

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

15TH CONGRESS
First Regular Session

HOUSE BILL NO. 3055

Introduced by **REP. SALVADOR H. ESCUDERO III**

EXPLANATORY NOTE

This piece of legislation principally seeks to address the perennial problem of smuggling in the Bureau of Customs (BOC) by amending the pertinent provisions of the Tariff and Customs Code or Presidential Decree No. 1464.

This bill prescribes a new set of stringent requirements for surety companies and bonded warehouses doing business in the BOC. Surety companies are given the threshold amount of 30% of the total due and demandable bonds as the minimum liability in the BOC with which it can no longer issue bonds in favor of the BOC and be subjected to cancellation of its permit or license.

In the case of bonded warehouses entities and locators, which include even those operating under the charter of the Philippine Economic Zone Authority (PEZA), the Subic Bay Metropolitan Authority (SBMA), and other freeports and ecozones, their paid-up capital and net assets are to be made equivalent to the value of goods of unliquidated entries stored in their respective warehouses.

Customs officials tasked to examine and appraised the value of goods is to be mandated to certify such under oath. Moreover, a valuation library, updated at all times, is to be used as reference and basis for examination and appraisal.

Lastly, smuggling is made a graver offense in this proposed legislation by applying graduated penalties depending on the form of smuggling committed and the value of the goods concerned. It provides as maximum the penalty of life imprisonment for smuggling if the value of the goods unlawfully imported exceeds Php1,000,000.00.

In the light of the foregoing, and if only to establish an effective system of addressing smuggling and corruption in the BOC, immediate passage of this bill is sincerely sought.


SALVADOR H. ESCUDERO III
Representative
1st District, Sorsogon

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Introduced by **REP. SALVADOR H. ESCUDERO III**

AN ACT

**AMENDING CERTAIN PROVISIONS OF PRESIDENTIAL DECREE NO. 1464,
OTHERWISE KNOWN AS THE TARIFF AND CUSTOMS CODE OF THE
PHILIPPINES, AS AMENDED**

*Be it enacted by the Senate and the 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 I of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

“Sec. 201. *Basis of Dutiable Value.* - (A) *Method One. – Transaction Value.* - The dutiable value of an imported article subject to an *ad valorem* rate of duty shall be the transaction value, which shall be the price actually paid or payable for the goods when sold for export to the Philippines, adjusted by adding:

(1) The following to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the imported goods:

- (a) Commissions and brokerage fees (except buying commissions);
- (b) Cost of containers;
- (c) The cost of packing, whether for labour or materials;
- (d) The value, apportioned as appropriate, of the following goods and services: materials, components, parts and similar items incorporated in the imported goods; tools; dies; moulds and similar items used in the production of imported goods; materials consumed in the production of the imported goods; and engineering, development, artwork, design work and plans and sketches undertaken elsewhere than in the Philippines and necessary for the production of imported goods, where such goods and services are supplied directly or indirectly by the buyer free of charge or at a reduced cost for use in connection with the production and sale for export of the imported goods;

(e) The amount of royalties and license fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods to the buyer.

(2) The value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;

(3) The cost of transport of the imported goods from the port of exportation to the port of entry in the Philippines;

(4) Loading, unloading and handling charges associated with the transport of the imported goods from the country of exportation to the port of entry in the Philippines; and

(5) The cost of insurance.

All additions to the price actually paid or payable shall be made only on the basis of objective and quantifiable data.

No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Section: *Provided*, That Method One shall not be used in determining the dutiable value of imported goods if:

(a) There are restrictions as to the disposition or use of the goods by the buyer other than restrictions which:

- (i) Are imposed or required by law or by Philippine authorities;
- (ii) Limit the geographical area in which the goods may be resold; or
- (iii) Do not substantially affect the value of the goods.

(b) The sale or price is subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;

(c) Part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions hereof; or

(d) The buyer and the seller are related to one another, and such relationship influenced the price of the goods. Such persons shall be deemed related if:

- (i) They are officers or directors of one another's businesses;
- (ii) They are legally recognized partners in business;
- (iii) There exists an employer-employee relationship between them;
- (iv) Any person directly or indirectly owns, controls or holds five percent (5%) or more of the outstanding voting stock or shares of both seller and buyer;
- (v) One of them directly or indirectly controls the other;
- (vi) Both of them are directly or indirectly controlled by a third person;
- (vii) Together they directly or indirectly control a third person; or

(viii) They are members of the same family, including those related by affinity or consanguinity up to the fourth civil degree.

Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related for the purposes of this Act if they fall within any of the eight (8) cases above.

(B) *Method Two. – Transaction Value of Identical Goods.* – Where the dutiable value cannot be determined under method one, the dutiable value shall be the transaction value of identical goods sold for export to the Philippines and exported at or about the same time as the goods being valued. “*Identical goods*” shall mean goods which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearances shall not preclude goods otherwise conforming to the definition from being regarded as identical.

(C) *Method Three. – Transaction Value of Similar Goods.* – Where the dutiable value cannot be determined under the preceding method, the dutiable value shall be the transaction value of similar goods sold for export to the Philippines and exported at or about the same time as the goods being valued. “*Similar goods*” shall mean goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, their reputation and the existence of a trademark shall be among the factors to be considered in determining whether goods are similar.

If the dutiable value still cannot be determined through the successive application of the two immediately preceding methods, the dutiable value shall be determined under method four or, when the dutiable value still cannot be determined under that method, under method five, except that, at the request of the importer, the order of application of methods four and five shall be reversed: *Provided, however,* That if the Commissioner of Customs deems that he will experience real difficulties in determining the dutiable value using method five, the Commissioner of Customs may refuse such a request in which event the dutiable value shall be determined under method four, if it can be so determined.

(D) *Method Four. – Deductive Value.* – The dutiable value of the imported goods under this method shall be the deductive value which shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the Philippines, in the same condition as when imported, in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons not related to the persons from whom they buy such goods, subject to deductions for the following:

(1) Either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in such country of imported goods of the same class or kind;

(2) The usual costs of transport and insurance and associated costs incurred within the Philippines; [and]

by using other reasonable means and on the basis of data available in the Philippines.

If the importer so requests, the importer shall be informed in writing of the dutiable value determined under Method Six and the method used to determine such value.

No dutiable value shall be determined under Method Six on the basis of:

(1) The selling price in the Philippines of goods produced in the Philippines;

(2) A system that provides for the acceptance for customs purposes of the higher of two alternative values;

(3) The price of goods in the domestic market of the country of exportation;

(4) The cost of production, other than computed values, that have been determined for identical or similar goods in accordance with Method Five hereof;

(5) The price of goods for export to a country other than the Philippines;

(6) Minimum customs values; or

(7) Arbitrary or fictitious values.

"If in the course of determining the dutiable value of the 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 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] may be liable: *Provided, however,* That goods, the importation of which is prohibited by law, shall not be released under any circumstances whatsoever: *PROVIDED, FURTHER, THAT 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, FURTHERMORE, 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 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 BY THE INSURANCE COMMISSION.*

"THE BUREAU OF CUSTOMS SHALL ACCEPT GUARANTEES IN THE FORM OF SURETY BONDS EXCLUSIVELY ISSUED BY SURETY COMPANIES, INCLUDING THE GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS), WHO ARE MEMBERS OF A BUREAU OF CUSTOMS' APPROVED CONSORTIUM.

"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 has reason to doubt the truth or accuracy of the particulars or of documents produced in support of this declaration, the customs administration 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 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 shall communicate to the importer in writing its 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 customs 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, [Central Bank of the Philippines] BANGKO SENTRAL NG PILIPINAS, Board of Investments, Department of Budget AND MANAGEMENT, and other economic agencies of the government, on or before December 30, of each year.

"For more scientific preparation of the annual report, the Commissioner shall cause the computerization of the data contained in the liquidated entries filed with the Bureau of Customs."

SEC. 4. Section 609 of the Tariff and Customs Code of the Philippines, as amended,

“For more scientific preparation of the annual report, the Commissioner shall cause the computerization of the data contained in the liquidated entries filed with the Bureau of Customs.”

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 NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY, the [Central Bank of the Philippines] BANGKO SENTRAL NG PILIPINAS, the Tariff Commission, AND THE NATIONAL STATISTICS OFFICE, 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, GENERAL SANTOS, Zamboanga, Cagayan de Oro, Surigao, Legaspi, Batangas, San Fernando, Subic and Manila International Container Port.”

SEC. 6. Section 709 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

“SEC. 709. *Authority of the Collector to Remit Duties.* – A Collector shall [have discretionary authority to] remit the assessment and collection of customs duties, taxes and other charges when the aggregate amount of such duties, taxes, and other charges is [less than ten] FIVE HUNDRED pesos (P500.00) OR MORE, and he may dispense with the seizure of articles of less than [ten] FIVE HUNDRED pesos (P500.00) in value except in cases of prohibited importations or the habitual or the intentional violation of the tariff and customs laws.”

SEC. 7. A new section to be known as Section 1001-A is hereby inserted after Section 1001 of the Tariff and Customs Code of the Philippines, as amended, which shall read as follows:

“SEC. 1001-A. *TRANSMISSION OF ELECTRONIC COPY OF MANIFEST/STOWAGE PLAN PRIOR TO ARRIVAL* – AN ELECTRONIC COPY OF THE CARGO AND PASSENGER MANIFEST AS WELL AS THE STOWAGE PLAN OF THE VESSEL ENGAGED IN FOREIGN TRADE SHALL BE TRANSMITTED TO THE BUREAU OF CUSTOMS AT LEAST TWELVE (12) HOURS FOR OCEAN GOING VESSELS AND TWO (2) HOURS FROM DEPARTURE FOR AIRLINES 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, DEPARTMENT OF TRADE AND INDUSTRY, AND DEPARTMENT OF AGRICULTURE AT LEAST ONE (1) HOUR PRIOR TO THE AIRCRAFT'S ARRIVAL IN THE PORT OF ENTRY."

SEC. 8. 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.* – "Every vessel from a foreign port must have on board a complete manifest of all her cargo.

"All of the cargo intended to be landed at a port in the Philippines must be described in separate manifests for each port of call therein. Each manifest shall include the port of departure and the port of delivery with the marks, numbers, quantity and description of the packages and the names of the consignees thereof. Every vessel from a foreign port must have on board complete manifests of passengers and their baggage, in the prescribed form, setting forth their destination and all particulars required by immigration laws, and every such vessel shall have prepared for presentation to the proper customs official upon arrival in ports of the Philippines a complete list of all sea stores then on board. If the vessel does not carry cargo or passengers, the manifest must show that no cargo or passenger, as the case may be, is carried from the port of departure to the port of destination in the Philippines.

"A TRUE AND COMPLETE COPY OF THE CARGO MANIFEST AND BILL OF LADING SHALL BE SENT IN ADVANCE TO THE BUREAU OF CUSTOMS AND THE PHILIPPINE PORTS AUTHORITY WITHIN TWENTY-FOUR HOURS (24) HOURS AFTER RECEIPT THEREOF BY THE MASTER OF THE VESSEL.

"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 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 has been completed."

SEC. 9. Section 1007 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 1007. *Manifest 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 manifest properly indorsed by the boarding officer, and UPON ARRIVAL, he shall present to the Collector the original copy of the cargo manifest and, for inspection, the ship's register or other document in lieu thereof, together with the clearance and other papers granted to the vessel at the port of departure for the Philippines.

"WITHIN THREE DAYS FROM RECEIPT OF THE CARGO MANIFEST FROM THE MASTER OF THE VESSEL, THE COLLECTOR SHALL POST COPIES THEREOF AT A CUSTOMS BULLETIN BOARD FOR TWO CONSECUTIVE WEEKS."

SEC. 10. 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.

"WITHIN FIVE DAYS FROM THE ACTUAL DISCHARGE OF A VESSEL, BUT IN ANY CASE NOT LATER THAN FIFTEEN (15) DAYS FROM THE DATE OF THE VESSEL'S DEPARTURE FROM THE PHILIPPINES, THE PARTY WHO APPLIED FOR FOREIGN TRANSSHIPMENT OF GOODS SUBJECT TO EXCISE TAX OR MORE THAN TWENTY PERCENT (20%), SUCH AS THE SHIPPING COMPANY OR AGENT, TRANSSHIPMENT OPERATOR OR THE OWNER OF THE GOODS SHALL SUBMIT TO THE BUREAU OF CUSTOMS AND/OR TO THE BUREAU OF INTERNAL REVENUE, A CERTIFICATE OF DISCHARGE FROM THE FOREIGN PORT OF DISCHARGE OR DESTINATION. THE CERTIFICATE OF DISCHARGE SHALL CERTIFY THAT THE EXCISABLE GOODS TRANSSHIPPED FROM THE PHILIPPINES WERE DISCHARGED AT THE PORT OF DESTINATION AND RECEIVED BY THE CONSIGNEE NAMED IN THE MANIFEST. THE CERTIFICATE OF DISCHARGE SHALL BE ISSUED BY THE CUSTOMS OR PORT OFFICIALS AT THE FOREIGN PORT OF DESTINATION: *PROVIDED*, THAT IF THE SAID CERTIFICATE 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. THE CERTIFICATE OF DISCHARGE TO BE SUBMITTED TO THE BUREAU OF CUSTOMS AND/OR BUREAU OF INTERNAL REVENUE SHALL BE ACCOMPANIED BY A COPY OF THE INWARD FOREIGN MANIFEST SUBMITTED TO, RECEIVED BY, AND PROPERLY STAMPED BY THE CUSTOMS AUTHORITIES AT THE PORT OF DESTINATION.

"FAILURE TO SUBMIT THE CERTIFICATE OF DISCHARGE AND THE INWARD FOREIGN MANIFEST AS REQUIRED HEREINABOVE SHALL CONSTITUTE *PRIMA FACIE* PROOF THAT THE EXCISABLE GOODS AS MENTIONED HEREIN THAT THE GOODS ALLEGEDLY TRANSSHIPPED 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 CERTIFICATE OF DISCHARGE. THEREAFTER AND UNTIL THE REQUIRED CERTIFICATE OF DISCHARGE AND THE INWARD FOREIGN MANIFEST SHALL HAVE BEEN SUBMITTED, ALL SUBSEQUENT TRANSSHIPMENT OF GOODS TO AND FROM THE PHILIPPINES BY THE SAID PARTY(IES) WITHOUT THE PAYMENT OF DUTIES AND TAXES SHALL BE DISALLOWED. THE SUBMISSION OF THE CERTIFICATE OF DISCHARGE IS REQUIRED ONLY FOR TRANSSHIPPED GOODS SUBJECT TO EXCISE TAX OF MORE THAN TWENTY PERCENT (20%) IN ADDITION TO THE PAYMENT OF TAXES AND DUTIES IF SUCH GOODS ENTER THE DOMESTIC MARKET."

SEC. 11. 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 from the importer to the government which can be discharged only by payment in full of all duties, taxes, fees and other charges legally accruing. It 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."

SEC. 12. 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 Unloading.* - Imported articles remaining on board any vessel after the expiration of the said period for discharge and not reported for transshipment to another port, may be unladen by customs authorities and stored at the vessel's expense.

"Unless prevented by causes beyond the vessel's control, such as port congestion, strikes, riots, or civil commotions, failure of vessel's gear, bad weather, and similar causes, articles so stored shall be entered within [thirty] FORTY FIVE ([30]45) 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] FORTY FIVE ([15]45) days, which shall likewise not 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. 13. 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 OR ITS CONCERNED BUREAU PRIOR TO IMPORTATION INTO THE PHILIPPINES, OTHERWISE, THE SAME AGRICULTURAL PRODUCTS MUST BE SHIPPED BACK TO THE COUNTRY OF ORIGIN BY THE IMPORTER OR CONSIGNEE THROUGH THE SAME CARRIER THAT LOADED/TRANSPORTED OR BROUGHT IN THE PRODUCT

THAT WAS ISSUED BY AN IMPORT ENTRY OR IMPORT AUTHORITY AFTER ENTRY INTO THE PHILIPPINES WHEN SUCH IMPORT PERMIT/AUTHORITY IS REQUIRED PRIOR TO IMPORTATION OF SUBJECT AGRICULTURAL PRODUCT, SHALL BE CONSIDERED AS SMUGGLED ARTICLE AND SHALL BE DISPOSED OF IN THE MANNER PROVIDED FOR IN SECTION 2602 OF THIS CODE.”

SEC. 14. 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.* – All imported articles, except importations admitted free of duty under Subsection “k”, Section one hundred and five of this Code, shall be subject to a formal or informal entry. Articles of a commercial nature intended for sale, barter or hire, the dutiable value of which is Two thousand pesos (P2,000.00) or less, and personal and household effects or articles, not in commercial quantity, imported in passenger’s baggage, mail or otherwise, for personal use, shall be cleared on an informal entry whenever duty, tax or other charges are collectible.

The Commissioner may, upon instruction of the Secretary of Finance, for the protection of domestic industry or of the revenue, require a formal entry, regardless of value, whatever be the purpose and nature of the importation.

“A formal entry may be for immediate consumption, or under irrevocable domestic letter of credit, bank guarantee or bond for:

“(a) Placing the article in customs bonded warehouse;

“(b) Constructive warehousing and immediate transportation to other ports of the Philippines upon proper examination and appraisal; or

“(c) Constructive warehousing and immediate exportation.

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

“Import entries under irrevocable domestic letter of credit, bank guarantee or bond shall be subject to the provisions of Title V, Book II of this Code.

“All importations entered under formal entry shall be covered by a letter of credit or any other verifiable document evidencing payment.” (R.A. 9135, April 27, 2001)

SEC. 15. Section 1313 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

“SEC. 1313. *Information Furnished on Classification and Value.* –

a. As to classification OF AN ARTICLE AND TRADE FACILITATION – [When an article imported or intended to be imported is not specifically classified in this Code, the interested party, importer or foreign exporter may submit to the Tariff Commission a sample together with a full description of its component materials and uses, and request it in writing to indicate the heading under which the article is or shall be dutiable, and the Tariff Commission shall comply with such requests within thirty days from receipt thereof if it is satisfied that the application is made in good faith, in which case classification of the article in question upon the particular importation involved shall be made according to the heading indicated by the Tariff Commission: *Provided, however,* That such rulings of the Tariff Commission on

commodity classification, shall be binding upon the Bureau of Customs, unless the Secretary shall rule otherwise.] IMPORTERS, EXPORTERS OR ANY INTERESTED PARTY SHALL REQUEST THE TARIFF COMMISSION IN WRITING, BEFORE OR AFTER THE ARRIVAL OF THE GOODS OR COMMODITY SUBJECT OF IMPORTATION FOR AN OFFICIAL TARIFF CLASSIFICATION RULING UPON SUBMISSION OF A SAMPLE TOGETHER WITH THE BROCHURE AND PERTINENT TECHNICAL INFORMATION SHEETS/DATA. THE TARIFF COMMISSION SHALL COMPLY WITH SUCH A REQUEST WITHIN THIRTY (30) DAYS FROM RECEIPT HEREOF. THE RULING SHALL BE BINDING WITH THE BUREAU OF CUSTOMS, UNLESS THE SECRETARY OF FINANCE SHALL RULE OTHERWISE. ANY TARIFF CLASSIFICATION RULING/S AS MAY BE ISSUED BY THE COMMISSION SHALL REMAIN VALID AND EFFECTIVE, UNLESS SUCH TARIFF CLASSIFICATION RULING/S ARE AMENDED BY THE COMMISSION SO AS TO CORRECT ERRORS IN THE CLASSIFICATION OF AN ARTICLE OR IN CASES OF AMENDMENT TO THE ASEAN HARMONIZED TARIFF NOMENCLATURE (AHTN), OR FOR ANY OTHER REASON AS THE COMMISSION MAY SEE FIT."

"ANY PETITIONING PARTY WHO IS AGGRIEVED BY, OR IS NOT SATISFIED WITH THE RESULT ON ANY TARIFF CLASSIFICATION RULING AS ISSUED BY THE TARIFF COMMISSION, MAY FILE A VERIFIED APPEAL WITHIN THIRTY (30) DAYS FROM RECEIPT OF SUCH TARIFF CLASSIFICATION RULING OF THE TARIFF COMMISSION BASED ON THE SOLE GROUND OF NEW OR ADDITIONAL INFORMATION OF THE PRODUCT UNDER CONSIDERATION. AN APPEAL FEE OF ONE THOUSAND PESOS (P1,000.00) SHALL LIKEWISE BE REQUIRED TO BE PAID BY THE APPEALING PARTY, WITHOUT THE PAYMENT OF WHICH HIS OR HER APPEAL WOULD BE DISMISSED OUTRIGHT BY THE COMMISSION."

SEC. 16. Section 1401 of the Tariff and Customs Code of the Philippines as amended, is hereby further amended to read as follows:

"SEC. 1401. *Conditions for Examination.* — For the protection of government revenue and public interest and to prevent the entry into the country of smuggled or contraband goods, the Commissioner shall, in consultation with the Oversight Committee and subject to the approval of the Secretary of Finance, promulgate the rules and regulations that shall prescribe the procedure in accordance with which examination shall be undertaken on the importation and the required quantity or percentage thereof: *Provided*, That the imported articles shall in any case be subject to the regular physical examination when:

"(1) The government surveyor's seal on the container has been tampered with or broken or the container shows signs of having been opened or having its identity changed;

"(2) The container is leaking or damaged;

"(3) The number, weight and nature of packages indicated in the customs entry declaration and supporting documents differ from that in the manifest;

"(4) The shipment is covered by alert/hold orders issued pursuant to existing orders;

“(5) The importer disagrees with the findings as contained in the government surveyor's report; or

“(6) The articles are imported through air freight where the Commissioner or Collector has knowledge that there is a variance between the declared and true quantity, measurement, weight, and tariff classification.”

“(7) THE PRODUCT DESCRIPTION OF THE SHIPMENT IS NOT IN ACCORDANCE WITH THE EXISTING HARMONIZED SYSTEMS CODE.”

SEC. 17. 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, which shall read as follows:

“SEC. 1401-A. *VALUATION LIBRARY.* – THE COMMISSIONER SHALL ENSURE THAT THERE SHALL BE A VALUATION LIBRARY, WHICH SHALL BE KEPT UP TO DATE AND MAINTAINED USING THE BEST AVAILABLE TECHNOLOGY. THE VALUATION LIBRARY SHALL BE MADE READILY AVAILABLE TO THE PUBLIC AS AUTHORIZED BY THE BUREAU OF CUSTOMS.”

SEC. 18. 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 a return in such a manner 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. THE CUSTOMS OFFICER SHALL USE THE VALUATION LIBRARY AS A REFERENCE ONLY IN CLASSIFYING AND APPRAISING THE IMPORTED ARTICLES.

“Likewise, the customs officer shall determine the unit of quantity in which they are usually bought and sold and appraise the imported articles in accordance with Section 201 of this Code.

“Failure on the part of the customs officer to comply with his duties shall subject him to penalties prescribed under 3604 of this Code. (RA 7650, April 06, 1993.”

SEC. 19. Section 1704(d) of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

“SEC. 1704. *Abatement or Refund of Duties on Articles Lost or Destroyed After Arrival.* – A Collector may abate or refund the amount of duties accruing or paid, and may likewise make a corresponding allowance on the irrevocable domestic letter of credit, bank guarantee, or the entry bond or other document, upon satisfactory proof of injury, destruction, or loss by theft, fire or other causes of any article as follows:

“a. While within the limits of any port of entry prior to unlading under customs supervisions;

“b. While remaining in customs custody after unlading;

"c. While in transit under irrevocable domestic letter of credit, bank guarantee or bond with formal entry in accordance with section one thousand three hundred two from the port of entry to any port in the Philippines;

"d. While released under irrevocable domestic letter of credit, bank guarantee or bond for export except in case of loss by theft: *PROVIDED, THAT NO ABATEMENT OR REFUND SHALL BE MADE WHEN THE THEFT OCCURS IN BONDED WAREHOUSES OUTSIDE OF THE CUSTOMS ZONE.*"

SEC. 20. 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:

"a. When the owner, importer, consignee of the imported article expressly signifies in writing to the Collector of Customs his intention to abandon; or

"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 SUB-AGENTS ARE REQUIRED TO STATE IN BOLD, PROMINENT AND COMPREHENSIBLE CHARACTERS THE PHRASE 'CUSTOMS LAW REQUIRES THE FILING OF ENTRY WITHIN THIRTY (30) DAYS 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 THE DATE OF DISCHARGE OF THE LAST PACKAGE FROM THE VESSEL 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 SUB-AGENTS 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 OR WHEN THERE IS A WRITTEN DENIAL OF OWNERSHIP FROM THE PERSON INDICATED ON THE MANIFEST OR BILL OF LADING AS THE OWNER, IMPORTER, OR CONSIGNEE OF THE IMPORTED ARTICLE.

"NON-COMPLIANCE WITH THE PROVISIONS OF THIS SECTION SHALL CONSTITUTE A GROUND FOR THE IMPOSITION OF FINES IN PROGRESSIVE SUCCESSION. .

"Any person who abandons an article or who fails to claim his importation as provided for in the preceding paragraph shall be deemed to have renounced all his interests and property rights therein. (R.A. 7651, June 4, 1993)."

SEC. 21. 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. ALL ABANDONED ARTICLES SHALL BE AUTOMATICALLY SUBJECT TO AUCTION AND SHALL IN NO CASE BE SUBJECT TO SETTLEMENT OR COMPROMISE.

"AN UPDATED LISTING OF ALL ABANDONED SHIPMENTS SCHEDULED FOR AUCTION SHALL BE POSTED ON THE OFFICIAL WEBSITE OF THE BUREAU OF CUSTOMS AND AT THE MAIN ENTRANCE OF CUSTOMS HOUSES.

"Nothing in this section shall be construed as relieving the owner or importer from any criminal liability which may arise from any violation of law committed in connection with the importation of abandoned article.

"Any official or employee of the Bureau of Customs or of other government agencies who, having knowledge of the existence of an abandoned article or having control or custody of such abandoned article, fails to report to the Collector within twenty-four (24) hours from the time the article is deemed abandoned shall be punished with the penalties prescribed in Paragraph 1, Section 3604 of this Code." (RA 7651, June 4, 1993)

SEC. 22. 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 of Warehouses.* – When the business of the port requires such facilities, the Collector, subject to the approval of the Commissioner, shall designate and establish INDUSTRY SPECIFIC 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 COMPOSED OF THE SECRETARY OF TRADE AND INDUSTRY, AS CHAIR THEREOF, AND ONE REPRESENTATIVE EACH FROM THE INDUSTRY ASSOCIATION OR INDUSTRY SECTOR AFFECTED, AND THE INDUSTRY ASSOCIATION SOUGHT TO BE SERVICED BY THE CUSTOMS BONDED WAREHOUSE SUBJECT TO THE FINAL APPROVAL OF THE BUREAU OF CUSTOMS.

"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 COMPLIED WITH BY BONDED FACILITIES."

SEC. 23. 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 warehouses 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 warehouses, sheds, yards or premises.

"THE OPERATORS OF THE BONDED WAREHOUSES SHALL, FOR LEGITIMATE PURPOSES, MAKE AVAILABLE 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. 24. 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, describing the premises, the location, and capacity of the same, the purpose for which the building is to be used, AND THE INDUSTRY TO WHICH IT BELONGS. THE APPLICATION SHALL LIKEWISE BE ACCOMPANIED BY VERIFIED COPIES OF DOCUMENTS INDICATING THE OWNERSHIP AND THE FINANCIAL CAPACITY OF THE BONDED WAREHOUSE.

"Upon receipt of such application, the Collector shall cause an examination of the premises, with reference particularly to its location, construction and means provided for the safekeeping of articles. THE COLLECTOR SHALL LIKEWISE DETERMINE THE OWNERSHIP OF THE APPLICANT BONDED WAREHOUSE OR TO VERIFY OWNERS OF A BONDED WAREHOUSE WHICH HAD BEEN CLOSED DUE TO ITS NON-COMPLIANCE WITH CUSTOMS LAWS AND REGULATIONS WHICH HAS ANY INTEREST THEREIN. [i]f THE APPLICATION IS found satisfactory, [he] THE COLLECTOR may authorize its establishment, and accept 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 NET ASSETS OF THE BONDED WAREHOUSE SHALL BE SET AT AN AMOUNT DETERMINED BY THE COMMISSIONER AS SUFFICIENT TO COVER THE DUTIES AND TAXES OF IMPORT ENTRIES ENTERED INTO THE BONDED WAREHOUSE THAT ARE DUE AND DEMANDABLE, OTHERWISE, THE APPLICATION SHALL NOT BE GRANTED."

"SEC. 1903-A. REGULAR AUDIT OF BONDED WAREHOUSE. – A REGULAR AUDIT OF ALL BONDED WAREHOUSES SHALL BE CONDUCTED BY THE COLLECTOR, WHICH AUDIT SHALL BE SUBJECT TO AUTOMATIC REVIEW BY THE COMMISSIONER, UPON PETITION OF AN INTERESTED PARTY. A SECOND AUDIT MAY BE CONDUCTED BY THE DEPUTY COMMISSIONER OR AN INDEPENDENT AUDIT MAY BE

MADE UPON INSTANCE OF THE PETITIONING PARTY IN COORDINATION WITH THE COMMISSIONER."

SEC. 25. 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 at any time when conditions so warrant, or in the 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 FILE A COMPLAINT IN WRITING WITH THE COMMISSIONER OF CUSTOMS FOR THE COLLECTOR THE DISCONTINUANCE OF THE BONDED WAREHOUSE ON GROUNDS OF NON-COMPLIANCE WITH THE REQUIREMENTS OF LAW AND REGULATIONS. When 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."

SEC. 26. 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: *PROVIDED*, THAT PROOF IS SHOWN THAT THE ORDER TO IMPORT THE SUBJECT ARTICLES HAS BEEN CANCELLED: *PROVIDED*, *FURTHER*, THAT THE ARTICLES TO BE WITHDRAWN DO NOT AMOUNT TO MORE THAN FIFTY PERCENT (50%) OF THE TOTAL INVENTORY OF THE BONDED WAREHOUSE. The withdrawal must be made ONLY BY THE IMPORTER OF THE ARTICLES BEING WITHDRAWN OR BY A REPRESENTATIVE [by a person or firm duly authorized by the former,] whose authority must appear in writing upon the face of the withdrawal entry."

SEC. 27. 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, EXTENDIBLE FOR ANOTHER THREE (3) MONTHS from the time of [arrival] RECEIPT OF THE WAREHOUSE at the port of entry. 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 THE PROVISIONS OF THIS CODE. THE BUREAU OF CUSTOMS SHALL ACCREDIT SPECIFIC INDUSTRIES REQUIRING LONGER PERIOD OF STORAGE."

"A DAILY RECORD OF ALL ENTRIES LIQUIDATED SHALL BE POSTED IN A CONSPICUOUS PLACE IN THE MAIN ENTRANCE OF THE CUSTOMS HOUSE, STATING THE NAME OF THE VESSEL OR AIRCRAFT, THE PORT FROM WHICH SHE ARRIVED, THE DATE OF HER ARRIVAL, THE NAME OF THE IMPORTER, AND THE SERIAL NUMBER OF THE DATE OF ENTRY. THE COLLECTOR MUST ALSO KEEP A DAILY RECORD OF ALL ADDITIONAL DUTIES, TAXES AND OTHER CHARGES FOUND UPON LIQUIDATION, AND SHALL PROMPTLY SEND NOTICE TO THE INTERESTED PARTIES."

"THE LIQUIDATION OF WAREHOUSING ENTRIES SHALL BE MADE NOT MORE THAN THREE (3) MONTHS FROM THE TIME OF RECEIPT OF THE WAREHOUSE."

SEC. 28. A new section to be known as Section 1910 is hereby inserted in Part I, Title V, Book II of the Tariff and Customs Code of the Philippines, as amended, to read as follows:

"SEC. 1910. *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. – 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 PROVIDED THAT THE RESTRICTION IN VOLUME AND QUANTITY SHALL NOT APPLY TO EXPORTERS OPERATING UNDER CUSTOMS BONDED MANUFACTURING WAREHOUSES.

"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 WITHDRAWN FROM THE BONDED WAREHOUSE WITHIN SIX (6) MONTHS, EXTENDIBLE FOR ANOTHER THREE (3) MONTHS, FROM THE TIME OF RECEIPT OF THE CUSTOMS BONDED WAREHOUSE.

"(G) FAILURE TO PAY DUTIES AND TAXES ON THE REMAINING (NOT EXPORTED) IMPORTED MATERIALS 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 THE PROVISIONS OF THIS CODE PROVIDED DUE PROCESS IS FOLLOWED.

"THE BUREAU OF CUSTOMS SHALL APPROVE INDUSTRIES SEEKING EXEMPTION FROM THE COVERAGE OF ANY OF THE ABOVE MENTIONED PROVISIONS."

SEC. 29. A new section to be known as Section 1911 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. 1911. *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 OF THE SECRETARY OF FINANCE, BE MADE AVAILABLE TO THE COLLECTOR OR HIS REPRESENTATIVE, FOR PURPOSES OF EXAMINATION AND/OR AUDIT."

SEC. 30. 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 DUTIES AND TAXES [duty], shall, in order to be so manufactured and exported, be made and manufactured in 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."

SEC. 31. 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.* -

a. Whenever articles manufactured in any bonded manufacturing warehouse established under the provisions of the preceding section shall be exported directly therefrom or shall be duly laden for immediate exportation under the supervision of the proper official, such articles shall be exempt from duty.

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 DUTIES AND TAXES [duty] into any bonded manufacturing warehouse, and imported articles may, under the aforesaid regulations, be transferred without the payment of [duty] DUTIES AND TAXES

from any bonded warehouse into any bonded manufacturing warehouse, or to duly accredited sub-contractors 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 IMPORTED MATERIAL TRANSFERRED OR CONVEYED INTO ANY BONDED WAREHOUSE OR DIRECTLY INTO ANY MANUFACTURING BONDED WAREHOUSE, PRIOR TO ITS UNLOADING, SO AS NOT TO BE SUBJECT TO THE PAYMENT OF DUTY, SHALL BE SO MARKED, INDICATED AND IDENTIFIED WITH THE LETTERS "CBW" PRINTED BOLDLY, LEGIBLY, INDELIBLY, AND PERMANENTLY ON THE COVERING OF THE PACKAGE OR SACK OF THE IMPORTED MATERIAL, SUBJECT TO THE LIMITATIONS MENTIONED IN SUBPARAGRAPHS A, B, C, D AND H OF PARAGRAPH 3, SECTION 303 OF THIS CODE: Provided, [however] FURTHER, 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] FINALLY, That the operation of embroidery and apparel firms shall continue to be governed by Republic Act Numbered Thirty-one hundred and thirty-seven."*

SEC. 32. 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 if such waste or by-products were imported from a foreign country: Provided, further, That all waste materials may be [disposed] DESTROYED under government supervision. All labor performed and services rendered under these provisions shall be under the supervision of a proper customs official 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 THE PROVISIONS OF THIS CODE."

SEC. 33. Section 2005 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 2005. *Bonded Smelting Warehouses.* – The plants of manufacturers engaged in smelting or refining, or both, of ores and crude metals, may, upon the filing of CASH bonds, be designated as bonded smelting warehouses. Ores or crude metals may be removed from the vessel or aircraft in which imported, or from a bonded warehouse, into a bonded smelting warehouse without the payment of duties thereon, and there smelted or refined, or both, together with ores or crude metals of home or foreign productions: *Provided,* That THE CASH BOND SHALL BE IN a sum equal in amount to the regular duties which would have been payable on such ores and crude metals if entered for consumption at the time of their importation, and the several charges against such bond shall be cancelled upon the exportation or delivery to bonded manufacturing warehouse established under section twenty hundred and one hereof of a quantity of the same kind of metal equal to the quantity of metal contained in such ores or crude metals, due allowance being made of the smelter wastage as ascertained from time by the Commissioner: *Provided, further,* That the said metals so producible or any portion thereof, may be withdrawn for RE-EXPORTATION UPON PROOF THAT THE ORDER TO IMPORT THE SUBJECT METALS HAS BEEN CANCELLED AND THAT THE METALS TO BE WITHDRAWN DO NOT AMOUNT TO MORE THAN FIFTY PERCENT (50%) OF THE TOTAL INVENTORY OF THE BONDED SMELTING WAREHOUSE: *Provided, further,* That on the arrival of the ores or crude metals at such establishments they shall be sampled and assayed according to commercial methods under the supervision of proper government officials: *Provided, further,* That all labor performed and services rendered pursuant to this section shall be under the supervision of the proper customs official and at the expenses of the manufacturer: *Provided, further,* That all regulations for carrying out the provisions of this section shall be prescribed by the Commissioner with the approval of the department head: *Provided, FURTHER,* That the several charges against the bond of any smelting warehouse established under the provisions of this section may be cancelled upon the exportation or transfer to a bonded manufacturing warehouse from any bonded smelting warehouse established under this section of a quantity of the same kind of metal, in excess of that covered by open bonds, equal to the amount of metal producible from the smelting or refining, or both, of the dutiable metal contained in the imported ores or crude metals, due allowance being made of the smelter wastage as ascertained from time to time by the Commissioner with the approval of the department head: *PROVIDED, FINALLY,* THAT BONDED SMELTING WAREHOUSES SHALL LIKEWISE BE SUBJECT TO THE PROVISIONS UNDER TITLE V, PART 1 OF THIS CODE, AS AMENDED."

SEC. 34. A new section, to be known as Section 2006 is hereby inserted in the Tariff and Customs Code of the Philippines, as amended, to read as follows:

"SEC. 2006. *PRIOR APPROVAL OF THE BOARD OF INVESTMENT* – NOTWITHSTANDING THE PROVISIONS CONTAINED IN SECTION 1901 TO 1909 AS WELL AS SECTION 2001 TO 2006, ALL CUSTOMS BONDED WAREHOUSE SHALL BE MANUFACTURING AND INDUSTRY SPECIFIC. THE BUREAU OF CUSTOMS SHALL SO DESIGNATE THE SAME ONLY UPON THE PROPER RECOMMENDATION AND ENDORSEMENT BY THE BOARD OF INVESTMENT: *PROVIDED, FURTHER,* THAT BEFORE THE

BOARD OF INVESTMENT ISSUES THE CORRESPONDING RECOMMENDATION AND ENDORSEMENT, THE LOCAL INDUSTRY CONCERNED SHALL BE PROPERLY CONSULTED: *PROVIDED, FINALLY*, THAT FAILURE TO COMPLY WITH THE FOREGOING PROVISION SHALL CAUSE THE CANCELLATION OF THE ACCREDITATION OF THE SAID CUSTOMS BONDED WAREHOUSE.”

SEC. 35. A new section to be known as Section 2007 is hereby inserted in the Tariff and Customs Code of the Philippines, as amended, to read as follows:

“SEC. 2007. *BUREAU OF CUSTOMS AND BUREAU OF INTERNAL REVENUE DIRECT RECORD LINKAGE.* - TO ASSURE THE PROPER COORDINATION OF THEIR RESPECTIVE AUDIT AS WELL AS IN THE INVESTIGATION AND PROSECUTION OF TAX AND DUTY RELATED CASES, A REAL-TIME LINKAGE VIA COMPUTER OF THE RECORDS OF BOTH THE BUREAU OF CUSTOMS AND THE BUREAU OF INTERNAL REVENUE SHALL BE IMMEDIATELY MADE.”

SEC. 36. 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.* - In order to protect the 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 OF CUSTOMS IN THE AMOUNT EQUAL TO TWO HUNDRED PERCENT (200%) OF THE DECLARED CUSTOMS VALUE OF THE GOODS UNDER QUESTION, 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.

“An importer who is dissatisfied with a decision of the Commissioner of Customs pertaining to this section may, within twenty (20) working days after the date on which notice of the decision is given, appeal to the Secretary of Finance and thereafter if still dissatisfied, to the Court of Tax Appeals as provided for in Section 2402 of the Tariff and Customs Code of the Philippines, as amended.

“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 the acquired goods pursuant to existing laws and regulations. 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.

"Nothing in this Section limits or affects any other powers of the Bureau of Customs with respect to the disposition of the goods or any liability of the importer or any other person with respect to an offense committed in the importation of the goods."

SEC. 37. A new section to be known as Section 2401 is hereby inserted in the Tariff and Customs Code of the Philippines, as 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] INVESTIGATED, PROSECUTED AND HANDLED EXCLUSIVELY by [customs officers] LAWYERS OF THE BUREAU OF CUSTOMS, [but] AND 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. FOR THIS PURPOSE, THE BUREAU OF CUSTOMS SHALL BE PRIMARILY AND EXCLUSIVELY RESPONSIBLE FOR THE CONDUCT OF PRELIMINARY INVESTIGATION AND PROSECUTION OF CUSTOMS-RELATED CASES, AS WELL AS THE PROSECUTION AND DEFENSE OF CUSTOMS-RELATED CIVIL CASES, TO THE EXCLUSION OF ALL OTHER GOVERNMENT AGENCIES INVOLVED THEREIN. THE BUREAU OF CUSTOMS SHALL HAVE EXCLUSIVE AUTHORITY TO FILE ANY CRIMINAL OR CIVIL CASE DIRECTLY WITH THE PROPER COURT FOR PROSECUTION OF VIOLATORS OF THE TARIFF AND CUSTOMS CODE, AND THE COLLECTION, RECOVERY OR ENFORCEMENT OF ANY FINE, PENALTY OR FORFEITURE UNDER THE CODE."

SEC. 38. 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.* - 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, MISCLASSIFICATION, 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 AND SECTION 3602 of this Code: *Provided, further*, That any UNDERVALUED, misdeclared, MISCLASSIFIED 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: *PROVIDED, FURTHERMORE*, THAT THE LICENSE, PERMIT AND THE BUSINESS NAME OF THE SUBJECT IMPORTER MAY BE REVOKED AFTER DUE PROCESS.

“When the undervaluation, misdescription, misclassification or misdeclaration in the import entry is intentional, the importer shall be subject to penal provisions under Section 3602 of this Code.”

SEC. 39. 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 AND THE BUREAU OF CUSTOMS AS APPROVED BY THE DEPARTMENT OF FINANCE PURSUANT TO SUBSECTION (A) OF SECTION 1313 OF THIS CODE: *PROVIDED*, THAT THE DESCRIPTION OF THE ARTICLE IS FOUND CORRECT UPON EXAMINATION: *PROVIDED, FINALLY*, THAT BASED ON THE RESULT OF THE EXAMINATION, THE ARTICLE IS FOUND ESSENTIALLY THE SAME AS THAT DESCRIBED IN THE RULING.”

SEC. 40. 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] DISPOSITION*. – Property in customs custody shall be subject to [sale] DISPOSITION under the conditions hereinafter provided:

“a. Abandoned articles;

“b. Articles entered under warehousing entry not withdrawn nor the duties and taxes paid thereon within the period prescribed under Sections 1908 of this Code;

“c. Seized property, other than contraband, after liability to sale shall have been established by proper administrative [or judicial] proceedings in conformity with the provision of this Code; and

“d. Any article subject to a valid lien for customs duties, taxes or other charges collectible by the Bureau of Customs, after the expiration of the period allowed for the satisfaction of the same.”

SEC. 41. 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 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 EXPORTED THROUGH A GOVERNMENT ENTITY WHICH SHALL BE DESIGNATED TO PERFORM SAID TASK;

"(B) WHEN THE PROPERTY IS NOT 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 EXPORTATION OR FOR USE AGAINST SMUGGLING OR OTHER FRAUDS UPON CUSTOMS, THEN IT MAY BE CHanneled TO THE OFFICIAL USE OF OTHER OFFICES OF THE NATIONAL GOVERNMENT; AND

"(D) IF THE ARTICLE IS SUITABLE FOR SHELTER OR CONSISTS OF FOODSTUFFS OR CLOTHING MATERIALS, THEN THAT ARTICLE MAY BE GIVEN TO THE APPROPRIATE GOVERNMENT AGENCY: *PROVIDED*, THAT THIS AGENCY USES THIS ONLY FOR OFFICIAL PURPOSE, OR FOR CHARITY.

"THE COST OF 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 IMPORTED ARTICLE AND THE BROKER CAN NOT BE LOCATED THEN THE GOVERNMENT ENTITY WHICH IS DESIGNATED TO EXPORT SUBJECT PROPERTY SHALL SHOULDER THE COST OF EXPORTATION: *PROVIDED*, THAT ARTICLES TO BE EXPORTED UNDER THIS SECTION SHALL BE TRANSFERRED BY THE BUREAU OF CUSTOMS TO THE GOVERNMENT ENTITY THAT IS MANDATED TO 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: *PROVIDED, FINALLY*, THAT IF SUBJECT ARTICLE CANNOT BE 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 THEM ABSOLUTELY WORTHLESS, IN THE PRESENCE OF A REPRESENTATIVE EACH FROM THE COMMISSION ON AUDIT, THE DEPARTMENT OF JUSTICE, THE BUREAU OF CUSTOMS, AND FROM THE PRIVATE SECTOR."

SEC. 42. 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 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 EXPORTATION OF ARTICLES WITHIN THE PURVIEW OF THIS PART OF THIS CODE:

“(A) EXPORTATION EXPENSES INCURRED BY THE GOVERNMENT ENTITY DESIGNATED FOR THE PURPOSE;

“(B) TAXES AND OTHER CHARGES, AS THE CASE MAY BE, DUE THE GOVERNMENT;

“(C) STORAGE CHARGES;

“(D) ARRASTRE CHARGES; AND

“(E) FREIGHT, LIGHTERAGE AND OTHER EXPENSES INCIDENTAL TO THE EXPORTATION.”

SEC. 43. Section 2604 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

“SEC. 2604. *[Disqualification to Participate in Auction Sale]* DISPOSITION OF SURPLUS FROM THE PROCEEDS OF EXPORTATION OF PROPERTY WITHIN THE PURVIEW OF THIS PART OF THIS CODE. – [No customs official or employee shall be allowed to bid directly or indirectly, in any customs auction.] ANY SURPLUS REMAINING AFTER THE SATISFACTION OF ALL LAWFUL CHARGES AS PROVIDED FOR IN SECTION 2603 OF THIS CODE 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. 44. Section 2607 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

“SEC. 2607. *Disposition of Articles Liable to Deterioration.* – Perishable articles shall be deposited in any appropriate bonded warehouse; and, if not immediately entered for export or for transportation from the vessel or aircraft in which imported or entered for consumption and the duties and the taxes paid thereon, such articles SHALL [may] be sold at auction [after such public notice, not exceeding three days,] as the necessities of the case permit.

“When seizure shall be made of property which, in the opinion of the Collector, is liable to perish or be wasted or to depreciate greatly in value by keeping, or which cannot be kept without great disproportionate expense, whether such property consists of live animals or of any article, the appraiser shall so certify his appraisal, the Collector SHALL [may] proceed to advertise and sell the same at auction, upon notice as he shall deem to be reasonable.

"The same disposition SHALL [may] be made of any warehoused article when in the opinion of the Collector it is likely that the cost of depreciation, damage, leakage or other causes, may so reduce its value as to be insufficient to pay the duties, taxes and other charges thereon, if it should be permitted to be so kept and be subjected to sale in the usual course.

"*PROVIDED*, THAT IN ALL CASES INVOLVING ARTICLES LIABLE TO DETERIORATION, THE DETERMINATION THEREON SHALL BE EXCLUSIVE TO THE COLLECTOR AND SHALL BE FINAL ON THE MATTER: *PROVIDED, FURTHER*, THAT THE AUCTION SALE SHALL BE HELD NOT LATER THAN TWO (2) DAYS AFTER THE PUBLIC NOTICE SET BY THE COLLECTOR."

SEC. 45. Section 2610 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 2610. *Disposition of Unsold Articles for Want of Bidders.* - Articles subject to sale at public auction by customs authorities shall be sold at a price not less than the wholesale value price in the domestic market of these or similar articles in the usual wholesale quantities and in the ordinary course of trade as determined in accordance with section twenty-three hundred and five of this code.

"When any article remains unsold in at least two public biddings for want of bidders or for lack of an acceptable bid, and the article is perishable and/or suitable for official use, then the Collector shall report the matter immediately to the Commissioner of Customs who SHALL [may, subject to the approval of the Secretary of Finance,] authorize the official use of that article by the Bureau of Customs to promote the intensive collection of taxes and/or to help prevent or suppress smuggling and other frauds upon the Customs, and if the article is not suitable for such use, then it may be channeled to the official use of other offices of the National Government AS THE COMMISSIONER OF CUSTOMS MAY DETERMINE. If the article is suitable for shelter or consists of foodstuffs, clothing materials or medicines then that article shall be given to government charitable institutions through the Department of Social WELFARE [Services] and Development. AGRICULTURAL PRODUCTS SHALL BE GIVEN TO THE DEPARTMENT OF AGRICULTURE FOR PROPER DISPOSITION.

"If the article offered for sale is not suitable either for official use or charity, then the same may be re-exported as government property, through the Department of Trade AND INDUSTRY or any other government entity through barter or sale. If the article cannot be disposed of as provided above, the Collector shall report the matter immediately to the Commissioner who SHALL [may, subject to the approval of the Secretary of Finance] dispose of the article to the best advantage of the government in a negotiated private sale which shall be consummated in the presence of a representative of the Commission of Audit, in the manner provide for by this Code."

SEC. 46. 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 section twenty-six hundred and ten: *PROVIDED*, THAT SENSITIVE ARTICLES SO CONSIDERED BY THE PHILIPPINES UNDER LAWS, REGULATIONS OR EXISTING INTERNATIONAL AGREEMENTS SHALL BE DISPOSED ACCORDING TO THE RECOMMENDATIONS, RULES OR ORDERS SET BY THE APPROPRIATE REGULATORY AGENCY: *Provided, FURTHER*, That articles whose importation is prohibited under Section One hundred two 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. 47. Section 3513, Book II, Title VII, Part II of the Tariff and Customs Code of the Philippines, is hereby amended to read as follows:

"SEC. 3513. *Reward to Persons Instrumental in the Discovery and Seizure of or Recovery of Revenue on Smuggled Goods and Successful Prosecution of Offenders.* – The provisions of general and special laws to the contrary notwithstanding, a cash reward equivalent to twenty per centum (20%) of the [fair market value of] REVENUE RECOVERED FROM the [smuggled and] SEIZED OR confiscated goods shall be given to the officers and men and informers who are instrumental in the discovery and seizure of such goods [in accordance with the rules and regulations to be issued by the Secretary of Finance.]: *PROVIDED*, THAT IN CASE OF SUCCESSFUL PROSECUTION OF SMUGGLERS OR SEIZURE AND FORFEITURE CASES, THE AMOUNT EQUIVALENT TO TEN PER CENTUM (10%) THEREOF SHALL BE GIVEN TO BUREAU OF CUSTOMS LAWYER/S WHO ACTIVELY PROSECUTED THE CASE THAT RESULTED IN THE RECOVERY OF REVENUE, SURCHARGES, AND FEES, OR IMPOSITION OF FINE OR PENALTY OR OFFER OF COMPROMISE BY THE OFFENDER, OR CONVICTION OF THE OFFENDER: *PROVIDED, FURTHER*, THAT IN CASE OF CONVICTION, WHERE THE PENALTY IS INCAPABLE OF PECUNIARY ESTIMATION, THE AMOUNT OF REWARD SHALL BE EQUIVALENT TO TWENTY PER CENTUM (20%) OF THE CIVIL LIABILITY INCLUDING FINES, PENALTIES AND SURCHARGES IMPOSED BY THE COURT: *PROVIDED, FINALLY*, THAT WHERE NO CIVIL LIABILITY IS AWARDED BY THE COURT, THE SUM OF P250,000.00 OR P500,000.00 SHALL BE GRANTED WHERE THE CASE IS RESOLVED WITH FINALITY IN THE TRIAL COURT OR THE APPELLATE COURTS, RESPECTIVELY."

SEC. 48. 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:

"Foreign Port" means a port or place outside the jurisdiction of the Philippines.

"FOREIGN TRANSSHIPMENT" SHALL REFER TO THE TRANSPORT OF GOODS FROM A FOREIGN COUNTRY INTO THE PHILIPPINES FOR SHIPMENT TO A FOREIGN DESTINATION WITHOUT INTRODUCING THE SAME INTO THE PHILIPPINE CUSTOMS TERRITORY.

"Port of Entry" is a domestic port open to both foreign and coastwise trade. The term includes principal ports of entry and subports of entry. A "principal port of entry" is the chief port of entry of the collection district wherein it is situated and is the permanent station of the Collector of such port. Subports of entry are under the administrative jurisdiction of the Collector of the principal port of entry of the district. Whenever the term "Port of Entry" is used herein, it shall include "airport of entry".

"Coastwise ports" are such domestic ports as are open to coastwise trade only. These include all ports, harbors and places not ports of entry.

"Vessels" includes every sort of boat, craft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

"Aircraft" includes any weight-carrying device or structure for the navigation of the air.

"Bill of Lading" includes airway bill of lading.

"Articles", when used with reference to importation or exportation, includes goods merchandise and in general anything that may be made the subject of importation or exportation.

"Transit cargo" is article arriving at any port from another port or place noted in the carrier's manifest and destined for transshipment to another local port or to a foreign port.

"Seized property" means any property seized or held for the satisfaction of any administrative fine or for the enforcement of any forfeiture under the Tariff and Customs Code.

"Tariff and customs laws" includes not only the provisions of this Code and regulations pursuant thereto but all other laws and regulations which are subject to enforcement by the Bureau of Customs or otherwise within its jurisdiction.

"Taxes" includes all taxes, fees and charges imposed by the Bureau of Customs and the Bureau of Internal Revenue.

"Secretary" or "Department Head" refers, unless otherwise specified, to the Secretary of Finance.

"Commission" refers to the Tariff Commission.

"Person" whether singular or plural refers to an individual, corporation, partnership, association, company or any other kind of organization.

"Dutiable value" refers to the value defined in section two hundred one.

"Bulk cargo" refers to products in a mass of one commodity not packaged, bundled, bottled or otherwise packed.

"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, 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.*"

"TECHNICAL SMUGGLING" IS AN ACT OF ANY PERSON WHO MAKES OR ATTEMPTS TO MAKE 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 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 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 ACT OF OMISSION SHALL, FOR EACH OFFENSE, BE PUNISHABLE UNDER THIS CODE."

"Contrabands" are articles of prohibited importation or exportation.

"Duly Registered" as used in this Act, refers to a person, natural or juridical, which is registered with the proper government agencies, such as the [Bureau of Commerce] DEPARTMENT OF TRADE AND INDUSTRY, Securities and Exchange Commission, [NACIDA], Board of Investments, DEPARTMENT OF AGRICULTURE, [Export Incentives Board or Oil Commission] DEPARTMENT OF ENERGY as now or may hereafter be required by law. (RA 9135, April 27, 2001)

SEC. 53. 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] SMUGGLING.* – (A) 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, (B) [or] ANY PERSON WHO 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, shall be DEEMED guilty of smuggling and shall LIKEWISE be [punished with] PUNISHABLE AS HEREIN PROVIDED, AND (C) ANY IMPORTATION OF ARTICLES THAT DO NOT PASS THROUGH THE PORTS OF ENTRY SHALL BE CONSIDERED AS UNLAWFUL IMPORTATION PUNISHABLE UNDER SECTION 3601 OF THIS CODE, SHALL BE CONSIDERED AS ILLEGALLY IMPORTED AND SHALL BE DISPOSED OF IN THE MANNER AS PROVIDED FOR IN SECTION 2602 OF THIS CODE:

"1. A fine [of not less than] IN AN AMOUNT EQUAL TO THE APPRAISED VALUE PLUS fifty [pesos nor more than two hundred pesos] PERCENT (50%) THEREOF and imprisonment of not less than [five] SIX MONTHS AND ONE day[s] nor more than [four years] TWENTY DAYS, if the appraised value, to be determined in the manner prescribed under this Code, including duties and taxes, of the article unlawfully imported EXCEEDS FIVE THOUSAND PESOS (P5,000.00) BUT does not exceed [twenty-five] FIFTY THOUSAND pesos (P50,000.00);

"2. A fine [of not less than eight hundred pesos nor more than five thousand pesos] IN AN AMOUNT EQUAL TO THE APPRAISED VALUE PLUS FIFTY PERCENT (50%) THEREOF and imprisonment of not less than [six months] FOUR YEARS and one day nor more than [four] EIGHT 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] IS MORE THAN FIFTY

THOUSAND pesos (P50,000.00) but does not exceed ONE HUNDRED fifty thousand pesos (P150,000.00);

"3. A fine [of not less than six thousand pesos nor more than eight thousand pesos] IN AN AMOUNT EQUAL TO THE APPRAISED VALUE PLUS FIFTY PERCENT (50%) THEREOF and imprisonment of not less than [five] EIGHT years and one day nor more than [eight] TWELVE 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] EXCEEDS ONE HUNDRED fifty thousand pesos (P150,000.00) but does not exceed [one] TWO hundred fifty thousand pesos (P250,000.00);

"4. A fine [of not less than eight thousand pesos nor more than ten thousand pesos] IN AN AMOUNT EQUAL TO THE APPRAISED VALUE PLUS FIFTY PERCENT (50%) THEREOF and imprisonment of not less than [eight] TWELVE years and one day nor more than [twelve] FIFTEEN 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] TWO hundred fifty thousand pesos (P250,000.00) BUT DOES NOT EXCEED FIVE HUNDRED THOUSAND PESOS (P500,000.00);

"5. A FINE IN AN AMOUNT EQUAL TO THE APPRAISED VALUE PLUS FIFTY PERCENT (50%) THEREOF AND IMPRISONMENT OF NOT LESS THAN FIFTEEN YEARS AND ONE DAY NOR MORE THAN TWENTY 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 FIVE HUNDRED THOUSAND PESOS (P500,000.00) BUT DOES NOT EXCEED ONE MILLION PESOS (P1,000,000.00);

"6. A FINE IN AN AMOUNT EQUAL TO THE APPRAISED VALUE PLUS FIFTY PERCENT (50%) THEREOF AND LIFE IMPRISONMENT, 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 MILLION PESOS (P1,000,000.00);

"7. The penalty of prision mayor TO *RECLUSION TEMPORAL* 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 a maximum as hereinabove prescribed and the offender shall suffer an additional penalty of perpetual disqualification from public office, to vote and to participate in any public election. HE SHALL ALSO LOSE ALL THE BENEFITS DUE HIM AS A RESULT OF HIS SERVICE IN THE GOVERNMENT, INCLUDING THE FORFEITURE OF HIS SEPARATION AND RETIREMENT BENEFITS.

"When, upon trial for violation of this section, the defendant is shown to have had possession of the article in question, possession shall be deemed sufficient evidence to authorize conviction unless the defendant shall explain the possession to the satisfaction of the court: *Provided, however,* That payment of the tax due after apprehension shall not constitute a valid defense in any prosecution under this section."

SEC. 54. 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 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 of omission shall, for each offense, BE GUILTY OF TECHNICAL SMUGGLING AND SHALL be [punished in accordance with the penalties prescribed in the preceding section] PUNISHABLE AS FOLLOWS:

"1. 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);

"2. 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);

"3. 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);

"4. 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 IN ITS MAXIMUM PERIOD 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 AS A RESULT OF HIS SERVICE IN THE GOVERNMENT, INCLUDING THE FORFEITURE OF HIS SEPARATION AND RETIREMENT BENEFITS."

SEC. 55. 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 [more] LESS than [five] ONE HUNDRED thousand pesos (P100,000.00) BUT NOT MORE THAN ONE MILLION PESOS (P1,000,000.00) and imprisonment [for] OF not [more] LESS than [one] EIGHT yearS BUT NOT MORE THAN TWELVE 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 AS A RESULT OF HIS SERVICE IN THE GOVERNMENT, INCLUDING THE FORFEITURE OF HIS SEPARATION AND RETIREMENT BENEFITS."

SEC. 56. 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 any 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] BUT NOT more than [Fifty thousand] ONE MILLION pesos (P1,000,000.00) and imprisonment [for] OF not less than [one] EIGHT yearS [nor] BUT NOT more than [ten] TWELVE years and perpetual disqualification to hold public office, to vote and to participate in any public office election. HE SHALL ALSO LOSE ALL THE BENEFITS DUE HIM AS A RESULT OF HIS SERVICE IN THE GOVERNMENT, INCLUDING THE FORFEITURE OF HIS SEPARATION AND RETIREMENT BENEFITS:

"(a) Those guilty of extortion or willful oppression under color of law;

"(b) Those who knowingly demand other or greater sums than are authorized by law or receive any fee, compensation, or reward except as by law prescribed, for the performance of any duty;

"(c) Those who willfully neglect to give receipts, as required by law for any sum collection in the performance of duty, or who willfully neglect to perform any of the duties enjoined by law;

“(d) Those who conspire or collude with another or others to defraud the customs revenue or otherwise violate the law;

“(e) Those who willfully make opportunity for any person to defraud the customs revenue or who do or fail to do any act with intent to enable any person to defraud said revenue;

“(f) Those who negligently or designedly permit the violation of the law by any other person;

“(g) Those who make or sign any false entry or entries in any book, or make or sign any false certificate or return in any case where the law requires the making by them of such entry, certificate or return;

“(h) Those who, having knowledge or information of a violation of the Tariff and Customs Law or any fraud committed on the revenue collectible by the Bureau, fail to report such knowledge or information to their superior official or to report as otherwise required by law;

“(i) Those who, without the authority of law, demand or accept or attempt to collect directly or indirectly as payment of otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law; or

“(j) Those who, without authority of law, disclose confidential information gained during any investigation or audit, or use such information for personal gain or to the detriment of the government, the Bureau or third parties” (R.A. 9135, April 27, 2001)

SEC. 57. 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 [more] LESS than [five] ONE HUNDRED thousand pesos (P100,000.00) BUT NOT MORE THAN ONE MILLION PESOS (P1,000,000.00) and imprisonment [for] OF NOT LESS THAN EIGHT YEARS BUT not more than [two] TWELVE years.”

SEC. 58. 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 ONE HUNDRED THOUSAND PESOS (P100,000.00) BUT NOT more than [twenty thousand] ONE MILLION pesos (P1,000,000.00) [or] AND imprisonment of not [more] LESS than [five] EIGHT years[, or both] BUT NOT MORE THAN TWELVE YEARS. If the offender is an alien, he shall be deported after serving the sentence. 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. HE SHALL ALSO LOSE ALL THE BENEFITS DUE HIM AS A RESULT OF HIS

SERVICE IN THE GOVERNMENT, INCLUDING THE FORFEITURE OF HIS SEPARATION AND RETIREMENT BENEFITS.”

SEC. 59. 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] TWO hundred thousand pesos (P [1]200,000.00) but not more than [Two] FIVE hundred thousand pesos (P [2]500,000.00) and/or imprisonment of not less than [two] FOUR ([2]4) years and one day but not more than [six] EIGHT ([6]8) years. This penalty shall likewise be imposed against 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. 60. 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 YEARS AND ONE DAY BUT NOT more than [one] FIVE year[s], 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. HE SHALL ALSO LOSE ALL THE BENEFITS DUE HIM AS A RESULT OF HIS SERVICE IN THE GOVERNMENT, INCLUDING THE FORFEITURE OF HIS SEPARATION AND RETIREMENT BENEFITS.”

SEC. 61. 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 SECTIONS 2530 AND 2531 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. 62. *Transitory Provision.* – All existing customs bonded warehouses established under Section 1901 of the Tariff and Customs Code of the Philippines, as amended, shall have one year from approval of the law to convert themselves to manufacturing customs bonded warehouses under Section 2001 of the Code or register themselves in special economic zones or freeports. After the lapse of the one year period, any importation by these customs bonded warehouses shall be treated as regular importations to be covered by ordinary consumption entries only, unless such customs bonded warehouse in the meantime has transferred to a special economic zone or PEZA zone, which in such case the said importation shall be treated as a PEZA shipment.

SEC. 63. *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. 64. *Rules and Regulations.* – The Secretary of Finance shall, upon the recommendation of the Commissioner of Customs and meaningful consultation of the local industry, promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 65. *Repealing Clause.* – 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.

The provision of this Act, not those of Republic Act No. 2338, shall govern the giving of reward cases covered by the former.

SEC. 66. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in any two (2) newspapers of general circulation.

Approved,