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H. B. No. ____

Introduced by HONORABLE JUAN EDGARDO "SONNY" M. ANGARA

EXPLANATORY NOTE

Efforts of the Government to suppress smuggling and other frauds upon the customs have been stymied by the indiscriminate issuance of temporary restraining orders and injunctive reliefs by judicial authorities. While the provisions of the Tariff and Customs Code on administrative proceedings leading to forfeiture and disposition of smuggled goods and the instruments used for smuggling seem fairly adequate, the provisions allowing judicial intervention have oftentimes rendered ineffective the serious efforts to go after the smugglers, the goods fraudulently imported, and the instruments of smuggling.

The disposition and forfeiture of goods seized by the Bureau of Customs will be strengthened under this bill. To expedite the disposition of these goods, the Secretary of Finance, upon recommendation of the Commissioner of Customs, is empowered to summarily seize and sell the same. Moreover, no temporary restraining order shall lie against the seizure and disposition of the subject goods as well as the aircraft or vessel used in transporting the same.

Administrative summary proceedings appear to be the most effective vehicle to curb smuggling. Judicial intervention should be invoked only at the level of the Supreme Court, doing away with the present state of the law where even Regional Trial Courts can stop the sale of forfeited smuggled property or even allow the posting of bonds for those whose vessels or aircraft were used in smuggling.

Smugglers themselves should not be allowed to profit from their own violation of our customs laws. They should be barred from involvement in auction sales of the very items or goods they brought in fraudulently.

In view of the foregoing, immediate passage of this bill is earnestly requested.


JUAN EDGARDO "SONNY" M. ANGARA
Representative
Lone District, Province of Aurora

Introduced by Honorable JUAN EDGARDO "SONNY" M. ANGARA

AN ACT
FURTHER STRENGTHENING THE ANTI-SMUGGLING MECHANISM, AMENDING
FOR THE PURPOSE CERTAIN PROVISIONS OF PRESIDENTIAL DECREE NO.
1464, OTHERWISE KNOWN AS THE TARIFF AND CUSTOMS CODE OF THE
PHILIPPINES, AS AMENDED AND FOR OTHER PURPOSES

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

SECTION 1. *Short Title.* This Act shall be known and cited as the "*Anti-Smuggling Act of 2010.*"

SEC. 2. Section 201, Title II, Part 1 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended by amending the third and second to the last paragraphs and the last paragraph thereof to read as follows:

"SEC. 201. *Basis of Dutiable Value.* – x x x

"x x x

"If in the course of determining the dutiable value of imported goods, it becomes necessary to delay the final determination of such dutiable value, the importer shall nevertheless be able to secure the release of the imported goods upon the filing of a sufficient guarantee in the form of a **LETTER OF CREDIT**, surety bond, a deposit, cash or some other appropriate instrument in an amount equivalent to the imposable duties and taxes [on] **FOR WHICH** the imported goods [in question conditioned upon the payment of customs duties and taxes for which the imported goods] may be liable: *Provided, however,* That goods, the importation of which is prohibited by law shall not be released under any circumstance whatsoever[.]: **PROVIDED, FURTHER, THAT, REFERENCE INFORMATION OBTAINED FROM A VALUE DATA BASE APPROVED BY THE COMMISSIONER, INCLUDING REVISION ORDERS, SHALL BE USED TO TEST THE TRUTHFULNESS AND ACCURACY OF A GIVEN VALUE DECLARATION. A VALUE DECLARATION WHICH FALLS OUTSIDE OF THE VALUE RANGE OF REVISION ORDERS SHALL TRIGGER A VALUATION QUERY ON THE APPLICABILITY OF THE METHOD OF VALUATION USED BY THE IMPORTER, IN WHICH CASE THE APPLICABILITY AND**

APPROPRIATENESS OF THE METHOD OF VALUATION EMPLOYED BY THE IMPORTER SHALL BE REVIEWED BY THE VALUATION AND CLASSIFICATION REVIEW COMMITTEE (VCRC) WHICH, THEREAFTER, SHALL ENDORSE ITS FINDINGS AND RECOMMENDATIONS TO THE COMMISSIONER OF CUSTOMS. FOR PURPOSES OF THIS SECTION, A REVISION ORDER, WHICH SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION AND PERIODICALLY UPDATED IN THE BUREAU OF CUSTOMS WEBSITE AND POSTED IN THE BULLETIN BOARD OF THE BUREAU, SHALL REFER TO THE DOCUMENT WHICH INDICATES THE LATEST VALUE(S) OF PRODUCT(S) APPLICABLE AND EFFECTIVE WITHIN THE PERIOD OF NINETY (90) DAYS FROM DATE OF ITS ISSUANCE BY THE BUREAU OF CUSTOMS, AFTER CONSULTATION WITH INDUSTRY REPRESENTATIVES.

"Nothing in this Section shall be construed as restricting or calling into question the right of the Collector of Customs to satisfy himself as to the truth or accuracy of any statement, document or declaration presented for customs valuation purposes. When a declaration has been presented and where the [customs administration] VCRC has reason to doubt the truth or accuracy of the particulars or of documents produced in support of this declaration, the [customs administration] VCRC may ask the importer to provide further explanation, including documents or other evidence, that the declared value represents the total amount actually paid or payable for the imported goods, adjusted in accordance with the provisions of Subsection (A) hereof.

"If, after receiving further information, or in the absence of a response, the [customs administration] VCRC still has reasonable doubts about the truth or accuracy of the declared value, it may, without prejudice to an importer's right to appeal pursuant to Article 11 of the World Trade Organization Agreement on customs valuation, be deemed that the customs value of the imported goods cannot be determined under Method One. Before taking a final decision, the Collector of Customs shall communicate to the importer, in writing if requested, his grounds for doubting the truth or accuracy of the particulars or documents produced and give the importer a reasonable opportunity to respond. When a final decision is made, the [customs administration] DISTRICT COLLECTOR shall communicate to the importer in writing, COPY FURNISHED THE MEMBERS OF THE VCRC, [its] THE decision and the grounds therefor."

SEC. 3. Section 607 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 607. *Annual Report of Commissioner.* – The annual report of the Commissioner to the President shall, among other things, contain a compilation of the (a) quantity and value of the articles imported into the

Philippines and the corresponding amount of custom duties, taxes and other charges assessed and collected on imported articles itemized in accordance with the tariff headings and subheadings as appearing in the liquidated customs entries provided for in this Code, (b) percentage collection of the peso value of imports, (c) quantity and value of conditionally-free importations, (d) customs valuation over and above letters of credit opened, (e) quantity and value of tax-free imports, and (f) the quantity and value of articles exported from the Philippines as well as the taxes and other charges assessed and collected on them for the preceding year. Copies of such annual report shall be furnished regularly to the Department of Finance, Tariff Commission, **NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY (NEDA)**, [Central Bank of the Philippines] **BANGKO SENTRAL NG PILIPINAS (BSP)**, Board of Investments, Department of Budget **AND MANAGEMENT**, and other economic agencies of the government, on or before December 30, of each year.

"x x x."

SEC. 4. Section 609 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 609. *Commissioner to Furnish Copies of Collectors' Liquidated Duplicates.* – The Commissioner shall regularly furnish the NEDA, the [Central Bank of the Philippines] **BSP**, the Tariff Commission, **AND THE NATIONAL STATISTICS OFFICE (NSO)** [a copy] **BOTH ELECTRONIC AND PAPER COPIES** of each of all customs import/export entries as filed with the Bureau of Customs. The Tariff Commission or its duly authorized agents shall have access to and the right to copy all the customs liquidated import entries and other documents appended thereto as finally filed in the Commission on Audit."

SEC. 5. Section 701 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 701. *Collection Districts and Ports of Entry Thereof.* – For administrative purposes, the Philippines shall be divided into as many collection districts as necessary, the respective limits of which may be changed from time to time by the Commissioner of Customs upon approval of the Secretary of Finance. The principal ports of entry for the respective collection districts shall be Manila, Ninoy Aquino International Airport, Cebu, Iloilo, Davao, Tacloban, Zamboanga, Cagayan de Oro, Surigao, Legaspi, Batangas, San Fernando, Subic, **CLARK INTERNATIONAL AIRPORT**, [and] Manila International Container Port[,], **AND SUCH OTHER PORTS THAT MAY BE CREATED PURSUANT TO THIS CODE.**"

SEC. 6. A new Part 3 shall be inserted under Title I, Book II – Customs Law, of the

Tariff and Customs Code of the Philippines, as amended, and under which new Sections 801, 802, 803 and 804 are further inserted, which shall read as follows:

"PART 3

"AUDIT, TRANSPARENCY AND ACCOUNTABILITY

"SEC. 801. IN ORDER TO INSTILL TRANSPARENCY AND ACCOUNTABILITY IN THE OPERATIONS OF THE BUREAU OF CUSTOMS, THE COMMISSIONER OF CUSTOMS SHALL CONDUCT, ON AN ANNUAL BASIS, A BUREAU-WIDE AUDIT WHICH AIMS TO EXAMINE AND EVALUATE THE ADEQUACY AND EFFECTIVENESS OF INTERNAL CONTROL AND THE QUALITY OF PERFORMANCE IN THE BUREAU OF CUSTOMS.

"THE BUREAU-WIDE AUDIT SHALL COVER, AMONG OTHERS, THE OPERATIONAL PROCESSES, COLLECTION AND FINANCIAL REPORTING, FISCAL AND PERSONNEL PERFORMANCE SYSTEM EFFICIENCY, INTERNAL CONTROL, INFORMATION AND COMMUNICATION FLOW, FRAUDULENT AND ILLEGAL PRACTICES, AND SUCH OTHER AREAS AS MAY BE NECESSARY FOR THE EFFECTIVE OPERATION OF THE ENTIRE BUREAU."

"SEC. 802. AN INTERNAL CONTROL OFFICE, WHICH SHALL BE ATTACHED TO THE OFFICE OF THE COMMISSIONER OF CUSTOMS, IS HEREIN CREATED TO ASSIST THE COMMISSIONER IN THE CONDUCT OF A BUREAU-WIDE AUDIT PURSUANT TO REPUBLIC ACT NO. 3456, REPUBLIC ACT NO. 4177, ADMINISTRATIVE ORDER NO. 278 AND ADMINISTRATIVE ORDER NO. 70.

"THE ANNUAL APPROPRIATIONS FOR THE BUREAU OF CUSTOMS SHALL PROVIDE AN ITEM OF EXPENSE FOR THE BUREAU-WIDE AUDIT AS CONTEMPLATED IN THIS ACT."

"SEC. 803. ON THE BASIS OF THE INTERNAL AUDIT ACTIVITIES CONDUCTED, THE INTERNAL CONTROL OFFICE SHALL SUBMIT TO THE COMMISSIONER A WRITTEN REPORT CONTAINING THE IDENTIFIED PROBLEMS AND DEFICIENCIES IN THE BUREAU AS WELL AS ITS RECOMMENDED POLICIES/CORRECTIVE MEASURES. SUCH REPORT SHALL BE PROMPTLY ACTED UPON BY THE COMMISSIONER WHO SHALL INSTITUTE THE NECESSARY IMPROVEMENT TO ADDRESS PERFORMANCE AND OPERATIONAL GAPS, UNLESS THERE IS REASONABLE DOUBT ON ITS VALIDITY."

"SEC. 804. THE COMMISSIONER SHALL FURNISH THE

SECRETARY OF FINANCE, THRU THE INTERNAL AUDIT OFFICE IN THE DEPARTMENT OF FINANCE, A COPY OF THE INTERNAL AUDIT REPORT AND ACTIONS TAKEN."

SEC. 7. Section 1005 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 1005. *Manifest Required of Vessel From Foreign Port.* - x x x.

"x x x

"A TRUE AND COMPLETE COPY OF THE CARGO MANIFEST AND BILL OF LADING, TOGETHER WITH THE STOWAGE PLAN OF THE VESSEL ENGAGED IN FOREIGN TRADE, SHALL BE ELECTRONICALLY SENT IN ADVANCE BY THE VESSEL TO THE BUREAU OF CUSTOMS AND THE PHILIPPINE PORTS AUTHORITY AT LEAST TWELVE (12) HOURS FOR OCEAN GOING VESSELS AND TWO (2) HOURS FOR AIRLINES FROM DEPARTURE PRIOR TO THEIR ARRIVAL IN THE PORT OF ENTRY: *PROVIDED*, THAT IF THE VESSEL IS AN AIRCRAFT THE MANIFEST SHALL BE ELECTRONICALLY TRANSMITTED TO THE BUREAU OF CUSTOMS AT LEAST ONE (1) HOUR PRIOR TO THE AIRCRAFT'S ARRIVAL IN THE PORT OF ENTRY: *PROVIDED, FURTHER*, THAT, THE BUREAU OF CUSTOMS SHALL FURNISH THE DEPARTMENT OF AGRICULTURE WITH THE ELECTRONICALLY SENT CARGO MANIFEST AND BILL OF LADING, UPON RECEIPT THEREOF, IN THE CASE OF AGRICULTURAL IMPORTATIONS.

"A cargo manifest shall in no case be changed or altered after entry of the vessel, except by means of an amendment by the master, consignee or agent thereof, under oath, and attached to the original manifest: *Provided, however*, That after the invoice and/or entry covering an importation have been received and recorded [in the office of the appraiser,] **EITHER MANUALLY OR ELECTRONICALLY IN THE BUREAU OF CUSTOMS OR HAD BEEN LOGGED IN ITS COMPUTER SYSTEM**, no amendment of the manifest shall be allowed, except when it is obvious that a clerical error or any other discrepancy has been committed in the preparation of the manifest, without any fraudulent intent, discovery of which would not have been made until after examination of the importation has been completed. **PRIOR TO RELEASE OF THE CARGO, THE VERACITY OF THE AMENDMENT SHALL BE EXAMINED BY THE COMMISSIONER OF CUSTOMS FOR THE PURPOSE OF INVOKING PENAL PROVISION UNDER SECTIONS 2503 AND 3602 OF THIS CODE.**"

SEC. 8. Section 1007 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 1007. *Manifests for Commission on Audit and Collector.* – Papers to be Deposited with Consul. – Immediately after the arrival of a vessel from a foreign port, the master shall deliver or mail to the Chairman, Commission on Audit, Manila, a copy of the cargo manifests properly endorsed by the boarding officer, and [the master shall immediately] **WITHIN TWENTY-FOUR (24) HOURS AFTER ARRIVAL, HE SHALL** present to the Collector the original copy of the cargo manifests [properly endorsed by the boarding officer,] and, for inspection, the ship's register or other documents in lieu thereof, together with the clearance and other papers granted to the vessel at the port of departure for the Philippines.

"WITHIN THREE (3) DAYS FROM RECEIPT THEREOF, THE COLLECTOR SHALL PUBLISH IN THE BUREAU OF CUSTOMS WEBSITE THE CARGO MANIFEST FOR TWO (2) CONSECUTIVE WEEKS."

SEC. 9. Section 1008 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 1008. *Transit Cargo AND FOREIGN TRANSHIPMENT OF GOODS.* – When transit cargo from a foreign port or other local ports is forwarded from the port of importation, separate manifest, in triplicate, shall be presented by each carrier.

"TRANSHIPPED GOODS MUST REMAIN AT ALL TIME IN THE PORT OF ARRIVAL AND SHALL NOT BE TRANSFERRED OR TRANSPORTED TO ANY OTHER PHILIPPINE PORT OF ENTRY PRIOR TO THE TRANSPORT THEREOF TO THE FOREIGN PORT OF DESTINATION AS INDICATED IN THE CARGO MANIFEST. WHEN THE SHIPMENT IS UNLOADED IN OR TRANSFERRED TO ANY OTHER PORT OF ENTRY OTHER THAN IN THE PORT OF ARRIVAL BEFORE TRANSPORTING THE SAME TO THE FOREIGN PORT OF DESTINATION, IT SHALL BE CONSIDERED AS HAVING BEEN INTRODUCED INTO THE PHILIPPINE CUSTOMS TERRITORY SUBJECT TO APPLICABLE DUTIES AND TAXES.

"THE PARTY WHO APPLIED FOR FOREIGN TRANSHIPMENT SUCH AS THE SHIPPING COMPANY OR AGENT, TRANSHIPMENT OPERATOR OR THE OWNER OF THE GOODS SHALL SUBMIT TO THE BUREAU OF CUSTOMS AND/OR TO THE BUREAU OF INTERNAL REVENUE WITHIN THE PRESCRIBED PERIOD OF SIX (6) MONTHS ANY OFFICIAL DOCUMENT SATISFACTORILY SHOWING THAT THE TRANSHIPPED GOODS HAD ACTUALLY ARRIVED AND HAD BEEN UNLOADED IN THE FOREIGN PORT OF DESTINATION AND THAT THE SAME HAD BEEN RECEIVED BY THE CONSIGNEE NAMED IN THE MANIFEST: PROVIDED, THAT IF THE SAID OFFICIAL DOCUMENT IS IN A FOREIGN LANGUAGE OTHER THAN ENGLISH, IT SHALL BE ACCOMPANIED BY AN ENGLISH TRANSLATION DULY AUTHENTICATED BY A PHILIPPINE COMMERCIAL ATTACHE OR

CONSUL.

"FAILURE TO SUBMIT THE OFFICIAL DOCUMENT AS REQUIRED HEREINABOVE SHALL CONSTITUTE *PRIMA FACIE* PROOF THAT THE GOODS ALLEGEDLY TRANSHIPPED WERE IN FACT DIVERTED TO THE PHILIPPINES, WITHOUT THE CORRESPONDING PAYMENT OF DUTIES AND TAXES WHICH SHALL BE IMMEDIATELY COLLECTED AND PAID BY THE PARTY(IES) WHICH FAILED TO SUBMIT THE REQUIRED OFFICIAL DOCUMENT. THEREAFTER AND UNTIL THE REQUIRED OFFICIAL DOCUMENT SHALL HAVE BEEN SUBMITTED, ALL SUBSEQUENT TRANSHIPMENT OF GOODS TO AND FROM THE PHILIPPINES BY THE SAID PARTY(IES) WITHOUT THE PAYMENT OF DUTIES AND TAXES SHALL BE DISALLOWED."

SEC. 10. Section 1025 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 1025. *Export Product to Conform to Standard Grades AND MARKING OF PACKAGES FOR EXPORT.* – A Collector shall not permit products for which standard grades have been established by the government to be laden aboard a vessel clearing for a foreign port, unless the shipment conforms to the requirements of law relative to the shipment of such products.

"PACKAGES CONTAINING GOODS FOR EXPORT SHALL BE LABELED IN ACCORDANCE WITH LAWS AND REGULATIONS. PACKAGES THAT DO NOT COMPLY WITH THE REQUIRED MARKINGS MAY BE DENIED EXPORT PERMITS."

SEC. 11. A new section to be known as Section 1203-A is hereby inserted after Section 1203 of the Tariff and Customs Code of the Philippines, as amended, to read as follows:

"SEC. 1203-A. *PUBLICATION OF ACCREDITED IMPORTERS AND BROKERS.* – ANY PROVISION OF LAW TO THE CONTRARY NOTWITHSTANDING, THE SECRETARY OF FINANCE, THROUGH THE COMMISSIONER OF CUSTOMS, IS HEREBY MANDATED TO CAUSE THE PUBLICATION OF THE LIST OF IMPORTERS AND BROKERS ACCREDITED BY THE BUREAU OF CUSTOMS WITHIN NINETY (90) DAYS FROM THE DAY OF APPROVAL OF THE APPLICATION FOR ACCREDITATION OR RENEWAL OF THE ACCREDITATION, AS THE CASE MAY BE: *PROVIDED*, THAT THE BUREAU OF CUSTOMS SHALL POST THE LIST OF ACCREDITED IMPORTERS AND BROKERS IN ITS WEBSITE ANNUALLY AND SHALL REGULARLY UPDATE SAID LIST: *PROVIDED, FURTHER*, THAT OTHER INFORMATION ON THE ACCREDITED IMPORTERS AND BROKERS, OTHER THAN THOSE PUBLISHED IN THE WEBSITE AND NOT

OTHERWISE CONFIDENTIAL, MAY BE MADE AVAILABLE UPON OFFICIAL REQUEST FROM THE COMMISSIONER OF CUSTOMS.

"THE AMOUNT NECESSARY FOR THE PUBLICATION OF THE LIST OF IMPORTERS AND BROKERS SHALL BE CHARGED TO THE APPROPRIATIONS OF THE BUREAU OF CUSTOMS UNDER THE CURRENT GENERAL APPROPRIATIONS ACT. THEREAFTER, SUCH SUM AS MAY BE NEEDED FOR ITS CONTINUED IMPLEMENTATION SHALL BE CHARGEABLE TO THE FUND COLLECTED BY THE BUREAU FROM THE APPLICATION AND RENEWAL FEES OF THE IMPORTERS AND BROKERS."

SEC. 12. Section 1204 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 1204. *Liability of Importer for Duties.* – Unless relieved by laws or regulations, the liability for duties, taxes, fees and other charges attaching on importation constitutes a personal debt due [from] **AND DEMANDABLE AGAINST** the importer [to] **IN FAVOR OF** the government which can be discharged only by payment in full of all duties, taxes, fees and other charges legally accruing. It also constitutes a lien upon the articles imported which may be enforced while such articles are in custody or subject to the control of the government.

"IN CASE THE IMPORTED ARTICLE IS FOUND IN THE CUSTODY OR POSSESSION OF A TRANSFEREE OR BUYER IN GOOD FAITH, THE GUARANTEE IN THE FORM OF A LETTER OF CREDIT, SURETY BOND, A DEPOSIT, CASH, OR SOME OTHER APPROPRIATE INSTRUMENT IN AN AMOUNT EQUIVALENT TO THE IMPOSABLE DUTIES AND TAXES OF THE IMPORTED ARTICLES AS MENTIONED IN SECTION 201 OF THIS CODE, FILED BY THE IMPORTER SHALL BE APPLIED FOR ANY TAX DEFICIENCY, DUTIES, FEES, INTEREST AND OTHER CHARGES THAT MAY BE FINALLY DETERMINED BY THE BUREAU AGAINST THE IMPORTED ARTICLE."

SEC. 13. Section 1210 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 1210. *Disposition of Imported Articles Remaining on Vessel After Time for Unlading.* – x x x

"Unless prevented by causes beyond the vessel's control, such as port congestion, strikes, riots or civil commotions, failures of vessel's gear, bad weather, and similar causes, articles so stored shall be entered within [thirty (30)] **FIFTEEN (15)** days, which shall not be extendible, from the date of discharge of the last package from the vessel or aircraft and shall be claimed within fifteen (15) days, which shall not likewise be extendible from the date of posting of the

notice to claim in conspicuous places in the Bureau of Customs. If not entered or not claimed, it shall be disposed of in accordance with the provisions of this Code."

SEC. 14. A new section to be known as Section 1212 is hereby inserted in the Tariff and Customs Code of the Philippines, as amended, to read as follows:

"SEC. 1212. IMPORT PERMIT/IMPORT AUTHORITY FOR AGRICULTURAL PRODUCTS. – IMPORTED AGRICULTURAL PRODUCTS MUST BE COVERED BY A VALID IMPORT OR QUARANTINE PERMIT ISSUED BY THE DEPARTMENT OF AGRICULTURE (DA) OR ITS CONCERNED BUREAU PRIOR TO IMPORTATION INTO THE PHILIPPINES. NO AGRICULTURAL PRODUCTS MUST BE ACCEPTED FOR LOADING AND/OR TRANSPORT BY A VESSEL OR AIRCRAFT INTO THE COUNTRY IF THESE AGRICULTURAL PRODUCTS HAVE NOT BEEN AUTHORIZED THROUGH AN IMPORT OR QUARANTINE PERMIT ISSUED BY THE DA OR ITS CONCERNED AGENCIES PRIOR TO SHIPMENT. IF AND WHEN AGRICULTURAL PRODUCTS WERE LOADED, TRANSPORTED AND BROUGHT INTO THE COUNTRY WITHOUT THE PRIORLY ISSUED IMPORT OR QUARANTINE PERMIT, THE SAME MUST NOT BE UNLOADED FROM THE VESSEL OR AIRCRAFT TO ANY PHILIPPINE PORT OF ENTRY AND MUST BE SHIPPED BACK TO THE COUNTRY OF ORIGIN BY THE IMPORTER/CONSIGNEE THROUGH THE SAME CARRIER THAT LOADED/TRANSPORTED, BROUGHT IN THE PRODUCTS: *PROVIDED*, THAT, ANY IMPORTER WHO IMPORTED ANY AGRICULTURAL PRODUCT WITHOUT ANY PRIORLY ISSUED IMPORT OR QUARANTINE PERMIT FOR THE PURPOSE SHALL BE PUNISHABLE AS PROVIDED FOR UNDER SECTION 3601 OF THIS CODE."

SEC. 15. Section 1302 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 1302. *Import Entries.* – x x x.

"The Commissioner may, x x x.

"A formal entry may be x x x:

"(a) x x x;

"(b) x x x; or

"(c) x x x.

"FOR PURPOSES HERETO, ALL IMPORT ENTRIES SHALL EXPLICITLY AND CLEARLY INDICATE THE NAME OF THE CUSTOMS BONDED WAREHOUSE WHERE THE IMPORTED ARTICLES WILL BE PLACED OR DEPOSITED, AND THE NAME OF THE IMPORTER OR CONSIGNEE.

"Import entries under irrevocable x x x.

"All importations entered under formal entry shall be covered by a letter of credit or any other verifiable document evidencing payment **OF THE DUTIES, TAXES AND OTHER CHARGES DUE THEREON.**"

SEC. 16. A new section to be known as Section 1401-A is hereby inserted after Section 1401 of the Tariff and Customs Code of the Philippines, as amended, to read as follows:

"SEC. 1401-A. VALUATION LIBRARY. – THE COMMISSIONER SHALL ENSURE THAT THERE SHALL BE A VALUATION LIBRARY WHICH SHALL PRIMARILY SERVE AS REFERENCE AND SOURCE OF INFORMATION IN THE VALUATION AND APPRAISAL OF IMPORTED ARTICLES. THE VALUATION LIBRARY SHALL BE KEPT UPDATED WITH THE VALUES OF IMPORTED PRODUCTS AS CONTAINED IN THE LATEST REVISION ORDERS AND MAINTAINED USING THE BEST AVAILABLE TECHNOLOGY AND SHALL BE MADE READILY AVAILABLE TO THE PUBLIC. VIOLATION HEREOF SHALL BE PUNISHABLE AS PROVIDED UNDER SECTION 3612 OF THIS CODE."

SEC. 17. Section 1403 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 1403. Duties of Customs Officer Tasked to Examine, Classify, and Appraise Imported Articles. – The customs officer tasked to examine, classify, and appraise imported articles shall determine whether the packages designated for examination and their contents are in accordance with the declaration in the entry, invoice and other pertinent documents and shall make return in such a manner as to indicate whether the articles have been truly and correctly declared in the entry as regard their quantity, measurement, weight, and tariff classification and not imported contrary to law. **SUBJECT TO THE GUIDELINES TO BE ISSUED BY THE COMMISSIONER WITH THE APPROVAL OF THE SECRETARY OF FINANCE, THE CUSTOMS OFFICER [He] shall TAKE A REPRESENTATIVE [submit] samples OF THE IMPORTED ARTICLE IN THE PRESENCE OF THE IMPORTER, CONSIGNEE OR THEIR REPRESENTATIVES to SUBMIT to [the] CUSTOMS laboratory OR TO THE LABORATORY OF THE APPROPRIATE GOVERNMENT REGULATORY AGENCY for analysis when feasible to do so and when such analysis is necessary for the proper classification, appraisal, and/or admission into the Philippines of imported articles. THE CUSTOMS OFFICER SHALL TAKE INTO ACCOUNT THE RESULT OF THE ANALYSIS IN THE CLASSIFICATION, APPRAISAL AND/OR ADMISSION INTO THE PHILIPPINES OF THE**

IMPORTED ARTICLE.

"THE CUSTOMS OFFICER SHALL CERTIFY UNDER OATH IN THE RETURN THAT HE USED THE VALUATION LIBRARY IN THE VALUATION AND APPRAISAL OF THE IMPORTED ARTICLES.

"X X X."

SEC. 18. Section 1409 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 1409. [*Employment and Compensation of Persons to Assist in Appraisal or Classification of Articles.*] **VALUATION AND CLASSIFICATION REVIEW COMMITTEE (VCRC).** – [When necessary, the Collector may request two disinterested persons versed in the matter to assist the appraiser in appraising or ascertaining the value of any article. Persons so employed shall be paid compensation in an amount, to be determined by the Commissioner, not exceeding fifty pesos for each day of such service.] **VALUATION AND CLASSIFICATION ISSUES SHALL BE COURSED THROUGH A VALUATION AND CLASSIFICATION REVIEW COMMITTEE (VCRC) DIRECTLY UNDER THE CHAIRMANSHIP OF THE RESPECTIVE DISTRICT COLLECTOR OF CUSTOMS.**

"FROM AMONG THE MEMBERS OF THE VCRC, ONE (1) MEMBER SHALL COME FROM THE TARIFF COMMISSION WHO SHALL BE A PERMANENT MEMBER, ONE (1) MEMBER FROM AMONG THE RECOMMENDEES OF THE DEPARTMENT OF TRADE AND INDUSTRY AND THE DA, AS THE CASE MAY BE, AND ANOTHER ONE (1) MEMBER SHALL COME FROM THE PRIVATE SECTOR REPRESENTING THE INDUSTRY SECTOR AFFECTED.

"SUBJECT TO THE GUIDELINES TO BE ISSUED BY THE COMMISSIONER DULY APPROVED BY THE SECRETARY OF FINANCE, THE VCRC SHALL REQUEST CONCERNED INDUSTRY ASSOCIATIONS TO NOMINATE AN INDUSTRY COMMODITY EXPERT WHO WILL ASSIST THE VCRC IN CLASSIFYING, APPRAISING OR ASCERTAINING THE VALUE OF AN IMPORTED ARTICLE AT NO COST TO THE BUREAU. IN ORDER FOR SUCH PERSONS TO EFFECTIVELY ASSIST THE VCRC, THE INDUSTRY COMMODITY EXPERT SHALL BE FURNISHED DURING THE IMPORTATION OF A PARTICULAR ARTICLE WITH A COPY OF THE IMPORT ENTRY AND DECLARATION AND HE SHALL BE ALLOWED TO OBSERVE THE PHYSICAL EXAMINATION AND THE TAKING OF SAMPLE OF THE IMPORTED ARTICLE."

SEC. 19. A new section shall be added in the Tariff and Customs Code of the Philippines, as amended, to be designated as Section 1410, to read as follows:

"SEC. 1410. *AUTHORITY OF THE BUREAU TO EXAMINE THE ENTRY AND EXIT OF IMPORTED ARTICLES IN THE FREEPORTS.* – THE BUREAU, IN COORDINATION WITH THE APPROPRIATE GOVERNMENT AGENCIES SUCH AS, BUT NOT LIMITED TO, THE DEPARTMENTS OF TRADE AND INDUSTRY, AGRICULTURE, TRANSPORTATION AND COMMUNICATIONS, AND HEALTH SHALL HAVE THE AUTHORITY TO EXAMINE THE ENTRY AND EXIT OF IMPORTED ARTICLES IN THE FREEPORTS FOR THE PURPOSE OF DETERMINING: (A) THE QUANTITY AND DESCRIPTION OF SUBJECT IMPORTED ARTICLES, AND (B) THE COMPLIANCE WITH THE SANITARY AND AGRICULTURAL REQUIREMENTS."

SEC. 20. Section 1603 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 1603. *Finality of Liquidation.* – When articles have been entered and passed free of duty or final adjustments of duties made, with subsequent delivery, such entry and passage free of duty or settlements of duties will, after the expiration of [three (3) years] **ONE (1) YEAR** from the date of the final payment of duties, in the absence of fraud or protest or compliance audit pursuant to the provisions of this Code, be final and conclusive upon all parties, unless the liquidation of the import entry was merely tentative."

SEC. 21. Section 1801 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 1801. *Abandonment, Kinds and Effects of.* – An imported article is deemed abandoned under any of the following circumstances:

"x x x

"(b) When the owner, importer, consignee or interested party after due notice, fails to file an entry within thirty (30) days, which shall not be extendible, from the date of discharge of the last package from the vessel or aircraft, or having filed such entry, fails to claim his importation within fifteen (15) days, which shall not likewise be extendible, from the date of posting of the notice to claim such importation. **ALL SHIPPING LINES, SHIPPING COMPANIES, FREIGHT FORWARDERS, CONSOLIDATORS, BREAK BULK AGENTS AND THEIR AGENTS AND SUBAGENTS AND ARRASTRE CONTRACTORS ARE REQUIRED TO STATE IN BOLD, PROMINENT AND COMPREHENSIBLE CHARACTERS THE PHRASE 'CUSTOMS LAW REQUIRES THE FILING OF ENTRY WITHIN THIRTY (30) DAYS, WHICH SHALL NOT BE EXTENDIBLE, FROM THE DATE OF DISCHARGE OF THE LAST PACKAGE FROM THE**

VESSEL, OTHERWISE, THE CARGO MAY BE DEEMED ABANDONED AND TO BE FORFEITED IN FAVOR OF THE GOVERNMENT AND SHALL BE DISPOSED OF IN ACCORDANCE WITH THIS CODE' IN EACH AND EVERY NOTICE OF ARRIVAL TO THE OWNERS, IMPORTERS, CONSIGNEES OR OTHER INTERESTED PARTIES. THE SAME SHALL SERVE TO SATISFY THE DUE NOTICE REQUIREMENT REFERRED TO IN PARAGRAPH (B) HEREOF, IN WHICH CASE THE OWNER, IMPORTER OR CONSIGNEE OF THE IMPORTATION SHALL HAVE A PERIOD OF THIRTY (30) DAYS, WHICH SHALL NOT BE EXTENDIBLE, FROM RECEIPT OF THE NOTICE OF ARRIVAL WITHIN WHICH TO FILE THE APPROPRIATE ENTRY. FAILURE ON THE PART OF THE SHIPPING LINES, SHIPPING COMPANIES, FREIGHT FORWARDERS, CONSOLIDATORS, BREAK BULK AGENTS AND THEIR AGENTS AND SUBAGENTS AND ARRASTRE CONTRACTORS TO COMPLY HERewith SHALL CONSTITUTE A GROUND FOR THE SUSPENSION OF THEIR LICENSES OR AUTHORITY TO ENGAGE IN THEIR RESPECTIVE LINE OF ACTIVITIES IN THE IMPORTATION OPERATIONS.

"X X X."

SEC. 22. Section 1802 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 1802. *Abandonment of Imported Articles.* – An abandoned article shall *ipso facto* be deemed the property of the Government and shall be disposed of in accordance with the provisions of this Code. **AN UPDATED LISTING OF ALL ABANDONED SHIPMENTS SHALL BE POSTED ON THE OFFICIAL WEBSITE OF THE BUREAU.**

"X X X."

SEC. 23 Section 1901 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 1901 *Establishment, [and] Supervision AND ACCREDITATION of Warehouses.* – When the business of the port requires such facilities, the Collector, subject to the approval of the Commissioner, shall designate and establish warehouses for use as public and private bonded warehouses, sheds or yards, or for other special purposes. **ALL SUCH WAREHOUSES SHALL BE ACCREDITED BY AN ACCREDITATION COMMITTEE WHICH SHALL BE CHAIRED BY THE SECRETARY OF TRADE AND INDUSTRY AND CO-CHAIRED BY THE SECRETARY OF FINANCE, AND TO BE COMPOSED OF THE COMMISSIONER OF CUSTOMS, THE GOVERNOR OF THE BANGKO SENTRAL NG PILIPINAS, THE COMMISSIONER OF THE INSURANCE COMMISSION, OR THEIR DULY DESIGNATED REPRESENTATIVES, AS**

MEMBERS THEREOF.

"REPRESENTATIVES FROM OTHER CONCERNED GOVERNMENT AGENCIES AND THE AFFECTED INDUSTRY ASSOCIATIONS OR SECTORS SHALL BE INVITED AS THE COMMITTEE DEEMS NECESSARY TO ASSIST IT IN ITS DELIBERATIONS.

"All such warehouses and premises shall be subject to the supervision of the Collector, who shall impose such conditions as may be deemed necessary for the protection of the revenue and of the articles stored therein. **THE CUSTOMS COLLECTOR SHALL CONDUCT SPOT CHECKS AND PERIODIC AUDITS TO ENSURE THAT APPLICABLE CUSTOMS LAWS AND REGULATIONS ARE FOLLOWED BY BONDED FACILITIES.**"

SEC. 25. Section 1902 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 1902. *Responsibility of Operators.* – The operators of bonded warehouse in case of loss of the imported articles stored shall be liable for the payment of duties and taxes due thereon.

"The government assumes no legal responsibility in respect to the safekeeping of articles stored in any customs warehouse, sheds, yards or premises.

"THE OPERATORS OF THE BONDED WAREHOUSES SHALL MAKE AVAILABLE TO THE CONCERNED GOVERNMENT REGULATORY AGENCIES AN INVENTORY OF ALL ARTICLES STORED THEREIN. FAILURE TO DO SO IS A MANDATORY GROUND FOR THE REVOCATION OF LICENSE TO OPERATE A BONDED WAREHOUSE."

SEC. 26. Section 1903 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 1903. *Bonded Warehouses.* – Application for the establishment of bonded warehouses must be made in writing and filed with the [Collector] **ACCREDITATION COMMITTEE AS PROVIDED IN SECTION 1901 HEREOF**, describing the premises, the location, and capacity of the same, [and] the purpose for which the building is to be used[.], **AND THE INDUSTRY THAT IT SERVES.**

"Upon receipt of such application, the [Collector] **ACCREDITATION COMMITTEE** shall cause an examination of the premises, with reference particularly to its location, construction and means provided for the safekeeping of articles. **THE COMMITTEE SHALL LIKEWISE DETERMINE THE OWNERSHIP OF THE APPLICANT BONDED WAREHOUSE TO VERIFY IF ANY OWNER OR OWNERS OF A BONDED WAREHOUSE WHICH HAD**

BEEN CLOSED DUE TO ITS NONCOMPLIANCE WITH CUSTOMS LAWS AND REGULATIONS HAVE ANY INTEREST THEREIN. [and if] IF THE APPLICATION IS found satisfactory, [he] THE COMMITTEE may authorize its establishment, and [accept] CAUSE THE ACCEPTANCE OF a bond for its operation and maintenance. The operator of such bonded warehouse shall pay an annual supervision fee in an amount to be fixed by the Commissioner. The bonded warehouse officers and other employees thereof shall be regular customs employees who shall be appointed in accordance with the Civil Service Law, rules and regulations.

"THE PAID-UP CAPITAL AND NETWORTH OF THE BONDED WAREHOUSE SHALL BE SET AT AN AMOUNT AS DETERMINED BY THE COMMITTEE AS SUFFICIENT TO COVER THE TAXES AND DUTIES OF UNLIQUIDATED ENTRIES WHICH SHALL BE STORED THEREIN AT ANY GIVEN TIME. OTHERWISE, THE APPLICATION SHALL NOT BE GRANTED, AND AN AUTHORITY ALREADY GRANTED SHALL BE REVOKED.

"THESE REQUIREMENTS SHALL LIKEWISE EXTEND TO REGISTERED LOCATORS OPERATING UNDER THE CHARTERS OF THE PHILIPPINE ECONOMIC ZONE AUTHORITY (PEZA), THE SUBIC BAY METROPOLITAN AUTHORITY (SBMA), AND OTHER FREEPORTS AND ECONOMIC ZONES."

SEC. 27. Section 1905 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 1905. *Discontinuance of Warehouses.* – The use of any warehouse may be discontinued by the [Collector] ACCREDITATION COMMITTEE AS PROVIDED FOR IN SECTION 1901 HEREOF at any time when conditions so warrant, or, in case of a private warehouse upon receipt of written request to that effect from the operator thereof of the premises, provided all the requirements of the law and regulations have been complied with by said operator. A LEGITIMATE INDUSTRY GROUP MAY LIKEWISE RECOMMEND TO THE COMMITTEE THE DISCONTINUANCE OF THE BONDED WAREHOUSE ON GROUNDS OF NONCOMPLIANCE WITH THE REQUIREMENTS OF LAW AND REGULATIONS. Where the dutiable article is stored in such premises, the same must be removed at the risk and expense of the operator and the premises shall not be relinquished, nor discontinuance of its use authorized, until a careful examination of the account of the warehouse shall have been made. Discontinuance of any warehouse shall be effective upon official notice and approval thereof by the [Collector] ACCREDITATION COMMITTEE."

SEC. 28. Section 1906 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 1906. *Entry of Articles for Warehousing.* – The entry of articles for warehousing shall be in the required number of copies in the prescribed form, and shall be verified as in the entry of articles for consumption. No warehousing entry shall be accepted for any article if from the entry, supporting documents and/or information such article is imported contrary to any law. **THE CUSTOMS OFFICER RECEIVING THE ENTRY SHALL BE RESPONSIBLE FOR TRANSMITTING A COPY OF THE SAME TO THE DEPUTY COMMISSIONER FOR AUDIT AND TRANSPARENCY.**"

SEC. 29. Section 1907 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 1907. *Withdrawal of Articles from Bonded Warehouse.* – Articles entered under irrevocable domestic letter of credit [.]OR bank guarantee or bond may be withdrawn at any time for consumption, for transportation to another port, for exportation or for delivery on board a vessel or aircraft engaged in foreign trade for use on board such vessel or aircraft as sea stores or aircraft stores after liquidation of the entry. The withdrawal must be made [by a person or firm duly authorized by the former.] **ONLY BY THE IMPORTER OF THE ARTICLES TO BE WITHDRAWN OR BY A REPRESENTATIVE** whose authority must appear in writing upon the face of the withdrawal entry."

SEC. 30. Section 1908 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 1908. *Limit to Period of Storage in Bonded Warehouse.* – Articles duly entered for warehousing may remain in bonded warehouses for a maximum period of [one year] **SIX (6) MONTHS AND EXTENDIBLE FOR ANOTHER THREE (3) MONTHS** from the time of [arrival at the port of entry] **RECEIPT OF THE WAREHOUSE.** Articles not withdrawn at the expiration of the prescribed period shall be [sold at public auction by the Collector.] **DEEMED ABANDONED AND SUBJECT TO DISPOSITION IN ACCORDANCE WITH SECTION 2602 OF THIS CODE: PROVIDED, HOWEVER, THAT EMBROIDERY AND SHIPBUILDING INDUSTRIES MAY STORE THEIR IMPORTS IN THE CUSTOMS BONDED WAREHOUSE FOR A PERIOD OF TWENTY-FOUR (24) MONTHS.**"

SEC. 31. A new section to be known as Section 1910 is hereby inserted in Part 1, Title V, Book II of the Tariff and Customs Code of the Philippines, as amended, to read as follows:

"SEC. 1910. *VERIFICATION OF RECORDS KEPT IN CUSTOMS BONDED WAREHOUSES.* – A CAREFUL ACCOUNT SHALL BE KEPT BY

THE COLLECTOR OF ALL ARTICLES DELIVERED TO ANY BONDED WAREHOUSE, AND A SWORN MONTHLY RETURN, DULY VERIFIED BY THE CUSTOMS OFFICIAL IN CHARGE, SHALL BE MADE BY THE BONDED WAREHOUSE CONTAINING A DETAILED STATEMENT OF ALL IMPORTED ARTICLES STORED THEREIN.

"ALL DOCUMENTS, BOOKS AND RECORDS OF ACCOUNTS CONCERNING THE OPERATION OF ANY BONDED WAREHOUSE SHALL, UPON DEMAND BY THE SECRETARY OF TRADE AND INDUSTRY OR THE SECRETARY OF FINANCE, BE MADE AVAILABLE TO THE COLLECTOR OR HIS REPRESENTATIVE OR TO ANY LEGITIMATE INDUSTRY ASSOCIATION OR INDUSTRY SECTOR AFFECTED AND THE INDUSTRY SECTOR SOUGHT TO BE SERVICED BY THE BONDED WAREHOUSE, FOR PURPOSES OF EXAMINATION AND/OR AUDIT."

SEC. 32. Section 2001 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 2001. *Establishment of Bonded Manufacturing Warehouses.* – All articles manufactured in whole or in part of imported materials, and intended for exportation without being charged with duty, shall, in order to be so manufactured and exported, be made and manufactured in bonded manufacturing warehouses under such rules and regulations as the Commissioner of Customs, with the approval of the Secretary of Finance, shall prescribe: *Provided*, That the manufacturer of such articles shall first file a satisfactory bond for the faithful observance of all laws, rules and regulations applicable thereto[: **PROVIDED, FURTHER, THAT BONDED MANUFACTURING WAREHOUSES SHALL LIKEWISE BE SUBJECT TO THE PROVISIONS UNDER TITLE V, BOOK II OF THIS CODE: PROVIDED, FINALLY, THAT THESE REQUIREMENTS SHALL EXTEND TO REGISTERED LOCATORS OPERATING UNDER THE CHARTERS OF THE PEZA, THE SBMA, AND OTHER FREEPORTS AND ECONOMIC ZONES.**"

SEC. 33. Section 2002 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 2002. *Exemption from Duty.* –

"x x x

"b. Any imported material used in the manufacture of such articles, and any package, covering, brand and label used in putting up the same may, under the regulation prescribed by the Commissioner, with the approval of the Secretary of Finance, be conveyed without the payment of duty into any bonded manufacturing warehouse, and imported articles may, under the aforesaid

regulations, be transferred without the payment of duty from any bonded warehouse into any bonded manufacturing warehouse, or to duly accredited subcontractors of manufacturers who shall process the same into finished products for exports and deliver such finished products back to the bonded manufacturing warehouse, therefrom to be exported; but this privilege shall not be held to apply to implements, machinery or apparatus to be used in the construction or repair of any bonded manufacturing warehouse: *Provided, however,* That the materials transferred or conveyed into any bonded manufacturing warehouse shall be used in the manufacture of articles for exportation within a period of [nine (9) months] **THIRTY (30) DAYS** from date of such transfer or conveyance into the bonded manufacturing warehouse, which period may for sufficient reasons be further extended for not more than [three (3) months] **THIRTY (30) DAYS** by the Commissioner. Materials not used in the manufacture of articles for exportation within the prescribed period shall pay the corresponding duties: *Provided, further,* That the operation of embroidery and apparel firms shall continue to be governed by Republic Act Numbered Thirty-one hundred and thirty-seven."

SEC. 34. Section 2003 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 2003. *Procedure for Withdrawal.* – Articles received into such bonded manufacturing warehouse or articles manufactured therein may be withdrawn or removed therefrom for direct shipment and for immediate exportation in bond under the supervision of the proper customs officer, who shall certify to such shipment and exportation, or lading for immediate exportation as the case may be, describing the articles by their mark or otherwise, the quantity, the date of exportation, in the name of the vessel or aircraft: *Provided,* That the waste and by-products incident to the process of manufacture in said bonded warehouse may be withdrawn for domestic consumption upon payment of duty equal to the duty which would be assessed and collected pursuant to law as if such waste or by-products were imported from a foreign country: *Provided, further,* That all waste materials may be disposed under government supervision. All labor performed and services rendered under these provisions shall be under the supervision of the proper customs officer and at the expense of the manufacturer.

"VIOLATION OF THE FOREGOING PROVISION SHALL BE DEEMED AS SMUGGLING WHICH SHALL BE PUNISHABLE UNDER SECTIONS 3601 AND 3602 OF THIS CODE.

"THE ARTICLES SUBJECT OF THE VIOLATION SHALL *IPSO FACTO* BE FORFEITED IN FAVOR OF THE GOVERNMENT TO BE DISPOSED OF PURSUANT TO SECTION 2602 OF THIS CODE."

SEC. 35. Section 2307 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Section 2307. [*Settlement of Case by Payment of Fine or Redemption of Forfeited Property.*] **SETTLEMENT OF SEIZURE CASE BY PAYMENT OF FINE AND THE LOCAL INDUSTRY MARKET VALUE OF THE SEIZED ARTICLE.** – [Subject to approval of the Commissioner, the district collector may, while the case is still pending, except when there is fraud, accept the settlement of any seizure case provided that the owner, importer, exporter, or consignee or his agent shall offer to pay to the collector a fine imposed by him upon the property, or in case of forfeiture, the owner, exporter, importer or consignee or his agent shall offer to pay for the domestic market value of the seized article. The Commissioner may accept the settlement of any seizure case on appeal in the same manner.]

"[Upon payment of the fine as determined by the district collector which shall be in amount not less than twenty per centum (20%) nor more than eighty per centum (80%) of the landed cost of the seized imported article or the F.O.B. value of the seized article for export, or payment of the domestic market value, the property shall be forthwith released and all liabilities which may or might attach to the property by virtue of the offence which was the occasion of the seizure and all liability which might have been incurred under any cash deposit or bond given by the owner or agent in respect to such property shall thereupon be deemed to be discharged.]

"[Settlement of any seizure case by payment of the fine or redemption of forfeited property shall not be allowed in any case where the importation is absolutely prohibited or where the release of the property would be contrary to law.] **SUBJECT TO APPROVAL OF THE COMMISSIONER, THE DISTRICT COLLECTOR MAY, AFTER THE IMPLEMENTATION OF THE WARRANT OF SEIZURE BUT PRIOR TO THE FINAL JUDGMENT ON THE FORFEITURE CASE, EXCEPT WHEN THERE IS FRAUD, ACCEPT THE SETTLEMENT OF ANY SEIZURE CASE: PROVIDED, THAT THE OWNER, IMPORTER, EXPORTER, BROKER, OR CONSIGNEE OR HIS AGENT SHALL OFFER TO PAY TO THE DISTRICT COLLECTOR A FINE IMPOSED BY HIM UPON THE PROPERTY AND THE LOCAL INDUSTRY MARKET VALUE OF THE SEIZED ARTICLE.**

"**UPON PAYMENT OF THE LOCAL INDUSTRY MARKET VALUE AND THE FINE AS DETERMINED BY THE DISTRICT COLLECTOR WHICH SHALL BE IN AMOUNT NOT LESS THAN TWENTY PER CENTUM (20%) NOR MORE THAN EIGHTY PER CENTUM (80%) OF THE LANDED COST OF THE SEIZED ARTICLE, THE PROPERTY SHALL BE FORTHWITH RELEASED AND ALL LIABILITIES WHICH MAY OR MIGHT ATTACH TO THE PROPERTY BY VIRTUE OF THE OFFENSE WHICH WAS THE OCCASION OF**

THE SEIZURE AND ALL LIABILITY WHICH MIGHT HAVE BEEN INCURRED UNDER ANY CASH DEPOSIT OR BOND GIVEN BY THE OWNER OR AGENT IN RESPECT TO SUCH PROPERTY SHALL THEREUPON BE DEEMED TO BE DISCHARGED.

"SETTLEMENT OF ANY SEIZURE CASE BY PAYMENT OF THE FINE AND THE LOCAL INDUSTRY MARKET VALUE OF THE SEIZED ARTICLE SHALL NOT BE ALLOWED IN ANY CASE WHERE THE IMPORTATION IS ABSOLUTELY PROHIBITED OR WHERE THE RELEASE OF THE PROPERTY WOULD BE CONTRARY TO LAW."

SEC. 36. Section 2308 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 2308. *Protest and Payment Upon Protest in Civil Matters.* — When a ruling or decision of the Collector is made whereby liability for duties, taxes, fees or other charges are determined, except the fixing of fines in seizure cases, the party adversely affected **OR THE INDUSTRY ASSOCIATION OR INDUSTRY SECTOR AFFECTED BY ADVERSE RULING** may protest such ruling or decision by presenting to the Collector at the time when payment of the amount claimed to be due the government is made, or within [fifteen (15)] **THIRTY (30)** days thereafter, a written protest setting forth his objection to the ruling or decision in question, together with the reasons therefore. No protest shall be considered unless payment of the amount due after final liquidation has first been made and the corresponding docket fee, as provided for in Section 3301. **THE COLLECTOR SHALL RENDER HIS DECISION UPON THE PROTEST FILED WITHIN A PERIOD OF SIXTY (60) DAYS FROM RECEIPT OF THE WRITTEN PROTEST: PROVIDED, THAT, WHEN THE RULING OR DECISION OF THE COLLECTOR IS ADVERSE TO THE PROTESTING PARTY, IT MAY FILE AN APPEAL WITHIN FIFTEEN (15) DAYS UPON RECEIPT OF THE DECISION OR RULING OF THE COLLECTOR, WITH THE COMMISSIONER WHO SHALL RENDER A DECISION ON THE APPEAL WITHIN THIRTY (30) DAYS FROM RECEIPT OF THE APPEAL: PROVIDED, FURTHER, THAT, WHEN THE COLLECTOR FAILS TO RENDER A RULING OR DECISION WITHIN THE PRESCRIBED PERIOD, THE PROTEST SHALL AUTOMATICALLY BE ELEVATED TO THE COMMISSIONER WHO SHALL RENDER A DECISION WITHIN SIXTY (60) DAYS FROM THE DATE OF EXPIRATION OF THE PERIOD WITHIN WHICH THE COLLECTOR SHOULD HAVE RENDERED HIS DECISION OR RULING: PROVIDED, FURTHERMORE, THAT, WHEN THE RULING OR DECISION OF THE COLLECTOR IS ADVERSE TO THE GOVERNMENT IT SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 2313 OF THIS CODE: PROVIDED, FINALLY, THAT FAILURE TO RENDER A DECISION OR RULING WITHIN**

THE PRESCRIBED PERIOD SHALL BE LIABLE UNDER SECTION 3604 OF THIS CODE."

SEC. 37. Section 2316 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 2316. *Authority of Commissioner to make Compromise.* – Subject to the approval of the Secretary of Finance, the Commissioner of Customs may compromise any case arising under this Code or other laws or part of laws enforced by the Bureau of Customs involving the imposition of fines, surcharges and forfeitures unless otherwise specified by law[.]: **PROVIDED, THAT THE COMMISSIONER SHALL NOT ALLOW ANY COMPROMISE INVOLVING TAX DEFICIENCY FOR THOSE CASES FALLING UNDER SECTION 1603: PROVIDED, FURTHER, THAT THE COMPROMISE MAY BE AVAILED PRIOR TO THE RECEIPT OF THE AUDIT NOTIFICATION LETTER BY THE IMPORTER.**"

SEC. 38. Section 2317 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 2317. *Government's Right of Compulsory Acquisition AND PRIVATE SECTOR PARTICIPATION IN THE COMPULSORY ACQUISITION.* – In order to protect government revenues against the undervaluation of goods subject to *ad valorem* duty, the Commissioner of Customs may acquire imported goods under question for a price equal to their declared customs value plus any duties already paid on the goods, payment for which shall be made within ten (10) working days from issuance of a warrant signed by the Commissioner of Customs for the acquisition of such goods.

"ANY INDUSTRY ASSOCIATION OR INDUSTRY SECTOR MAY LIKEWISE POST A LETTER OF CREDIT, SURETY BOND OR SOME OTHER APPROPRIATE INSTRUMENT IN FAVOR OF THE BUREAU IN THE AMOUNT EQUAL TO THE DECLARED CUSTOMS VALUE OF THE IMPORTED ARTICLES PLUS ANY DUTIES, TAXES, FEES OR OTHER CHARGES WHICH HAVE ALREADY BEEN PAID THEREON, IN WHICH CASE THE COMMISSIONER OF CUSTOMS SHALL ACQUIRE SUCH IMPORTED GOODS, PAYMENT FOR WHICH SHALL BE MADE WITHIN TEN (10) WORKING DAYS FROM THE ISSUANCE OF A WARRANT SIGNED BY THE COMMISSIONER OF CUSTOMS FOR THE ACQUISITION OF SUCH GOODS: **PROVIDED, THAT THE PROVISIONS OF SECTION 201 OF THIS CODE SHALL APPLY IN THE CASE OF SURETY BONDS AND SURETY COMPANIES.**

"X X X

"Where no appeal is made by the importer, or upon reaffirmation of the commissioner's decision during the appeals process, the Bureau of Customs or its agent shall [sell] **DISPOSE OF** the acquired goods [pursuant to existing laws and regulations.] **IN THE MANNER AS PROVIDED FOR IN THIS CODE: PROVIDED, THAT, IN CASES WHERE COMPULSORY ACQUISITION WAS INITIATED BY THE INDUSTRY ASSOCIATION OR INDUSTRY SECTOR, THE COMMISSIONER SHALL CLAIM ON THE LETTER OF CREDIT, SURETY BOND OR WHATEVER INSTRUMENT POSTED OR USED FOR THE PURPOSE, AND THEREUPON RELEASE THE ACQUIRED ARTICLES TO THE INDUSTRY ASSOCIATION OR INDUSTRY SECTOR WHICH POSTED THE INSTRUMENT.**

"X X X."

SEC. 39. Section 2401 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"*SEC. 2401. Supervision and Control Over Criminal and Civil Proceedings.* – Civil and criminal actions and proceedings instituted in behalf of the government under the authority of this Code or other law enforced by the Bureau shall be brought in the name of the government of the Philippines and shall be [conducted] **PROSECUTED AND HANDLED** by customs [officers] **LAWYERS WITH THE ASSISTANCE OF THE DEPARTMENT OF JUSTICE: PROVIDED, THAT, THE DETERMINATION OF THE EXISTENCE OF PROBABLE CAUSE AND THE SUBSEQUENT FILING OF ANY CRIMINAL OR CIVIL CASE WITH THE PROPER COURT AGAINST VIOLATORS OF THIS CODE SHALL EXCLUSIVELY BELONG TO THE DEPARTMENT OF JUSTICE: PROVIDED, FURTHER, THAT [but] no civil or criminal action for the recovery of duties or the enforcement of any fine, penalty or forfeiture under this Code shall be filed in court without the approval of the Commissioner."**

SEC. 40. Section 2503 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"*Sec. 2503. [Undervaluation, Misclassification and Misdeclaration in Entry]* **MISDECLARATION, MISCLASSIFICATION, AND UNDERVALUATION IN GOODS DECLARATION.** – [When the dutiable value of the imported articles shall be so declared and entered that the duties, based on the declaration of the importer on the face of the entry would be less by ten percent (10%) than should be legally collected, or when the imported articles shall be so described and entered that the duties based on the importer's description on the face of the entry would be less by ten percent (10%) than should be legally collected based on the tariff classification, or when the dutiable weight, measurement or quantity

of imported articles is found upon examination to exceed by ten percent (10%) or more than the entered weight, measurement or quantity, a surcharge shall be collected from the importer in an amount of not less than the difference between the full duty and the estimated duty based upon the declaration of the importer, nor more than twice of such difference: *Provided*, That an undervaluation, misdeclaration in weight, measurement or quantity of more than thirty percent (30%) between the value, weight, measurement or quantity declared in the entry, and the actual value, weight, quantity, or measurement shall constitute a *prima facie* evidence of fraud penalized under Section 2530 of this Code: *Provided, further*, That any misdeclared or undeclared imported articles/items found upon examination shall *ipso facto* be forfeited in favor of the Government to be disposed of pursuant to the provisions of this Code.]

"[When the undervaluation, misdescription, misclassification or misdeclaration in the import entry is intentional, the importer shall be subject to the penal provision under Section 3602 of this Code.]

"MISDECLARATION AS TO QUANTITY, OR WEIGHT, OR MEASUREMENT OF THE IMPORTED ARTICLE OCCURS WHEN THERE IS DISCREPANCY OF TEN PERCENT (10%) OR MORE BUT NOT EXCEEDING THIRTY PERCENT (30%) IN DUTY BETWEEN WHAT IS FOUND UPON EXAMINATION AND WHAT IS DECLARED. IN CASE OF SUCH MISDECLARATION, A SURCHARGE EQUIVALENT TO TWO HUNDRED PERCENT (200%) OF THE DIFFERENCE BETWEEN THE FULL DUTY AS FOUND AND THAT AS DECLARED SHALL BE IMPOSED. NO SURCHARGE SHALL BE IMPOSED WHEN THE DISCREPANCY IN DUTY IS LESS THAN TEN PERCENT (10%).

"MISCLASSIFICATION OCCURS WHEN AN INCORRECT TARIFF HEADING IS USED RESULTING IN A DISCREPANCY IN DUTY BY TEN PERCENT (10%) OR MORE BUT NOT EXCEEDING THIRTY PERCENT (30%). IN CASE OF MISCLASSIFICATION, A SURCHARGE EQUIVALENT TO TWO HUNDRED PERCENT (200%) OF THE DIFFERENCE BETWEEN THE FULL DUTY AS FOUND UPON EXAMINATION AND THAT AS DECLARED SHALL BE IMPOSED. NO SURCHARGE SHALL BE IMPOSED WHEN THE DISCREPANCY IN DUTY IS LESS THAN TEN PERCENT (10%); OR WHEN THE DECLARED TARIFF HEADING IS REJECTED IN A FORMAL CUSTOMS DISPUTE SETTLEMENT PROCESS INVOLVING DIFFICULT OR HIGHLY TECHNICAL QUESTION OF TARIFF CLASSIFICATION; OR WHEN THE TARIFF CLASSIFICATION DECLARATION RELIED ON AN OFFICIAL GOVERNMENT RULING OR INFORMATION.

"A DISCREPANCY IN MISDECLARATION OR IN MISCLASSIFICATION MENTIONED ABOVE OR A DISCREPANCY OF MORE THAN THIRTY PERCENT (30%) SHALL CARRY A PRESUMPTION OF FRAUD AND SHALL BE PENALIZED UNDER SECTION 2530 AND SECTION 3602 OF THIS CODE:

PROVIDED, THAT ANY UNDECLARED ARTICLES/ITEMS SHALL *IPSO FACTO* BE FORFEITED IN FAVOR OF THE GOVERNMENT TO BE DISPOSED OF PURSUANT TO THE PROVISIONS OF THIS CODE.

"FAILURE OF THE IMPORTER TO OVERCOME THE PRESUMPTION OF FRAUD SHALL SUBJECT THE IMPORTED ARTICLE TO SEIZURE AND FORFEITURE PROCEEDINGS REGARDLESS OF THE AMOUNT OF THE DISCREPANCY WITHOUT PREJUDICE TO THE APPLICATION OF PENAL PROVISIONS AS PROVIDED IN THIS CODE AGAINST THE IMPORTER AND/OR OTHER PERSON OR PERSONS WHO PARTICIPATED IN THE FRAUDULENT ACT.

"THERE IS UNDERVALUATION WHEN: (A) THE CUSTOMS VALUE DECLARATION IN THE IMPORT ENTRY FAILS TO DISCLOSE IN FULL THE PRICE ACTUALLY PAID OR PAYABLE FOR THE IMPORTED ARTICLES; OR, (B) WHEN IT USES AN INCORRECT VALUATION METHOD OR OTHERWISE HAS NOT PROPERLY OBSERVED THE VALUATION RULES UNDER THE TRANSACTION VALUE SYSTEM, RESULTING IN DISCREPANCY IN DUTY BETWEEN THE CORRECT TRANSACTION VALUE UNDER THE APPLICABLE METHOD AND THAT AS DECLARED.

"WHEN THE UNDERVALUATION IS ESTABLISHED WITHOUT NEED TO GO THROUGH THE FORMAL DISPUTE SETTLEMENT PROCESS REQUIRED UNDER THE TRANSACTION VALUE SYSTEM PROVIDED FOR IN THIS CODE, A SURCHARGE SHALL BE IMPOSED IN AN AMOUNT EQUAL TO TWO HUNDRED PERCENT (200%) OF THE DIFFERENCE BETWEEN THE FULL DUTY AS ESTABLISHED AND THAT AS DECLARED. NO SURCHARGE SHALL BE IMPOSED WHEN THE DISCREPANCY IN DUTY IS LESS THAN TEN PERCENT (10%); OR WHEN THE DECLARED VALUE IS REJECTED AS A RESULT OF AN OFFICIAL RULING OR DECISION UNDER THE CUSTOMS DISPUTE SETTLEMENT PROCESS INVOLVING DIFFICULT OR HIGHLY TECHNICAL QUESTION RELATING TO THE APPLICATION OF CUSTOMS VALUATION RULES; OR THE VALUE DECLARATION RELIED UPON AN OFFICIAL GOVERNMENT RULING OR INFORMATION.

"WHEN THE UNDERVALUATION IS ATTENDED WITH FRAUD, SUCH AS WHEN A FALSE INVOICE OR FAKE OR ALTERED DOCUMENT SUPPORTING THE DECLARED CUSTOMS VALUE IS SUBMITTED, OR OTHERWISE A FALSE STATEMENT OR INFORMATION IS MADE AND IS UNCOVERED AT THE TIME CUSTOMS STILL HAS PHYSICAL CUSTODY OF OR CONTROL OVER THE IMPORTED ARTICLES, THE SAME SHALL FORTHWITH BE SUBJECT TO SEIZURE AND FORFEITURE PROCEEDINGS, WITHOUT PREJUDICE TO THE APPLICATION OF THE PENAL PROVISIONS UNDER SECTION 3602 OF THIS CODE AGAINST THE IMPORTER AND/OR OTHER PERSON OR PERSONS WHO PARTICIPATED IN THE FRAUDULENT ACT."

SEC. 41. A new section to be known as Section 2503-A is hereby inserted in Part 4, Title VI, Book II of the Tariff and Customs Code of the Philippines, as amended, to read as follows:

"SEC. 2503-A. *NON-IMPOSITION OF SURCHARGE. – EXEMPTION FROM THE SURCHARGE SHALL BE ALLOWED ONLY IN CASES WHEN THE DECLARED OR ENTERED CLASSIFICATION IS BASED ON RULINGS BY THE TARIFF COMMISSION PURSUANT TO SUBSECTION (A) OF SECTION 1313 OF THIS CODE: PROVIDED, THAT THE DESCRIPTION OF THE ARTICLE IS FOUND CORRECT UPON EXAMINATION: PROVIDED, FURTHER, THAT BASED ON THE RESULT OF THE EXAMINATION, THE ARTICLE IS FOUND TO BE ESSENTIALLY THE SAME AS THAT DESCRIBED IN THE RULING.*"

SEC. 42. Section 2601 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 2601. [*Property Subject to Sale*] **PROPERTY UNDER CUSTOMS CUSTODY SUBJECT TO DISPOSITION.** – Property in customs custody **THAT** shall be subject to [sale under the conditions hereinafter] **THE MODES OF DISPOSITION AS provided FOR IN SECTION 2602 HEREOF:**

"X X X."

SEC. 43. Section 2602 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 2602. [*Place of Sale or Other Disposition of Property.*] **MODES OF DISPOSITION OF PROPERTY UNDER CUSTOMS CUSTODY.** – Property within the purview of this Part of this Code shall be [sold, or otherwise disposed of, upon the order of the Collector of the port where the property in question is found, unless the Commissioner shall direct its conveyance for such purpose to some other port.] **DISPOSED OF THROUGH THE FOLLOWING MODES OF DISPOSITION:**

"(A) WHEN SUBJECT PROPERTY HAS EXPORT POTENTIAL, THE SAME SHALL BE RE-EXPORTED THROUGH A GOVERNMENT ENTITY WHICH SHALL BE DESIGNATED TO PERFORM SAID TASK;

"(B) WHEN THE PROPERTY IS NOT RE-EXPORTED, AND UPON RECOMMENDATION OF THE COMMISSIONER OF CUSTOMS, THE SECRETARY OF FINANCE MAY AUTHORIZE THE OFFICIAL USE OF THE ARTICLES TO PROMOTE THE INTENSIVE COLLECTION OF TAXES AND/OR TO HELP PREVENT OR SUPPRESS SMUGGLING AND OTHER

FRAUDS UPON THE CUSTOMS;

"(C) WHEN THE ARTICLE IS NOT SUITABLE FOR RE-EXPORTATION OR FOR USE AGAINST SMUGGLING OR OTHER FRAUDS UPON CUSTOMS, THEN IT MAY BE CHanneLED FOR THE OFFICIAL USE OF OTHER OFFICES OF THE NATIONAL GOVERNMENT;

"(D) IF THE ARTICLE IS SUITABLE FOR SHELTER OR CONSISTS OF FOODSTUFFS OR CLOTHING MATERIALS THEN THAT ARTICLE SHALL BE GIVEN TO THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT, OR TO THE DEPARTMENT OF HEALTH IN THE CASE OF MEDICINES; AND

"(E) IF SUBJECT ARTICLE CANNOT BE RE-EXPORTED THROUGH THE GOVERNMENT ENTITY DESIGNATED FOR THE PURPOSE OR IS NOT SUITABLE EITHER FOR OFFICIAL USE OR CHARITY, THE SAME SHALL BE BURNED OR DESTROYED IN SUCH MANNER AS THE CASE MAY REQUIRE AS TO RENDER IT ABSOLUTELY WORTHLESS, IN THE PRESENCE OF REPRESENTATIVES FROM THE COMMISSION ON AUDIT, THE DEPARTMENT OF JUSTICE, THE BUREAU OF CUSTOMS AND THE PRIVATE SECTOR.

"THE COST OF RE-EXPORTATION OF SUBJECT PROPERTY UNDER THIS SECTION, INCLUDING ALL ATTENDANT COSTS THERETO, SHALL BE SHOULDERED BY THE IMPORTER/CONSIGNEE WHO UNLAWFULLY BROUGHT IN THE IMPORTED ARTICLE, AND/OR THE BROKER THEREOF, AS THE CASE MAY BE; WHEN BOTH THE IMPORTER/CONSIGNEE WHO UNLAWFULLY BROUGHT IN THE ARTICLE AND THE BROKER COULD NOT BE LOCATED THEN THE GOVERNMENT ENTITY WHICH IS DESIGNATED TO RE-EXPORT SUBJECT PROPERTY SHALL SHOULDER THE COST OF RE-EXPORTATION: *PROVIDED*, THAT ARTICLES TO BE RE-EXPORTED UNDER THIS SECTION SHALL BE TRANSFERRED BY THE BUREAU OF CUSTOMS TO THE GOVERNMENT ENTITY THAT IS MANDATED TO RE-EXPORT THE ARTICLES WITHIN FIFTEEN (15) DAYS FROM THE TIME THE FORFEITURE HAS BECOME FINAL AND EXECUTORY: *PROVIDED, FURTHER*, THAT ARTICLES THAT ARE CHanneLED OR AUTHORIZED FOR OFFICIAL USE OR FOR CHARITABLE PURPOSES BY GOVERNMENT ENTITIES SHALL NOT BE SOLD NOR EXCHANGED IN ANY MANNER WHATSOEVER FOR OTHER ARTICLES: *PROVIDED, FURTHERMORE*, THAT THE COST OF HANDLING, STORAGE, TRANSPORTATION, AND OTHER CHARGES INCIDENTAL TO THE UPKEEP AND TRANSPORTATION OF SUBJECT ARTICLE SHALL BE BORNE BY THE RECIPIENT GOVERNMENT AGENCY."

SEC. 44. Section 2603 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 2603. *[Mode of Sale]* **DISPOSITION OF PROCEEDS IN CASE OF RE-EXPORTATION.** [In the absence of any special provision, subject to the provisions of Section 2601 above provided, property subject to sale by the customs authorities shall be sold at public auction within thirty (30) days after ten (10) days notice of such sale shall have been conspicuously posted at the port and such other advertisement as may appear to the Collector to be advisable in the particular case.] **THE FOLLOWING CHARGES SHALL BE PAID FROM THE PROCEEDS OF THE RE-EXPORTATION OF ARTICLES WITHIN THE PURVIEW OF THIS CODE:**

"(A) RE-EXPORTATION EXPENSES INCURRED BY THE GOVERNMENT ENTITY DESIGNATED FOR THE PURPOSE;

"(B) TAXES AND OTHER CHARGES DUE THE GOVERNMENT;

"(C) STORAGE CHARGES;

"(D) ARRASTRE CHARGES;

"(E) FREIGHT, LIGHTERAGE AND OTHER EXPENSES INCIDENTAL TO THE EXPORTATION; AND

"(F) ANY SURPLUS REMAINING AFTER THE SATISFACTION OF ALL LAWFUL CHARGES AS PROVIDED HEREIN SHALL BE DEPOSITED IN A SPECIAL TRUST FUND WHICH SHALL BE USED SOLELY FOR THE PURPOSE OF FINANCING THE COMPULSORY ACQUISITION OF IMPORTED GOODS BY THE GOVERNMENT AS PROVIDED FOR IN SECTION 2317 OF THIS CODE."

SEC. 45. Section 2612 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 2612. *Disposition of Smuggled Articles.* – Smuggled articles, after liability to seizure or forfeiture shall have been established by proper administrative [or judicial] proceedings in conformity with the provisions of this Code, shall be disposed of as provided for in [s]Section [twenty-six hundred and two] **2602 HEREOF:** *Provided,* That articles whose importation is prohibited under Section One Hundred [Two] **ONE** sub-paragraphs b, c, d, e and j shall, upon order to the Collector in writing, be burned or destroyed, in such manner as the case may require as to render them absolutely worthless, in the presence of a representative each from the Commission on Audit, [Ministry] **DEPARTMENT** of Justice, Bureau of Customs, and if possible, any representative of the private sector."

SEC. 46. A new section to be known as Section 3504-A is hereby inserted after Section 3504 of the Tariff and Customs Code of the Philippines, as amended, to read as follows:

"SECTION 3504-A. *SURETY BONDS AND ELIGIBILITY OF SURETY COMPANIES.* – SURETY BONDS FROM A SURETY COMPANY WHICH HAS AN OUTSTANDING LIABILITY OF THIRTY PERCENT (30%) OR MORE OF THE TOTAL DUE AND DEMANDABLE BONDS ISSUED IN FAVOR OF THE BUREAU OF CUSTOMS, AT ANY TIME, SHALL NOT BE ACCEPTABLE AS GUARANTEE FOR THE RELEASE OF THE IMPORTED GOODS: *PROVIDED*, THAT, THE PERMIT OR LICENSE OF THE SURETY COMPANY WHICH HAS AN OUTSTANDING LIABILITY OF THIRTY PERCENT (30%) OR MORE OF THE TOTAL DUE AND DEMANDABLE BONDS, AT ANY TIME, WITH THE BUREAU OF CUSTOMS, TO ISSUE CUSTOMS SURETY BOND FOR CUSTOMS PURPOSES, SHALL BE CANCELLED: *PROVIDED, FINALLY*, THAT ANY SURETY COMPANY SHALL BE ELIGIBLE TO ISSUE CUSTOMS SURETY BOND ONLY AFTER DETERMINATION OF GOOD STANDING, WHICH SHALL BE BASED ON A MEASURABLE PERFORMANCE RECORD IN THE CASE OF EXISTING SURETY COMPANIES AND FINANCIAL CAPACITY IN THE CASE OF NEW SURETY COMPANIES, BY THE INSURANCE COMMISSION IN CONSULTATION WITH THE BUREAU OF CUSTOMS."

SEC. 47. Section 3519 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 3519. *Words and Phrases Defined.* – As used in this Code:

"x x x

" 'FOREIGN TRANSHIPMENT' SHALL REFER TO THE TRANSPORT OF GOODS FROM A FOREIGN COUNTRY INTO ANY PORT OR PORTS OF THE PHILIPPINES FOR SHIPMENT TO A FOREIGN DESTINATION WITHOUT INTRODUCING THE SAME INTO THE PHILIPPINE CUSTOMS TERRITORY.

"x x x

" 'Smuggling' is an act of any person who shall fraudulently import or bring into the Philippines, or assist in so doing, any article, contrary to law or shall receive, conceal, buy, sell or in any manner facilitate the transportation, concealment, or sale of such article after importation, knowing the same to have been imported contrary to law. It includes the exportation of articles in a manner contrary to law. Articles subject to this paragraph shall be known as smuggled articles[:]. *PROVIDED, HOWEVER*, THAT THE ACT OF RECEIVING ARTICLES THAT ARE SUPPOSED TO BE EXPORTED BUT ARE SUBSEQUENTLY RETURNED AND REJECTED BY THE IMPORTING COUNTRY SHALL NOT BE CONSIDERED SMUGGLING.

"x x x."

SEC. 48. Section 3601 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 3601. *Unlawful Importation.* – Any person who shall fraudulently import or bring into the Philippines, or assist in so doing, any article, contrary to law, **SHALL BE GUILTY OF SMUGGLING AND SHALL BE PUNISHABLE AS HEREIN PROVIDED. ANY PERSON [or] WHO** shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such **UNLAWFULLY IMPORTED** article [after importation, knowing the same to have been imported contrary to law], shall be **DEEMED** guilty of smuggling and shall **LIKEWISE** be [punished with] **PUNISHABLE AS HEREIN PROVIDED:**

"1. A fine of not less than [fifty] **TWENTY THOUSAND** pesos (**P20,000.00**) nor more than [two hundred] **ONE HUNDRED THOUSAND** pesos (**P100,000.00**) and imprisonment of not less than [five days] **TWO (2) YEARS AND ONE (1) DAY** nor more than [twenty days] **SIX (6) YEARS**; if the appraised value, to be determined in the manner prescribed under this Code, including duties and taxes, of the article unlawfully imported does not exceed [twenty-five] **TWO HUNDRED THOUSAND** pesos (**P200,000.00**);

"2. A fine of not less than [eight hundred] **ONE HUNDRED FIFTY THOUSAND** pesos (**P150,000.00**) nor more than [five thousand] **THREE HUNDRED THOUSAND** pesos (**P300,000.00**) and imprisonment of not less than [six months] **SEVEN (7) YEARS** and one (1) day nor more than [four] **TEN (10)** years, if the appraised value, to be determined in the manner prescribed under this Code, including duties and taxes, of the article unlawfully imported exceeds [twenty-five] **TWO HUNDRED THOUSAND** pesos (**P200,000.00**) but does not exceed [fifty] **SIX HUNDRED** thousand pesos (**P600,000.00**);

"3. A fine of not less than [six] **FOUR HUNDRED** thousand pesos (**P400,000.00**) nor more than [eight thousand] **SIX HUNDRED THOUSAND** (**P600,000.00**) and imprisonment of not less than [five] **ELEVEN (11)** years and one (1) day nor more than [eight] **FIFTEEN (15)** years, if the appraised value, to be determined in the manner prescribed under this Code, including duties and taxes, of the article unlawfully imported is more than [fifty] **SIX HUNDRED** thousand pesos (**P600,000.00**) but does not exceed [one hundred fifty thousand] **ONE MILLION** pesos (**P1,000,000.00**);

"4. A fine of not less than [eight thousand] **EIGHT HUNDRED THOUSAND** pesos (**P800,000.00**) nor more than [ten thousand] **TEN MILLION** pesos (**P10,000,000.00**) and imprisonment not less than [eight] **SIXTEEN (16)** years and one (1) day nor more than [twelve] **TWENTY (20)** years, if the appraised value to be determined in the manner prescribed under this Code, including duties and taxes, of the article unlawfully imported exceeds [one hundred fifty thousand pesos] **ONE MILLION PESOS (P1,000,000.00) BUT NOT MORE THAN FIFTY MILLION PESOS (P50,000,000.00);**

"5. IF THE APPRAISED VALUE, TO BE DETERMINED IN THE MANNER PRESCRIBED UNDER THIS CODE, OF THE ARTICLE UNLAWFULLY IMPORTED, INCLUDING DUTIES AND TAXES, EXCEEDS FIFTY MILLION PESOS (P50,000,000.00) OR, IF THE AGGREGATE AMOUNT OF THE APPRAISED VALUES OF THE UNLAWFULLY IMPORTED ARTICLES, INCLUDING DUTIES AND TAXES, RESULTING FROM ACTS OF UNLAWFUL IMPORTATION COMMITTED IN MORE THAN ONE INSTANCE, EXCEEDS FIFTY MILLION PESOS (P50,000,000.00), THE SAME SHALL BE DEEMED AS HEINOUS CRIME AND SHALL BE PUNISHABLE WITH A PENALTY OF *RECLUSION PERPETUA* AND A FINE OF NOT LESS THAN TWELVE MILLION PESOS (P12,000,000.00) BUT NOT MORE THAN FIFTY MILLION PESOS (P50,000,000.00); AND

"[5] 6. The penalty of *prision mayor* shall be imposed when the crime of serious physical injuries shall have been committed and the penalty of *reclusion perpetua* [to death] shall be imposed when the crime of homicide shall have been committed by reason or on the occasion of the unlawful importation.

"In applying the above scale of penalties, if the offender is an alien [and the prescribed penalty is not death], he shall be deported after serving the sentence without further proceedings for deportation. If the offender is a government official or employee, the penalty [shall be the maximum as hereinabove prescribed and the offender shall suffer an additional] **WHICH IS THE NEXT HIGHER IN DEGREE SHALL BE IMPOSED IN ADDITION TO THE** penalty of perpetual disqualification from public office, to vote and to participate in any public election. **IF THE OFFENDER FAILS TO PAY THE FINE, HE SHALL SUFFER SUBSIDIARY IMPRISONMENT.**

"X X X."

SEC. 49. Section 3602 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 3602. *Various Fraudulent Practices Against Customs Revenue.*

– Any person who makes or attempts to make any entry of imported or exported article by means of any false or fraudulent invoice, declaration, affidavit, letter, paper or by any means of any false statement, written or verbal, or by any means of any false or fraudulent practice whatsoever, or [knowingly] effects any entry of goods, wares or merchandise, at less than the true weight or measures thereof or upon a false classification as to quality or value, or by the payment of less than the amount legally due, or [knowingly and willfully] files any false or fraudulent entry or claim for the payment of drawback or refund of duties upon the exportation of merchandise, or makes or files any affidavit abstract, record, certificate or other document, with a view to securing the payment to himself or others of any drawback, allowance, or refund of duties on the exportation of

merchandise, greater than that legally due thereon, or who shall be guilty of any [willful] act or omission shall, for each offence, **BE GUILTY OF TECHNICAL SMUGGLING AND SHALL** be [punished in accordance with the penalties prescribed in the preceding section.] **PUNISHABLE AS FOLLOWS:**

"(A) A FINE OF NOT LESS THAN THREE HUNDRED THOUSAND PESOS (P300,000.00) NOR MORE THAN FIVE HUNDRED THOUSAND PESOS (P500,000.00) AND IMPRISONMENT OF *PRISION CORRECCIONAL*, IF THE DIFFERENCE BETWEEN THE VALUE, WEIGHT, MEASUREMENT, OR QUANTITY DECLARED IN THE ENTRY AND THE TRUE AND ACTUAL VALUE, WEIGHT, QUANTITY, OR MEASUREMENT OF THE ARTICLE UNLAWFULLY IMPORTED DOES NOT EXCEED ONE HUNDRED THOUSAND PESOS (P100,000.00);

"(B) A FINE OF NOT LESS THAN FIVE HUNDRED THOUSAND PESOS (P500,000.00) NOR MORE THAN EIGHT HUNDRED THOUSAND PESOS (P800,000.00) AND IMPRISONMENT OF *PRISION MAYOR*, IF THE DIFFERENCE BETWEEN THE VALUE, WEIGHT, MEASUREMENT, OR QUANTITY DECLARED IN THE ENTRY AND THE TRUE AND ACTUAL VALUE, WEIGHT, QUANTITY, OR MEASUREMENT OF THE ARTICLE UNLAWFULLY IMPORTED EXCEEDS ONE HUNDRED THOUSAND PESOS (P100,000.00) BUT DOES NOT EXCEED ONE MILLION PESOS (P1,000,000.00);

"(C) A FINE OF NOT LESS THAN EIGHT HUNDRED THOUSAND PESOS (P800,000.00) NOR MORE THAN ONE MILLION PESOS (P1,000,000.00) AND IMPRISONMENT OF *RECLUSION TEMPORAL*, IF THE DIFFERENCE BETWEEN THE VALUE, WEIGHT, MEASUREMENT, OR QUANTITY DECLARED IN THE ENTRY AND THE TRUE AND ACTUAL VALUE, WEIGHT, QUANTITY, OR MEASUREMENT OF THE ARTICLE UNLAWFULLY IMPORTED EXCEEDS ONE MILLION PESOS (P1,000,000.00) BUT DOES NOT EXCEED FIVE MILLION PESOS (P5,000,000.00); AND

"(D) A FINE OF NOT LESS THAN ONE MILLION PESOS (P1,000,000.00) NOR MORE THAN TWO MILLION PESOS (P2,000,000.00) AND IMPRISONMENT OF *RECLUSION PERPETUA*, IF THE DIFFERENCE BETWEEN THE VALUE, WEIGHT, MEASUREMENT, OR QUANTITY DECLARED IN THE ENTRY AND THE TRUE AND ACTUAL VALUE, WEIGHT, QUANTITY, OR MEASUREMENT OF THE ARTICLE UNLAWFULLY IMPORTED EXCEEDS FIVE MILLION PESOS (P5,000,000.00).

"IN APPLYING THE ABOVE SCALE OF PENALTIES, IF THE OFFENDER IS AN ALIEN, HE SHALL BE DEPORTED AFTER SERVING THE SENTENCE WITHOUT FURTHER PROCEEDINGS FOR DEPORTATION. IF THE OFFENDER IS A GOVERNMENT OFFICIAL OR EMPLOYEE, THE PENALTY NEXT HIGHER IN DEGREE SHALL BE IMPOSED IN ADDITION TO THE PENALTY OF PERPETUAL DISQUALIFICATION FROM PUBLIC

OFFICE, TO VOTE AND TO PARTICIPATE IN ANY PUBLIC ELECTION. IF THE OFFENDER FAILS TO PAY THE FINE, HE SHALL SUFFER SUBSIDIARY IMPRISONMENT. HE SHALL ALSO LOSE ALL THE BENEFITS DUE HIM FOR HIS SERVICE IN THE GOVERNMENT, INCLUDING THE FORFEITURE OF HIS SEPARATION AND RETIREMENT BENEFITS."

SEC. 50. A new section to be known as Section 3602-A is hereby inserted in Part 1, Title V, Book II of the Tariff and Customs Code of the Philippines, as amended, to read as follows:

"SEC. 3602-A. *WAREHOUSING ACTS DEEMED AS SMUGGLING PUNISHABLE UNDER SECTIONS 3601 AND 3602 OF THIS CODE.* – THE FOLLOWING SHALL BE DEEMED AS ACTS OF SMUGGLING WHICH SHALL BE PUNISHABLE UNDER SECTIONS 3601 AND 3602 OF THIS CODE:

"(A) BREAKING OF CUSTOMS SEALS OR UNAUTHORIZED REMOVAL OF ARTICLES FROM BONDED WAREHOUSES;

"(B) SUBMISSION OF INCORRECT OR FALSE INFORMATION BY THE BONDED WAREHOUSE;

"(C) WAREHOUSING OF THE FOLLOWING SHIPMENTS:

"(1) FINISHED ARTICLES, WITHOUT EXCEPTION. – FINISHED ARTICLES, AS USED IN THIS SECTION, SHALL REFER TO SCIENTIFICALLY OR TECHNOLOGICALLY PROCESSED ARTICLES IN FINAL STATE SUCH THAT NO OTHER PRODUCT CAN BE MANUFACTURED THEREFROM UNLESS ITS PRINCIPAL CHARACTER IS FIRST DESTROYED.

"(2) ARTICLES NOT DECLARED IN THE IMPORT ENTRIES OR IN EXCESS OF THE VOLUME AND QUANTITY ALLOWED UNDER THE LICENSE OF THE CUSTOMS BONDED WAREHOUSE.

"(3) PROHIBITED ARTICLES, AND REGULATED ARTICLES WITHOUT THE CORRESPONDING CLEARANCE AND/OR IMPORT AUTHORITY DULY ISSUED BY A COMPETENT AUTHORITY.

"(D) UNAUTHORIZED TRANSFERS FROM THE CUSTOMS ZONE OF WAREHOUSING ARTICLES IMPORTED BY THE BONDED WAREHOUSE.

"(E) UNAUTHORIZED WITHDRAWAL FROM A BONDED WAREHOUSE WITHOUT PAYMENT OF DUTIES AND TAXES.

"(F) FAILURE TO LIQUIDATE IMPORTED ARTICLES WHICH WERE WITHDRAWN FROM THE BONDED WAREHOUSE WITHIN THIRTY (30) DAYS FROM ISSUANCE BY THE BUREAU OF THE CERTIFICATE OF LOADING IN A VESSEL DESTINED TO A FOREIGN PORT; AND

"(G) FAILURE TO PAY DUTIES AND TAXES ON THE REMAINING IMPORTED MATERIALS WHICH ARE NOT EXPORTED WITHIN THIRTY (30) DAYS FROM LAPSE OF THE PERIOD FOR RE-EXPORTATION.

"IMPORTATIONS MADE IN VIOLATION OF THE ABOVE PROVISIONS IN THIS SECTION SHALL *IPSO FACTO* BE FORFEITED IN FAVOR OF THE GOVERNMENT TO BE DISPOSED OF PURSUANT TO SECTION 2602 OF THIS CODE."

SEC. 51. Section 3603 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 3603. *Failure to Report Fraud.* – Any master, pilot in command or other officer, owner or agent of any vessel or aircraft trading with or within the Philippines and any employee of the Bureau of Customs who, having cognizance of any fraud on the customs revenue, shall fail to report all information relative thereto to the Collector as by law required, shall be punished by a fine of not **LESS THAN FIFTY THOUSAND PESOS (P50,000.00) BUT NOT** more than [five] **TWO HUNDRED** thousand pesos (**P200,000.00**) and imprisonment for not **LESS THAN TWO (2) YEARS AND ONE (1) DAY BUT NOT** more than [one year] **FIVE (5) YEARS**. If the offender is an alien, he shall be deported after serving the sentence. If the offender is a public official or employee, he shall suffer additional penalty of perpetual disqualification to hold public office, to vote and to participate in any election. **HE SHALL ALSO LOSE ALL THE BENEFITS DUE HIM FOR HIS SERVICE IN THE GOVERNMENT, INCLUDING THE FORFEITURE OF HIS SEPARATION AND RETIREMENT BENEFITS.**"

SEC. 52. Section 3604 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 3604. *Statutory Offenses of Officials and Employees.* – Every official, agent or employee of the Bureau or of any other agency of the government charged with the enforcement of the provisions of this Code, who is guilty of any delinquency herein below indicated shall be punished with a fine of not less than [Five] **ONE HUNDRED** thousand pesos (**P100,000.00**) nor more than [Fifty] **FIVE HUNDRED** thousand pesos (**P500,000.00**) and imprisonment for not less than [one year] **TEN (10) YEARS AND ONE (1) DAY** nor more than [ten] **FIFTEEN (15)** years and perpetual disqualification to hold public office, to vote and to participate in any public election[:]. **HE SHALL ALSO LOSE ALL THE BENEFITS DUE HIM FOR HIS SERVICE IN THE GOVERNMENT, INCLUDING THE FORFEITURE OF HIS SEPARATION AND RETIREMENT BENEFITS:**

"x x x."

SEC. 53. Section 3605 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 3605. *Concealment or Destruction of Evidence of Fraud.* – Any person who [willfully] conceals or destroys any invoice, book or paper relating to any article liable to duty after an inspection thereof has been demanded by the Collector of any collection district or at any time conceals or destroys any such invoice, book or paper for the purpose of suppressing any evidence of fraud therein contained, shall be punished with a fine of **NOT LESS THAN TWENTY THOUSAND PESOS (P20,000.00) BUT** not more than [five] **ONE HUNDRED thousand pesos (P100,000.00)** and imprisonment for **NOT LESS THAN TWO (2) YEARS AND ONE (1) DAY BUT** not more than [two] **FIVE (5) years.**"

SEC. 54. Section 3606 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 3606. *Affixing Seals.* – Any person who, without authority affixes or attaches a customs seal, fastening, or mark or any seal, fastening or mark purporting to be a customs seal, fastening or mark to any vessel, vehicle on land, sea or air, warehouse, or package, shall be punished with a fine of not **LESS THAN TWENTY THOUSAND PESOS (P20,000.00) BUT NOT** more than [twenty] **ONE HUNDRED thousand pesos (P100,000.00) [or] AND** imprisonment of not **LESS THAN TWO (2) YEARS AND ONE (1) DAY BUT NOT** more than [five] **SEVEN (7) years**[, or both]. If the offender is an alien, he shall be deported after serving the sentence; and if he is a public official or employee, he shall suffer an additional penalty of perpetual disqualification to hold public office, to vote and participate in any election."

SEC. 55. Section 3610 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 3610. *Failure to Keep Importation Records and Give Full Access to Customs Officers.* – Any person who fails to keep all the records of importations and/or books of accounts, business and computer systems and all customs commercial data in the manner prescribed in Part 2, Section 3514 of this Title shall be punished with a fine of not less than [One hundred thousand pesos (P100,000.00)] **TWO HUNDRED THOUSAND PESOS (P200,000.00)** but not more than [Two hundred thousand pesos (P200,000.00)] **FIVE HUNDRED THOUSAND PESOS (P500,000.00) [and/or] AND** imprisonment of not less than [two (2)] **FOUR (4) years** and one day but not more than [six (6)] **EIGHT (8) years.** This penalty shall likewise be imposed against the importers/brokers who deny an authorized customs officer full and free access to such records, books of accounts, business and computer systems, and all customs commercial data including payment records. This is without prejudice to the administrative sanctions that the Bureau of Customs may impose against contumacious

importers under existing laws and regulations including the authority to hold delivery or release of their imported articles."

SEC. 56. Section 3612 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"Sec. 3612. *Violations of Tariff and Customs Laws and Regulations in General.* – Any person who violates a provision of this Code or regulations pursuant thereto, for which delinquency no specific penalty is provided, shall be punished by a fine of not **LESS THAN TWENTY THOUSAND PESOS (P20,000.00) BUT NOT** more than One **HUNDRED** thousand pesos **(P100,000.00)** [or] **AND** by imprisonment for not **LESS THAN TWO (2) YEARS AND ONE (1) DAY BUT NOT** more than [one year] **FIVE (5) YEARS**[, or both]. If the offender is an alien, he shall be deported after serving the sentence and if the offender is a public official or employee, he shall suffer disqualification to hold public office, to vote and participate in any public election for ten years."

SEC. 57. A new section to be known as Section 3613 is hereby inserted to the Tariff and Customs Code of the Philippines, as amended, to read as follows:

"**SEC. 3613. SUMMARY PROCEDURE FOR SEIZURE AND FORFEITURE.** – NOTWITHSTANDING THE PROVISIONS OF TITLE VI OF THIS CODE, ARTICLES WHICH ARE FRAUDULENTLY IMPORTED OR BROUGHT INTO THE PHILIPPINES WITHOUT BEING ENTERED THROUGH THE CUSTOMSHOUSE, OR WITHOUT PAYMENT OF THE CORRECT AND APPLICABLE DUTIES, TAXES, FEES AND CHARGES SHALL BE SUMMARILY SEIZED AND FORFEITED IN FAVOR OF THE GOVERNMENT WHEN WARRANTED OR DETERMINED IN THE SEIZURE PROCEEDINGS. SUBJECT TO THE PROVISIONS OF SECTION 2530 OF THIS CODE, ANY VESSEL OR AIRCRAFT WHICH IS LEASED TO FRAUDULENTLY BRING IN SAID IMPORTED ARTICLES INTO THE PHILIPPINES SHALL LIKEWISE BE SUBJECT TO SUMMARY SEIZURE AND FORFEITURE.

"THE DECISION OF THE SECRETARY OF FINANCE, UPON THE RECOMMENDATION OF THE COMMISSIONER OF CUSTOMS, UNDER THIS SECTION, SHALL BE FINAL AND UNAPPEALABLE.

"NO COURT, EXCEPT THE COURT OF TAX APPEALS AND THE SUPREME COURT, SHALL ISSUE ANY TEMPORARY RESTRAINING ORDER OR ANY INJUNCTIVE RELIEF AGAINST THE SEIZURE, FORFEITURE OR DISPOSITION OF THE SUBJECT ARTICLES COVERED BY THIS SECTION.

"THE OWNER OR OPERATOR OF ANY SEIZED VESSEL OR AIRCRAFT UNDER THIS SECTION SHALL BE BLACKLISTED FROM

OPERATING AND/OR FROM ENGAGING IN TRADE IN THE PHILIPPINES."

SEC. 58. A new title to be known as Title VIII, with heading entitled "Ports Transparency Alliance", and under which Sections 3614, 3615, 3616, 3617, 3618, 3619 and 3620 are inserted in the Tariff and Customs Code of the Philippines, as amended, to read as follows:

"TITLE VIII

"PORTS TRANSPARENCY ALLIANCE

"SEC. 3614. PORTS TRANSPARENCY ALLIANCE. – PUBLIC-PRIVATE SECTOR PARTNERSHIP FOR THE EFFICIENT CUSTOMS ADMINISTRATION IS HEREBY INSTITUTIONALIZED THROUGH THE CREATION OF THE PORTS TRANSPARENCY ALLIANCE OR "PORTAL" UNDER THE DIRECTION AND LEADERSHIP OF THE SECRETARY OF FINANCE."

"SEC. 3615. POWERS AND FUNCTIONS OF PORTAL. – THE PORTS TRANSPARENCY ALLIANCE OR PORTAL SHALL HAVE THE FOLLOWING POWERS AND FUNCTIONS:

"(A) TO ENCOURAGE GREATER PRIVATE SECTOR PARTICIPATION IN THE ADMINISTRATION OF CUSTOMS LAWS;

"(B) TO IMPROVE CUSTOMER SERVICE IN ORDER TO ENHANCE COMPLIANCE TO TAX AND DUTY LAWS, RULES AND REGULATIONS;

"(C) TO REMOVE BOTTLENECKS AND ADDRESS LEAKAGES THAT IMPACT BUSINESS COMPETITIVENESS;

"(D) TO PROTECT CONSUMER RIGHTS; AND

"(E) TO PERFORM SUCH OTHER FUNCTIONS AS MAY BE NECESSARY TO CARRY OUT ITS MANDATE."

"SEC. 3616. COMPOSITION OF THE PORTAL. – THE PORTAL SHALL BE CHAIRED BY THE SECRETARY OF FINANCE OR BY AN UNDERSECRETARY WHO IS DULY DESIGNATED TO REPRESENT THE SECRETARY WHEN HE IS UNAVAILABLE. IT SHALL BE CO-CHAIRLED BY THE COMMISSIONER OF CUSTOMS.

"ITS MEMBERSHIP SHALL INCLUDE REPRESENTATIVES OF VARIOUS DOMESTIC INDUSTRIES, INDUSTRY ASSOCIATIONS OR CHAMBERS, TAXPAYER ASSOCIATIONS AND CONSUMER GROUPS, AS DETERMINED THROUGH A DEPARTMENT ORDER TO BE ISSUED BY THE SECRETARY OF FINANCE.

"THE TWO (2) CO-CHAIRPERSONS OF THE CONGRESSIONAL OVERSIGHT COMMITTEE ON THE TAX REFORM PROGRAM, OR THEIR DULY DESIGNATED REPRESENTATIVES, SHALL ALSO BE MEMBERS OF THE PORTAL.

"THE HEADS OF OTHER DEPARTMENTS OF THE GOVERNMENT MAY BE INVITED IN THE PORTAL MEETINGS AS RESOURCE PERSONS ON ISSUES CONCERNING THEIR RESPECTIVE OFFICES."

"SEC. 3617. *MEETINGS.* – THE PORTAL SHALL MEET AT LEAST ONCE A MONTH, OR AS OFTEN AS NECESSARY AT THE CALL OF THE CHAIRPERSON OR A MAJORITY OF THE MEMBERS, IN ORDER TO THRESH OUT VARIOUS ISSUES, PROPOSALS AND PROBLEMS CONCERNING CUSTOMS. A MAJORITY OF THE MEMBERS OF THE PORTAL SHALL CONSTITUTE A QUORUM TO DO BUSINESS. THE MEETING SHALL BE PRESIDED BY THE CHAIRPERSON, OR IN HIS ABSENCE, BY HIS/HER DULY DESIGNATED UNDERSECRETARY."

"SEC. 3618. *FUNDING.* – THE ANNUAL APPROPRIATIONS FOR THE DEPARTMENT OF FINANCE AND THE BUREAU OF CUSTOMS SHALL PROVIDE AN ITEM OF EXPENSE FOR THE INSTITUTIONALIZATION OF THE PORTAL."

"SEC. 3619. *ASSISTANCE FROM OTHER GOVERNMENT AGENCIES.* – THE PORTAL MAY REQUEST ANY DEPARTMENT, BUREAU, OFFICE, AGENCY, OR ANY INSTRUMENTALITY OF THE GOVERNMENT FOR SUCH ASSISTANCE AS MAY BE NEEDED IN THE PERFORMANCE OF ITS FUNCTIONS."

"SEC. 3620. *ANNUAL REPORT.* – THE PORTAL SHALL, WITHIN NINETY (90) DAYS AFTER THE END OF EVERY FISCAL YEAR, SUBMIT TO THE PRESIDENT AND TO CONGRESS AN ANNUAL REPORT ON ITS COMPLIANCE WITH, OR ACCOMPLISHMENTS OF, ITS POWERS, DUTIES AND FUNCTIONS, TOGETHER WITH ITS PLANS AND RECOMMENDATIONS TO IMPROVE AND DEVELOP ITS CAPABILITY TO ENFORCE ITS MANDATE."

SEC. 59. *Rules and Regulations.* The Secretary of Finance shall, upon the recommendation of the Commissioner of Customs, promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 60. *Separability Clause.* If any provision of this Act is subsequently declared unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

SEC. 61. *Repealing Clause.* Sections 2604, 2605, 2606, 2607, and 2610 of the Tariff and Customs Code of the Philippines, as amended, are hereby repealed. All laws, decrees,

executive orders, rules and regulations and other issuances or parts thereof which are inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 62. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in any two (2) newspapers of general circulation, whichever date comes earlier.

Approved,