. FORMOSO: A proponent must have a certain sophistication. You need to have a familiarity with the BOT law. Now, if you cannot comply with the simple requirement as spelled out by the BOT law, then you cannot come around complaining that we did not

tell you so. Now, how can we evaluate your proposal when you don't show us where you will get the money, for example. I'll make it as simple as that.

ATTY. SANTOS: I think our submissions speak for themselves. They are with you, and we beg to disagree that they are not complete.

SECRETARY LICHAUCO: yah, but did you specify where you were going to get the money?

ATTY. SANTOS: I think it was specified in the proposal.

SECRETARY LICHAUCO: The Department, on the other hand, as far as I know during my time, you were supposed to tell them, being the only one. ZTE is not a BOT.

ASEC. FORMOSO: No, it's not.

SECRETARY LICHAUCO: Didn't you, at least, get excited that "Oh, my God, we're not going to spend money here! It's going to be a ..."

ATTY. SANTOS: It was a 'free lunch'

ASEC. FORMOSO: But it wasn't

SECRETARY LICHAUCO: It was not a 'free lunch'; you don't use that word in ...

ASEC. FORMOSO: That's the problem, Ma'm. It does not jive with the requirements of government. We don't need a mobile network. We don't need mobile services because there's already enough mobile services. They were setting up a CDMA system – that's mobile. So I don't know why we should get excited about that.

(BLANK)

MR. RV DECERA: What happened today is like being involved in a spy thriller . I was just watching 24 last night and hearing Bidol and hearing the word 'stolen', with the Comelec's Bidol and everything - all these things come back to my mind. So I'm not sure if the spy thriller is true, or not. The next thing is that the amount for the contract is almost as much as the PIATTCO case, which has become a failure.

I agree with Director Taruc that the options have not been explicitly laid down on the table. If this is a BOT contract, was it solicited? Unsolicited? Weren't there any options for bidding? Why choose a tied loan all at once - was it a policy decision? Who made the decision; on what basis was the decision made that it should be a tied loan – nothing else? And Secretary Lichauco was talking about regulatory capture, which Secretary has been rallying again.

I'm with the Congressional Planning and Budget Office. Perhaps it's time that we, at least, try to rectify whatever we can at this stage and make it a learning experience. First – do we learn anything from the ZTE contract while they are amending the BOT law? Perhaps at this point in time, you can tell us what learning experience could we make, considering that NEDA is trying to amend the BOT law.

I have made the point that there should be full disclosure, and I am commending Ateneo and EPRA for actually pushing for the Freedom of Information Act. The reason why all of this is happening is because there was no disclosure, even of a draft contract, by government even before you asked ZTE or any other. There was no document which says “this is what government needs; this is the bid that we want” – no such thing. Our proposal is to push for the Freedom of Information Act of EPRA and Ateneo.

Plus the fact that in the BOT law, I already made these proposals during the BOT amendments – that government should, at the very least, present a draft contract upon which all bidders are basing their decisions. That has not happened.

Second – with respect to regulatory capture, Secretary Lichauco could help us, the Congress Secretariat, in looking at the effective way to combat regulatory capture, especially with this case. I know, sometimes a lot of people don’t trust Congress in this case, but I assure you that the Secretariat is trying its best to push for reforms in the DOTC.

So perhaps, at this stage it is best that we look at what we can learn from the ZTE contract. If there are anomalies that are exposed, could this contract still be ... I mean, like the PIATTCO case ... would it end up like the PIATTCO case? Perhaps these are some of the things that need answers.

ASEC. FORMOSO: In the first place, this is not a BOT project, Sir. It’s a government-to-government project.

SECRETARY LICHAUCO: It’s not a government-to-government contract; there’s not such thing.

ASEC. FORMOSO: It’s a government-to-government transaction.

MR. DECERA: So ZTE is a private contractor, so it’s a government-private sector contract.

ASEC. FORMOSO: It’s nominated by the People’s Republic of China. As part of the loan agreement, the People’s Republic of China nominated ZTE Corporation to be the main contractor.

SECRETARY LICHAUCO: So it’s a government corporation, majority owned? Nevertheless. There is no such thing as a government to government contract.

(MODERATOR: The Assistant Secretary is requesting a 5-minute break)...

ASEC. FORMOSO: Don’t worry, I’ll be back (laughter)

SECRETARY LICHAUCO: no, somebody said ... and he said ... it was Mr. Wallace, no, and then he said “you said it”. Maybe they feel that it was stolen, or you’re going to be framed. You don’t know. No, no, no, you’re denying it right now.

ATTY. SANTOS: Categorically!

SECRETARY LICHAUCO: This is a cloak-and-dagger arrangement. Suppose they pin it on you, on AHI

ATTY. SANTOS: As much as everybody else, we wanted to see what's in that contract, why it was them over us.

SECRETARY LICHAUCO: No, government, today, concocts a lot of stories. We have never seen anything like this – from the time of Garci and Bolante, and all that. I don't know. So, you will be the culprit.

ATTY. SANTOS: Yah, I know

SECRETARY LICHAUCO: You stole the contract

(laughter)

(MODERATOR: Okay, now we do need a 5-minute break, so we resume at 2 o'clock.)

(SESSION GOES ON A SHORT BREAK)

ASEC. FORMOSO: ... ask some more questions, so

MR. GEORGE SY: Good afternoon ho. I'm representing PCCI and a number of business organizations – basically all the major business organizations in the country. Makati Business Club ... I don't represent the others, but I'm a member but our position is aligned; that this transaction is, apart from the legalities, is totally inappropriate for our needs. And I want to say that the PCCI has an official paper out. Our position is that we are willing to help go through the analysis from the technical and the financial side. And I think the business organizations and various organizations are willing to do this, in order for us to come out with what needs to happen.

And the directions set – it says that having in mind the need to improve our ... the vision of computerizing and creating a national communication network between government agencies, educational institutions, and other entities as clearly positive and very important initiative. And it would have a wide-ranging effect on efficiency, transparency and development of the whole country and all sectors.

We leave the process to the lawyers, but on the technical side, there really is absolutely no need for a second one, whether for security reasons otherwise. First of all, even going beyond the technical side of the broadband backbone which, actually by the way, is being set up in various countries now in wireless forms. That means your last mile is in wireless forms, and your security does not have to do with your hardware. It can be done through software.

But if we go through agency-by-agency, department-by-department, and knowing how to implement (because we are in the operations of technology - hardware and software), and I want to say that I know people from both companies. WAWEI and ZTE are both very technically capable companies, but they are not in the business of doing this.

If you go through the Registry of Deeds, we could point out that every technical project initiated by government has failed. There is not one that has succeeded. It does not

matter if it's the municipal telephones; it does not matter if it's the Garments – Textile Exports Board; it does not matter if it is the educational systems that the NCC put up (NCC – the National Computer Center) is not working. There's not one technical system put up, and even those that are working halfway.

The issues are: we want the government agencies to communicate with each other. The extent and scope of communications right now is of limited number of nature. One is you have text; then you have pictures; and you might, to some extent, have videos. These can be performed by existing networks at a far lower cost, without any capital cost to the country. Zero cost because all these, you and I are doing through U-tube, sending attachments, sending pictures. There is no government application that requires a high capacity broadband that is being envisioned. Satellite and optic fiber cables are the most expensive form. Right now, in fact, the new forms that are being instituted are dropping in price to the tune of one half, every three years.

If we are going to put up any applications for any of the agencies, let us put them up first, and then create the backbone. The backbone, actually, we no longer need. If we're talking text, every agency the biggest applications – let's say the title system – until today, you go to any Registry of Deeds, it is being typed by hand. They don't even have computers; they don't even have printers. It is typed by hand. They make a mistake, you go back and pay another hundred pesos; they retype it for you. They refuse to clean this act.

Customs – the Textile Millers Association two times offered to donate a computer. Both times the computers got damaged. GTEB – the systems – they refuse to use the modern computers. They still use the system where you need to have the cards or taped data.

We don't even have standards for telecommunications or the software. That means if the GSIS wants to talk with SSS, or wants to talk with Landbank, we not only do not have the software that are compatible with each other. The communications protocols are such that they cannot communicate with each other. We have not set the standards.

What for is the optic fiber cable network? And in fact this contract, we want to say, is not the only one that should be under question. Cyber education is an even bigger contract – US\$465 million. Is this the reason why we are raising taxes – so that we can borrow more?

But in fact, this has been the strategy of every President in this country who want to get money and spend it without having to put it in the budget. And that's why we're such in big debt. You raise taxes, then you are bankable, then go to the bank.

It is not the question if it is a soft loan, but actually, three percent is a commercial-level loan. It is not a subsidized loan, by today's rates. And they say that's because it's a soft loan. It doesn't matter. If we don't need it, we don't need it – regardless if it's a soft loan, discounted, or whatever.

And to set up those systems between agencies – in fact they have been told to – there has not been a single move to integrate the communications and databases of these

agencies. These agencies do not want to communicate (most of them), except maybe the NSO; there's a number that did.

Even the plan to put up information services between the municipalities, and so forth – none of it because they don't want to give out information, possible, that you have to pay for because you want to check it.

You talk about the DTI systems, the checking of the names and shareholders – is it available? It is not accessible to the public right now. None of it is. So what are we talking about? What will they send between each other? Documents – we are already sending attachments to each other. You want video? It can send video. We are downloading pirated movies and audios.

The only countries that need this kind of speed of broadband are those that are engaged in research, simulations of genetics, or military applications, or weather maps - which the Philippines is not in a position to do because these are very high speed simulations that would need a very high bandwidth. But the Philippines has none of this – zero. We don't even have planes that can fly. We don't have boats; we cannot monitor our borders.

So first, even beyond the legalities, we are saying if you define the functions the government needs, we will be willing to do it together with you, and I'm sure the gentlemen here. It doesn't have to be asked. So it's not whether it's government; it's not whether it's a soft loan; it's not whether the contract was proper or not. There is absolutely no need for this thing. It is not even security because the biggest companies in the world – even the US government – will use public networks, that is why the encoding and encryption systems were created.

So this is our position – that we really should review this. Let us not keep burdening our people. If you are going to your house, and those people are wondering whether they have the money left, they cannot send their children to school. Take cyber education – our children don't even have pencils and papers. They don't have books; they don't have tables. Are they going home and have laptops to have cyber education?

Let's not play with each other. Let's work together. Let's keep all these nonsense out of our country.

This is our position paper at PCCI. And even though I say this, some may deny it because some officers will keep it from getting out. But this is the official paper, approved by the Board, saying that we are against this. I Xeroxed a lot of copies. It got stolen because it was given to the media, and it was intercepted. And what came out in the media was totally different. But here it is – this is the official paper.

SECRETARY LICHAUCO: I just want to make a comment. I came in at the point you were saying that nothing worked in government, as far as any of the *techi*. No, you belong to another generation. How old are you? Below 50? That's not quite another generation. Sorry, you're old enough to be my nephew, but not my son. It's not another generation.

I just entered at that point where you said no government *techi* network has worked. Let me tell you about NTP1-1 / National Telecom Program I – 1 in Luzon; and the 1-2 and 1-

3. Bahala na kayo. The members of the DOTC should have tried to privatize it, you know, but NTP1-1 was such a successful one. That was the year when the biggest entry into the government coffers came from the privatization bid which Digitel won – very far from NPV (net present value). They bid at P40.3 billion, and you know, the Secretary at that time was Prado, who came from the Philippine Ports. Nobody wanted to accept the portfolio of DOTC at that time because Secretary Orbos was going to be Executive Secretary and was going to be part of the governance of DOTC. It was Prado. I had been asked, and I refused, and Prado took over. And he was saying that it was an irresponsible bid. “You have to declare it irresponsible”. Why should we declare it irresponsible? P40.3 billion is money!

But the thing is, they did not know how to operate it. You have to make a distinction because our plan was really to privatize. We built it because nobody wanted to build a digital backbone. That was the first digital backbone, so NTP1-1 was a successful one. What Digitel did – we don't know anymore. I think they've used it; it's part of their network, but to what extent? They've been defeated. Cellular telephoning came over; it should have come in sooner to our country.

You were already born in 1979, when they made this decision. You were already born, but this was such a successful one. I don't think many people know, but my friend Ernest should know about it. We put in P40.3 billion into the coffers of government at that time.

And the *Telepono sa Barangay* – I resigned because of that. Fourteen different contractors for the *telepono* in every barangay. Up to now, I don't know what has happened to it.

(CHANGE TO TAPE 2)

You saw all this – you saw the creation of DEO; you went through that; maybe it was your office that drafted the EO. You were told to draft it in that manner, I guess.

EO 289 that consolidated all – you were there in September, and that happened in May 2005. So somebody in the Telof - Telof is the former Butel, by the way, which is people-plenty; the bureaucracy is so thick) – but anyway, EO 26 was drafted during that time. It was a good EO but after that, they pulled back all the agencies (NTC, to start with), and started adding the word 'control', and Telof now, because you are going to operate.

But remember, Telof (former Butel) is only supposed to operate in the interim. They are supposed to privatize, and if they are going to enter into a contract as fabulous as this one, you know, they better justify it well. When there is another entity like Amsterdam Holdings submitting an unsolicited proposal where there is no money out, as against 'money plenty out' (you know, the fantastic amount in pesos) you're talking about the amount in dollars – it really bogs the mind.

And there are really quite a number of rumors, and since PCCI ... I don't know whose column it was (maybe it was Jarius Bondoc's column), where they said that it was a powerful Comelec official and the spouse of a top official – that, in all transparency, people in the DOTC know. They have to know. People in your level will know; you are in the thick of this.

But you know, since you already called it a 'national shame', what else can I do, except to point it out to members of media that are here? Really, who is this? Even by heresay, we are entitled to know, Mr. Bondoc. Who is this? This is no longer a publication; you will no longer be charged with libel, unless they print it. Who is this powerful Comelec official? Is it Abalos? I'm asking the question. And who is the spouse of the powerful government official?

PCCI, the powerful Makati Business Club – I think you should look into this. This is very bad; that's the reason it was rushed. In all honesty, that's the national shame. It was really rushed. And you are out of the running if you are not even able to give the source of funds because you're funding it. Amsterdam Holdings.

At least in my experience, what are the missing requirements of the proposal of Amsterdam Holdings? There's only one, because the others were supply contracts. I think you should have told them 'look, you better be certain, be specific about the source of funds and the technical requirements. You're showing a very good Chinese partner; give us the arrangement ..' which you have not done? You have submitted, but it was deficient. That's what I understand today.

But anyway, I think organizations like PCCI should find out because this thing is happening. It's a sick society that we have! It's so sick, so that everything is a national shame.

MR. DECERA: Maybe it's a question to be addressed also to Ernest because it's about the government loaning system (this is another loan), and maybe it's time we revisit PD 1177 because everything that the DoF does right now, for instance, is another loan like this that will have to pass through that system again. And we feel that Congress will be the one later on appropriating these funds, but because it is automatically appropriated, any loan that the Executive enters into is automatically appropriated. They're not answerable to Congress.

I would like 1177. Maybe you can help us by trying to bring out this issue, if not for the loans that we have already contracted, maybe for future loans as big as this. Maybe it's about time that before any big loan will be approved, it has to pass through some system of review that Congress will see so that future appropriations are going to be really automatically appropriated because it has passed through a more transparent process and it reached even that institution that is supposed to provide all the appropriations authorities. Just help us na lang siguro because we will probably coming out with papers on this. Thank you very much.

SECRETARY LEUNG: May I first apropos the question about the automatic appropriations. That has to be seen in conjunction with the Borrowing Act, and the Borrowing Act puts the responsibility on the Secretary of Finance to have an endorsement of the loan before it gets in to the incurring of it, which brings you into the automatic appropriations.

So it's not in the forefront of things. It is only in the end, so that when the creditor extends you a loan for a project which has been deemed priority because it has gone through the process, he is sure that he is going to get paid.

Insofar as PD11 is concerned, there is a bidding process, and this is where I would like to come back to the explanation of our good friend, Mr. Formoso. He is now a good friend. He tried explain the economic evaluation – the present value – and he quickly moved from a simple assessment of needs of the public sector (presumably) which comes out to about P4 billion in terms of telco bills – I presume that is the ...

And then he goes into the hypothetical of ... I don't know if it is all of government, or only national government, national government with local governments – we don't know. And the question now comes up: are they all in a position already to make use of such kinds of enabled communications capability?

Now, marry this with the observation from this young Turk from PCCI (I am just picking up the nephew concept of old guys like us), who says that the speed that you are trying to engage yourself into is at the level of defense. US, where the Philippines is somewhere, maybe, near it (about 1,000 years away). Why do we need such speed?

So if we were in government, we have gone through the whole process of asking every question that we're asking now. Through the ICC process, NEDA, and everybody else who will now way “why do you now buy a Cadillac when we can very well work with a simple, low fuel thing?” because the appetites are down there.

I think these are very crucial questions about the so-called economic justification, which we just got a big sweep. And Mr. Formoso, let me remind you that we came out of the Marcos period where all citizens of the republic have to carry all kinds of debts. We assume humongous liabilities - from public sector, from Central Bank, from every one of those parastatals. Let's hope you're not going to be an agent in the creation of such kinds of burdens for our children.

MR. SY: May I just point out that the level of debt we have now, that was incurred during this administration is almost equal to all presvious Presidents combined.

SECRETARY LEUNG: How much of that goes to public interest?

MR. SY: Let them answer.

ASEC. FORMOSO: If you look at our mandate (DOTC), we're not the DoF, we're not the NEDA, we're not there to look at the macro-economic situation. Whether we need to borrow a loan or raise it to taxes. I think those are DoF and NEDA decisions to make, not us.

Having said that, I'd like to go back to the situation where the PCCI is complaining about the speed. I don't know what speed they are complaining about. And this system has no fiber optic.

MR. SY: But whatever it is, there is no application that is being envisioned that we need another system than what we have now. In fact the current systems we are years away from using because the protocols between and the computers between the government agencies – only a few of which are computerized – to transmit data between one another cannot communicate with each other.

ASEC. FORMOSO: Then that is the whole point of this project, Sir. There's such a term as "enterprise architecture". It's just a fancy way of calling a decision process whereby you try to align your missions with your IT resources. The reason they cannot talk to each other is that they have no way of talking to each other.

I fully understand, coming from CICT, that we have a problem with procurement of IT resources because each agency wants to do what it wants. So the necessary first step to having even the remotest kind of system architecture - or enterprise architecture in this government - is to have a common pipeline so that lahat dadaan doon.

Now you're talking about applications; I'm sure you've heard of VoIP (Voice Over Internet Protocol), right. That's a data application. It just so happens that it is voice - so telepono yon. So, instead of having landlines that are voice-only, you will have multi-purpose lines that are both data and voice' voice in the form of It packets.

So it's important for everybody to realize that we're talking about next generation networks here; it's no longer circuit-based. There's a more efficient way of using bandwidth now, which is internet protocol. All of the data na kailangang padaanin dun are broken down into packets and labeled accordingly, so it arrives wherever it should arrive - that's why you have IP addresses. So once you have the system, all you need is an internet phone. You call - dadaan sa pipe yan, then you can get it from the other line.

It's important for this: to have common points of interconnection with the telcos. The reason why VoIP doesn't work is because the telcos to make it difficult for you to interconnect, although that is already mandated by the NTC.

I'm talking only about VoIP interconnection. They are saying kasi na value-added yon, so hindi covered by the original interconnection laws.

So in the speed you're looking at, you're talking about capacity. It's 155 MBPS - that's 1 STM. But the whole point of that is so you can retail that STM to whoever needs to use it. Right now kasi, retail tayo. If we need broadband, we get DSL. For those that are more forward-looking, they get E1s. Pero not all of them can use ... the E1s they get are medyo hindi rin gamit lahat yon, kasi the E1s we have are not true E1s; may kulang yon, e. Somebody explained that to me.

So once you get an STM, then you can ... kasi ho, not all government need access to the internet. They need access within the network, that's why I'm more ... mas gusto kong tawagin itong intranet, e, kasi 'internet' creates the wrong impression. Internet protocols are just the way you handle the flow of traffic.

For example now, ako, naka DSL ako, PLDT, so it goes out to the internet cloud. All my communications, lalabas lahat yan sa internet cloud. It goes to the internet cloud where anybody can intercept that. Given the right encryption/decryption technology, ang daling kunin yan.

What we'd like to do is make it a loop. Kung kailangan lang natin mag-usap lang yung mga government offices or file transfer, why do you need to bring it out to the internet cloud, where anybody and everybody can pick it up, when you can keep it within a loop? It's not even fiber optic. All we're doing is setting up IP-capable radios using the old

facilities of NTP1-2 and 1-3, because the most significant portion of any communication project is civil works. Nandun na ho yung mga buildings, e – the buildings, the towers, the access roads, back-up power, air conditioning - all of it nandun na. Ang wala na lang ho tayo sa sa Luzon, that's why we have to build sa Luzon kasi na-privatize, e.

And then the next step to all of this is to comply with 7925 directly. If this is online, we'll have to let go of our private subscribers kasi yun ho ang kuwan ng batas, e. the only reason we're keeping those private subscribers is we cannot mothball the existing equipment. Sayang, e, so we have to keep kung ano pa ... especially in Mindanao, we have about 20,000 subscribers. But PLDT and the other carriers have already begun discussions with us that they are willing to take those, kasi hindi lang po sa rural areas yon. We have exchanges in Cagayan de Oro and Davao. Medyo malaki ho ang traffic dun, including NDD, IDD. So all of those will be privatized when we transition Telof into a pure government service provider.

So magiging kliyente na lang naming will be government. So yung sinasabi hong it's a system that's build for military space – it's not even close. We're not talking exobytes here; maliliit lang ho yan.

ATTY. LORENZ TANADA: I actually have just a couple of questions. One is whether or not I'm correct in my understanding that what you are trying to convey to us is that the ZTE project, as proposed, is different - meaning to say it's not apples-to-apples with the other project proponents' proposals.

Number two, on the more technical side of your presentation, you made mention of VoIP infrastructure and the wi-max last mile. On the VoIP infrastructure, I just wanted to know if the interconnections are going to be negotiated directly with existing PSTNs, or it will be a pure VoIP play for the national government?

And on the wi-max portion, I wanted to find out what sort of frequencies the government is eyeing for this, because as has already been pointed out, frequencies are a precious natural resource, and that is why as a player ourselves, we are aware that frequencies are very scarce and it's difficult for us to secure frequencies already, as it is.

Thank you, your honor.

ASEC. FORMOSO: Obviously we will need to interconnect, because there's no point having a VoIP system kung ikaw-ikaw lang ang nag-uusap. Most of the people who will be trying to call government for services will either have a cellphone or a landline. So we'll have to negotiate interconnection agreements with these carriers. Pero since selected nga ang points of interconnection mo, mas madali na yon.

Secondly, one of the issues that we will need to iron out, since we are a terminating network already, do the mobile carriers and the landlines need to pay us access fees? That's another source of revenue that we can probably have, but it depends on how it works out. Since we're a network, they're calling to us, they're terminating with us, under the law may mga kailangan na access charge.

As to the frequency, hulihin ko na lang yung difference, ano, nung tatlo kasi mas mahaba yon. The wi-max equipment nowadays are flexible, are nimble enough that they can play between the 2.4, 2.5, as well as 3.3 to 3.6. and we've been assured that

there's enough, although hindi uniform, hindi across. You have to understand that the configuration is on a per-regional basis, so you can re-use frequencies. Puwedeng ibang frequency sa Region 1, puwedeng ibang frequency sa Region 2, region 3, and so on. Yung sophisticated enough para puwede kang mag-iba-iba ng frequency.

But your back hall, which is microwave pa rin, is 8.8-10. Okay lang yon; macro lang naman yun. Yung last mile ang kailangan mo ng either 2.4 or 3.3.

ATTY. TANADA: Will you leave something for us, your honor? (laughter)

ASEC. FORMOSO: So that everybody will get a 'flavor' of how different the three proposals are in terms of coverage and equipment, let's start with AHI – 87 base stations; 500 cell sites. So from that alone you can see that it's a mobile network. Although Qualcomm is claiming that their CDMA 2000, two years from now, will be able to do fixed, present stage is mobile cannot do fixed. Basically the fixed mobile convergence is not here yet, so huwag kayong umasa na puwedeng pang ... If it's a mobile station, pang mobile yan. No cell phone units; no VoIP terminals; 25 percent discount supposedly, but given their debt-to-equity ratio of 10:1, and the need for them to compete in the private sector, saan sila kukuha ng pang-subsidize?

So that's ... I dunno ... do the math.

Arescom – 21 base stations; 83 customer-premise equipment; satellite central hub. So 21 base stations – 21 sites lang yan; it's not even two regions. So in terms of coverage, walang-wala yon. They keep on saying na P135 million lang yan, except you're buying much, much, much less. In fact if you do it on a per equipment, per site basis, and pinakamahal yung Arescom - yung kino-complain ng US Embassy. In fact, I kidded a person from the US Embassy. Sabi ko, "you're lobbying for Arescom – a US company that will be using Chinese technology, while ZTE is a Chinese company using US technology and equipment." Kasi yung gagamitin po nilang mga OEM are the well-known OEMs.

Now, we go to ZTE. They start up with 145 repeater stations – that's your backbone; microwave. Then you have 300 base stations na wi-max – yan yung mga last mile mo. For line of site – theoretically 30 kilometers; for non-life site, you're talking anywhere from 15 to 5.so mag-cluster ka lang nyan, covered mo na lahat. They will provide 25,000 customer-premise equipment, together with VoIP terminals.

And here is where the system architecture I am talking about comes into play. We will set up a data center where you can load up. A data center is basically in server form. Doon mo lahat ilagay yung servers mo; dun mo ikarga lahat yung applications mo. That will also function as your network operating center because all of this equipment are remote-sensing na. That's a good thing about IT-based – madali na pong i-monitor yung sistema mo.

And then there's a mirror site in Cebu, just in case that IDC here in Manila is either attacked, bogs down, or gets corrupted, or whatever. Seamless ho yung pag-(pasensya na, Ilocano ho kasi ako, hindi ako masyadong mag-Tagalog) the transition or the switch to the back-up will be instantaneous. Walang loss of service as well as loss of packets, kasi importante sa VoIP, for example, na you are only allowed to lose certain packets, or else garbled na yung conversation.

Another benefit you will have - since we will have a VoIP system, then government can negotiate with VoIP IDD providers. Internet VoIP IDD rates now are dropping down like rocks. It's .01, .02, depending on how many minutes you agree to take on or commit.

So those are additional savings pero hindi ko na lang minention yun kasi it becomes too technical. I guess that's it.

ATTY. TANADA: Follow-up question. What we understand, then, is that the different projects espoused by the other proponents are really not as close as the ZTE proposal. Kung baga the needs that the government foresees can only be served by the ZTE proposal, and not by those of the other proponents.

ASEC. FORMOSO: That's what I've been trying to say for quite some time now, although mostly to myself. Arescom, for example, wants to use satellite technology. They want to use Chinasat, which has a lifetime of about three more years. After that, what happens? If that satellite comes down and nobody substitutes it in the orbital slot, that communications system is done, unless they switch to another with the same footprint over the Philippines. In which case they would have to pay a lot more because you are basically buying on demand.

The Amsterdam Holdings proposal involves mobile. We don't need mobile; there's enough from Globe, Smart and Sun. And it appears, from what I hear from the NTC, that there are other players coming in, especially in the 3G market, that will roll out their own mobile networks.

So I don't need a mobile network. Although I can use my network, once it is up, to aggregate my demand and use the leverage of the interconnection to get some wholesale rates – who knows?

MR. JOHN AVILA: I'm John Avila from USAID. I will not talk about the US Embassy position because I'm from a different branch of the US mission.

USAID, and much of the donor community as well, supports many projects with the Philippine government in interconnection. USAID, in particular, has a project with DTI; we're doing a big project with the Bureau of Customs on national single window which will link up Customs with many other agencies on trade facilitation.

I can't understand from the NBN how will this other projects phase in to the NBN. Are they deemed redundant, or the NBN is purely an intra... it's just a communications ... or so

ASEC. FORMOSO: It's a pipe. The best way to describe it, Sir, is it's a pipeline, it's a pipe because for example, DOTC is not in a position to dictate what the Bureau of Customs systems should be. So each of the agencies will still have to do their own systems. But what they will have to use will be if they need internet or intranet access, then they'll have to use the NBN.

For example your software that makes the single window work that we have to indicate all of this ...

MR. AVILA: But the single window, for example, in the request of the Bureau of Customs is not just software. There will be a server. The request of DTI in one other project is also a server. And you mentioned that there will be a single ITC where it will be single server for the entire government operations. So there might be some redundancies.

ASEC. FORMOSO: Well, there may be some ITC redundancies but that's precisely why we have this. If this were in place prior to your design of that facility or single window, you might just have to be able to avoid your costs associated with your data sender, as well as costs associated with some of your linkages.

MR. AVILA: So do we wait?

ASEC. FORMOSO: No, go ahead. I don't know when this will ...

MR. AVILA: Because that's a lot of donor money, so if there're this loan already being facilitated, then that money can be channeled to another development project.

ASEC. FORMOSO: What I would advise you is to get the appropriate software. This is application-neutral so bahala kayo kung anong application ang gusto niyong ikarga. You still have to design your own systems but maybe it's good for you to take into consideration the presence of the data centers, as well as your connectivity.

FEMALE PARTICIPANT: My understanding is that the contract has been signed. So it's a "go", unless somebody brings it to the courts

ASEC. FORMOSO: That question was related to the question of the SIR, the IDC. So what they did was to postpone. But my suggestion was perhaps they should go ahead with the planning, but take into account that this will be up at some future point in time.

What I am not about to say is to tell this will be up by December, and they can plan accordingly, and then it's not ready. So what I'm telling them to make sure that your work plan is in accordance to what their requirements are, not schedules.

FEMALE PARTICIPANT: So what is the stage now? It's been signed, perfected? So it's a "go", unless somebody brings it to the courts.

FEMALE PARTICIPANT: So useless ba ang position ng PCCI at this point?

ASEC. FORMOSO: No position is useless; it's good for government to know what everybody else is thinking. But as to whether it will derail this project is a different story. So I'm not prepared to say it's useless. I am just saying it may not impact

DR. RECIDÉ: I like to apologize because I came in late, and not only that. I think when the whole controversy broke out, I was out of the country. I do have a few questions, based on what I've heard today.

First of all, I'd like to know how was the project conceived – was it solicited by government? ... it's answered ... but then this is not a BOT project.

And then I'd also like to know what the NEDA ICC ... how did this go through?

I also like to know among the NEDA ICC, is it only the DOTC that is defending this project, or has the entire NEDA Board internalized the benefits to the extent that they are also ready to stake their reputation?

ASEC. FORMOSO: During the ICC process, it's DOTC who has to defend it kasi kami yung project proponent. All the other Secretaries will "sit in judgement", so to speak. But the only way the project proposal will ever go up to the NEDA Board is if the NEDA ICC agrees that it should go up.

DR. RECIDE: And then another thing. You mentioned that ... I guess it is the DoF's lookout to look at the macroeconomic implications of projects. But I beg to disagree. I worked at the DoF, and at the same time I worked on a lot of the issues that hound the DoF. And a lot of them emanate from the line agencies themselves, actually.

There is one other issue that this EPRA group is looking at is really the BOT law. I'm not sure if you are familiar with the issue. The issue here is that there's a move to really downgrade the participation of NEDA ICC – meaning, to bypass them in the approval of BOT projects. And therefore, just to devolve the approval, the design, the analysis of projects to the agencies. But from my experience, this is really a recipe for financial or fiscal problems in the future.

So what do we ... the fact that the line agencies have problems with projects in the past, whether it is BOT or not BOT, and this has led to a lot of fiscal problems for the country, as Sec. Leung has pointed out, and it's directly related to the capacity of the line agencies, not just DOTC but many line agencies, to screen, to design, to analyze projects. It's really a ... well, there's a big danger.

Hopefully this went through a good process of screening; this was done well. And the fact that there are ano ... a... potential macro implications nga, ano, the line agencies should be aware when they design .. I am assuming you designed the project. DOTC reviewed the project.

Actually one of my other questions was who did the cost-benefit analysis? Was it the DOTC, or did you hire a consultant, or ...

ASEC. FORMOSO: on your view that we should not do away with ICC approval in terms of BOT projects – well, that's an academic discussion. Our project actually went through ICC, so I wouldn't have one opinion on what is more efficient, so it went through the ICC when it comes to BOT projects because ours actually went through the whole process.

DR. RECIDE: then if you have complaints about this issue right now, our position, basically, at EPRA is if you take away the ICC, then it becomes even more dangerous.

MODERATOR: George, would you still like to rejoin?

MR. SY: Just very quickly because we don't know a lot of the details; they have not been given out officially, so sometimes we answer in the dark. But if we're talking about VoIP, you tell me where you want to set it up, we'll set it up for you tomorrow. Free.

ASEC. FORMOSO: Well, I can do that myself. But you're talking about an enterprise solution, Sir. Now, I am not about to argue with you on that aspect. It's an entire enterprise solution, so I'll leave it at that. I appreciate your comments, Sir.

MR. SY: We are doing by-enterprise studies for the different government agencies, but there is no budget for that. They say that they have no budget to buy computers, printers.

SECRETARY LEUNG: Basically the question I am going to ask, you answered – that in fact it went through the ICC process, and all these agreements have been given. The only sad part of it is that I know some of the participants in that process telling that they have not ...

MR. BONDOC: Two questions, instead of three. Kanina kasi nabanggit niyo sa disclosure that the document was stolen. But more unusual than that. This was signed on April 21 during election period, in violation of the Omnibus Election Code – the prohibition on the award of any infrastructure project during the election period. Now, in reconstructing the stolen document, will the dates now be changed to ...

Second question – in your studies, in your due diligence about ZTE Corporation, did you not check out its reputation and find out that it has lawsuits?

ASEC. FORMOSO: It's a publicly listed company in Hong Kong and Shenzhen. As per my experience, having been in corporate practice before especially for exchanges like Hong Kong and NYMC, disclosure requirements are quite strict.

Obviously you are referring to the article you wrote this morning. Are you referring to that, Sir? None of that, none of those appear in any of the disclosure documents by ZTE. Now, I don't know where you sourced it. Perhaps you can tell me who your sources are; maybe we can validate it. But as far as we know, it's a reputable company. What came out ... This is a seguey, but I'll just put it in.

What's more troubling to us was when we were looking at the other Chinese company, Wawei. They were not just charged with doing anything like what you allege ZTE is doing. They actually has a big lawsuit with Cisco Systems for patent infringement – precisely the systems that Wawei would be using now.

So just the information I would like to give you so you can appreciate why I'm not such a big fan of Wawei – because they've been caught red-handed copying UP equipment and protocols.

If you have, Sir, sources, evidence, perhaps a complaint, perhaps an investigative report – if you can forward it to me so I can double-check it because I have no way of knowing kung totoo yan, o hindi.

MR. BONDOC: I'll just share with you the secret, Sir. The details on ZTE's lawsuits all over the world, Sir, I have to teach that to somebody in the DOTC and the Telof and CICT. The secret is this: I just punched in ZTE Corporation sa Google search. I do that all the time – my first research is always Google. The lawsuits are there – Mexico, Myanmar

ASEC. FORMOSO: You have to distinguish between information that appears on the net, and information that are actionable, Sir, because I can show a lot of information that is on the net that's just there – whether it is true or not.

But maybe a friend from Mexico can get a copy of the ... you have somebody translate it from Spanish and send it on CD, or ...

Thank you very much.

(APPLAUSE)

SECRETARY LICHAUCO: Asec. Formoso, I came here thinking you were going to be a villain, and I'd like to emphasize you were really a hero for acknowledging that that is a national shame – not only the robbery, I think, but the contract itself.

ASEC. FORMOSO: Can I correct that, Ma'm, just in case I get quoted in the papers. The robbery is the national shame, not the contract, please.

SECRETARY LICHAUCO: I'm saying now it's a national shame. I just want to remind you because the loan agreement is a public document. We want to know the terms; we want to see the document itself. I'd appreciate a copy if ... and then the diplomatic notes between the Philippines and China on the NBN – that's important.

The contract has been charged with violation of several laws: number one, you have Republic Act 7925; and then you have the Omnibus Election Code. And if there is a waiver, however (As Jarius Bondoc said, there is a waiver on the prohibitive period), that waiver could easily be given because it will come from Abalos. They're the ones supposed to give ...

You have to look into this and really be able to answer it frontally, not that you haven't answered things frontally. And it cannot be treated as an unsolicited BOT proposal. Under what law does it fall? The Procurement Law? So you have a session that went through the TWG of the DOTC? The Technical Working Group headed by Vic Diaz?

ASEC. FORMOSO: What I'm trying to clarify, Ma'm, is that it's covered by 9184, by way of an exemption. So you go to Section 4 of 9184 – it refers you to Executive Agreements. And it's that that will govern the Procurement Law.

SECRETARY LICHAUCO: And because it was an Executive Agreement – well, that was how they wanted to put in also the Luzon Railway Project and the Supreme Court just ruled that it is not a treaty, and it is not an Executive Agreement either.

So I think, from my experience I just really caution the use of a ... you know, if a private contractor like ZTE goes into a contract, signs a contract with the government, that is not a government-to-government contract simply because it is a government corporation. It still is ... you know, there is a secret about the Chinese. They use American technology. For the railways, they did not use Chinese technology for the railway system.

And on a last point, there was a question about the Chinese – why is it a US company using Chinese technology, and a Chinese company using American technology? You

have to have a Chinese component because it's a tied loan. It's just like the Japanese – you have a Japanese trading system fronting even an English contractor. But this is the thing that happened. You have really no choice.

ASEC. FORMOSO: But Arescom is supposed to be funded by US. The only reason I pointed that out is for the hierarchy, not for anything else.

SECRETARY LICHAUCO: And the way to the three percent also. By the way, by no possible means can you consider. I think this is a concessional loan, the likes of the OECF, now JDIC rates. It is impossible because it is three percent. Twenty-year paying period / five-year grace period; thirty-year grace period, twenty-year repayment. Anyway, hindi puwede.

Thank you very much.

(end of RTD3)