

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City



THIRTEENTH C O N G R E S S

First Regular Session

House Bill No. 2456

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**Introduced by HON. EXEQUIEL B. JAVIER**

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**EXPLANATORY NOTE**

This bill seeks to recapture the power over tariffs which Congress lost years ago.

The power over tariffs is vested in Congress. However, under Paragraph 2 of Section 28, Article VI of the Constitution, Congress, may, by law, authorize the President to fix within specified limits, and subject to such restrictions as it may impose, tariff rates, import and export quotas and other duties and imposts.

In 1957, Congress pursuant to RA 1937 empowered the President to fix tariff rates. The delegation of such power, however, was subject to certain conditions and was limited to a period when Congress was not in session.

In 1976, however, RA 1937 was repealed by P.D. 1464 pursuant to which then President Marcos arrogated unto himself the power to fix tariff rates whenever he deemed it necessary in the interest of national economy, general welfare and national security. This executive arrogation of the power of Congress over tariffs,

remains, for twenty two (22) years in our statute books until today, courtesy of the Section 3 of the transitory provisions of the Constitution which recognized the force and effect of the decree until amended or repealed by Congress.

Under the decree, Presidents after Marcos chalked up a record of 107 executive orders fixing tariff rates or reclassifying dutiable articles to the exclusion of Congress. Thus, President Aquino is credited with twenty four (24) executive orders, President Ramos with forty six (46), President Estrada with twenty two (22) and President Macapagal Arroyo with fifteen (15), so far.

The exercise of power over tariffs is a question of policy which has a deep impact on the economy.

Take for example the issues involved in the importation of cement. What policy will government adopt. Open the tariff gates for cheap imported cement to protect the construction industry and the consumers? Or maintain a high tariff wall against imported cement to protect the jobs of thousands of workers employed in the local cement industry?

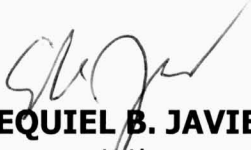
Which policy the government will adopt is an issue which Congress must have a say through the power over tariffs. Such issue must not be left to "unelected bureaucrats" who have no accountability to the people.

Finally, this bill seeks to restore equilibrium in our government of shared powers. The power over tariffs is a constitutional mandate vested in Congress

which it may not shirk and leave to “unelected bureaucrats” to discharge. Through this bill, congress must have the political will to redress the imbalance of power and restore equilibrium in our system of government.

For the recapture of the power over tariffs, the proposed measure limits the president’s exercise only when Congress is in compulsory recess that is, when Congress adjourns **sine die** between two regular sessions. Moreover, the change in the rates of import duty or in the classification of dutiable articles effected by the President’s exercise of the power over tariffs shall be in force and effect for a period of one year only.

The immediate approval of this bill is urged.



**HON. EXEQUIEL B. JAVIER**  
Representative  
Lone District of Antique

REPUBLIC OF THE PHILIPPINES  
**HOUSE OF REPRESENTATIVES**  
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THIRTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 2456

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**INTRODUCED BY HON. EXEQUIEL B. JAVIER**

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**AN ACT  
TO RECAPTURE THE POWER OVER TARIFFS  
AMENDING FOR THE PURPOSE SECTION 401  
OF THE TARIFF AND CUSTOMS CODE, AS  
AMENDED.**

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

SECTION 1. SECTION 401 OF THE TARIFF AND CUSTOMS CODE AS AMENDED, IS  
HEREBY AMENDED TO READ AS FOLLOWS:

SECTION 401. Flexible Clause.

- a. In the interest of national economy, general welfare and/or national security, and subject to the limitations herein prescribed, the President, upon recommendation of the National Economic and Development Authority (hereinafter referred to as NEDA), is hereby empowered: (1) to increase, reduce or remove existing protective rates of import duty (including any necessary change in classification). The existing rates may be increased or decreased to any level, in one or several stages but in no case shall the increased rate of import duty be higher than a maximum of one hundred (100) per cent ad valorem; (2) to establish import quota or to ban imports of any commodity, as may be necessary; and (3) to impose an additional duty on all imports not exceeding ten (10) per cent ad valorem whenever necessary: *Provided*, That upon periodic investigations by the Tariff Commission and recommendation of the NEDA, the President may cause a gradual reduction of protection levels granted

in Section One Hundred and Four of this Code, including those subsequently granted pursuant to this section. **PROVIDED FURTHER THAT THE POWER HEREIN DELEGATED SHALL NOT INCLUDE THE AUTHORITY TO TRANSFER ARTICLES FROM DUTY FREE LIST TO THE DUTIABLE LIST OR VICE VERSA OF THE TARIFF; PROVIDED FINALLY THAT ANY CHANGE IN THE RATES OF IMPORT DUTY OR IN THE CLASSIFICATION OF DUTIABLE ARTICLES SHALL BE IN FORCE AND EFFECT FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF THE EXECUTIVE ISSUANCE.**

- b. Before any recommendation is submitted to the President by the NEDA pursuant to the provisions of this section, except in the imposition of an additional duty note exceeding ten (10) per cent ad valorem, the Commission shall conduct an investigation in the course of which they shall hold public hearings wherein interested parties shall be afforded reasonable opportunity to be present, produce evidence and to be heard. The Commission shall also hear the views and recommendations of any government office, agency or instrumentality concerned. The Commission shall submit their findings and recommendations to the NEDA within thirty (30) days after the termination of the public hearings.
- c. The power of the President to increase or decrease rates of import duty within the limits fixed in subsection "a" shall include the authority to modify the form of duty. In modifying the form of duty, the corresponding *ad valorem* or specific equivalents of the duty with respect to imports from the principal competing foreign country for the most recent representative period shall be used as bases.
- d. The Commissioner of Customs shall regularly furnish the Commission a copy of all customs import entries as filed in the Bureau of Customs. The Commission or its duly authorized representatives shall have access to, and the right to copy all liquidated customs import entries and other documents appended thereto as finally

filed in the Commission on Audit.

- e. The NEDA shall promulgate rules and regulations necessary to carry out the provisions of this section.
- f. Any Order issued by the President pursuant to the provisions of this section shall take effect thirty (30) days after promulgation, except in the imposition of additional duty not exceeding ten (10) *per cent ad valorem* which shall take effect at the discretion of the President.

**G. THE POWER HEREIN DELEGATED TO THE PRESIDENT SHALL BE EXERCISED ONLY WHEN CONGRESS IS IN COMPULSORY RECESS AFTER IT ADJOURNS SINE DIE.**

**H. THE POWER HEREIN DELEGATED MAY BE WITHDRAWN OR TERMINATED BY CONGRESS THROUGH A JOINT RESOLUTION.**

SECTION 2. Effectivity. - This Act shall take effect fifteen days after its publication in the official gazette or newspaper of general circulation.

Approved.